



IRF23/1075

Gateway determination report – PP-2023-1091

Reclassification – Community to Operational land,
Clarke Street, Blayney

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Planning Proposal (version C – 28 April 2023, by iPlan Projects)
Council meeting Report - 16 May 2023
Council Meeting Minutes - 16 May 2023 (Item no 2305/012)

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Blayney LGA
PPA	Blayney Shire Council
NAME	Reclassification – Clarke Street, Blayney
NUMBER	PP-2023-1091
LEP TO BE AMENDED	Blayney Local Environmental Plan 2012
ADDRESS	Clarke Street, Blayney
DESCRIPTION	Refer to area identified in Figure 1 & 2
RECEIVED	23/05/2023
FILE NO.	IRF23/1075
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal
MAP ONLY/PCO ONLY/PCO & MAPS	PCO ONLY

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to:

- Reclassify the section of Clark Street from community to operational land;
- Enable the subject land to be used as a public road and resolve issues of public assets and private encroachments.

The objectives of this planning proposal are clear and adequate and do not require amendment prior to community consultation.

1.3 Explanation of provisions

The planning proposal seeks to amend part 1 of Schedule 4 of the Blayney Local Environmental Plan 2012 per the changes below:

Table 3 Current and proposed controls

Control	Current	Proposed
Zone	R1 General Residential	R1 General Residential
Minimum lot size	450m ²	450m ²
Number of dwellings	N/A	N/A
Number of jobs	N/A	N/A
Reclassify land from	Community	Operational

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved. Drafting of the LEP amendment will be done by Parliamentary Counsel.

There are no changes to the zoning of the land being R1 General Residential. The proposed reclassification will allow Council to resolve the existing encroachment from surrounding residential lots and Council considered the proposed reclassification as the best option to achieve this. Considering the potential impacts on the surrounding residential lots, each adjoining landowner in the area should be individually notified of the proposed change.

1.4 Site description and surrounding area

The site is located approximately 1.1 kilometres or 2 minutes south of the Blayney CBD off the Mid Western Highway (refer to Figure 1 below). The site is surrounded by residential lots and has been owned by Council since 1978 due to unpaid rates. The site has since been used as a public road to provide access to the adjoining residential lots. The existing infrastructure and utilities are shown in Figure 3 below.

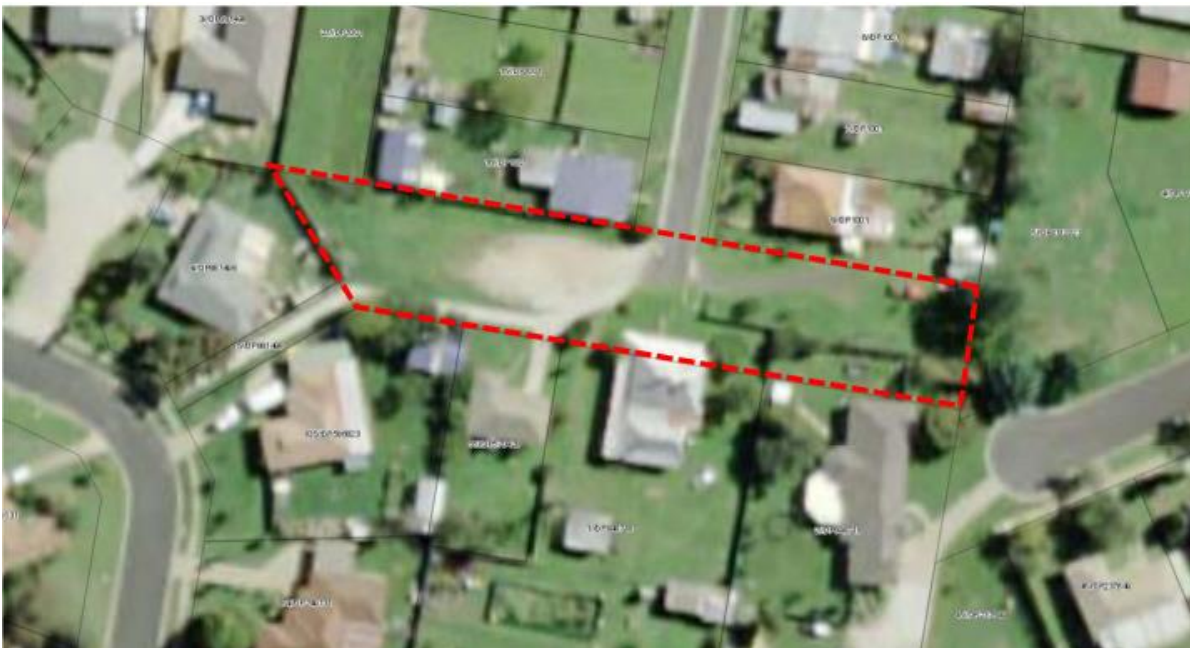


Figure 1 Aerial photo of Clarke St (red boundary) & adjacent context (source: Planning Proposal, iPlan Projects, Version C, 28 April 2023)

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1.5 Mapping

No changes to the Blayney LEP 2012 maps are required for the LEP Amendment to be made as a result of this planning proposal.

Maps identifying the site are included in the planning proposal and are satisfactory.

1.6 Background

The site has been owned by Council since 1978 due to unpaid rates. It has since been used as a public road to provide access, however, it has been restricted being classified as community land by default under the Local Government Act 1993 (LG Act 1993) which has limitation on its use including legitimising private assets encroaching into the lot as well as public works for road or utility upgrades. Council intends to upgrade road infrastructure, pedestrian pathways and create easements for utilities through the reclassification and has resolved to achieve this by seeking a Gateway determination for a planning proposal.

2 Need for the planning proposal

The planning proposal is the result of Council resolution (Item 2205/019, held on 16 May 2022) to address proposed encroachments on Clarke Street. Council DA28/2022 is related to this matter.

The planning proposal is consistent with the relevant objectives of the Blayney LSPS and Blayney Settlement Strategy.

Alternative solutions have not been discussed in the planning proposal. The reclassification of the land can only be achieved through a planning proposal and it is consistent with Department's LEP making Guideline (P.12).

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Central West and Orana Regional Plan 2041.

There are no specific actions within the Regional Plan that relate to this land or the reclassification of the site.

Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
Direction 12: Plan for greater land use compatibility (12.4 & 12.5).	The planning proposal is to provide greater certainty by reclassifying the land to operational and resolve current land use conflicts.

Direction 19: enhance road and rail freight links.	The planning proposal will enhance key road network in the Blayney LGA with the ability to dedicate Clarke Street as a public road under the Roads Act.
Direction 21: Coordinate utility infrastructure investment.	The planning proposal enables future maintenance and upgrade of the road and utility infrastructure of the subject site which will also benefit the surrounding residential uses.
Direction 29: Deliver healthy built environments and better urban design.	The planning proposal seeks to reclassify Clarke Street to operational and formalise the road as a public road. It will provide better access to adjacent lots and improve the sustainability and resilience of the town of Blayney.

3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 6 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement	The LSPS provides strategic merit for the subject land to be reclassified from community land to operational land through the process of planning proposal, which allows for the logical use of land as a public road in the LGA and enable future maintenance and upgrade of the infrastructure. The planning proposal is consistent with the LSPS.

3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions are discussed below:

Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Yes	The planning proposal has demonstrated consistency with the Central West and Orana Regional Plan 2036. An assessment of the Central West and Orana Regional Plan 2041 has been undertaken in this assessment report (refer to section 3.1 above) and concludes the planning proposal is consistent.
1.4 Site Specific Provisions	Yes	No change to existing land zoning. Only proposed to change the classification of the land from community to operational.

4.1 Flooding	Not Applicable	The site is not identified as being flood prone land and no change in land use zoning proposed.
4.3 Planning for Bushfire Protection	Not Applicable	The site is not identified as bush fire prone land.
4.4 Remediation of Contaminated Land	Not Applicable	The site is not identified as potential contaminated land.
5.1 Integrating Land Use and Transport	Yes	The planning proposal is consistent with improving transport connectivity by facilitating the dedication of Clarke Street as public road.
5.2 Reserving Land for Public Purposes	Yes	The planning proposal does not intend to remove public reserve status. No further work is required in relation to this Direction.
6.1 Residential Zones	Yes	No change proposed for the existing residential zone.

3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 8 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Transport & Infrastructure) 2021	The SEPP seeks to protect and enable infrastructure development.	Yes	The planning proposal seeks to reclassify Clarke Street to protect and enable future use of road and utility infrastructure.
SEPP (Housing) 2021	The SEPP seeks to promote diverse, affordable, and adaptable housing.	Yes	The planning proposal does not directly impact housing. However, it will enable Council to resolve housing encroachments on Clarke Street. It is consistent with the objectives of the SEPP.

4 Site-specific assessment

4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal. The site has no critical habitat or threatened species, populations or ecological communities present. The site is not subject to flooding or bushfire and not presently identified in Council's potentially contaminated land register.

Table 9 Environmental impact assessment

Environmental Impact	Assessment
Flood prone land	The site is not mapped as flood prone land and there is no proposed changes to the existing controls in relation to flood prone land management.
Biodiversity	There is no change to the land uses proposed and no change to any existing development controls relating to the land.

4.2 Social and economic

The site is currently used as a road or access to the adjoining residential lots. The site serves no public open space function. The planning proposal for reclassification of the site will enable the road to be dedicated as a public road under Roads Act and allow for future upgrade of the road and utility infrastructure.

As the land is currently classified as community land, there may be community interest in the matter, and a public hearing is required.

4.3 Infrastructure

There is adequate infrastructure to service the site and the reclassification resulting from the planning proposal will enable the use of Clarke Street as a public road and any future maintenance or upgrade of the road and utility infrastructure.

5 Consultation

5.1 Community

It is recommended that the planning proposal to be publicly exhibited for a minimum of 28 days (20 working days) given the nature of the planning proposal.

The exhibition period proposed is a condition of the Gateway determination. Council should also ensure that each landowner affected by this proposal is notified.

LEP practice note PN 16-001 requires a public hearing to be held in accordance with section 29 of the Local Government Act 1993 and section 3.34(2)(e) of the *Environmental Planning and Assessment Act 1979*.

5.2 Agencies

Council did not specifically raise which agencies will be consulted. Agency consultation is not required given the minor and administrative nature of the planning proposal.

5.3 Governor's Approval

It is noted that the Governor's approval is required when a reclassification proposal seeks to remove any public reserve status and/or discharge any interests affecting public land (section 30 of the *Local Government Act 1993*). This is not applicable to the planning proposal as there will be no public reserve status discharged or change to interests affecting the land.

6 Timeframe

The planning proposal suggests the LEP could be finalised by April 2024.

The Department recommends a time frame of 9 months as the process involves the reclassification of land which requires a 28-day (20 working days) consultation period and 21-day public notice period of the public hearing.

A condition to the above effect is recommended in the Gateway determination

7 Local plan-making authority

Due to the nature of the proposed amendment the Department recommends that Council not be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- It is generally consistent with the relevant local, regional and State legislation and policies.
- it is not expected to have significant adverse impact on the existing environment, social and economic aspects, or infrastructure.

9 Recommendation

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - (a) the planning proposal is categorised as standard as described in the Local Environmental Plan Making Guideline (Department of Planning and Environment, 2022) and must be made publicly available for a minimum of 20 working days; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in Local Environmental Plan Making Guideline (Department of Planning and Environment, 2022).

2. Council is to ensure that all adjoining landowners are notified of the planning proposal exhibition.
3. Consultation with public authorities is not required.
4. A public hearing is required in accordance with section 29 of the *Local Government Act 1993* and section 3.34(2)(e) of the *Environmental Planning and Assessment Act 1979*.
5. Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.
6. The timeframe for completing the LEP should be nine (9) months from the date of the Gateway determination.



13/7/2023

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14/07/2023

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