

Llyan Smith

From: Llyan Smith
Sent: Wednesday, 20 December 2023 3:38 PM
To: steven.jennings@dubbo.nsw.gov.au; Liam Nugent; Tim Howlett; Shoilee Iqbal; planning@dubbo.nsw.gov.au
Cc: Jessica Holland; Amanda Bowman
Subject: CM Record: Adequacy assessment and further information sought - PP-2023-2680 - reclassification of land at Lot 2 DP1183095, 1L Narromine Road, Dubbo ('Bourke Hill')

Good afternoon,

Thank you for submitting Planning Proposal PP-2023-2680 to reclassify community land to operational land at Lot 2 DP1183095, 1L Narromine Road, Dubbo ('Bourke Hill'). I understand the reclassification is proposed to facilitate a road connection from the proposed Clearmont Rise estate (to the west) to the Mitchell Highway, through this site. The PP has been allocated to me for assessment.

Thank you for speaking with me on 6th December 2023 (conversation with Liam Nugent) and attending a subsequent meeting with me on 20 December 2023. As noted in today's meeting and my previous conversation with Liam, I have completing an adequacy check of the submitted proposal and have some questions/requests for further information I would like to discuss regarding the reclassification of Lot 2 DP1183095:

1. Plan of Management and the need to reclassify

In accordance with the *Local Government Act 1993*, the use of community land is to be regulated by a plan of management which must identify:

- (a) the category of the land,
- (b) the objectives and performance targets of the plan with respect to the land,
- (c) the means by which the council proposes to achieve the plan's objectives and performance targets,
- (d) the manner in which the council proposes to assess its performance with respect to the plan's objectives and performance targets,

In accordance with section 47F of the LG Act, community land may be dedicated as a road reserve if:

- (a) *the road is necessary to facilitate enjoyment of the area of community land on which the road is to be constructed or of any facility on that land, and*
- (b) *the council has considered means of access other than public road access to facilitate that enjoyment, and*
- (c) *there is a plan of management applying only to the land concerned and provision of the public road is expressly authorised in the plan of management.*

Thank you (Tim) for providing a copy of Council's Plan of Management (POM) for Community Land on 14 December 2023. The POM categorises this land as a 'park' with an 'horticulture function' (General community – Low) asset classification. Section 3 of POM enables Council to adopt a master plan, concept plan, or management plan for a particular parcel of land as an appendix to POM.

2. Drafting of a master plan, concept plan, or plan of management as an appendix to the Council POM

The PP identifies that reclassification of the site from community to operational is the only means to achieve the intent to dedicate land as road reserve. However, an alternate method (based on the LG Act) is to create a site specific plan of management to expressly authorise the proposed road connection. If a site specific POM is drafted to suitably address items 1(a)-(c) of s.47F of the LG Act (as listed in item 1 of this email), a reclassification may not be necessary given s.10 of the *Roads Act 1993* may then be applied to dedicate land as road reserve. This option would have the following benefits when compared to the reclassification route:

- A reclassification of the site from community to operational would not be required
- A public hearing would not be required (unless the site specific POM sought to recategorise the land from 'park' to another category under the LG Act)

- May be a shorter and less intensive course of action compared to the reclassification route (see section 38 of the LG Act)
- Would commence the work which will ultimately be required as part of subsequent steps to deliver the eventual road (concept planning)
- Would allow community land to be retained without compromising the core intent to provide the road connection

A concept plan could draw on and expand the existing work already completed as part of other Council strategies (such as the Dubbo Transportation Strategy, 2020) and may also assist in delivering action 5.5.2.10 of Council's Open Space Master Plan 2018:

- *5.5.2.10 - Master plans are prepared and maintained for all open space and recreation areas*

We encourage Council to investigate and consider the viability of this pathway. If Council elects to instead proceed with the reclassification, please provide commentary within the PP demonstrating how a site specific plan of management was considered, and why it is not a suitable option for this project.

3. Matters relating to the Planning Proposal content

a. Current use and future planning for the subject site

In addition to Practice Note PN 16-001, Strategy 6.3 of *Central West & Orana Regional Plan 2041* requires LEP amendments proposing to reclassify public open space consider:

- *the role or potential role of the land within the open space network*
- *how the reclassification is strategically supported by local strategies such as open space or asset rationalisation strategies*
- *the net benefit or net gain to open space.*

The PP notes:

- the land was purchased in 1962 for the purposes of 'public recreation'
- *'...does not incorporate any recreation facilities...'*
- *"...The land is already constrained and not suitable for most types of development as a water main traverses the middle..."*
- *"...Council does not intend to conduct any business dealings beyond the continued leasing of the telecommunications tower and construction of a future road..."*

However, the PP does not detail how the site is currently utilised for public recreation and lacks detail to establish or address any impacts to existing users. For example:

- Council's Recreation Strategy 2030 identifies this land as a passive recreation/park area and 'dog-off leash' location – Will there be impacts associated with the loss of a large off-leash site servicing this catchment?
- Council's Open Space Master Plan 2018 identifies that while Dubbo is generally well serviced with access to open space, the plan forecasts a need for over 30ha of extra recreational space by 2026 (p.40) – Will the loss of this 6.34 ha site impact short term provision of recreation space to meet forecast need?

The PP notes that the loss of this community land is justified based on the open space to be supplied as part of the future Clearmont Rise development. However, there is no discussion regarding if there will be a deficit in supply for the period prior to construction of these future Clearmont Rise open space areas. While approx. three 0.5 hectare local parks are proposed to be provided as part of stage 1 (to service Clearmont Rise), the district park is not scheduled until stage 2, and sporting fields will not be delivered until stage 4. The PP should demonstrate alignment with Council's Open Space Master Plan 2018, in particular whether the strategy aim to provide minimum level of service per 1000 people and supply of open space within a '10 minute walking catchment' can be achieved in the short term if this space is reclassified.

As such, please provide further information within the PP regarding how the site is currently used (or not used) for public recreation, illustrate alignment with existing council strategy for open space/recreation land provision, and identify any immediate/short term impact to service delivery as a result of the reclassification.

Please also provide further advice as to how the portions of the site (not being used as road reserve) are planned to be utilised as operational land by Council if the PP was to be adopted. If Council has adopted any strategies or direction regarding rationalisation of this community land, that should also be provided.

b. Reclassification of part of the site

The PP identifies that part of the site will be reclassified, however there is no mapping, imagery, or indicative design provided to describe which part of the land the reclassification is intended to apply. Based on my conversation with Liam, I understand the PP is proposed to apply to the **entire area of Lot 2** (6.34 hectares) in order to provide future flexibility as:

- designs for the road have not been undertaken to date; and
- agreement with Transport for NSW (TfNSW) for the road footprint and subsequent connection to Mitchell Highway have not been reached.

Based on the nature of the PP, the cited linkage to proposed Clearmont Rise development to the west, and the associated need for TfNSW agreement, please provide further detail regarding the following:

- Preliminary planning undertaken for the concept and road connection, including feedback from TfNSW regarding this proposed road connection
- Feedback from TfNSW regarding the Clearmont Development Control Plan, adopted by Council in September 2023, and in particular, the proposed 33m wide sub-arterial road identified to traverse this subject site
- Feedback from TfNSW regarding the intent of this PP to address outstanding matters raised by TfNSW in their submission associated with PP-2022-3263 (Clearmont Rise rezone area)

This information should be included in an updated PP.

c. 'Recoup the cost of this land' and 'cost of acquiring Bourke Hill'

The PP refers to the intent to recoup the costs of acquiring Bourke Hill. Given Council owns the land, and purchased the land in 1962 for less than \$1000, please provide clarification regarding the intent of these statements within the PP.

Should you have any queries, or wish to discuss these matters further, please reach out to me. I would be happy to arrange a meeting in the new year to chat about these items further.

Kind regards

Llyan Smith

Acting Manager Local & Regional Planning, Western Region

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The Department of Planning and Environment acknowledges that it stands on Aboriginal land. We acknowledge the traditional custodians of the land and we show our respect for elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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