



IRF24/1994

Gateway determination report – PP-2024-1700

Reclassification of Council owned lands

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure 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 with Attachments (Version 1.1) – July 2024
Council Agenda report, Item 10 - 30 July 2024

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Blue Mountains
PPA	Blue Mountains City Council
NAME	Reclassification of Council owned land (1 home, 0 jobs)
NUMBER	PP-2024-1700 / LEP Amendment 21
LEP TO BE AMENDED	Blue Mountains LEP 2015
ADDRESS	Four sites as outlined below
DESCRIPTION	Lot 99 on DP 16449, Lot 312 on DP 112778, Lot 2 on DP776552, Lot 27 on DP 9972
RECEIVED	31/07/2024
FILE NO.	IRF24/1994
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

1.2 Objectives of planning proposal

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

The objective of this planning proposal is to facilitate the reclassification of Council owned land from Community Land to Operational land and extinguish trusts and encumbrances (where required) to allow for the future long-term operational use, lease or sale of Council owned land. The proposal relates to the following sites:

- 75 Godson Avenue, Blackheath (Lot 99 DP 16449)
- 36 Great Western Highway, Wentworth Falls (Lot 312 DP 1122778)
- 19P Ross Street (Glen Lane), Glenbrook (Lot 2 DP 776552)
- 20A The Appian Way, Woodford (Lot 27 DP 9972)

In addition, the planning proposal seeks to remove the public reserve status of the land at 36 Great Western Highway Wentworth Falls and rezone the land from RE1 Public Recreation to C4 Environmental Living. This is proposed to facilitate the sale of that land, which is surplus to Council's requirement for public open space.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Blue Mountains LEP 2015 per the changes below:

- Amend Schedule 4, Part 1 of the *Blue Mountains Local Environmental Plan 2015 (no interests changed)*
- Amend Schedule 4, Part 2 of the *Blue Mountains Local Environmental Plan 2015 (interests changed)*
- Remove the Public Reserve status and rezone 36 Great Western Highway to C4 Environmental Living. In addition, introduce a 1200m² Minimum Subdivision Lot Size provision to this land.

Table 3 Amendments proposed

LEP Provisions to be Amended	Property Details
Amend Schedule 4, Part 1 of the <i>Blue Mountains Local Environmental Plan 2015 (no interests changed)</i>	<ul style="list-style-type: none"> • 75 Godson Road, Blackheath • 19P Ross Street (Glen Lane) Glenbrook • 20A The Appian Way, Woodford
Amend Schedule 4, Part 2 of the <i>Blue Mountains Local Environmental Plan 2015 (interests changed)</i>	<ul style="list-style-type: none"> • 36 Great Western Highway, Wentworth Falls
<i>Remove Public Reserve Status, Rezone from RE1 to C4, with addition of a minimum subdivision lot size of 1200m² and inclusion within Area G – Cl 4.1F on the lot averaging map.</i>	<ul style="list-style-type: none"> • 36 Great Western Highway, Wentworth Falls

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

It is noted that the proposal to change interests and remove the public reserve status for the site at 36 Great Western Highway Wentworth Falls will require ExCo / Governor approval as part of finalisation in accordance with the *LEP Practice Note PN16-001 – Classification and reclassification of public land through a LEP*.

1.4 Site description and surrounding area

As noted above, the planning proposal relates to four single sites spread across the LGA in the villages/ suburbs of Blackheath, Wentworth Falls, Glenbrook and Woodford. The Blackheath and Wentworth Falls sites present as vacant lots and are or proposed to be (in the case of Wentworth Falls) zoned C4 Environmental Living enabling disposal for residential use as per the surrounding areas. The Glenbrook site is zoned E1 Local Centre, is partly bitumen sealed and has served as a service lane to the rear of a property at 25 Ross Street. This has been an informal arrangement; however reclassification will enable Council to consider creation as a road reserve or a lease or licence arrangement for the access. The Woodford site is a thin strip of land zoned C4 Environmental Living and part dedicated as a drainage easement for adjoining residential properties and roads. Reclassification will enable Council to formalise the easement arrangement over all affected lots.

An overview of the proposal sites, their surrounds (including aerial images) and the purpose of reclassification in each case is provided in Appendix 1 of the Planning Proposal document (**Attachment A**).

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Land Zoning, Minimum Lot Size and Lot Averaging maps, which are suitable for community consultation. These maps are all in respect of the rezoning of 36 Great Western Highway, Wentworth Falls from RE1 Public Recreation to C4 Environmental Living, details as follows:

- Land Zoning Map – Change from RE1 Public Recreation to C4 Environmental Living.
- Lot Size Map – Apply a minimum subdivision lot size of 1200m², consistent with the surrounding C4 zoned land.
- Lot Averaging Map - Add site to *Area G – Cl 4.1F*, consistent with the surrounding C4 zoned land.



Figure 1 Current (left) and Proposed (right) zoning map

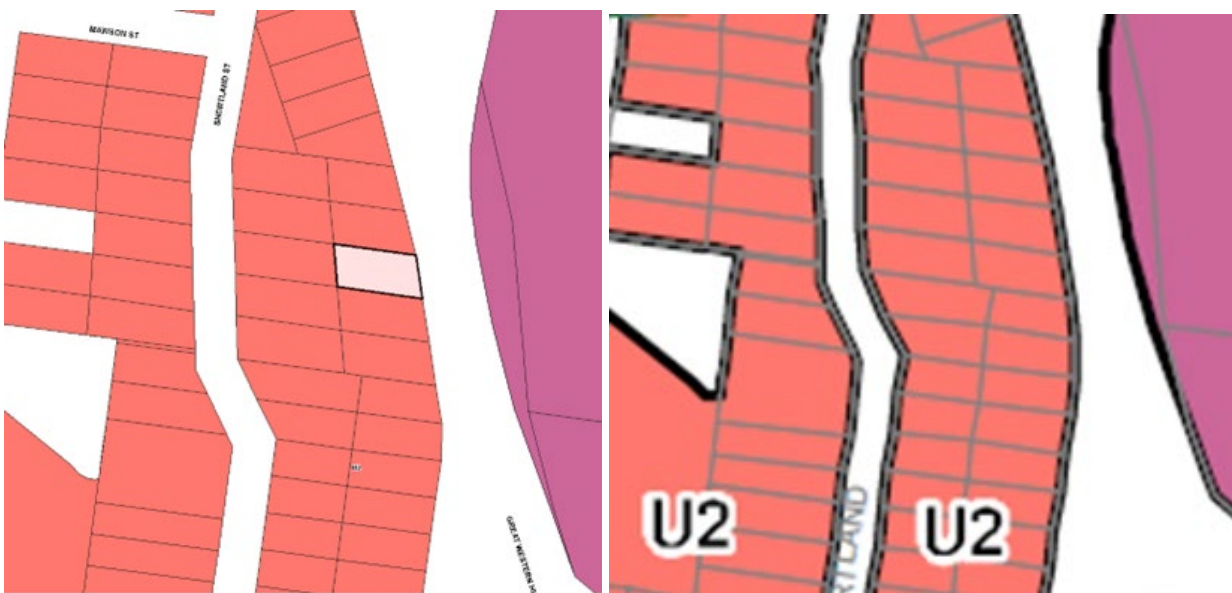


Figure 2 Current (left) and Proposed (right) minimum lot size map



Figure 3 Current (left) and Proposed (right) Lot Averaging map

1.6 Background

The planning proposal has been in consideration over several years, with related Council decisions having been made in 2022 and 2023. The planning proposal for the 4 subject sites was endorsed by Council for submission for consideration of Gateway at Council's meeting of 30 July 2024 – refer Council Agenda report (**Attachment D**).

2 Need for the planning proposal

The planning proposal is informed by a Land Use Study completed by DFP Planning in December 2023. The study deals with 3 of the subject sites, with the final site in Woodford having been the result of research undertaken by Council. The proposals are broadly consistent with Council's Local Strategic Planning Statement.

The Planning Proposal is the only means of achieving the objectives and intended outcomes. The reclassification of land is required to meet both the requirements of the *Environmental Planning and Assessment Act 1979* and *Local Government Act 1993*, through the preparation of a Planning Proposal. The proposed rezoning must also occur via a Planning Proposal.

3 Strategic assessment

3.1 District Plan

The site is within the Western City District and the Greater Sydney Commission released the Western City District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The planning proposal is consistent with the priorities for infrastructure and collaboration, liveability, productivity, and sustainability in the plan as outlined below.

The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. The following table includes an assessment of the planning proposal against relevant directions and actions.

Table 5 District Plan assessment

District Plan Priorities	Justification
Liveability Planning Priority W3 - Providing services and social infrastructure to meet people's changing needs	The strategic use of Council land through lease arrangements or the disposal of surplus land allows Council's resources to be better focussed on provision of services that do meet the current and future community needs.
Productivity Planning Priority W7 – Establishing the land use and transport structure to deliver a liveable, productive and sustainable Western Parkland City.	The reclassification of the Council drainage reserve is consistent with this objective by better allowing the management of the drainage reserve, as well as providing for lawful access to the existing dwelling on the adjoining site. The Proposal also adds to the land available for housing within the existing urban footprint of the LGA.

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 proposal is consistent with the Blue Mountains Local Strategic Planning Statement. It will result in the use of land for the highest and best use within a broader planning framework which requires sustainable development and protection of the World Heritage Area. Operational land classification allows the strategic use of land through leasing arrangements or divestment of surplus council land to enable support Council's funding of services and infrastructure.
Community Strategic Plan	The proposal is consistent with at least 3 Key Direction areas (Lead, Live and Thrive) and related objectives of the Blue Mountains Community Strategic Plan 2035.

3.3 Local planning panel (LPP) recommendation

The planning proposal was considered by the Blue Mountains Local Planning Panel at its meeting on 24 June 2024. The Panel supported the planning proposal and considered it has local strategic merit and is consistent with regional and local plans and strategies.

3.4 Section 9.1 Ministerial Directions

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

Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
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1.1 Implementation of Regional Plans	Yes	The planning proposal is consistent with the Greater Sydney Region Plan and for the sites identified for disposal, makes a contribution to increased housing supply within the Blue Mountains LGA
3.1 Conservation Zones	Yes	<p>The Planning Proposal includes the rezoning of 36 Great Western Highway, Wentworth Falls to C4 Environmental Living, consistent with the zoning of the surrounding land containing residential development. This site is clear of any native bushland and does not contain any environmentally sensitive land.</p> <p>The site at 75 Godson Avenue, Blackheath is currently zoned C4 Environmental Living, and also does not contain any environmentally sensitive land. This site is part of an existing residential subdivision and is already zoned to permit this development. While some native vegetation has been retained on the site, Council's planning controls, applied at development application stage provide a suitable mechanism for balancing development and environmental considerations.</p>

3.3 Sydney Drinking Water Catchments

Yes

Council assessment: 36 Great Western Highway, Wentworth Falls is located within the Sydney drinking water catchment. The site is serviced by reticulated water and sewerage, and there are no mapped water courses occurring on the site.

Consultation with WaterNSW has been undertaken as part of the preparation of this Planning Proposal. WaterNSW has advised that:

- WaterNSW has no objection to the Proposal
- Future development of the site would be capable of achieving the required neutral or beneficial effect on water quality.
- Their Strategic Land and Water Capability Assessment Map, based on the site being available for residential development has a water quality risk varying from Low over the majority of the site, to Moderate in the rear of the site.

Council advised it has reviewed the water quality map provided and considers that the area of low water quality risk is extensive and is considered sufficient to allow for a dwelling and ancillary development under Council's Planning controls to be sited within the low-risk area. Traditionally the moderate risk area at the rear of the site would be used for outdoor space. This map is contained in the WaterNSW Response.

Department comment: Having reviewed the WaterNSW submission provided with the planning proposal and the Council's response, the proposal is considered consistent with this Direction.

4.3 Planning for Bushfire Protection	No – unresolved and requires justification	<p><i>Council assessment:</i> The following land is currently mapped as bushfire prone land on Council's bushfire prone lands map and has been assessed against the provisions of the Ministerial Direction.</p> <ul style="list-style-type: none"> • 75 Godson Avenue Blackheath, which is currently zoned C4 Environmental Living, is designated as bushfire prone land. However recent development in the locality has removed the majority of vegetation within 100m of the site. Future development on the site will be able to comply with the applicable requirements for infill development in <i>Planning for Bushfire Protection 2019</i> (PBP 2019). • 36 Great Western Highway Wentworth Falls, which is proposed to be rezoned C4 Environmental Living, will be able to comply with the requirements for rezoning and infill development under PBP 2019. Development since the preparation of the bushfire prone lands map has removed vegetation on and adjoining this site. A dwelling on the site can be located more than 100m from the nearest bushfire hazard. • 20A The Appian Way, Woodford is also partly designated as bushfire prone (vegetation buffer). However, no form of development subject to PBP 2019 is possible in this narrow, drainage reserve. <p><i>Department Comment:</i> Consistency with the Direction is as yet unresolved and requiring justification. The Direction requires referral of the planning proposal to the Rural Fire Service of NSW for its advice prior to community consultation (as a condition of Gateway determination) and for any comments to be considered.</p>
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5.2 Reserving Land for Public Purposes

No – however delegate to form view that the inconsistency is minor and justified

Council assessment: This direction is relevant to the land at 36 Great Western Highway, Wentworth Falls.

Council as the relevant public authority will approve of the alteration, by removal of the public reserve status and rezoning from RE1 Public Recreation of these properties by endorsing this Planning Proposal.

In accordance with 5.2(1) of the direction, this planning proposal requests approval of the Planning Secretary (or an officer of the Department nominated by the Secretary) to remove the reservation of land for public purposes from 36 Great Western Highway Wentworth Falls.

Department comment: Sub-point (1) of the Direction states:

(1) A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Planning Secretary (or an officer of the Department nominated by the Secretary).

The planning proposal has provided detail of the context of the site and justification for reclassification and rezoning of the RE1 Public Recreation zoned site. As noted above, Council has supported the removal of the public reserve status of the land.

The site is located on Great Western Highway and presents as a cleared vacant residential lot with houses adjoining. The site has no environmental features or values, nor has it been improved or used for public recreation. Council advised the site is surplus to Council's open space and recreation requirements and the site is not identified in the *Open Space and Recreation Strategic Plan 2018-2028* for use as a playground or any other form of open space. It's small size and frontage to the Great Western Highway make it unsuitable for such uses. Council's strategy is to provide larger parks with diverse uses rather than small pocket parks with limited recreational opportunity.

Council's assessment is supported in this instance. While there is limited public recreation land in proximity of this site, there are larger public open space areas in Wentworth Falls and large areas of C2 Environmental Conservation land which serve environmental protection function close to the subject site.

		It is recommended that the delegate approve the removal of the public reservation of this site and deems the inconsistency with the Direction of minor significance and justified.
6.1 Residential Zones		75 Godson Avenue Blackheath is currently zoned C4 Environmental Living. The proposed reclassification from community to operational land will enable use of the land for forms of residential development permitted in that zone. In addition, the proposed reclassification and rezoning of 36 Great Western Highway Wentworth Falls will enable use of the land for forms of residential development permitted in that zone. Both sites are located in existing residential areas and are fully serviced, making efficient use of existing infrastructure and services. Therefore, the Planning Proposal is considered to be consistent with Direction 6.1.

3.5 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below. The proposals are either consistent with or do not hinder the operation of all other SEPPs.

Table 8 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Biodiversity and Conservation	Chapter 4 Koala Habitat Protection: Aims to encourage conservation and management of natural vegetation that provides habitat for koalas Chapter 6 Water Catchments: Aims to manage and conserve our water catchment areas	Yes	This Planning Proposal is consistent with the Biodiversity and Conservation SEPP. This planning proposal does not contain provisions that would hinder the application of this SEPP, including Chapter 4 Koala Habitat. Chapter 6, Part 6.5 of the SEPP specifically applies to the Sydney Drinking Water Catchment. Only 36 Great Western Highway Wentworth Falls is located within the Sydney Drinking Water Catchment, and as such, future development on the site will be required to demonstrate a neutral or beneficial effect on water quality.

4 Site-specific assessment

4.1 Environmental

It is considered there are no adverse environmental impacts of the planning proposal. None of the sites subject to this Planning Proposal contain critical habitat or threatened species, populations or ecological communities, or their habitats. As noted throughout this report, the proposals are consistent with and complement surrounding land uses.

The planning proposal provides a site-specific assessment of the environmental impacts of the proposals (**Attachment A**).

4.2 Social and economic

It is considered that there are no potential social and economic impacts associated with the proposals. The proposals will provide 1 additional dwelling to contribute to provision and diversity of housing in the Blue Mountains.

4.3 Infrastructure

The subject sites of the planning proposal are adequately serviced by roads and services infrastructure.

The planning proposal is for the reclassification of the identified land, with only 36 Great Western Highway Wentworth Falls also proposed for removal of its Public Reserve status and rezoning from RE1 Public Recreation to C4 Environmental Living. All necessary public infrastructure including water, sewer, electricity and vehicular access is available to this site. Importantly, vehicular access is available via a service road, ensuring safe access to and from the Great Western Highway.

75 Godson Avenue, Blackheath is currently zoned to permit forms of residential development. All necessary public infrastructure including water, sewer, electricity and vehicular access is available to these sites.

5 Consultation

5.1 Community

The planning proposal is categorised as a standard under the LEP Making Guidelines (August 2023). Accordingly, a community consultation period of 20 working days is recommended and this forms part of the conditions to the Gateway determination.

5.2 Agencies

Council has nominated the public agencies to be consulted about the planning proposal. It is further noted that Council has conducted referral to Water NSW in the making of the planning proposal and considered the feedback provided.

It is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- Rural Fire Service of NSW

Note referral is required prior to public exhibition of the proposal in accordance with Direction 4.3 Planning for Bushfire Protection.

6 Timeframe

Council proposes a 9 month time frame to complete the LEP.

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a standard although it is noted that ExCo approval will be required as an additional finalisation step for this proposal.

The Department recommends an LEP completion date of 9 months from the Gateway determination date in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

It is recommended that if the gateway is supported it is accompanied by guidance for Council in relation to meeting key milestone dates to ensure the LEP is completed within the benchmark timeframes.

7 Local plan-making authority

Council does not request delegation to be the Local Plan-Making authority.

As the planning proposal relates to the reclassification and rezoning of Council land, 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:

- The planning proposal has strategic and site-specific merit and is consistent with regional and local strategies.
- The proposal will contribute to housing provision in the Blue Mountains.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Direction 5.2 Reserving Land for Public Purposes are minor or justified; and
- Note that the consistency with section 9.1 Directions 4.3 Planning for Bushfire Protection is unresolved and will require justification.

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

The following conditions are recommended to be included on the Gateway determination:

1. Prior to community consultation, consultation is required with the following public authorities:
 - Rural Fire Service of NSW
2. Prior to community consultation, the planning proposal is to be revised to address condition 1

3. The planning proposal should be made available for community consultation for a minimum of 20 working days.

Given the nature of the planning proposal, it is recommended that the Gateway does not authorise council to be the local plan-making authority and that an LEP completion date of 9 months from the Gateway determination date be included on the Gateway.

The timeframe for the LEP to be completed is on or before 9 months from the Gateway determination date.



19/08/2024

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20 August 2024

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