



IRF25/580

## Gateway determination report – PP-2024-2510

---

Reclassification of Public Land adjacent to 8  
Tabratong Street, Nyngan from 'community' land to  
'operational' land

April 25



Published by NSW Department of Planning, Housing and Infrastructure

[dpie.nsw.gov.au](https://dpie.nsw.gov.au)

Title: Gateway determination report – PP-2024-2510

Subtitle: Reclassification of Public Land adjacent to 8 Tabratong Street, Nyngan from ‘community’ land to ‘operational’ land

---

© State of New South Wales through Department of Planning, Housing and Infrastructure 2025. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning, Housing and Infrastructure as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (April 25) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning, Housing and Infrastructure), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

# 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.

## Contents

- 1 Planning proposal.....2**
  - 1.1 Overview.....2
  - 1.2 Objectives of planning proposal .....2
  - 1.3 Explanation of provisions .....2
  - 1.4 Site description and surrounding area.....3
  - 1.5 Mapping.....4
  - 1.6 Background .....4
- 2 Need for the planning proposal .....5**
- 3 Strategic assessment .....5**
  - 3.1 Regional Plan .....5
  - 3.2 Local.....6
  - 3.3 Section 9.1 Ministerial Directions .....7
  - 3.4 State environmental planning policies (SEPPs) .....7
- 4 Site-specific assessment .....8**
  - 4.1 Environmental.....8
  - 4.2 Social and economic.....8
  - 4.3 Infrastructure .....8
- 5 Consultation.....9**
  - 5.1 Community .....9
  - 5.2 Agencies.....9
- 6 Timeframe .....9**
- 7 Local plan-making authority .....9**
- 8 Assessment summary .....10**
- 9 Recommendation.....10**

Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Planning Proposal (October 2024)
Council Meeting Agenda (24 October 2024)
Council Meeting Minutes (24 October 2024)

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

LGA	Bogan
PPA	Bogan Shire Council
NAME	Reclassify Council owned land (Lot 1 DP 102113, Lot 2 DP 355559, Lot 3 DP 945184) from 'community' land to 'operational' land.
NUMBER	PP-2024-2510
LEP TO BE AMENDED	Bogan Local Environmental 2011
ADDRESS	8 Tabratong Street, Nyngan
DESCRIPTION	Lot 1 DP 102113, Lot 2 DP 355559 and Lot 3 DP 945184
RECEIVED	14/11/2024
FILE NO.	IRF25/580
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 objective of the planning proposal is to reclassify the site from 'community' to 'operational' land, to facilitate the use of the land for community housing.

The reclassification will ensure that the land is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants that may affect further operations and the use of the land for five community housing units.

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

## 1.3 Explanation of provisions

The proposal seeks to amend Part 2 Land classified, or reclassified, as operational land – interests changed in Schedule 4 Classification and reclassification of public land of the Bogan Local Environmental Plan 2011 (BLEP), for the subject site (Lot 1 DP 102113, Lot 2 DP 355559 and Lot 3 DP 945184).

No changes are proposed to the principal planning provisions or any other provisions of the BLEP.

The planning proposal has been assessed against the provisions of Practice Note, PN 16-001 - Classification and reclassification of public land through a local environmental plan. The site was transferred into Council's ownership by the Department of Public Works in October 1974. It is not

subject to any leases or agreements for its use, nor are there any proposed dealings. The proposal is consistent with PN 16-001. It should be noted that the site does not have a Plan of Management.

A decision to classify or reclassify public land cannot be sub-delegated by council to the general manager or any other person or body (LG Act s.377(1)(l)).

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

**Table 3 Existing and proposed controls**

Control	Current	Proposed	Interests to be changed
Zone	E1 Local Centre	No change.	<ol style="list-style-type: none"> <li>1. Right of Way: The certificate of title lists a right of way benefitting Lot 1 and burdening Lot 2. Lot 3 also has a right of way affecting part of the land.</li> <li>2. Covenant: Covenant J652653 relates to a memorandum of mortgage held over the land in 1964.</li> <li>3. Lease to a private party: The certificate of title lists a lease to a private party that expires on 29/03/1996 with the option of a 5 year renewal. There are no current leases applying to the land.</li> </ol>
Reclassify land from	Community	Operational	All interests discharged

## 1.4 Site description and surrounding area

The sites are legally described as Lot 1 DP 102113, Lot 2 DP 355559 and Lot 3 DP 945184, located at 8 Tabratong Street, Nyngan (**Figure 1**). The land is located in the employment precinct of Nyngan and is zoned E1 Local Centre (**Figure 2**).

The land is currently vacant. A theatre was formerly located on the site but was demolished in 2020. Asbestos containing materials were used in the construction of the theatre and all known asbestos containing materials were removed from the building in 2020 prior to its demolition. A clearance certificate for the removal of asbestos from the building was issued on 7 April 2020.

The site is entirely cleared of vegetation and all structures and is primarily flat, draining to Council's stormwater system along Cobar Street and Tabratong Street.

The land has been identified as having site-specific locational advantages for community housing, being in close proximity to the commercial area of Nyngan including shops, medical services and civic services such as the library. This includes close proximity to bus stops which provide services to larger centres such as Dubbo. Most services are available within walking distance of the land.



**Figure 1 Subject site, outlined in red, (prior to demolition of theatre) (source: Sixmaps 2024)**



**Figure 2 Zoning map, subjected site outlined in yellow (source: NSW planning portal 2024)**

## 1.5 Mapping

The planning proposal does not propose any mapping changes.

## 1.6 Background

There are no records held by Council to indicate why the land was dedicated to Council, however the certificate of title indicates that the land may have been a Crown dedication.

2019 - The Nyngan Community Homes Association (NCHA) wrote to Council requesting that support for an application by NCHA, to the NSW government, to provide 5 independent living units for the purpose of community housing on the land.

28 November 2019 - Council resolved:

- To provide a letter of support to the Nyngan Community Homes Association to accompany a grant application for funding to construct seniors living units on the land.
- Should the Nyngan Community Homes grant application be successful, Council will donate the land to the Association.
- The resolution was conditional on Nyngan Community Homes being successful with their grant application. They were not successful in that round of funding.

11 June 2021 - Bogan Shire Council approved a development application for the construction of 5 self-care dwellings for seniors, or people with a disability, on the land (Development Application 10/2021/002/001). The approved dwellings are similar in style and character to the community housing development to the east.

February 2023 - Council received a request from NCHA to transfer the land to the Association as a prerequisite for them to receive funding under the Community Housing Innovation Fund to construct the approved dwellings.

23 March 2023 - Council resolved to defer a decision on whether to dispose of the land (i.e. donate it to NCHA) until the land was reclassified from community to operational. Council also resolved to submit a planning proposal in accordance with the LG Act section 27(1) to reclassify the land from community to operational.

24 October 2024 – Council resolved to:

- Lodge the Planning Proposal to Reclassify Public Land at 8 Tabratong Street Nyngan with the Department of Planning, Housing and Infrastructure for a Gateway Determination; and
- Undertake community consultation in accordance with Gateway Determination.

## 2 Need for the planning proposal

The planning proposal is not the result of a local strategic planning statement, or Department approved strategy or report.

The *Local Government Act 1993* stipulates that a planning proposal is the mechanism to reclassify land from 'operational' to 'community'. Accordingly, an amendment to the LEP is the most suitable mechanism to achieve the objectives of the planning proposal.

The reclassification of this land will allow for the development of community housing which aligns with the Bogan Shire Local Strategic Planning Statement (LSPS) and the Bogan Shire Local Housing Strategy, which is currently under preparation.

## 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 Regional Plan (Regional Plan 2041).



**Table 4 Regional Plan assessment**

Regional Plan Objectives	Justification
Objective 6: Support connected and healthy communities. Western NSW rivers	The subject land is a “brownfield” site in the central part of Nyngan. The reclassification and development of the subject site will not place additional pressure on the local river system.
Objective 7: Plan for resilient places and communities	The subject land is not located in an area subject to any natural hazards. The reclassification of the site will not have an impact.
Objective 12: Sustain a network of healthy and prosperous centres.	If Council resolves to dedicate or lease the land to a community housing provider, the reclassification of the land will assist in encouraging a greater mix of housing in the town centre, close to essential services.
Objective 13: Provide well located housing options to meet demand.	The reclassification and development of the subject land will allow for community housing, if Council resolves to dedicate or lease the land to a community housing provider.
Objective 14: Plan for diverse, affordable, resilient and inclusive housing.	The reclassification and availability of the subject land for community housing will make a contribution to the achievement of this objective, if Council resolves to dedicate or lease the land to a community housing provider.

## 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 5 Local strategic planning assessment**

Local Strategies	Justification
Bogan Shire LSPS	<p><u>Priority 4 – Safe and Liveable Communities</u></p> <p>The reclassification will allow for the development of the site for the use of community housing which is consistent with the following:</p> <ul style="list-style-type: none"> <li>• Utilise existing zoned and serviced land for a range of urban development outcomes, particularly the provision of housing for older people and affordable housing near existing services and amenities.</li> <li>• Encourage a range of housing options, including affordable housing, housing for older people, family housing and temporary worker accommodation in Nyngan.</li> <li>• Support ageing in place in Nyngan to make the best use of existing infrastructure and services in the town.</li> <li>• Investigate the options for new housing release having regard to servicing and hazards.</li> </ul>



### 3.3 Section 9.1 Ministerial Directions

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

**Table 6 9.1 Ministerial Direction assessment**

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Yes	The objective of this direction is to give effect to the vision, objectives and strategies Regional Plans.  The proposal is consistent with the Regional Plan as is discussed in section 3.1 (above).
1.3 Approval and Referral Requirements	Yes	The reclassification of this land does not introduce any LEP provisions that require the approval or referral to the Minister or public authority.
3.2 Heritage Conservation	Yes	The site does not include any listed heritage items and no Aboriginal places or items have been recorded on the site (AHIMS database search 10/07/2024).
7.1 Employment Zones	Yes	This direction seeks to encourage employment and growth in suitable locations, protect employment land and support the viability of identified centres.  This proposed reclassification will not alter the current employment zone and enable the orderly redevelopment of the site.

### 3.4 State environmental planning policies (SEPPs)

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

**Table 7 Assessment of planning proposal against relevant SEPPs**

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
State Environmental Planning Policy (Housing) 2021	Ch. 3 – Diverse housing	Yes	The reclassification of this land will allow Council to community housing provider, for community housing, if they resolve to do so. This subject site is closely located to services and is consistent.

## 4 Site-specific assessment

### 4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

**Table 8 Environmental impact assessment**

Environmental Impact	Assessment
Environmental	<p>The site is not mapped on the BLEP riparian and watercourse map, or terrestrial biodiversity map. Nor is it mapped on the biodiversity and thresholds values map.</p> <p>The land is entirely cleared of native vegetation and is not at risk of bushfire.</p> <p>The proposed reclassification will not have any adverse effects on the environment.</p>
Contamination	<p>The land is not mapped as potentially contaminated. Asbestos containing materials were used in the construction of the theatre that previously occupied the site. The asbestos containing materials were removed prior to the demolition of the theatre.</p>

### 4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

**Table 9 Social and economic impact assessment**

Social and Economic Impact	Assessment
Social	<p>The planning proposal can potentially facilitate the delivery of community housing, which would benefit the community.</p>
Economic Impact	<p>If the land is reclassified and a sale or lease was to occur, this would result in income to Council. These funds may be applied towards other infrastructure works to benefit the community.</p>

### 4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

**Table 10 Infrastructure assessment**

Infrastructure	Assessment
Use and protection of assets	The proposed reclassification will provide Council with greater flexibility to determine how to use its assets. It will not prevent Council from taking action to protect its assets and ensure their continued operation.
Infrastructure	The land is capable of being fully serviced. The land generally drains in a southerly direction towards Tabratong and Cobar Streets and on-site stormwater detention will be included in the proposed development of the site.

## 5 Consultation

### 5.1 Community

Council proposes a community consultation period of 28 days.

The planning proposal is categorised as a standard under the LEP Making Guidelines (August 2023).

It is noted that for planning proposal involving the reclassification of public land, the LEP Practice Note PN 16-001 requires at least 28 calendar days for Public Exhibition, and that the *Local Government Act 1993* requires a public hearing to be held. Accordingly, a community consultation period of 28 working days is recommended and forms part of the conditions to the Gateway Determination

### 5.2 Agencies

Council has not nominated any public agencies to be consulted about the planning proposal.

It is recommended that no agencies be consulted on the planning proposal.

## 6 Timeframe

Council proposes a 6 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.

The Department recommends an LEP completion date of 8 December 2025 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

As the planning proposal relates to the reclassification of Council land requiring approval from the Governor, 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:

- There is regional and local strategic merit for the proposal. The reclassification will facilitate the delivery of new development to support the objectives of the region and local strategic plans.
- An amendment to the BLEP is the only means of achieving the objectives of the planning proposal.
- The planning proposal will allow Council to consider whether the sale, exchange or disposal of the site would achieve a benefit for the community, and whether it would facilitate orderly planning outcomes by enabling development.
- The planning proposal (reclassification) will provide Council with greater flexibility to determine how to use its assets. It will not prevent Council from taking action to protect its assets and ensure their continued operation.

## 9 Recommendation

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. The planning proposal is to be updated to:
  - Amend the timeline to reflect the timelines included in this determination.
2. The planning proposal should be made available for community consultation for a minimum of 28 working days.
3. Public hearing is required to be held in accordance with Section 29 of the Local Government Act 1993 and the Department's Practice Note PN 16-001.
4. The timeframe for the LEP to be completed is on or before 8 December 2025.
5. Given the nature of the proposal, Council should not be authorised to be the local plan-making authority.



4/4/2025

Chantelle Chow

A/Director, Southern, Western and Macarthur Region

Assessment officer

Amanda O'Leary

Planning Officer, Southern Western and Macarthur Region

02 5852 6813