



IRF25/402

Gateway Determination Report - PP-2024-2598

Reclassification of Public Land (Lot 1 DP119739)
from 'community' land to 'operational' land

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure (the Department) 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.....	1
1.1	Overview.....	1
1.2	Objectives of planning proposal	1
1.3	Explanation of provisions	2
1.4	Site description and surrounding area.....	2
1.5	Mapping.....	5
1.6	Background	5
2	Need for the planning proposal	5
3	Strategic assessment	5
3.1	Regional Plan	5
3.2	Local.....	7
3.3	Local planning panel (LPP) recommendation.....	8
3.4	Section 9.1 Ministerial Directions	8
3.5	State environmental planning policies (SEPPs)	9
4	Site-specific assessment	9
4.1	Environmental.....	9
4.2	Social and economic.....	10
4.3	Infrastructure	10
5	Consultation.....	11
5.1	Community	11
5.2	Agencies.....	11
6	Timeframe	11
7	Local plan-making authority	11
8	Assessment summary	11
9	Recommendation.....	12

Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Attachment A – Planning Proposal (10 September 2024)
Attachment B – Report from the Ordinary Council Meeting dated 26 November 2024
Attachment B1 – Resolution from the Ordinary Council Meeting dated 26 November 2024
Attachment C – Title searches for affected lands

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Cumberland
PPA	Parkes Shire Council (Council)
NAME	Reclassification of Public Land (Lot 1 DP119739) from ‘community’ land to ‘operational’ land (0 homes, 0 jobs)
NUMBER	PP-2024-2598
LEP TO BE AMENDED	<i>Parkes Local Environmental Plan (LEP) 2012</i>
ADDRESS	No street address. Located between 21 Armstrong Street and 49 Dalton Street, Parkes.
DESCRIPTION	Lot 1 DP119739
RECEIVED	27/11/2024
FILE NO.	IRF25/402
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 (**Attachment A**) is to reclassify the site from ‘community’ to ‘operational’ land, to allow for Council to potentially divest itself from the site in accordance with the Council’s resolution from their Ordinary Meeting on the 26 January 2023 (**Attachment B1**).

The site (**Figure 1**) is composed of a single lot, legally known as Lot 1 DP 119739, and is square shaped with a square cut-out in its south-eastern corner. The reclassification will allow Council the opportunity to sell, exchange, or dispose of the site, if that would achieve a benefit for the community and facilitate orderly planning outcomes.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The proposal seeks to amend the *Parkes LEP 2012*, by adding the site (Lot 1 DP 119739) to *Part 2 Land classified, or reclassified, as operational land – interests changed in Schedule 4 Classification and reclassification of public land*.

As there are no interests pertaining to site, as outlined in Table 3 below and the assessment against the Department's Practice Note 16-001 located in Appendix 7.2 of the planning proposal, seeking to add the site to *Part 2 of Schedule 4* of the *Parkes LEP 2012* is not appropriate. It should instead seek to add the site to *Part 1 Land classified, or reclassified, as operational land – no interests changed of Schedule 4*. The Department takes this as an unintentional error and will recommend that a condition be included in the Gateway to update the planning proposal to reflect the above change.

Table 3 Proposed insertion in Part 2 of Schedule 4 of the *Parkes LEP 2012*

Column 1	Column 2	Column 3
Locality	Description	Any trust etc. not discharged
Dalton Street, Parkes	Lot 1 DP119739	Nil

No other changes are proposed to the principal planning provisions or any other provisions of the *Parkes LEP 2012*.

The planning proposal has been assessed against the provisions of PN 16-001 - Classification and reclassification of public land through a local environmental plan. The site was transferred into Council's ownership by the Registrar General of New South Wales on 21 August 1957. Part of the site is currently leased to the Parkes Early Childhood Centre (PECC) with the remainder currently being utilised as a parking lot park and public park (AE Fox Park). Reclassification of the land will allow Council the opportunity for divestment from the site.

The reclassification is a result of a strategic review process by Council on its land to ensure its rental arrangements met public authority obligations, fairness, equity, and competitive neutrality. As part of this process, this site was identified as an opportunity of potential divestment. Council have indicated they are exploring options for the site, including divestment, that help meet their obligations. The submitted planning proposal does not include assessment of the the loss of public open space, as required by the Practice Notice PN 16 001. Council's draft Open Space Strategy addresses the loss of the public park facilities, showing there is adequate public greenspace servicing this catchment area. However, the loss of carparking is not clear. The bulk of the lot is used as a public car park (approximately 70 car spaces) and appears to be the sole parking area servicing the adjoining childcare centre. As such, further information is required to address the net impact to the community (and childcare centre) as a result of reclassifying this public facility. It is recommended that this further information be provided prior to exhibition.

1.4 Site description and surrounding area

The site (**Figure 1**) is legally described as Lot 1 DP 119739. It is not assigned a street address, but located on Armstrong Street, between 21 Armstrong Street and 49 Dalton Street, Parkes. The site is composed of a single lot and is square with a square cut-out in the south-eastern corner with 90m frontage to Armstrong Street on its western side. It is primarily occupied by a parking lot, with AE Fox Park in the north-western corner of the site containing a children's playground, and the PECC utilising the north-eastern corner of the site.

The western side of the site has 90m frontage to Armstrong Street, is bound to the north by residential lots (zoned R1 – *General Residential*) and to the south and west by Parkes Bowling and Sports Club (zoned RE2 – *Private Recreation*) (**Figure 1**). The planning proposal does not propose any changes to the site's zoning of R1 – *General Residential* (**Figure 2**).

The site is located approximately 250m west of Parkes Shire Council and Library, 270m north-east of Keast Park, and 520m north Parkes Train Station (**Figure 3**).

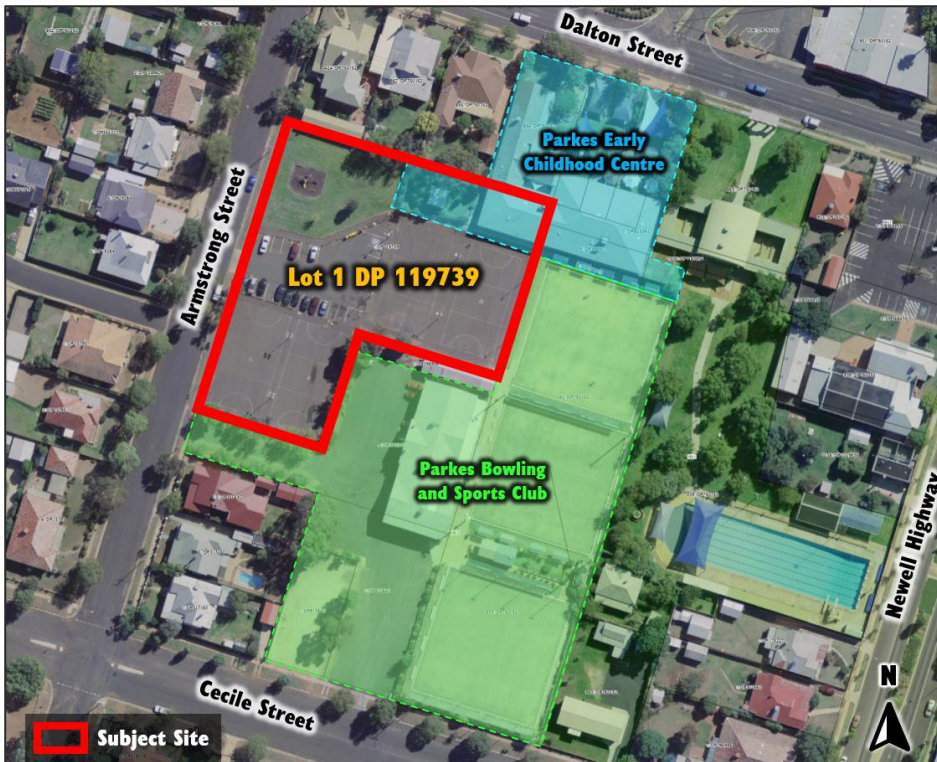


Figure 1: Site Aerial (Source: NSW Spatial Viewer, December 2024)

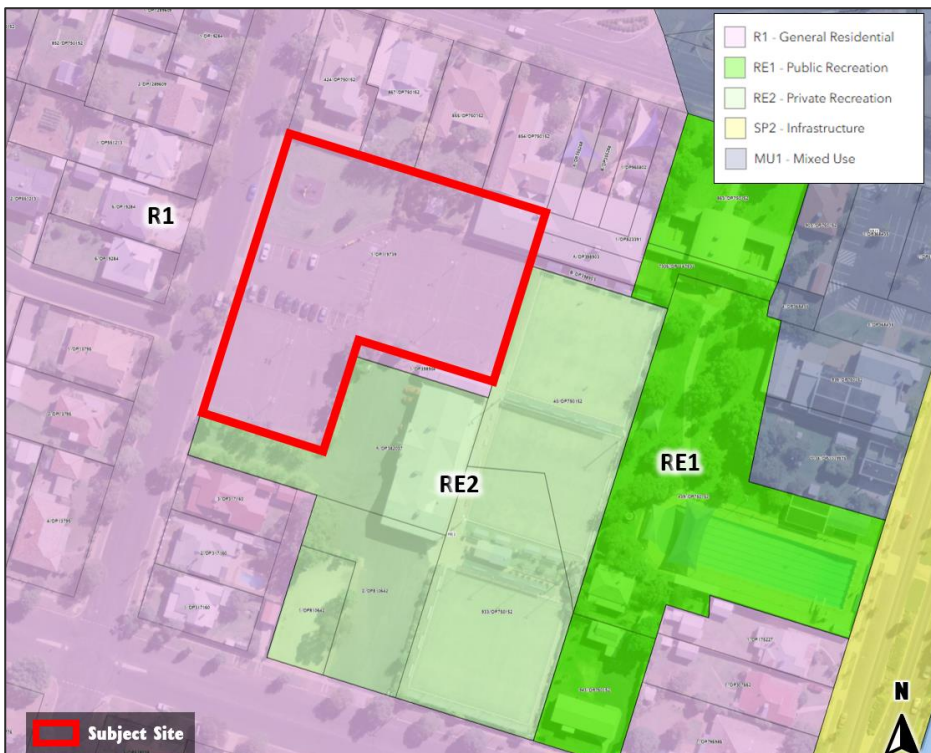


Figure 2: Zoning map (Source: NSW Spatial Viewer, December 2024)



Figure 3: Site Context (Source: NSW Spatial Viewer, December 2024)

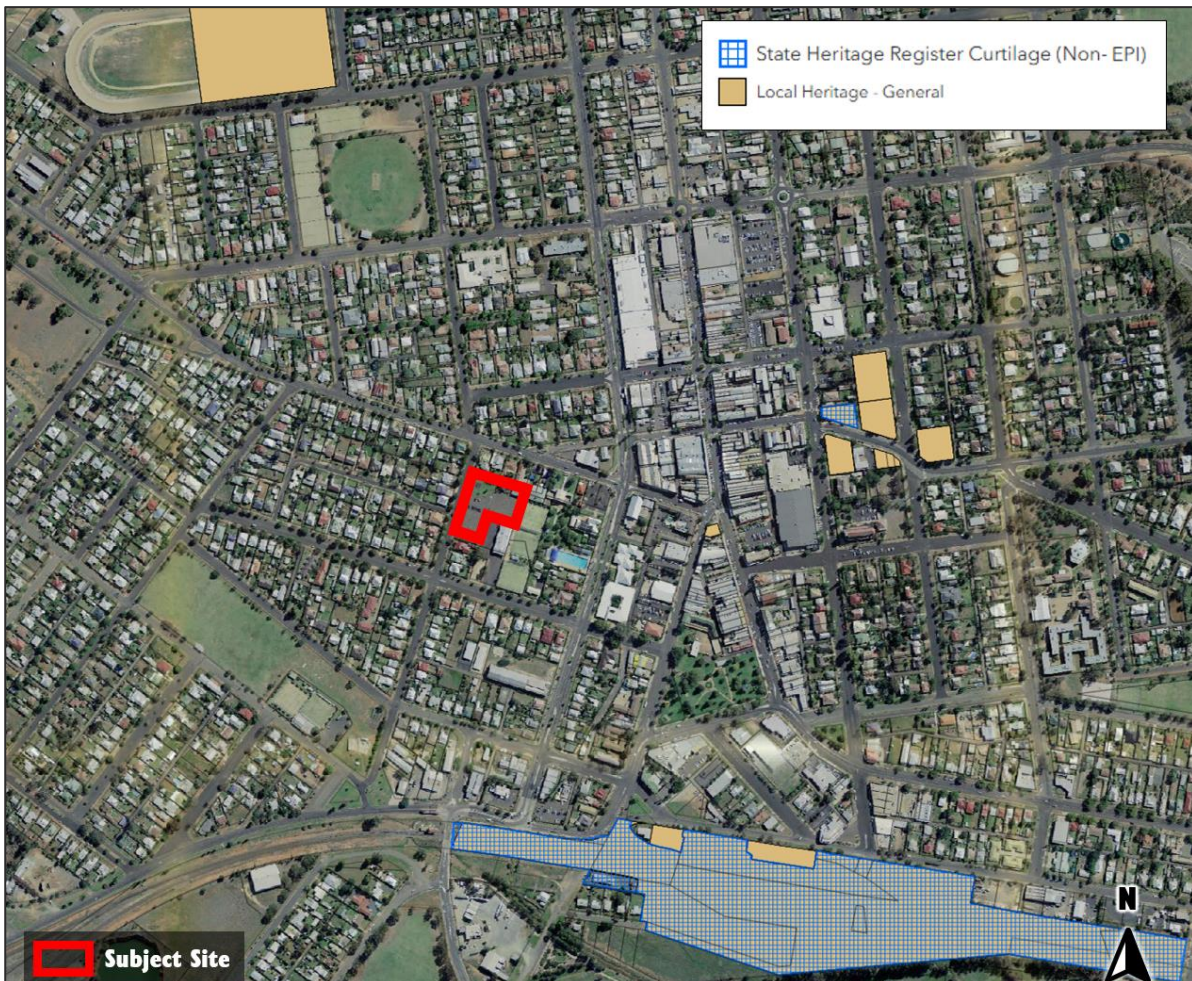


Figure 4: Heritage Map (Source: NSW Spatial Viewer, December 2024)

1.5 Mapping

The planning proposal does not propose any mapping changes to the *Parkes LEP 2012*.

1.6 Background

This is a Council-initiated planning proposal submitted by Council, the current owner of the site, following a strategic review of Council-owned land. As part of the review, Council identified the site as an opportunity for divestment to help meet their obligations.

No consultation regarding this planning proposal, agency or community, has been carried out to date.

Council considered the planning proposal at its Ordinary Meeting on 26 November 2024, and resolved that Council:

1. Endorses the draft Planning Proposal for submission to the Minister for Planning in accordance with Section 3.34(1) of the *Environmental Planning and Assessment Act 1979*, requesting a Gateway Determination, pursuant to Section 3.34(2) of the *Environmental Planning and Assessment Act 1979*.
2. Request delegation to finalise and make the draft Local Environmental Plan, pursuant to Section 3.36 of the *Environmental Planning and Assessment Act 1979*.

2 Need for the planning proposal

The planning proposal is in response to a strategic review process by Council on its land to ensure its rental arrangements met public authority obligations, fairness, equity, and competitive neutrality. This approach resulted in Council exploring opportunities to sell all or part of the site to best suit their needs and meet their obligations.

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.

3 Strategic assessment

3.1 Regional Plan

The site is within the Central West and Orana region and is subject to the *Central West and Orana Regional Plan 2041* (Regional Plan).

The proposal is broadly consistent with the Regional Plan by facilitating enhanced use of employment lands. The following table provides an assessment of the planning proposal against relevant objectives of the Regional Plan.

Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
<p>Strategy 6.1: Undertake public space needs analyses and develop public space strategies by exploring new opportunities for public space, using community feedback to determine what is required, considering future community needs, and identifying places with the highest needs of public spaces.</p>	<p>The planning proposal is consistent with this strategy.</p> <p>The planning proposal is a result of a strategic review of Council-owned land and the exploration of potential buyers of part or all of the site. While the proposal identifies that there are no short-term plans to change the current uses on this site, the reclassification process will allow Council to action changes, as it sees fit, immediately following adoption of this LEP amendment. Adequate commentary for childcare centre use is provided within the proposal and the rationalisation of AE Fox Park is identified in Council's Draft Open Space Strategy (yet to be publicly exhibited). However, further information is required to understand the impact of public car parking loss (approx. 3800m² of public car parking). See further comments against Strategy 6.3 below.</p>
<p>Strategy 6.2: Strategic planning and local plans should consider opportunities to demonstrate high-quality, and diverse space that is maintained, improved and embellished.</p>	<p>The planning proposal is consistent with this strategy.</p> <p>The proposed reclassification will allow Council to divest itself from the site which provides greater flexibility in demonstrating the high-quality, diverse space and in ensuring it is well-maintained or improved.</p>
<p>Strategy 6.3: LEP amendments that propose to reclassify public open space must consider:</p> <ul style="list-style-type: none"> • 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 • where land sales are proposed, details of how sale of land proceeds will be managed • the net benefit or net gain to open space. 	<p>The planning proposal provides some detail into dot-points 1-3 of the Strategy 6.3 however does not provide commentary regarding net benefit of net gain to open space. Council's Open Space Strategy (yet to be publicly exhibited) identifies that the AE Fox Park is at the end of its usable life as an asset and requires upgrade to meet current safety standards. The Open Space Strategy identifies that AE Fox Park is to be reclassified and shows that there will be sufficient public open space servicing the catchment following the rationalisation of AE Fox Park. However, neither the planning proposal nor the Open Space Strategy includes any commentary or strategic justification for the reclassification of the public car parking area (around 70 spaces across an area of 3800m²). The proposal also does not address the impact to the adjoining childcare centre which appears to utilise this car park as the sole source of car parking. It is recommended that further information be provided to support this aspect of the proposal and prior to public exhibition.</p>
<p>Strategy 7.1: Design communities that provide interactive public and open spaces to enhance a sense of place and social cohesion to enable communities to withstand and adapt to climate change and respond to natural hazard events.</p>	<p>The planning proposal is consistent with this strategy.</p> <p>The reclassification will allow for the potential sale of subject site which may allow for the site to enhance the community aspects of the site and improved its environmental adaptability and responsiveness.</p>

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
<i>Parkes Shire Community Strategy Plan – Parkes Shire 2035+</i>	<p>The <i>Parkes Shire Community Strategy Plan – Parkes Shire 2035+</i> sets out the vision for Parkes Shire and the goals, strategies, and actions to achieve that vision.</p> <p>The planning proposal is aligned with the following strategic objectives:</p> <ul style="list-style-type: none"> <p><i>3.1.3 Effectively manage our public lands, reserves and cemeteries</i></p> <p>The proposed reclassification is a result of a strategic review that identified a potential opportunity to sell a portion of the subject site.</p> <p><i>3.2.1 Manage our built environment in line with the Local Environmental Plan (LEP) and relevant legislation</i></p> <p>The proposed reclassification aligns with the relevant legislation and procedures for amending the <i>Parkes LEP 2012</i>.</p> <p><i>4.1.1 Effectively collaborate, engage, and communicate with our community to inform decision making and promote services, projects and initiatives</i></p> <p>This proposal was a result of the strategic review and discussions with potential acquirers of the site.</p> <p><i>4.1.2 Provide open and transparent decision-making and undertake the civic duties of Council with professionalism and integrity</i></p> <p>The proposal clearly outlines how the idea of reclassification eventuated.</p> <p><i>4.2.3 Develop and implement an asset management framework that ensures existing and future infrastructure is affordable, funded and maintained to ensure inter-generational equity</i></p> <p>Enabling the acquisition of the subject site reduces the maintenance costs of council and provides funding that can be funnelled towards existing and future infrastructure projects.</p> <p><i>4.2.4 Implement an ongoing service review and business improvement program to ensure Parkes Shire Council's services are sustainable</i></p> <p>The proposal does not include the implementation of an improvements program as described, however, it does reduce the amount of Council-owned land to be maintained and generates funding from the potential sale of the site which may help indirectly sustain Council's services to the community.</p> <p><i>4.3.3 Ensure compliance with statutory requirements and ensure Parkes Shire Council's operations are supported by good corporate governance and effective risk management</i></p> <p>Council has followed the statutory requirements for a reclassification. Additionally, Council inherits no additional risk through the reclassification.</p>

Local Strategies	Justification
Parkes Shire Council Delivery Plan – 2022/23 to 2024/25	<ul style="list-style-type: none"> <i>Pursue continuous improvement in the management of its assets and infrastructure.</i> The planning proposal is a result of Council's active management and review of its assets. <i>Exploring options to vary current service levels as part of an ongoing conversation with the community about their priorities.</i> Council have indicated they began discussions regarding divestment of the site, thereby demonstrating and encouraging conversations with the community regarding its priorities. <i>Better understand the costs of service delivery and options to vary services, to inform community engagement about priorities.</i> The planning proposal is a result of Council's strategic review of its assets providing a better understanding of its priorities and long-term planning.

3.3 Local planning panel (LPP) recommendation

The planning proposal was not reported to the Parkes Local Planning Panel (LPP).

3.4 Section 9.1 Ministerial Directions

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

Table 6 Ministerial Direction assessment

Directions	Consistent / Not Applicable	Reasons for Consistency or Inconsistency
1.1 - Implementation of Regional Plans	Largely consistent	<p>The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.</p> <p>As described in Table 4, the proposal is largely consistent with the Central West and Orana Regional Plan. See further information sought in respect to Strategy 6.3.</p>
3.1 - Conservation Zones	Not applicable	The site does not contain environmental values and is not environmentally sensitive area.
3.2 - Heritage Conservation	Consistent	<p>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p>The site is not mapped as having local or state heritage values. The planning proposal will not alter the relationship with heritage items in the vicinity (Figure 4).</p>
4.1 – Flooding	Not Applicable	The site is not located on flood-prone land.

Directions	Consistent / Not Applicable	Reasons for Consistency or Inconsistency
5.2 - Reserving Land for Public Purposes	Consistent	<p>This direction seeks to facilitate the provision of public services and facilities by reserving land for public purposes and to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.</p> <p>The site is currently being utilised as a parking lot, a park, and by the PECC. The reclassification of the subject site will allow greater flexibility for Council in deciding what to do with the land, including retaining and utilising it as is, or divesting itself from part or all of the site.</p> <p>The proposal is consistent with this direction. The land is Zone R1 General Residential, is not identified on Council's Land Reservation Acquisition Map, and is not legally identified as a public reserve.</p>

3.5 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	Consistent / Not Applicable	Reasons for Consistency or Inconsistency
<i>State Environmental Planning Policy (Planning Systems) 2021</i>	Yes	The planning proposal is consistent with this SEPP as the proposed amendments do not include changes to any development standards.

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
Flooding	The site is not situated on flood-prone land. The proposed reclassification will have no effect on existing flood conditions for the area

Environmental Impact	Assessment
Environmental	The site contains no areas of biodiversity value or conservation, with the majority of the site currently a parking lot. It is not mapped on the biodiversity values map and the planning proposal does not include changes to the any protections regarding biodiversity.
Heritage	The site and adjacent lots are not mapped as having any heritage items. The proposed reclassification, and potential sale of a portion of the site, will not impact the heritage items in the wider area (Figure 4).

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 Impact	The reclassification would not prevent the community's continued use of the site, including its use as a parking lot and park in the short term. The community will continue to have adequate access to public recreation spaces following any future rationalisation of AE Fox Park, however impact to the community as a result of lost public parking facilities has not been detailed in the proposal. It is recommended that further information is provided to understand this impact, including the impact to the childcare centre, which utilises these parking facilities as part of its operation.
Economic Impact	If the land is reclassified and a sale of the site was to occur, this would generate income for Council which may be directed towards other infrastructure works to benefit the community

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 and will not prevent Council from taking action to protect its assets and ensure their continued operation.
Servicing	No additional services or utilities are required to support the proposed reclassification.

5 Consultation

5.1 Community

Council has nominated a consultation period of 28 days.

The planning proposal is categorised as standard under the *LEP Making Guideline* (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

The proposal does not specifically raise which agencies will be consulted.

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

6 Timeframe

Council nominates a 6-month timeframe to complete the planning proposal.

The *LEP Plan Making Guideline* (August 2023) established maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised a standard.

The Department recommends an LEP completion date of Friday 7 December 2025. A condition to the above effect is recommended in the Gateway Determination. While this exceeds the Department's 225 working day target, it is still within an acceptable range.

7 Local plan-making authority

Council seeks delegation to be the Local Plan Making Authority.

While this proposal seeks to reclassify Council owned land, no interests are proposed to be discharged as a result of this proposal and suitable oversight will be provided throughout the process, including the need for a public hearing and associated reporting. As such, it is recommended Council be authorised as 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 allow Council the option to potentially divest itself from the site to support the objectives of the region and local strategic plans.
- An amendment to the *Parkes LEP 2012* 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 of the adjoining lands.
- 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.

Based on the assessment outlined in this report, the proposal must be updated before consultation to:

- Refer to *Schedule 4 Part 1 Land classified, or reclassified, as operational land – no interests changed* of the *Parkes LEP 2012*, instead of *Schedule 4 Part 2 Land classified, or reclassified, as operational land – interests changed*.

9 Recommendation

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

1. Prior to Public Exhibition, the planning proposal is to be amended to.
 - (a) Reflect amendment to *Schedule 4 Part 1 Land classified, or reclassified, as operational land – no interests changed*, and delete reference to amendment of *Schedule 4 Part 2 Land classified, or reclassified, as operational land – interests changed*.
 - (b) Provide information to support the rationalisation of approximately 3800m² of public car parking space. The further information is to detail the net impact to the community and the Parkes Early Childhood Centre as a result of the reclassification.
 - (c) Provide information on how many dwellings can be provided under the existing residential controls.
 - (d) Amend the timeline to reflect the timelines included in this determination.
2. 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 and must be made publicly available for community consultation for a minimum of 28 working days, in accordance with the *Local Environmental Plan Making Guideline* (Department of Planning, Housing and Infrastructure, August 2023) and the Department's Practice Note PN 16-001; 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, Housing and Infrastructure, August 2023).

No consultation is required with public authorities or government agencies under section 3.34(2)(d) of the Act.

3. A 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. Given the nature of the proposal, Council is authorised to be the Local Plan Making Authority.
5. The timeframe for the LEP to be completed is on or before Friday 7 December 2025.



31 January 2025

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10/3/2025

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