

## 12.9 PLANNING PROPOSAL FOR RECLASSIFICATION OF LANDS – REQUEST FOR GATEWAY DETERMINATION

**Responsible Officer:** Director Planning

### PURPOSE

The purpose of this report is to recommend the Planning Proposal for Reclassification of Lands to amend the Hilltops Local Environmental Plan (LEP) 2022 for submission to the NSW Department of Planning, Housing and Infrastructure requesting a Gateway Determination.

### RECOMMENDATION

That Council:

- a. Endorse the Planning Proposal for Reclassification of Lands to the Hilltops Local Environmental Plan (LEP) 2022 (Attachment 1)
- b. Request a Gateway Determination from the Department of Planning, Housing and Infrastructure in accordance with Section 3.34(1) of the Environmental Planning and Assessment Act 1979, with the submission to include a request to issue Council with Delegation to be the Local Plan Making Authority.
- c. Upon receipt of a Gateway Determination, Council place the Planning Proposal on public exhibition pursuant to any requirements of the Determination and Section 3.34(2) of the Environmental Planning and Assessment Act 1979.
- d. Grant delegation to the Acting General Manager to make any necessary changes to the Planning Proposal prior to public exhibition in response to the conditions of the Gateway Determination.
- e. Undertake a Public Hearing after the public exhibition period has completed as required under Section 29 of the Local Government Act 1993 and in line with the NSW Government's LEP Practice Note PN 16-001
- f. Receive a further report following the completion of the public exhibition and public hearing for consideration, including the results of public exhibition.

### REPORT/SUMMARY/BACKGROUND

#### BACKGROUND

Under the *Local Government Act 1993 (LG Act)*, all public land must be classified as either 'community' or 'operational.' Community land is land set aside for public use, such as parks, reserves, or sports grounds. Operational land supports Council's functions and may not be accessible to the public, for example, depots or garages.

Sections 31-33 of the LG Act provide that public land may be classified or reclassified either by:

- Council resolution or
- Through a Local Environmental Plan (LEP) amendment known as a Planning Proposal.

The Planning Proposal in **Attachment 1** seeks Reclassification of Land under 'Hilltops Council' ownership via the LEP amendment process to clarify the true function of the proposed lands to Operational.

A parallel Council Report to reclassify land through Council resolution for a number of lots which still carry the former local government areas names as owners. Through the change of name to Hilltops Council, these lots are able to be reclassified as per their function.

Council owned or Council controlled land that was not classified as Operational on 28 June 1994, or within 3 months of a property's subsequent acquisition, reverted automatically to Community land.

The basis of this Planning Proposal aims to rectify administrative errors by the default classifying of various Council operational assets correctly to 'Operational' from Community. All of the sites proposed to be reclassified do not meet the LG Act criteria for community land. The below 20 properties across and their associated lots are proposed to be reclassified through this Planning Proposal:

1. Commercial building on Boorowa Street, Young
2. Laneway - South West Regional Library
3. Harden Council Chambers
4. Residence at Lachlan Close YOUNG
5. Land and Buildings at Stapylton Street JUGIONG
6. Centre-based child care facility on Binalong Street Harden
7. Centre-based child care facility on Jimmy Noonan Cl YOUNG
8. Rural Fire Service Boara Bush Fire Shed
9. Industrial and commercial premises on Court St BOOROWA
10. Industrial premises on Corcoran Court BOOROWA
11. Industrial depot on Long Street BOOROWA
12. Centre-based child care facility on Brock St YOUNG
13. Vacant Land at Nea Street YOUNG
14. Young Saleyards (part)
15. Young Council Chambers Car Park
16. Harden Racecourse - Airstrip (part)
17. Millers Quarry (part)
18. New Cemetery Land Young
19. Harden Truck Wash
20. Redhill Road Tip

Many of the parcels proposed to be reclassified were reverted to Community land as Council did not resolve to classify them within 3 months of their acquisition or as operational on 28 June 1994. These properties function and purpose aligns more with Operational Land.

Council notes that the classification / reclassification of land does not affect a property's ownership, tenure, development, or zoning, or does it mean that Council is required to sell the property.

The Planning Proposal found in **Attachment 1**, has been drafted in accordance with Section 3.33(2) of the *Environmental Planning and Assessment Act 1979*. and the *Local Environmental Plan Making Guideline, Section two: The Planning Proposal*. The Reclassification of Land is considered to be classified as a 'Standard planning proposal' according to the Guideline.

## PROCESS

Council are required to follow the procedure set out by the Department in the *Local Environmental Plan Making Guideline (August 2023)* as follows:

- Where a Planning Proposal is initiated by Council, officers are to prepare the Planning Proposal Document, and a report to Council for formal consideration.

- If endorsed by Council, officers are to submit the proposal to the Department for a Gateway Determination via the Planning Portal.
- Once submitted, the Department will review the proposal and determine whether the proposal is to proceed, to request additional information, and to impose Gateway Conditions, if required.
- Upon receipt of the Gateway Determination, officers review the determination, action any conditions imposed by the Department, and if required, update the proposal, and refer back to the Department for confirmation the Gateway Determination Conditions have been addressed.
- Once the Department is satisfied with the Proposal, it proceeds to Public Exhibition.
- Public exhibition of the Proposal for a minimum of 28 days.
- A Public Hearing conducted by an independent and suitable qualified person (after the close of public exhibition period).
- Post Exhibition Council report submitted to Council where consideration of all submissions received during the exhibition period and the report from the Public Hearing.
- Submission of the outcomes of public exhibition and public hearing (and any changes to the planning proposal) to the Department to finalise the amendments to the LEP.

## OBJECTIVE

The Objective of this Planning Proposal is to amend Schedule 4 - Classification and reclassification of public land, of the Hilltops Local Environmental Plan 2022 (Hilltops LEP) to reclassify land owned by Hilltops Council from 'community' to 'operational' land. There are 20 properties across 33 lots proposed to be reclassified in the Planning Proposal as outlined below:

| # | NAME                                                         | KNOWN AS                | ADDRESS                           | LOT&DP                                      |
|---|--------------------------------------------------------------|-------------------------|-----------------------------------|---------------------------------------------|
| 1 | Commercial building on Boorowa Street, Young                 | Cherry Capital Building | 66 Boorowa St<br>YOUNG 2594       | E/13526,<br>F/13526,<br>C/13526,<br>D/13526 |
| 2 | Laneway - South West Regional Library                        | -                       | 31 Lynch St YOUNG<br>2594         | A/407790                                    |
| 3 | Harden Council Chambers                                      | -                       | 3 East St HARDEN<br>2587          | 1/617962,<br>4/633968,<br>5/DP664226        |
| 4 | Residence at Lachlan Close YOUNG                             | -                       | 4 Lachlan Cl<br>YOUNG 2594        | 1764/754611                                 |
| 5 | Land and Buildings at Stapylton Street JUGIONG               | -                       | Stapylton St<br>JUGIONG 2726      | 3/23/758547                                 |
| 6 | Centre-based child care facility on Binalong Street Harden   | Bunyip Preschool        | 48 Binalong Street<br>HARDEN 2587 | 6/48/758737                                 |
| 7 | Centre-based child care facility on Jimmy Noonan Close YOUNG | Annette's Place         | 12 Jimmy Noonan Cl<br>YOUNG 2594  | 6/804886,<br>7/804886                       |

| #  | NAME                                                   | KNOWN AS                      | ADDRESS                               | LOT&DP                                                                  |
|----|--------------------------------------------------------|-------------------------------|---------------------------------------|-------------------------------------------------------------------------|
| 8  | Rural Fire Service Boara Bush Fire Shed                | Boara RFS Bush Fire Shed      | 4481 Olympic Hwy South YOUNG 2594     | 1/849742                                                                |
| 9  | Industrial and commercial premises on Court St BOOROWA | Old Silos Workshop and Office | 67-71 Court St BOOROWA 2586           | 11/1001813                                                              |
| 10 | Industrial premises on Corcoran Court BOOROWA          | Corkhills Engineering         | 2/6 Corcoran Crt BOOROWA 2586         | 10/1014936                                                              |
| 11 | Industrial depot on Long St BOOROWA                    | Essential Energy Depot        | 46-48 Long St BOOROWA 2586            | 4/1014936                                                               |
| 12 | Centre-based child care facility on Brock St YOUNG     | Young Pre-School              | 33 Brock St YOUNG 2594                | 1/1205520                                                               |
| 13 | Vacant Land at Nea Street YOUNG                        | -                             | 1A Nea St YOUNG 2594                  | 1/173983                                                                |
| 14 | Young Saleyards (part)                                 | -                             | 73 Lachlan St YOUNG 2594              | 10/251940<br>341/754611,                                                |
| 15 | Young Council Chambers Car Park                        | -                             | 88 Lovell St YOUNG 2594               | 13/456856,<br>14/456856,<br>A/917013                                    |
| 16 | Harden Racecourse - Airstrip (part)                    | -                             | 4559 Burley Griffin Wy CUNNINGAR 2587 | 1/717951                                                                |
| 17 | Millers Quarry (part)                                  | -                             | 2640 Scenic Road WIRRIMAH             | 332/720158                                                              |
| 18 | New Cemetery Land Young                                | -                             | 145 Thornhill St YOUNG 2594           | 2149/754611,<br>2237/754611,<br>2263/754611,<br>446/754611,<br>1/529181 |
| 19 | Harden Truck Wash                                      | -                             | 59 Saleyards Rd HARDEN 2587           | 7/874993                                                                |
| 20 | Redhill Road Tip                                       | -                             | 31 Redhill Rd YOUNG 2594              | 2/705536                                                                |

The Planning Proposal found in **Attachment 1** has been prepared in accordance with *Local Environmental Plan Making Guideline, Section two: The Planning Proposal* and addresses the relevant items and justification for this proposal.

The items have been considered having regard to relevant local and regional strategies, State Environmental Planning Policies, Ministerial Directions and administrative justification for the reclassification of the 20 properties.

The planning proposal is ready for Council to consider and decide whether to submit it to the NSW Department of Planning, Housing and Infrastructure for a Gateway Determination.

The planning proposal process must be undertaken in accordance with the *Environmental Planning and Assessment Act 1979* and NSW Government guidelines. This includes a 28-day public exhibition period and a public hearing, and any other requirements described in the Gateway Determination.

After the public exhibition and public hearing, Council will consider and address all submissions received and provide a Post Exhibition Council report where Council can consider whether the Planning Proposal progress to be made.

## ATTACHMENTS

1. Attachment 1 - Planning Proposal - Reclassification of Land - June 2026

## POLICY AND LEGISLATION

- Division 3.4 Environmental planning instruments—LEPs - *Environmental Planning and Assessment Act 1979*
- Local Environmental Plan Making Guideline - Department of Planning and Environment (August 2023)
- Section 29 Public hearing into reclassification - *Local Government Act 1993*
- Section 30 Reclassification of community land as operational - *Local Government Act 1993*
- Section 31 Classification of land acquired after 1 July 1993 - *Local Government Act 1993*
- Section 47G Public hearings - *Local Government Act 1993*

## COMMUNITY STRATEGIC PLAN LINKAGE

### LE. Leadership

Objective 5. Our leadership is ethical, responsible, and engages our community in decision making to achieve collective aspirations.

| Strategic objectives                                                                       |
|--------------------------------------------------------------------------------------------|
| A leading and responsive Council.                                                          |
| Strategies                                                                                 |
| LE1 Lead, govern, and regulate with integrity, fairness, transparency, and accountability. |
| LE5 Empower our community to actively engage and shape the region's future.                |

## FINANCIAL IMPLICATIONS

- Procurement of an independent and suitable qualified person to undertake the Public Hearing as per *Section 29 of the Local Government Act 1993*.

## **RISK IMPLICATIONS**

Risks identified for this phase of the Planning Proposal are:

- a. Time delays in receiving Gateway Determination from the Department of Planning, Housing and Infrastructure.
- b. Time delays with requests for further information or justification of Planning Proposal within the received Gateway Determination from the Department of Planning, Housing and Infrastructure.
- c. Number of submissions received on the Planning Proposal during the public exhibition period leading to further work required and amendment of Planning Proposal
- d. Public hearing feedback and interest leading to further work required and amendment of Planning Proposal.

## **CONSULTATION AND TIMING**

- The planning proposal process is an extensive legislated and thorough process and provides the opportunity for adjacent land holders and the broader community to comment on the planning proposal.
- Upon receipt of the Gateway Determination, Council will review and action any conditions of the Determination, and will publicly exhibit the Planning Proposal as per the conditions of the Gateway Determination.
- The Planning Proposal is intended to be on public exhibition for a minimum period of 28 days as per Hilltops Council's Community Participation Plan and as specified within the Gateway Determination.
- The exhibition of the Planning Proposal will take place via the NSW Planning Portal (as required by the Local Environmental Plan Making Guideline).
- At the end of the exhibition period, any submissions made to the Planning Proposal will be reviewed and addressed by Council.
- As the Planning Proposal is for reclassification of land, Section 29 of the LG Act requires a Public Hearing to be conducted by an independent and suitable qualified person after the close of public exhibition period. This will be included as a condition of the Gateway Determination from the Department.
- Under Section 47G of the LG Act, there are specific requirements for the independence of the person chairing the hearing, their preparation of a public hearing report and council making the report publicly available.
- A final Post Exhibition Report on the Planning Proposal be considered for at a future Ordinary Council Meeting. Council can consider the submissions to the planning proposal as well as the Report from the Public Hearing from the independent person before deciding whether to proceed with the planning proposal, with or without changes to details of the Proposal.