

**Clarence Valley Council
Planning Proposal
reclassification of
Lots 1 and 2
DP1270948, 300
Powell Street
Grafton
(REZ2023/0003)
September 2023**

Declaration

Document name: Planning Proposal reclassification of Lots 1 and 2 DP1270948, 300 Powell Street Grafton (REZ2023/0003)

Document Author: Jasmine Oakes / Stephen Timms

Position of document author: Strategic Planner / Coordinator Strategic Planning

Qualifications of document author: Dip App Sci / B Urban & Regional Planning; M Env & LG Law

Declaration: I, Stephen Timms, declare that this Planning Proposal constitutes a planning proposal for the purposes of section 3.33 of the *Environmental Planning and Assessment Act 1979* (the Act) and further declare that the document complies with the relevant provisions of the Act and the Department of Planning and Environment's *Local Environmental Plan Making Guideline* (August 2023).

Date:

Document History and Version Control

Version	Prepared by	Approved by	Date approved	Brief Description
1.0	Jasmine Oakes	Stephen Timms		

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1. PRELIMINARY

1.1. Context

This document is a planning proposal that aims to support the reclassification of two (2) public land parcels from community to operational land. It is not intended to change the land zoning of any land under the *Clarence Valley Local Environmental Plan 2011* (CVLEP).

The planning proposal constitutes a document referred to in Section 3.33 of the *Environmental Planning and Assessment Act 1979* (the EP&A Act). It has been prepared in accordance with the Department of Planning and Environment’s “*Local Environmental Plan Making Guideline*” (August 2023).

This planning proposal aims to reclassify Lots 1 and 2 DP 1270948 (the subject land), 300 Powell Street, Grafton from “community” to “operational” land.

The site plan for Lots 1 and 2 DP 1270948 is shown in Figure 1 below.

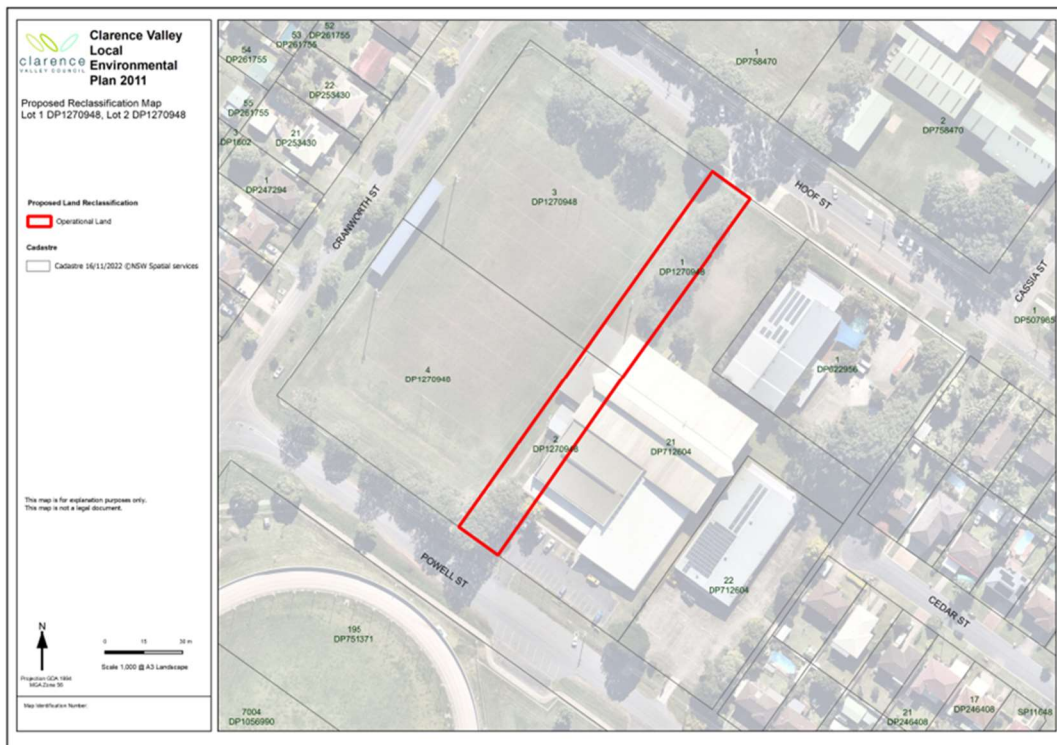


Figure 1: Site plan – Lots 1 and 2 DP 1270948, 300 Powell Street, Grafton

1.2. Current Zoning and use

The current land use zoning of Lots 1 and 2 DP 1270948 under the CVLEP is RE2 Private Recreation. See Figure 2 below.



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Important Notice
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clarence VALLEY COUNCIL

Projection: GDA94 / MGA zone 56
 Date: 8/08/2023
 Drawn By: Jasmine Oakes
 Map Scale: 1:2102 at A4

Figure 2: CVLEP Land Use Zone - RE2 Private Recreation

This planning proposal does not seek to amend the Land Zoning Map of the CVLEP.

1.3. Background to land classification and reclassification

Land classification under the Local Government Act 1993

Under the Local Government Act 1993 (LG Act):

- Public land is defined as any land (including a public reserve) vested in, or under council control. Exceptions include a public road, land to which the *Crown Land Management Act 2016* applies, a common, or a regional park under the *National Parks and Wildlife Act 1974* (LG Act, Dictionary).
- all public land must be classified as either “Community” or “Operational” (s25 and 26 LG Act).

Community land

The main effect of classification is to restrict the alienation and use of the land (*Practice Note 1: Public Land Management* [Revised], Department of Local Government, Sydney, NSW [2000]).

Classification as “Community” reflects the importance of the land to the community because of its use or special features. Generally, it is land intended for public access and use, or where other restrictions applying to the land create some obligation to maintain public access (such as a trust deed, or dedication under section 7.11 of the EP&A Act). This gives rise to the restrictions in the LG Act, intended to preserve the qualities of the land.

Community land:

- cannot be sold (s45 LG Act)
- cannot be leased, licenced or any other estate granted over the land for more than 21 years (without Ministerial consent) (s47 LG Act)
- must have a plan of management prepared for it (s35 LG Act).

Community land would ordinarily comprise land such as a public park, sportsground or bushland.

Operational land

In contrast, “Operational” land has no special restrictions other than those that may ordinarily apply to any parcel of land. Operational land is unfettered land. Operational land would ordinarily comprise land that facilitates the carrying out by a council of its functions or land which may not be open to the general public, such as council offices, a works depot, sewer or water pump station or a council quarry. It also includes land held by Council as a temporary asset or as an investment which may be sold.

1.3.1. History and current position of public land classification

This planning proposal proposes to reclassify Lot 1 and 2 DP DP1270948, which was originally part of Frank McGuren Park (Crown Reserve 95853), previous Lots 197 and 202 DP 751371, which was subdivided to rectify an encroachment of the Grafton Regional Sports Complex building from the adjoining Lot 21 DP 712604 (see Figure 3).



Figure 3 Encroachment of Grafton Sports Complex (on Lots 127 and 202 DP 751371 prior to subdivision)

History of land consisting of Crown Reserve 95853

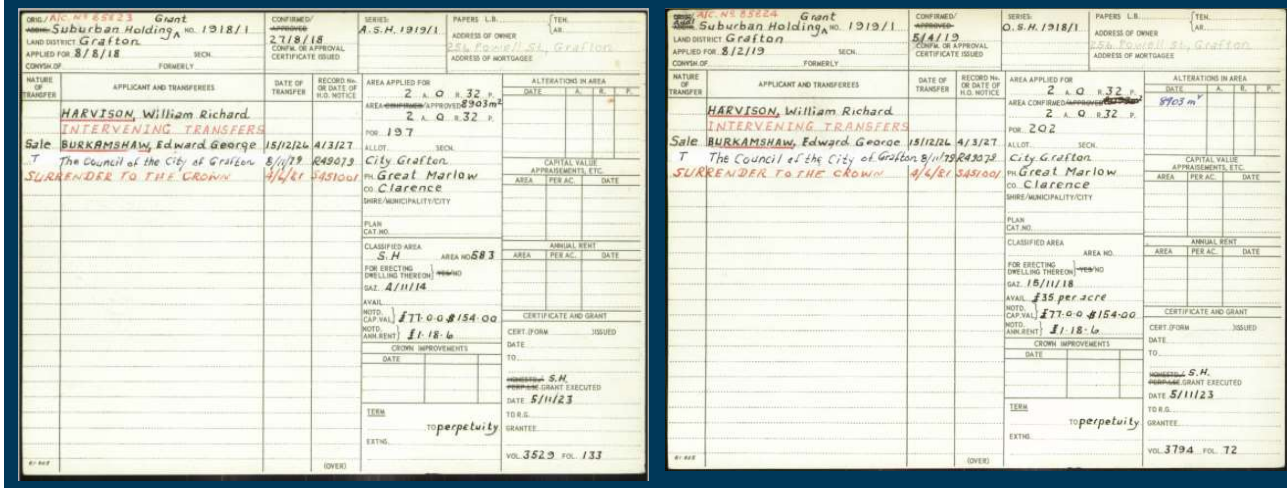
A status search of the history of Crown Reserve 95853 (portions 197 and 202) identified that it was originally set apart and dedicated for show ground (land parcels on Hoof Street, Cranworth and Turf Streets) under the *Crown Lands Alienation Act 1861* in 1863 (Govt Gaz, 4 August 1862, p1703). This dedication was revoked in 1909 (Govt Gaz, 24 February 1909, p.1216).

The showground land was then subdivided and offered for sale in 1910 (Govt Gaz, 9 March 1910, p.1482).

It appears that the land (being portion 197 & 202) was either withdrawn from sale or passed-in at sale and then set apart for suburban holding under the *Crown Lands Consolidation Act 1913* in Government Gazette notice on 4 November 1914 p.6526-6529.

The land was leased as a suburban holding from approximately 1918 to W.R. Harvison until his death in 1925.

The suburban holding tenure card for por 197 (SH1918-1 85823) and por 202 (SH 1919-1 85825) (Figure 4) shows that both portions of land were then sold to Edward George Burkamshaw on 15 December 1926 and transferred to the Council of the City of Grafton on 8 November 1979, then surrendered to the Crown on 4 June 1981.



ORIGINAL GRANT		CONFIRMED/REVOKED	SERIES	PAPERS L.B.	TERM
Suburban Holding No. 1918/1		2/18/18	A.S.H. 1919/1		
LAND DISTRICT Grafton		CONFIRMED/REVOKED	ADDRESS OF OWNER	ADDRESS OF MORTGAGEE	
APPLIED FOR 8/8/18		2/18/18	218, Powell St, Grafton		
FORMERLY					
NATURE OF TRANSFER	APPLICANT AND TRANSFERREES	DATE OF TRANSFER	RECORDING OR DATE OF N.O. NOTICE	AREA APPLIED FOR	ALTERATIONS IN AREA
	HARVISON, William Richard			2 A. O. & 32 P.	
	INTERVENING TRANSFERS			2 A. O. & 32 P.	
	Sale BURKAMSHAW, Edward George	15/12/26	4/3/27	FOR 197	
	The Council of the City of Grafton	8/11/79	848019		
	SURRENDER TO THE CROWN	4/6/81	848100		
PLAN CAT. NO.		CLASSIFIED AREA		ANNUAL RENT	
		S.H. AREA NO. 583		AREA PER AC. DATE	
		FOR ERECTING (DWELLING THEREON) PERMITS			
		GAZ. 4/11/14			
		AVAIL. \$77.00 & \$154.00			
		NOTES: CAP. VAL. \$1.18.6			
		CERTIFICATE AND GRANT			
		CROWN IMPROVEMENTS			
		DATE			
		TO			
		S.H. 5/11/23			
		DATE 5/11/23			
		TO R.S.			
		GRANTEE			
		TERM			
		to perpetuity			
		ESTD.			
		VOL. 352.9. VOL. 133			

Figure 4 Suburban Holdings Tenure Card for portions 197 and 202

The land (portion 197 and 202) was subsequently gazetted as Reserve 95853 for the purposes of Public Recreation under the *Crown Lands Consolidation Act 1913*, with Council (The Council of the City of Grafton) appointed sole trustee on 12 March 1982 (Government Gazette of 12 March 1982, p.1070).

History surrounding the encroachment of the Grafton Regional Sports Complex (Lot 21 DP 712604) onto R95853 (Frank McGuren Park)

The land consisting of Grafton Regional Sports Complex - Lot 21 DP 712604 (previously portions 198 and 201) was also set apart and dedicated for show ground (along with the now Frank McGuren Park – portions 197 & 202) under the *Crown Lands Alienation Act 1861* in 1863 (Govt Gaz, 4 August 1862, p.1703).

Portions 198 and 201 were purchased by Edward George Burkamshaw Jr on 19 April 1910 after the dedication of the land for show ground was revoked and subsequently subdivided (Figure 5).

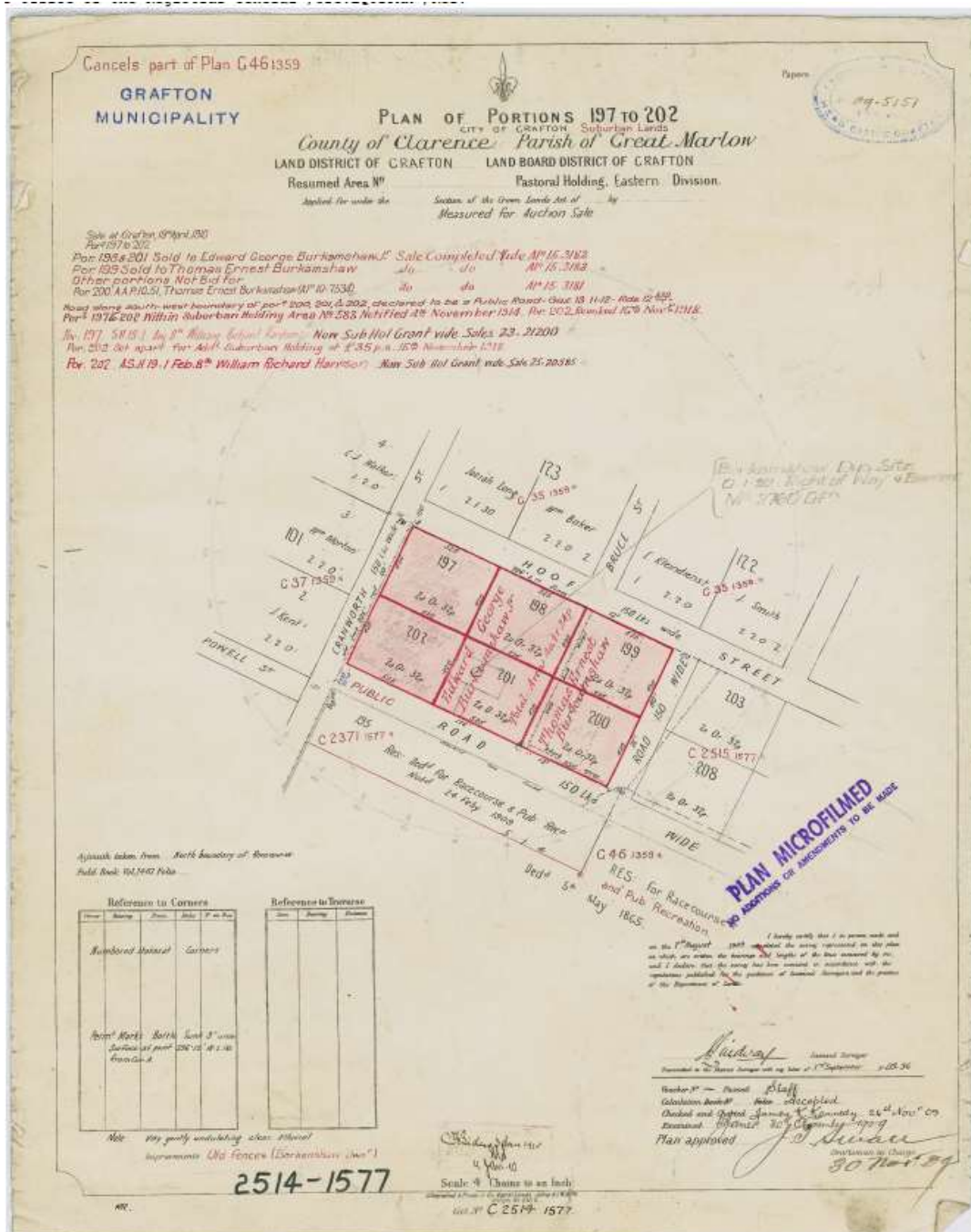


Figure 5: Evidence of Edward George Burkamshaw Jr ownership of portions 198 and 201 from 19 April 1910.

A boundary adjustment of portions 198 and 201 occurred in 1982 with the subdivided plan of the resultant Lots 1 and 2 DP 622956 registered on 31 March 1982. Lot 2 DP 622956 was then further subdivided into Lots 21 and 22 DP 712604 with the subdivision plan registered on 1 March 1985.

Grafton City Council was owner of portion 201 (currently land consisting Lot 21 DP 712604) when development consent (no. 2295) was issued for the construction of a sports centre on 28 April 1980 and subsequent building plans were approved on 15 July 1980.

The site plan (Figure 6) included with the building plans detail that the western face of the sport centre building was to be constructed 99m from the property boundary adjoining Cranworth Street, which caused the building to encroach on the adjoining land parcels (at the time being portions 197 and 202) by approximately 6.5m and roof overhang by approximately 9.3m (i.e portion 202 measured 525 links (105.525m) eastward from the boundary of Cranworth Street).

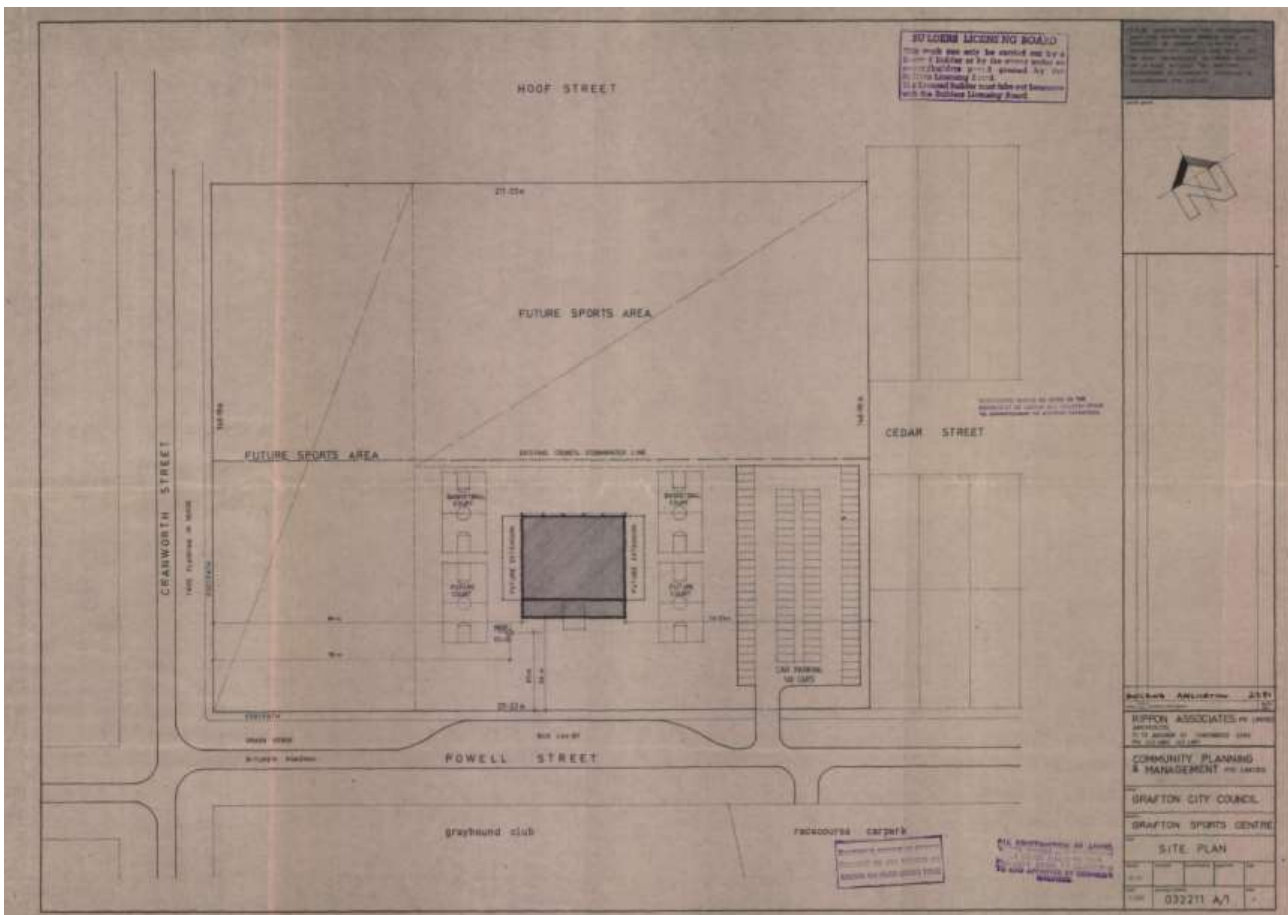


Figure 6 Grafton Sports Centre Site Plan

Portions 197 and 202 (Figure 4 above) were transferred to Council on 8 November 1979 until 4 June 1981 when these holdings were surrendered to the Crown. This indicates that Council managed the four land

parcels (portions 197, 202, 198 and 201) which were all used for recreational purposes at the time development consent and building approvals were endorsed, hence an encroachment may not have been perceived an issue at the time.

1.4. Conclusion and next steps

Council acquired Lots 1 and 2 DP1270948 (previously part Lots 197 and 202 DP 751371, or portions 197 and 202) from the then Department of Planning, Industry and Environment, Crown Land and Water Division by compulsory acquisition in accordance with the requirements of the *Land Acquisition (Just Terms Compensation) Act 1991* for the purpose of resolving the encroachment of the Grafton Regional Sports Complex on the adjoining land and to enable resale to the PCYC. The compulsory acquisition was notified in the NSW Government Gazette no 148 of Friday 8 April 2022. See Figure 7 for the Plan of Acquisition of part Lots 197 and 202 DP 751371.

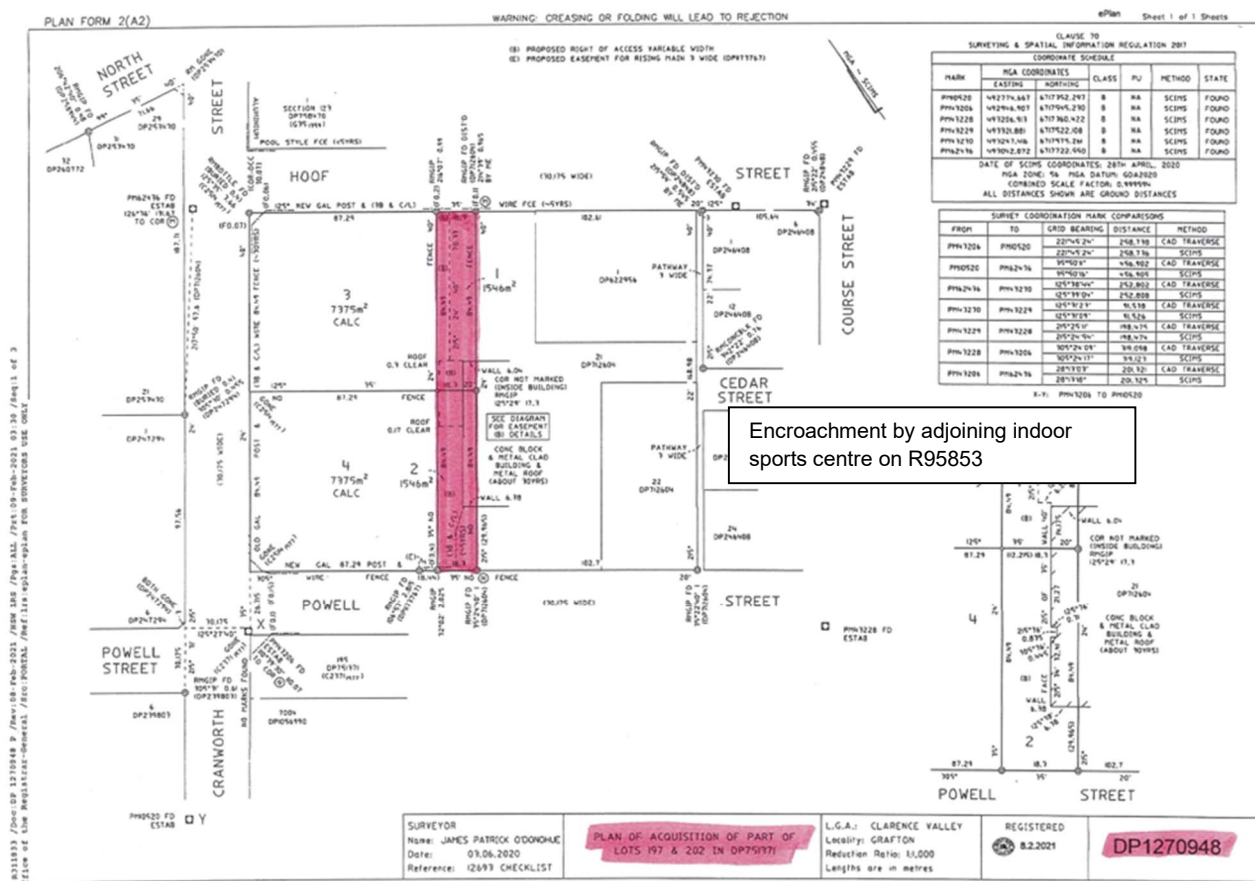


Figure 7: Plan of Acquisition of Part Lots 197 and 202 DP 751371

The Certificate of Title for Lots 1 and 2 DP1270948 was issued to Council on 7 July 2022 (Appendix 1).

On finalisation of the reclassification process of Lot 1 and 2 DP1270948 from community to operational land it is proposed to consolidate these two lots with Lot 21 DP 712604 (including easements for access, carriageway and sewerage drainage) (Figure 8) to enable transfer of ownership of the resultant land parcel to the Police Citizens Youth Clubs NSW (PCYC) who currently manage the Grafton Regional Sports Complex.

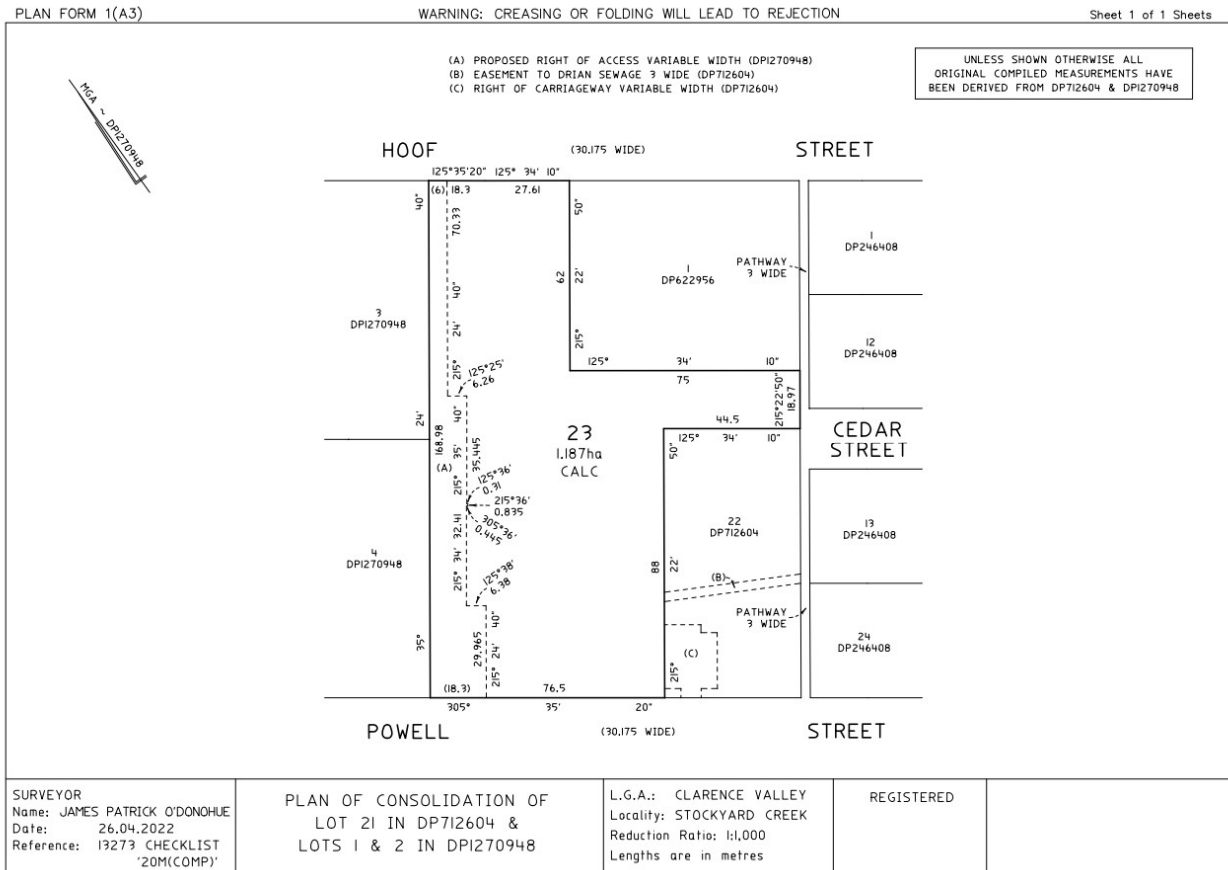


Figure 8: Plan of Consolidation of Lot 21 DP 712604 and Lots 1 and 2 DP 1270948

This planning proposal deals with the reclassification of the two land parcels to operational land. As the reclassification of the lands in this planning proposal is not proposing to extinguish any public reserve status or change or extinguish any other interests in the lands it is Council's view that there is no need to obtain the Governor's approval under section 30 of the LG Act.

2. PART 1 – OBJECTIVES AND INTENDED OUTCOMES

Objective

To amend the CVLEP to reclassify the subject land (Lots 1 and 2 DP 1270948, 300 Powell Street, Grafton) as operational land to enable the land to be consolidated with the neighbouring Lot 21 DP 712604 to enable transfer of ownership of the resultant land parcel to the Police Citizens and Youth Club (PCYC) in order to achieve social benefits for the local community.

Intended outcomes

- To transfer assets and facility management to the PCYC
- Increase social benefits for the local community
- Contribute to PCYC's mission to:
 - engage with, and positively influence our youth members through mainstream sport, recreation, education, leadership and cultural programs
 - empower young people to reach their potential through Police and community partnerships
 - work with young people to develop their skills, character and leadership
 - get young people active in life
 - reduce and prevent crime by, and against young people, and provide programs to suit all ages and lifestyles.

3. PART 2 – EXPLANATION OF PROVISIONS

The CVLEP Clause 5.2 – Classification and reclassification of public land enables councils to classify or reclassify public land as operational land or community land in accordance with the LG Act.

This planning proposal seeks to amend CVLEP to include the subject public lands (Lots 1 and 2 DP 1270948, 300 Powell Street, Grafton) within *Part 1 Land classified, or reclassified, as operational land - no interests changed of Schedule 4 Classification and reclassification of public land* thereby confirming reclassification of such lands from community to operational.

Note 1: it is not proposed to change the zoning of any land parcel or to make any other amendment to the CVLEP or any of its associated maps.

Note 2: The location of these Lots is shown in Figures 1, section 1.1 above.

Note 3: As no part Lots are proposed to be reclassified there is no need for any draft local environmental plan mapping.

4. PART 3 – JUSTIFICATION OF STRATEGIC AND SITE SPECIFIC MERIT

4.1. Section A – need for the planning proposal

4.1.1. Is the planning proposal a result of an endorsed LSPS, strategic study or report?

This planning proposal is not the result of Clarence Valley Local Strategic Planning Statement (LSPS) or any specific strategy or study, although it generally aligns with Council's LSPS, particularly Priority 5 – *Provide for healthy, safe and well connected communities, particularly providing social infrastructure*. The transfer of ownership of the Grafton Regional Sports Complex to the PCYC will reduce management costs (lease from CVC) and enable them to more efficiently operate the social youth facility for the benefit of the community.

The planning proposal is a direct result of the resolution of the Ordinary Council meeting held on 13 December 2022 (Item 07.22.297) – *Preparation of a planning proposal to reclassify land consisting Lot 1 and 2 DP 1270948 to 'operational' land* and previous negotiations and Council resolutions beginning in 2018 to effect transfer of ownership of the sports centre to the PCYC.

Relevant Council reports and resolutions are included in Appendix 2

Additional strategic justification is also required for the reclassification of public land to operational land in accordance with DPE Practice Note PN 16-001 - *Classification and reclassification of public land through a local environmental plan*. A copy of PN 16-001 is in Appendix 3, whilst Appendix 4 provides the justification required to be provided by PN 16-001.

4.1.2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The preparation of a planning proposal under section 3.33 of the EP&A Act to amend Schedule 4 of the CVLEP to reclassify Lot 1 and 2 DP1270948 from 'community' to 'operational' land is the only way to achieve the objectives and intended outcomes to rectifying the building encroachment, enable consolidation of Lots 1 and 2 DP1270948 with Lot 21 DP 712604 and transfer ownership of the resultant land parcel consisting of the Grafton Regional Sports Complex to the PCYC.

4.2. Section B – relationship to the strategic planning framework

4.2.1. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans)?

The North Coast Regional Plan 2041 (NCRP) published December 2022 is the NSW Government's strategy for guiding land use planning decisions for the North Coast region for the next 20 years. It is the applicable regional plan applying to the Clarence Valley Local Government Area (Clarence Valley LGA) and the land identified in this planning proposal.

The NCRP vision is *healthy and thriving communities, supported by a vibrant and dynamic economy that builds on the region's strengths and natural environment*. The NCRP comprises three (3) goals, twenty (20) objectives, forty-six (46) strategies, six (6) actions and five (5) collaboration activities to support the vision for the region.

The strategies provide guidance for councils in preparing local strategic plans, local plans and planning proposals, as well as setting direction for state agencies to support the objectives of the plan.

The actions are initiatives that are led by the NSW Department of Planning and Environment that will be delivered in the next 5 years.

The collaboration activities are initiatives that are led by councils or other state agencies which supports the objectives, and which the NSW Department of Planning and Environment has a role in supporting.

Consequently, this planning proposal will only consider whether the planning proposal is consistent with the forty-six (46) strategies identified within the NCRP, no justification will be considered for the actions and / or collaborative activities that are led by the Department of Planning and Environment, unless they are directly related to the land identified within the planning proposal.

The NCRP has very few if any strategies (or goals or objectives) that are of relevance to a planning proposal of this nature. Conversely, the planning proposal does not impact nor is considered to be inconsistent with any strategies (or goal or objective) contained within the NCRP. Accordingly, the proposal is considered to be consistent with the NCRP. An assessment of the planning proposal against the NCRP strategies is in Appendix 5.

4.2.2. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?

The LSPS includes and identifies planning priorities for the Clarence Valley LGA that are consistent with the North Coast Regional Plan 2041, Council's Community Strategic Plan (The Clarence 2032), and other relevant strategic plans.

An LSPS Assessment is included at Appendix 6.

An assessment of the planning proposal against Council's relevant local strategies, including Council's community strategic plan is The Clarence 2032 is included at Appendix 7.

4.2.3. Is the planning proposal consistent with any other applicable State and regional studies or strategies?

This planning proposal is generally consistent with other state or regional study or strategy. It aligns and/or assists delivery of the NSW Office of Sport Strategic Plan 2020-2024 vision '*Sport and active recreation creating healthier people, connecting communities and making a stronger NSW*' and the following social, health and economic outcomes –

- Social outcomes - Sport and active recreation are an important part of the fabric of our communities. It reaches across age, cultural background and demographic groups. Whether it's performed at grassroot or elite level, it can be a vehicle for community identity and pride. Sport and active recreation strengthen social networks and builds a sense of belonging for participants. It contributes to community character and gives us local role models that inspire and unify us.
- Health outcomes - People who participate in sport and active recreation enjoy better physical and mental health. A child participating in sport and active recreation early in life is more likely to maintain active and healthy behaviours throughout their life. Participation in sport and active recreation can improve life expectancy and can reduce the rate of noncommunicable diseases. It can also play a significant role in the management and prevention of mental health conditions. Research also shows that participation in sport and active recreation contributes to better cognitive function and academic achievement.
- Economic outcomes - Sport and active recreation create jobs and opportunities for investment. Hosting major sporting events contribute to regional and local economies and is a driver for the NSW visitor economy. Voluntary work enables many sports and active recreation events and activities and makes a large contribution to the economy. Volunteering also helps to develop and reinforce skills and build social networks that can lead to economic as well as social and health outcomes. The health and social outcomes achieved through participating in sport and active recreation contribute to improving workforce productivity and reducing overall healthcare costs.

4.2.4. Is the planning proposal consistent with applicable SEPPs?

The planning proposal is of administrative nature and therefore has limited alignment, however is consistent with applicable state environmental planning policies (SEPPs). A more detailed assessment of the proposals relevance and consistency with SEPPs is included at Appendix 8.

4.2.5. Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions)?

The planning proposal is of administrative nature and therefore has limited alignment, however is consistent with applicable Section 9.1 Directions.

An assessment of the proposals relevance and consistency is included at Appendix 9.

4.3. Section C – environmental, social and economic impact

4.3.1. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or habitats, will be adversely affected because of the proposal?

No. The planning proposal is of administrative nature, as such it is unlikely that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the planning proposal. This is due to:

- only the classification of the identified public land under the LG Act being changed;
- the planning proposal does not propose to rezone any land or facilitate the carrying out of a particular development; and

- the land having previously been cleared and developed with public infrastructure.

4.3.2. Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?

No. The planning proposal is of administrative nature, as such it is unlikely to result in any environmental impacts. The planning proposal is not intending to rezone any land or facilitate the carrying of a particular development, as the land has already been cleared and developed with public infrastructure.

4.3.3. Has the planning proposal adequately addressed and social and economic effects?

The planning proposal is of administrative nature, as such it is unlikely to result in any social or economic impacts. It will however improve the management costs and efficiency of the PCYC to deliver social, youth and community benefits to the community.

4.4. Section D – Infrastructure (Local, State and Commonwealth)

4.4.1. Is there adequate public infrastructure for the planning proposal?

This planning proposal does not give rise to any increase in public infrastructure requirement.

4.5. Section E – State and Commonwealth Interests

4.5.1. What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?

A Gateway determination has not been issued for this planning proposal. Relevant authorities will be identified and consulted in accordance with the relevant requirements of the Gateway determination.

The views of consulted public authorities will be summarised and addressed as appropriate in the post exhibition report.

5. PART 4 – MAPS

Planning proposals are required to be supported by relevant and accurate mapping where appropriate.

Relevant mapping identifying the land parcels proposed to be reclassified from community to operational land by this planning proposal is included in *Section 1.1 Context* of this planning proposal, and below.



This planning proposal does not propose to amend any CVLEP mapping.

6. PART 5 – COMMUNITY CONSULTATION

Public exhibition

Community consultation will be carried out following the issue of a Gateway Determination.

The proposal is classified as 'Basic' for the purpose of community consultation under the "*Local Environmental Plan Making Guideline, August 2023, Page 54*". This requires a 10 working day minimum exhibition period.

The *Clarence Valley Council Community Participation Plan, June 2022* generally requires a planning proposal to be publicly exhibited for a period of 28 days unless otherwise specified in the Gateway Determination.

Notification of the exhibited planning proposal will include:

- Posting on Council's Noticeboard ENews to inform the public of the exhibition details of the proposal
- Publication of the proposal on the "On Exhibition" part of Council's website along with details of the proposal and proposed public exhibition.
- Consultation with the public authorities as required by the gateway determination.

The planning proposal will also be exhibited in accordance with DPEs *PN 16-001* a copy of which is included in Appendix 3. Written statements addressing the information checklist requirements for planning proposals or draft LEPs to reclassify public land, as required by Attachment 1 to *PN 16-001* are provided in Appendix 4.

Public Hearing

A public hearing will also be held in accordance with Section 29 of the LG Act and under section 3.34(2)(e) of the EP&A Act following the exhibition of the planning proposal. Public notice of the public hearing will be given 21 days prior to the public hearing.

7. PART 6 – PROJECT TIMELINE

A timeline for the estimated milestones and ultimate completion of the project is provided in the table below.

Milestone	Estimated timeframe/completion date
Referral of the planning proposal to NSW Planning Portal with a request for a Gateway Determination	October 2023
Gateway Determination	November 2023
Public Exhibition of Planning Proposal and consultation with public authorities (28 days)	November – December 2023
Public Hearing	January 2024
Assessment/consideration of submissions	February 2024
Officer report to Council (post exhibition)	February 2024
Submission to the Department with a notification to make the LEP	March 2024
Making of final plan and notification of the LEP amendment	April 2024

8. APENDICIES

Appendix 1 Certificates of Title

* Any entries preceded by an asterisk do not appear on the current edition of the Certificate of Title. Warning: the information appearing under notations has not been formally recorded in the Register.

Equifax - hereby certifies that the information contained in this document has been provided electronically by the Registrar General in accordance with section 96B(2) of the Real Property Act 1900. Note: Information contained in this document is provided by Equifax, ABN 26 000 602 862, <http://www.equifax.com.au/> an approved NSW Information Broker.

NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 1/1270948

SEARCH DATE	TIME	EDITION NO	DATE
-----	----	-----	----
28/6/2023	8:20 AM	1	7/6/2022

LAND

LOT 1 IN DEPOSITED PLAN 1270948
AT GRAFTON
LOCAL GOVERNMENT AREA CLARENCE VALLEY
PARISH OF GREAT MARLOW COUNTY OF CLARENCE
TITLE DIAGRAM DP1270948

FIRST SCHEDULE

CLARENCE VALLEY COUNCIL

SECOND SCHEDULE (0 NOTIFICATIONS)

NIL

NOTATIONS

DP1270948 PLAN OF ACQUISITION (LOCAL GOVERNMENT ACT, 1993) & PROPOSED
EASEMENT.

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

* Any entries preceded by an asterisk do not appear on the current edition of the Certificate of Title. Warning: the information appearing under notations has not been formally recorded in the Register.

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NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 2/1270948

SEARCH DATE -----	TIME ----	EDITION NO -----	DATE ----
28/6/2023	8:24 AM	1	7/6/2022

LAND

LOT 2 IN DEPOSITED PLAN 1270948
AT GRAFTON
LOCAL GOVERNMENT AREA CLARENCE VALLEY
PARISH OF GREAT MARLOW COUNTY OF CLARENCE
TITLE DIAGRAM DP1270948

FIRST SCHEDULE

CLARENCE VALLEY COUNCIL

SECOND SCHEDULE (0 NOTIFICATIONS)

NIL

NOTATIONS

DP1270948 PLAN OF ACQUISITION (LOCAL GOVERNMENT ACT, 1993) & PROPOSED
EASEMENT.

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

Appendix 2 Council reports and resolutions

ITEM 07.22.279 PREPARATION OF A PLANNING PROPOSAL TO RECLASSIFY LAND CONSISTING LOT 1 & 2 DP1270948 TO 'OPERATIONAL' LAND

Meeting	Council	13 December 2022
Directorate	Environment & Planning	
Prepared by	Strategic Planner, Jasmine Oakes	
Reviewed by	Director Environment & Planning, Adam Cameron	
Attachments	A. Confidential - Contract of Sale (Separate Cover) (Confidential)	

SUMMARY

This report seeks Council endorsement for the preparation of a planning proposal to reclassify Lot 1 and 2 DP1270948 from 'community' to 'operational' land at the Police Citizens Youth Club (PCYC) in Grafton. This is to complete a boundary adjustment and consolidation with Lot 21 DP712604 to enable the transfer of ownership of the land from Council to the PCYC commenced in 2019. PCYC manages the sporting complex on the lot.

OFFICER RECOMMENDATION

That Council:

1. Authorise and allocate funds for the preparation of a planning proposal under section 3.33 of the *Environmental Planning and Assessment Act 1979* to amend Schedule 4 of the *Clarence Valley Local Environmental Plan 2011* (CVLEP) to reclassify Lot 1 and 2 DP1270948 from 'community' to 'operational' land and to secure an independent consultant to undertake a public hearing into the reclassification;
2. Delegate authority to the General Manager to:
 - (a) Execute all documentation associated with the local plan making functions;
 - (b) Submit the planning proposal to the Department of Planning and Environment seeking a Gateway determination;
 - (c) Seek to be the local plan-making authority;
3. In the event a Gateway determination is issued, publicly exhibit the planning proposal and engage an independent consultant to undertake a public hearing in accordance with legislative requirements, notifying Council intention to reclassify the land;
4. Subject to no submissions or objections being received requiring further consideration by Council:
 - (a) Finalise the CVLEP to reclassify the land as 'operational' land;
 - (b) Finalise consolidation of the lots with Lot 21 DP712604; and
 - (c) Transfer ownership of the resultant new land parcel to the Police Citizens Youth Club (PCYC) Grafton
5. Note that in the event submissions or objections regarding the reclassification are received during the hearing and exhibition process, a report will be brought back to Council for further consideration.
6. Note that the contract for sale includes a clause to ensure that if PCYC Grafton opt to dissolve ownership of the facility it will return to Council ownership.

COUNCIL RESOLUTION - 07.22.279

Novak/Whaites

That Council:

1. Authorise and allocate funds for the preparation of a planning proposal under section 3.33 of the *Environmental Planning and Assessment Act 1979* to amend Schedule 4 of the *Clarence Valley Local Environmental Plan 2011* (CVLEP) to reclassify Lot 1 and 2 DP1270948 from 'community' to 'operational' land and to secure an independent consultant to undertake a public hearing into the reclassification;
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 - (b) Submit the planning proposal to the Department of Planning and Environment seeking a Gateway determination;
 - (c) Seek to be the local plan-making authority;

3. In the event a Gateway determination is issued, publicly exhibit the planning proposal and engage an independent consultant to undertake a public hearing in accordance with legislative requirements, notifying Council intention to reclassify the land;
4. Subject to no submissions or objections being received requiring further consideration by Council:
 - (a) Finalise the CVLEP to reclassify the land as 'operational' land;
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 - (c) Transfer ownership of the resultant new land parcel to the Police Citizens Youth Club (PCYC) Grafton
5. Note that in the event submissions or objections regarding the reclassification are received during the hearing and exhibition process, a report will be brought back to Council for further consideration.
6. Note that the contract for sale includes a clause to ensure that if PCYC Grafton opt to dissolve ownership of the facility it will return to Council ownership.
- 7.

Voting recorded as follows

For: Clancy, Day, Johnstone, Novak, Pickering, Smith, Tiley, Toms, Whaites

Against: Nil

CARRIED

ITEM 07.22.279 PREPARATION OF A PLANNING PROPOSAL TO RECLASSIFY LAND CONSISTING LOT 1 & 2 DP1270948 TO 'OPERATIONAL' LAND

Meeting	Council	13 December 2022
Directorate	Environment & Planning	
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SUMMARY

This report seeks Council endorsement for the preparation of a planning proposal to reclassify Lot 1 and 2 DP1270948 from 'community' to 'operational' land at the Police Citizens Youth Club (PCYC) in Grafton. This is to complete a boundary adjustment and consolidation with Lot 21 DP712604 to enable the transfer of ownership of the land from Council to the PCYC commenced in 2019. PCYC manages the sporting complex on the lot.

OFFICER RECOMMENDATION

That Council:

1. Authorise and allocate funds for the preparation of a planning proposal under section 3.33 of the *Environmental Planning and Assessment Act 1979* to amend Schedule 4 of the *Clarence Valley Local Environmental Plan 2011* (CVLEP) to reclassify Lot 1 and 2 DP1270948 from 'community' to 'operational' land and to secure an independent consultant to undertake a public hearing into the reclassification;
2. Delegate authority to the General Manager to:
 - (a) Execute all documentation associated with the local plan making functions;
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3. In the event a Gateway determination is issued, publicly exhibit the planning proposal and engage an independent consultant to undertake a public hearing in accordance with legislative requirements, notifying Council intention to reclassify the land;
4. Subject to no submissions or objections being received requiring further consideration by Council:
 - (a) Finalise the CVLEP to reclassify the land as 'operational' land;
 - (b) Finalise consolidation of the lots with Lot 21 DP712604; and
 - (c) Transfer ownership of the resultant new land parcel to the Police Citizens Youth Club (PCYC) Grafton
5. Note that in the event submissions or objections regarding the reclassification are received during the hearing and exhibition process, a report will be brought back to Council for further consideration.
6. Note that the contract for sale includes a clause to ensure that if PCYC Grafton opt to dissolve ownership of the facility it will return to Council ownership.

LINKAGE TO OUR COMMUNITY PLAN

Theme Infrastructure

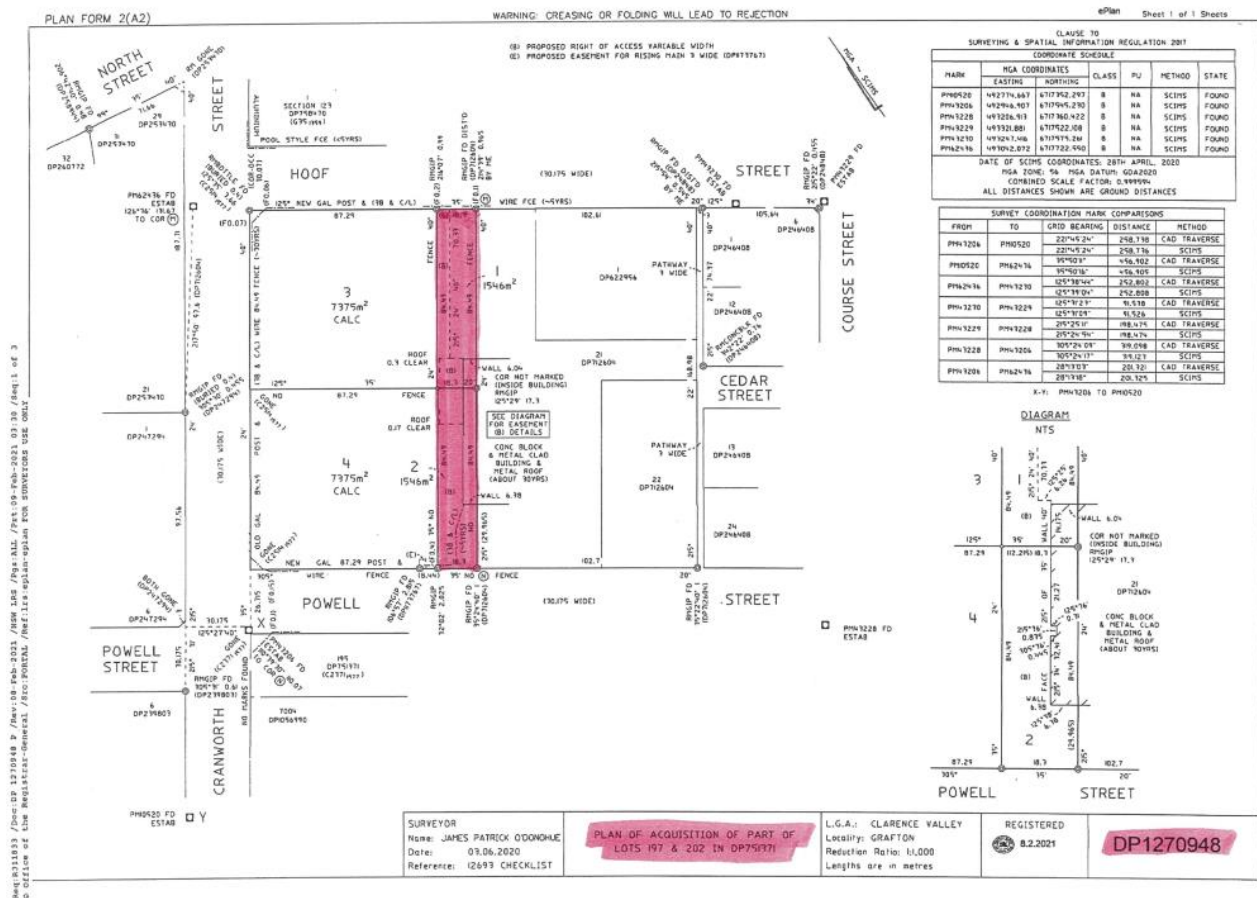
Objective We will have communities that are well serviced with appropriate infrastructure

KEY ISSUES

Council has been negotiating the acquisition of part of Lots 197 and 202 DP 751371 (being Crown Reserve 95853 known as Frank McGuren Park) with the NSW Department of Planning and Environment - Crown Lands Division (Crown Lands) for numerous years to rectify the encroachment of the sports complex building from Lot 21 DP712604 currently being occupied as the Police Citizens Youth Clubs NSW (PCYC) to facilitate the transfer of the property to their ownership.

Acquisition commenced in 2021 with a Plan of Acquisition of part of Lots 197 and 202 DP 751371, which created Lot 1 and 2 DP1270948, surveyed and registered on 8 February 2021. Crown Lands consented the

acquisition by agreement in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* in April 2021. The registered survey plan of acquisition plan has been included for reference below.

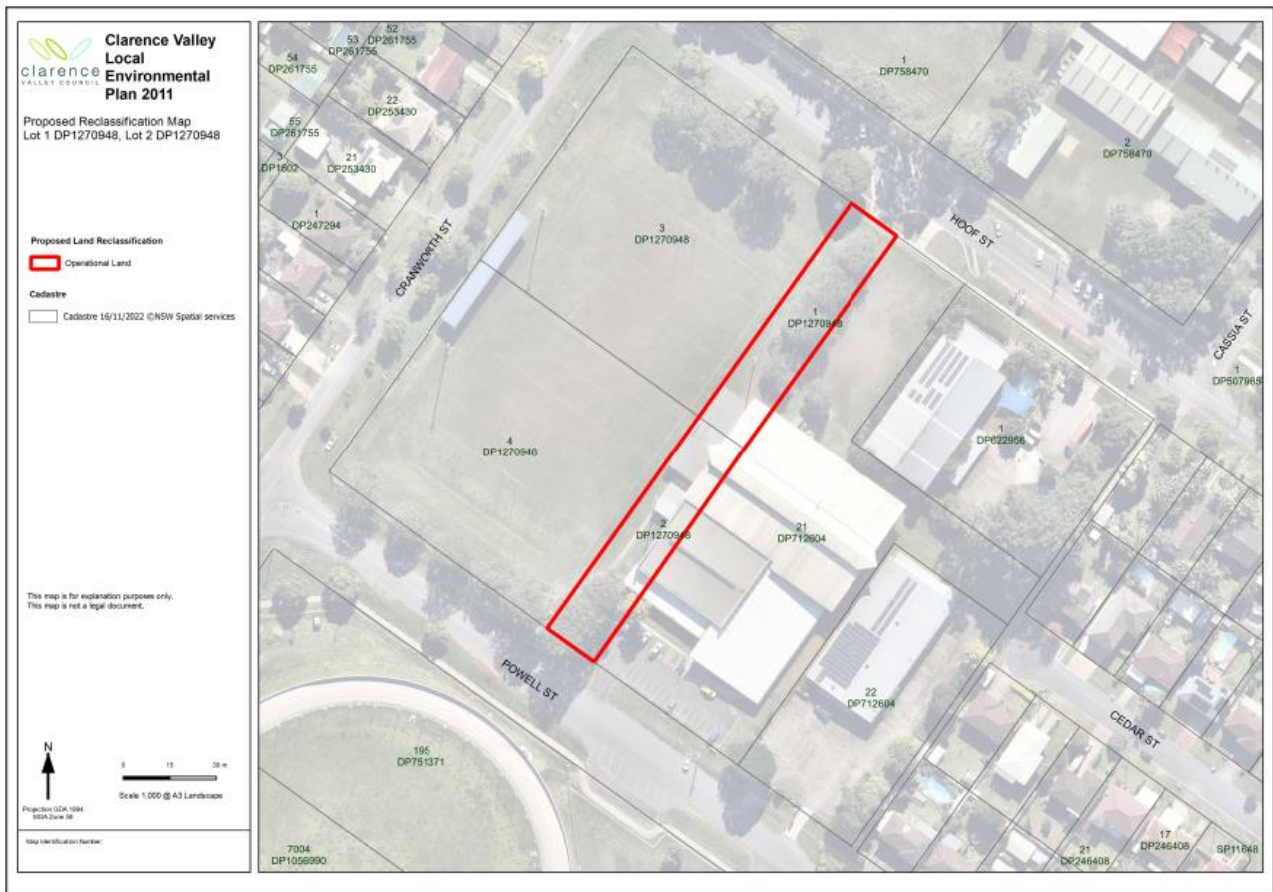


Council acquired Lots 1 and 2 DP1270948 via an agreed compulsory acquisition process from Crown Lands on 30 March 2022 with notification given on the NSW Government Gazette on 8 April 2022.

Prior to the finalisation of the property purchase, Council resolved 'that the land is to be classified as operational land' on 28 July 2020 (item 6a.20.025) and 'Classify the land as operational land' on 30 March 2021 (item 6a.21.014), however there is no evidence that Council publicly exhibited its intention to classify the land as 'operational' prior to its meeting held on 30 March 2021 in accordance with the provisions of the *Local Government Act 1993* (the Act). As a consequence, the land by default is classified as 'community' land (s.31[2A] of the Act).

Council is now required to reclassify Lots 1 and 2 DP1270948 via a planning proposal prepared under the provisions of section 55(a)-(e) of the *Environmental Planning and Assessment Act 1979* from 'community' to 'operational' land by amending Schedule 4 of the *Clarence Valley Local Environmental Plan 2011* (CVLEP).

The site plan below shows the property boundaries of Lot 1 and 2 DP 1270948 to be reclassified to 'operational' land. (Note: Lot 21 DP712604, land occupied by the PCYC, was previously classified as 'operational' by the former Grafton City Council on the 28 June 1996 [GG, Issue No.77, p3542]).



BACKGROUND

The *Local Government Act 1993* (the Act) requires that all public land owned and / or managed by Council must be classified as either ‘community’ or ‘operational’ land under Sections 25 and 26 of the Act.

The process to be followed by councils in classifying and reclassifying public land is detailed at Division 1, Part 2, Chapter 6 of the Act.

Generally speaking, ‘community’ land is to be managed by Council for the benefit of the community, consistent with a number of community land categories. The use of community land is to be directed by a plan of management. Importantly, ‘community’ land cannot be sold or leased for a period greater than 21 years (without Ministerial consent).

‘Operational’ land is more akin to normal land ownership, where land can be sold, leased or used by Council like a private landowner. Under s.45 of the Act a council has no power to sell, exchange or otherwise dispose of community land.

Under the Act, the classification of land can occur before a council acquires the land, or within 3 months after it is acquired (s.31[2]). The process to classify land also requires a council to give public notice of a proposed resolution to classify or reclassify public land and allow a period of not less than 28 days during which submissions may be made to the council on the proposed resolution to classify (or reclassify) the land (s.34).

Councils must classify their land within 3 months otherwise the land by default is classified as ‘community’ (s.31[2A]).

When Council intends to reclassify ‘community’ land as ‘operational’ land, they must also arrange a public hearing in respect of any proposal to reclassify land (s.29).

Council resolution 6a.20.025 – 28 July 2020

That Council:

1. Proceed with the compulsory acquisition of the land described as proposed Lot 1 being part of Lots 197 & 202 DP 751371 for the purpose of resolving the existing encroachment of a Council owned building on

Crown Land in accordance with the requirements of the Land Acquisition (Just Terms Compensation) Act 1991.

2. *Apply to the State of NSW to complete the acquisition by agreement under Section 29 and 30 of the Land Acquisition (Just Terms Compensation) Act 1991 for an agreed value no more than that identified in the confidential Valuation report attached.*
3. *Council make an application to the Minister and the Governor for approval to acquire proposed Lot 1 being part of Lots 197 & 202 DP 751371 by compulsory process under section 186(1) of the Local Government Act 1993.*
4. *That the land is to be classified as operational land.*

Council resolution 6a.21.014 – 30 March 2021

That Council:

1. *Proceed with the compulsory acquisition of the land described as Lots 1 and 2 DP 1270948 being part lots 197 and 202 DP 751371 for the purpose of resolving the existing encroachment of a Council owned building on Crown land in accordance with the requirements of the Land Acquisition (Just Terms Compensation) Act 1991.*
2. *Agree to the acquisition by agreement in accordance with the Land Acquisition (Just Terms Compensation) Act 1991 for an agreed value of \$78, 300.00 (including GST)*
3. *Make an application to the Minister and the Governor for approval to acquire Lots 1 and 2 DP 1270948 being part of lots 197 and 202 DP 751371 by compulsory process under section 186(1) of the Local Government Act 1993*
4. *Classify the land as operational land.*

COUNCIL IMPLICATIONS

Budget/Financial

The Council report from 30 March 2021 detailed the acquisition of the property to be costed to FP 995005 – Property Managed from RA10520 Strategic Building Reserve.

Council will engage an independent consultant to undertake a public hearing into the land reclassification (and report back to Council in the event submissions and / or objections are received regarding the reclassification) which will costed to the aforementioned Strategic Building Reserve.

The preparation of the planning proposal and the processing and finalisation of the CVLEP be undertaken within the existing Strategic Planning operational budget.

Public exhibition of the planning proposal and associated documentation will be coordinated through Council's 'On Exhibition' webpage and 'Noticeboard' platforms and will not incur addition budgetary considerations.

Asset Management

Council currently leases the former Grafton Sports Centre (Lot 21 DP712604) to the PCYC while the matter of the acquisition of Lot 1 and 2 DP1270948, and now the reclassification of this land, is resolved. The PCYC is fully responsible for the maintenance and upkeep of the asset.

The reclassification of the property (Lot 1 and 2 DP1270948) to 'operational' land will enable the property to be consolidated with the adjoining Lot 21 DP712604 (which was classified as 'operational' by the former Grafton City Council on the 28 June 1996 [GG, Issue No.77, p3542]) to facilitate the transfer of the sporting complex asset to PCYC ownership.

In the event that PCYC Grafton opt to dissolve ownership of the facility it will return to Council ownership.

Policy and Regulation

Local Government Act 1993

Land Acquisition (Just Terms Compensation) Act 1991

Environmental Planning and Assessment Act 1979

Clarence Valley Local Environmental Plan 2011

Consultation

The planning proposal will be submitted to the Department of Planning and Environment requesting a Gateway determination. The Gateway, if issued will detail the public authorities that need to be consulted and public exhibition requirements.

If the Gateway is silent on these matters, Council will publicly exhibit the planning proposal and associated documentation on Council's 'On Exhibition' webpage and 'Noticeboard' for a minimum of 28 days in accordance with section 34 of the *Local Government Act 1993* (the Act) and Schedule 1 of the EP&A Act.

A public hearing into the reclassification will be undertaken by an independent consultant in accordance with Section 29 of the Act. In the event that submissions are received, or concerns / objections are raised during the hearing and exhibition period a report will be brought back to Council.

Council's Strategic Planning officers have consulted Council's property officers about the land reclassification process and legal requirements prior to finalising the transfer of property ownership to PCYC.

Legal and Risk Management

Council has entered into a contract of sale with PCYC Grafton for the transfer of ownership of the property, however this cannot be executed until the reclassification of Lot 1 and 2 DP1270948 as 'operational' land is finalised.

All public reserve status and interests of Lot 1 and 2 DP1270948 were discharged during the agreed compulsory acquisition process from NSW Crown Lands to Council.

Climate Change

N/A

**Appendix 3 *Practice Note PN 16-001 -
Classification and reclassification of public land
through a local environmental plan***

Ref No.	PN 16-001
Issued	5 October 2016
Related	Supersedes PN 09-003

Classification and reclassification of public land through a local environmental plan

The purpose of this practice note is to update guidance on classifying and reclassifying public land through a local environmental plan (LEP). This practice note emphasises the need for councils to demonstrate strategic and site specific merit, includes a comprehensive information checklist and clarifies issues arising for public reserves and interests in land. It should be read in conjunction with *A guide to preparing local environmental plans* and *A guide to preparing planning proposals*.

Classification of public land

Public land is managed under the *Local Government Act 1993* (LG Act) based on its classification. All public land must be classified as either community land or operational land (LG Act ss.25, 26).

- *Community* land – is land council makes available for use by the general public, for example, parks, reserves or sports grounds.
- *Operational* land – is land which facilitates the functions of council, and may not be open to the general public, for example, a works depot or council garage.

What is public land?

Public land is defined in the LG Act as any land (including a *public reserve*) vested in, or under council control. Exceptions include a public road, land to which the *Crown Lands Act 1989* applies, a common, land subject to the *Trustees of Schools of Arts Enabling Act 1902* or a regional park under the *National Parks and Wildlife Act 1974*.

Why classify public land?

The purpose of classification is to identify clearly that land made available for use by the general public (community) and that land which need not (operational). How public land is classified determines the ease or difficulty a council can have dealings in public land, including its sale, leasing or licensing. It also provides for transparency in council's strategic asset management or disposal of public land.

Community land must not be sold, exchanged or otherwise disposed of by a council. It can be leased,

but there are restrictions on the grant of leases and licences, and also on the way community land can be used. A plan of management (PoM), adopted by council, is required for all community land, and details the specific uses and management of the land.

There are no special restrictions on council powers to manage, develop, dispose, or change the nature and use of operational land.

How is public land classified or reclassified?

Depending on circumstances, this is undertaken by either:

- council resolution under ss.31, 32, or 33 (through LG Act s.27(2)), or
- an LEP under the *Environmental Planning and Assessment Act* (through LG Act s.27(1)).

Councils are encouraged to classify or reclassify land by council resolution where suitable.

Classification of public land occurs when it is first acquired by a council and classified as either community or operational.

Reclassification of public land occurs when its classification is changed from community to operational, or from operational to community.

Reclassification through an LEP

Classification and reclassification of public land through an LEP is subject to both the local plan-making process in the EP&A Act and the public land management requirements of the LG Act.

A planning proposal to classify or reclassify public land, will need to be prepared in accordance with this practice note and the additional matters specified in Attachment 1 to this practice note.

Reclassification through an LEP is the mechanism with which council can remove any public reserve status applying to land, as well as any interests affecting all or part of public land (LG Act s.30).

It is critical that all interests are identified upfront as part of any planning proposal. If public land is reclassified from community to operational, without relevant interests being identified and discharged, then the land will need to be reclassified back to community (usually by council resolution under LG Act s.33¹) before being reclassified in a new planning proposal to operational, to explicitly discharge any interests.

While a reclassification proposal to remove the public reserve status of land and/or discharge interests may not necessarily result in the immediate sale or disposal of the land, the community should be aware the public land in question is no longer protected under the LG Act from potential future sale once it has been reclassified to operational.

Councils should obtain their own advice when proposing to discharge any interests and be aware that this may attract a claim for compensation under the *Land Acquisition (Just Terms Compensation) Act 1991*.

Where land has been dedicated to council by a State agency for a particular purpose and a trust exists, it is advisable for council to seek the views of that agency prior to council commencing any planning proposal affecting the land.

Public reserve is defined in the LG Act and includes a public park and land declared or dedicated as a public reserve.

Land can be dedicated as a public reserve by either:

- registering a deposited plan with a statement creating a lot(s) as 'public reserve', or
- publishing a notification in the Government Gazette for an existing parcel.

Interests in land refers to property ownership as well as rights and privileges affecting land, such as leasehold, easements, covenants and mortgages.

For the purpose of reclassification through an LEP, 'interests' means trusts, estates, dedications, conditions, restrictions and covenants affecting the land.

A legal owner of land may not be the only person with an interest in the land. For example, one person may have the benefit of an easement for services, such as water, electricity or sewerage over someone else's land.

Certain interests are registered on title to ensure they are on record and cannot be disregarded if sold to a new owner. An electronic title search is generally conducted to determine the land owner, correct land description and the type of interests which may affect the land.

Standard Instrument LEP requirements

Clause 5.2—Classification and reclassification of public land in Standard Instrument LEPs enables councils to classify or reclassify public land as operational land or community land in accordance with the LG Act. The land to be reclassified or classified is described in Schedule 4 of the LEP.

Schedule 4 is not to refer to any land already classified or reclassified.

Where there is no public land to be classified, or reclassified, through a principal LEP (i.e. the LEP applies to the whole of a local government area), Schedule 4 will appear blank.

Note: At a later stage council may lodge a planning proposal to remove previous listings in Schedule 4. This will not affect the classification status of these parcels of land.

Department assessment

A proposal to classify or reclassify public land through an LEP must have planning merit. The Department will undertake an assessment to determine whether the proposal demonstrates strategic and site specific merit.

Community consultation

Planning proposals to reclassify public land are to be publicly exhibited for at least 28 days.

A copy of this practice note is to be included in the public exhibition materials.

¹ Note: Council is required to give public notice of the proposed resolution and provide a period of at least 28 days during which submissions may be made (LG Act s.34).

Public hearings

Councils must hold a public hearing when reclassifying public land from community to operational (EP&A Act s.57 & LG Act s.29). This gives the community an opportunity to expand on written submissions and discuss issues with an independent person in a public forum.

After the exhibition period has ended, at least 21 days public notice is to be given before the hearing. This allows the person chairing the hearing sufficient time to consider written submissions and all issues raised.

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 (LG Act s.47G).

Governor's approval

The Governor's approval is required when a reclassification proposal seeks to remove any public reserve status and/or discharge any interests affecting public land (s.30).

When a council reports back to the Department on the community consultation undertaken and requests the Department make the LEP, the Department will arrange legal drafting of the LEP, including recommending the Governor approve the provisions before the LEP can be legally made.

Where the Governor's approval is required, the council's report accompanying the final planning proposal must address:

- council's interests in the land;
- whether the land is a 'public reserve';
- the effect of the reclassification, including loss of open space, any discharge of interests, and/or removal of public reserve status;
- the strategic and site specific merits of the reclassification and evidence to support this;
- any current use of the land, and whether uses are authorised or unauthorised;
- how funds obtained from any future sale of the land will be used;
- the dates the planning proposal was publicly exhibited and when the public hearing was held;
- issues raised in any relevant submissions made by public authorities and the community;
- an explanation of how written and verbal submissions were addressed or resolved; and
- the public hearing report and council resolution.

Authorisation of delegation

Local plan making functions are now largely delegated to councils.

A Written Authorisation to Exercise Delegation is issued to a council as part of the Gateway determination. However, where an LEP requires the Governor's approval, this council delegation cannot be issued. In this instance, the council must request the Department make the LEP.

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)).

Background

On July 1, 1993 when the LG Act commenced, the following land under council ownership or control, was automatically classified as *community* land:

- land comprising a public reserve,
- land subject to a trust for a public purpose,
- land dedicated as a condition of consent under s.94 of the EP&A Act,
- land reserved, zoned or otherwise designated for use under an environmental planning instrument as open space,
- land controlled by council and vested in Corporation Sole - Minister administering the EP&A Act.

Councils must keep a register of land under their ownership or control (LG Act s.53) and anybody can apply to a council to obtain a certificate of classification (LG Act s.54).

Further information

A copy of this practice note, *A guide to preparing planning proposals* and *A guide to preparing local environmental plans* is available at:

<http://www.planning.nsw.gov.au>

For further information, please contact the Department of Planning and Environment's Information Centre by one of the following:

Post: GPO Box 39, Sydney NSW 2001.

Tel: 1300 305 695

Email: information@planning.nsw.gov.au

Authorised by:
Carolyn McNally
Secretary

Important note: This practice note does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this practice note.

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ATTACHMENT 1 – INFORMATION CHECKLIST FOR PROPOSALS TO CLASSIFY OR RECLASSIFY PUBLIC LAND THROUGH AN LEP

The process for plan-making under the EP&A Act is detailed in *A guide to preparing planning proposals* and *A guide to preparing local environmental plans*.

Importantly, *A guide to preparing local environmental plans* contains the Secretary's requirements for matters that must be addressed in the justification of all planning proposals to reclassify public land. Councils must ensure the Secretary's requirements are addressed.

Councils must also comply with any obligations under the LG Act when classifying or reclassifying public land. More information on this can be found in *Practice Note No. 1 - Public Land Management* (Department of Local Government, 2000).

All planning proposals classifying or reclassifying public land must address the following matters for Gateway consideration. These are in addition to the requirements for all planning proposals under section 55(a) – (e) of the EP&A Act (and further explained in *A guide to preparing planning proposals* and *A guide to preparing local environmental plans*).

- the current and proposed classification of the land;
- whether the land is a 'public reserve' (defined in the LG Act);
- the strategic and site specific merits of the reclassification and evidence to support this;
- whether the planning proposal is the result of a strategic study or report;
- whether the planning proposal is consistent with council's community plan or other local strategic plan;
- a summary of council's interests in the land, including:
 - how and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution)
 - if council does not own the land, the land owner's consent;
 - the nature of any trusts, dedications etc;
- whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why;
- the effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will be discharged);
- evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. electronic title searches, notice in a Government Gazette, trust documents);
- current use(s) of the land, and whether uses are authorised or unauthorised;
- current or proposed lease or agreements applying to the land, together with their duration, terms and controls;
- current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time);
- any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy);
- how council may or will benefit financially, and how these funds will be used;
- how council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal;
- a Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot; and
- preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable.

Appendix 4 Justification required to be provided by Practice Note PN 16-001 - Classification and reclassification of public land through a local environmental plan

Practice Note PN 16-001 item	Yes / No	Comment
The current and proposed classification of the land		<p>Current classification – Community</p> <p>Proposed classification – Operational</p>
Whether the land is a 'public reserve' (defined in the LG Act)		<p>Lot 1 and 2 DP 1270948 were compulsory acquired under section 19 of the Land Acquisition (Just Terms Compensation) Act 1991, and approved by the Governor on 30 March 2022, which extinguished any public reserve status on the land.</p>
The strategic and site specific merits of the reclassification and evidence to support this		<p>The reclassification of the two lots to operational is consistent with the adjoining lot 21 DP712604 to be consolidated prior to the sale of the sports complex to the PCYC. An assessment of the proposal's consistency are included in appendices as follows</p> <ul style="list-style-type: none"> - Appendix 5 NCRP - Appendix 8 SEPPS - Appendix 9 Local Planning Directions
Whether the planning proposal is the result of a strategic study or report		<p>Yes, this planning proposal is the direct result of Council resolution 07.22.279 from Ordinary meeting held 13 December</p>

Practice Note PN 16-001 item	Yes / No	Comment
Whether the planning proposal is consistent with council's community plan or other local strategic plan		<p>2022 to classify the land parcels to operational.</p> <p>Yes, this planning proposal is generally aligns with and is consistent with Council's strategies and plans. An assessment of consistency is included in the following appendices:</p> <ul style="list-style-type: none"> - Appendix 6 – LSPS - Appendix 7 – Council Strategies and Plans
<p>A summary of council's interests in the land, including</p> <ul style="list-style-type: none"> - How and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for a public purpose, or a developer contribution) - If council does not own the land, the land owner's consent - The nature of any trusts, dedications etc 		<p>Council purchased Lot 1 and 2 DP 1270948 by compulsory acquisition under section 19 of the <i>Land Acquisition (Just Compensation) act 1991</i> which was approved by Her Excellency the Governor on Wednesday 30 March 2022; certificate of title was issued to Council on 7/6/2022.</p>
Whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why		<p>No interests are proposed to be discharged as part of this planning proposal. The consolidation plan indicates easements on the land for access and to drain sewerage (Figure 8)</p>
The effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will be discharged		<p>The proposed reclassification of the lad parcels to operational will not impact on the current use of the Grafton Regional Sports Complex managed by the Grafton PCYC for recreational and social purposes. The purpose of the classification is to enable the transfer of ownership to the PCYC so they can manage the facility more cost effectively and efficiently.</p>
Evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. electronic title searches, notice in a Government Gazette, trust documents)		<p>No public reserve status exists over the land parcels proposed by this proposal to be reclassified as operational land.</p>

Practice Note PN 16-001 item	Yes / No	Comment
Current use(s) of the land, and whether uses are authorised or unauthorised		<p>Certificate of title for the Lots are include at Appendix 1.</p> <p>The land being Lot 1 & 2 DP1270948 currently consists of an encroachment of the Grafton regional Sports Complex building which is managed by the PCYC for social, youth and recreation purposes. The balance of the land is open space with managed turf and shade trees used by the local rugby league club who use the adjoining Frank McGuren Park sporting fields and the general public.</p>
Current or proposed lease agreements applying to the land, together with their duration, term and controls		<p>The land being Lot 1 & 2 DP1270948 is currently under a licence agreement (LEA0460) for an annual sum of \$1.10 including GST to the PCYC which will terminate when the PCYC becomes owner of the land</p>
Current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time)		<p>There is an executed contract in place for the sale of the two lots being Lot 1 & 2 DP1270948 to the PCYC to take effect when the reclassification process is complete.</p>
Any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy)		<p>Rezoning of the land is not proposed</p>

Practice Note PN 16-001 item	Yes / No	Comment
How council may or will benefit financially, and how these funds will be used		The sale of the land is defined in the executed contract at \$1.10 including GST (a registered caveat remains on title under clause 11.4 of the contract)
How council will ensure funds remain available to fund propose open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal		Clause 11.2 of the executed contract provides the vendor (Clarence Valley Council) the right to acquire the land and any associated licences for \$1.00 plus GST should the PCYC not meet the terms of this clause of the contact, being to provide recreational based activities to the community.
A Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot		There are no requirements for mapping for the reclassification of Lot 1 & 2 DP1270948 to be included within this planning proposal, as no 'part lots' are proposed to be reclassified as operational land.
Preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable		There are no preliminary comments from government agencies as part of this reclassification process. The Gateway determination will make recommendation on agencies required for referral.

Appendix 5 North Coast Regional Plan 2041 Compliance

NORTH COAST REGIONAL PLAN 2041 Goals, Objectives & Strategies	CONSISTENT Yes or No	COMMENTS
GOAL 1: LIVABLE, SUSTAINABLE AND RESILIENCE		
<i>Objective 1: Provide well located homes to meet demand</i>	N/A	
<u>Strategy 1.1:</u> A 10 year supply of zoned and developable residential land is to be provided and maintained in Local Council Plans endorsed by the Department of Planning and Environment	N/A	
<u>Strategy 1.2:</u> Local Council plans are to encourage and facilitate a range of housing options in well located areas.	N/A	
<u>Strategy 1.3:</u> Undertake infrastructure service planning to establish land can be feasibly serviced prior to rezoning.	N/A	
<u>Strategy 1.4:</u> Councils in developing their future housing strategies must prioritise new infill development to assist in meeting the region's overall 40% multi-dwelling / small lot housing target and are encouraged to work collaboratively at a subregional level to achieve the target.	N/A	
<u>Strategy 1.5:</u> New rural residential housing is to be located on land which has been approved in a strategy endorsed by the Department of Planning and Environment and is to be directed away from the coastal strip.	N/A	
<u>Strategy 1.6:</u> Councils and LALCs can partner to identify areas which may be appropriate for culturally responsive housing on Country	N/A	
<i>Objective 2: Provide for more affordable and low cost housing</i>	N/A	
<i>Objective 3: Protect regional biodiversity and areas of high environmental value</i>	N/A	
<u>Strategy 3.1:</u> Strategic planning and local plans must consider opportunities to protect biodiversity values by: <ul style="list-style-type: none"> • focusing land-use intensification away from HEV assets and implementing the 'avoid, minimise and offset' hierarchy in strategic plans, LEPs and planning proposals • ensuring any impacts from proposed land use intensification on adjoining reserved lands or land that is subject to a conservation agreement are assessed and avoided • encouraging and facilitating biodiversity certification by Councils at the precinct scale for high growth areas and by individual land holders at the site scale, where appropriate • updating existing biodiversity mapping with new mapping in LEPs where appropriate • identifying HEV assets within the planning area at planning proposal stage through site investigations • applying appropriate mechanisms such as conservation zones and Biodiversity Stewardship Agreements to protect HEV land within a planning area and considering climate change risks to HEV assets 	N/A	

NORTH COAST REGIONAL PLAN 2041 Goals, Objectives & Strategies	CONSISTENT Yes or No	COMMENTS
<ul style="list-style-type: none"> • developing or updating koala habitat maps to strategically conserve koala habitat to help protect, maintain and enhance koala habitat. • considering marine environments, water catchment areas and groundwater sources to avoid potential development impacts. 		
<p><u>Strategy 3.2:</u> In preparing local and strategic plans Councils should:</p> <ul style="list-style-type: none"> • embed climate change knowledge and adaptation actions • consider the needs of climate refugia for threatened species and other key species. 	N/A	
<p>Objective 4: Understand, celebrate and integrate Aboriginal culture</p>	N/A	
<p><u>Strategy 4.1:</u> Councils prepare cultural heritage mapping with an accompanying Aboriginal cultural management plan in collaboration with Aboriginal communities to protect culturally important sites.</p>	N/A	
<p><u>Strategy 4.2:</u> Prioritise applying dual names in local Aboriginal language to important places, features or infrastructure in collaboration with the local Aboriginal community.</p>	N/A	
<p>Objective 5: Manage and improve resilience to shocks and stresses, natural hazards and climate change</p>	N/A	
<p><u>Strategy 5.1:</u> When preparing local strategic plans, councils should be consistent with and adopt the principles outlined in the Strategic Guide to Planning for Natural Hazards.</p>	N/A	
<p><u>Strategy 5.2:</u> Where significant risk from natural hazard is known or presumed, updated hazard strategies are to inform new land use strategies and be prepared in consultation with emergency service providers and Local Emergency Management Committees (LEMCs). Hazard strategies should investigate options to minimise risk such as voluntary housing buy back schemes.</p>	N/A	
<p><u>Strategy 5.3:</u> Use local strategic planning and local plans to adapt to climate change and reduce exposure to natural hazards by:</p> <ul style="list-style-type: none"> • identifying and assessing the impacts of place-based shocks and stresses • taking a risk-based-approach that uses the best available science in consultation with the NSW Government, emergency service providers, local emergency management committees and bush fire risk management committees • locating development (including urban release areas and critical infrastructure) away from areas of known high bushfire risk, flood and coastal hazard areas to reduce the community's exposure to natural hazards • identifying vulnerable infrastructure assets and considering how they can be protected or adapted • building resilience of transport networks in regard to evacuation routes, access for emergencies and, maintaining freight connections • identifying industries and locations that would be negatively impacted by climate change and natural hazards and preparing strategies to mitigate negative impacts and identify new paths for growth 	N/A	

NORTH COAST REGIONAL PLAN 2041 Goals, Objectives & Strategies	CONSISTENT Yes or No	COMMENTS
<ul style="list-style-type: none"> • preparing, reviewing and implementing updated natural hazard management plans and Coastal Management Programs to improve community and environmental resilience which can be incorporated into planning processes early for future development • identifying any coastal vulnerability areas • updating flood studies and flood risk management plans after a major flood event incorporating new data and lessons learnt • communicating natural hazard risk through updated flood studies and strategic plans. 		
<p><u>Strategy 5.4:</u> Resilience and adaptation plans should consider opportunities to:</p> <ul style="list-style-type: none"> • encourage sustainable and resilient building design and materials (such as forest products) including the use of renewable energy to displace carbon intensive or fossil fuel intensive options • promote sustainable land management including Ecologically Sustainable Forest Management (ESFM) • address urban heat through building and street design at precinct scale that considers climate change and future climatic conditions to ensure that buildings and public spaces are designed to protect occupants in the event of heatwaves and extreme heat events • integrate emergency management and recovery needs into new and existing urban areas including evacuation planning, safe access and egress for emergency services personnel, buffer areas, building back better, whole-of-life cycle maintenance and operation costs for critical infrastructure for emergency management • adopt coastal vulnerability area mapping for areas subject to coastal hazards to inform the community of current and emerging risks • promote economic diversity, improved environmental, health and well-being outcomes and opportunities for cultural and social connections to build more resilient places and communities. 	N/A	
<p><u>Strategy 5.5:</u> Partner with local Aboriginal communities to develop land management agreements and policies to support cultural management practices.</p>	N/A	
<p><i>Objective 6: Create a circular economy</i></p>	N/A	

NORTH COAST REGIONAL PLAN 2041 Goals, Objectives & Strategies	CONSISTENT Yes or No	COMMENTS
<u>Strategy 6.1:</u> Support the development of circular economy, hubs, infrastructure and activities and consider employment opportunities that may arise from circular economies and industries that harness or develop renewable energy technologies and will aspire towards an employment profile that displays a level of economic self-reliance, and resilience to external forces.	N/A	
<u>Strategy 6.2:</u> Use strategic planning and waste management strategies to support a circular economy, including dealing with waste from natural disasters and opportunities for new industry specialisations.	N/A	
Objective 7: Promote renewable energy opportunities	N/A	
<u>Strategy 7.1:</u> When reviewing LEPs and local strategic planning statements: <ul style="list-style-type: none"> • ensure current land use zones encourage and promote new renewable energy infrastructure • identify and mitigate impacts on views, local character and heritage where appropriate • undertake detailed hazard studies. 	N/A	
Objective 8: Support the productivity of agricultural land	N/A	
<u>Strategy 8.1:</u> Local planning should protect and maintain agricultural productive capacity in the region by directing urban, rural residential and other incompatible development away from important farmland.	N/A	
Objective 9: Sustainably manage and conserve water resources	N/A	
<u>Strategy 9.1:</u> Strategic planning and local plans should consider: <ul style="list-style-type: none"> • opportunities to encourage riparian and coastal floodplain restoration works • impacts to water quality, freshwater flows and ecological function from land use change • water supply availability and issues, constraints and opportunities early in the planning process • partnering with local Aboriginal communities to care for Country and waterways • locating, designing, constructing and managing new developments to minimise impacts on water catchments, including downstream waterways and groundwater resources • possible future diversification of town water sources, including groundwater, stormwater harvesting and recycling • promoting an integrated water cycle management approach to development • encouraging the reuse of water in new developments for urban greening and for irrigation purposes • improving stormwater management and water sensitive urban design • ensuring sustainable development of higher water use industries by considering water availability and constraints, supporting more efficient water use and reuse, and locating development where water can be accessed without significantly impacting on other water users or the environment • identifying and protecting drinking water catchments and storages in strategic planning and local plans • opportunities to align local plans with any certified Coastal Management Programs. 	N/A	
<u>Strategy 9.2:</u> Protect marine parks, coastal lakes and estuaries by implementing the NSW Government's Risk-Based Framework for Considering Waterway Health Outcomes in Strategic Land-use Planning Decisions, with sensitive marine parks, coastal lakes and estuaries prioritised.	N/A	

NORTH COAST REGIONAL PLAN 2041 Goals, Objectives & Strategies	CONSISTENT Yes or No	COMMENTS
<u>Strategy 9.3:</u> Encourage a whole of catchment approach to land use and water management across the region that considers climate change, water security, sustainable demand and growth, the natural environment and investigate options for water management through innovation.	N/A	
Objective 10: Sustainably manage the productivity of our natural resources	N/A	
<u>Strategy 10.1:</u> Enable the development of the region’s natural, mineral and forestry resources by avoiding interfaces with land uses that are sensitive to impacts from noise, dust and light interference.	N/A	
<u>Strategy 10.2:</u> Plan for the ongoing productive use of lands with regionally significant construction material resources in locations with established infrastructure and resource accessibility.	N/A	
GOAL 2: PRODUCTIVE AND CONNECTED		
Objective 11: Support cities and centres and coordinate the supply of well-located employment land	N/A	
<u>Strategy 11.1:</u> Local council plans will support and reinforce cities and centres as a focal point for economic growth and activity.	N/A	
<u>Strategy 11.2:</u> Utilise strategic planning and land use plans to maintain and enhance the function of established commercial centres by: <ul style="list-style-type: none"> • simplifying planning controls • developing active city streets that retain local character • facilitating a broad range of uses within centres in response to the changing retail environment • maximising the transport and community facilities commensurate with the scale of development proposals. 	N/A	
<u>Strategy 11.3:</u> Support existing and new economic activities by ensuring council strategic planning and local plans: <ul style="list-style-type: none"> • retain, manage and safeguard significant employment lands • respond to characteristics of the resident workforce and those working in the LGA and neighbouring LGAs 	Yes	reclassification of the land to operational will provide an economic benefit to the PCYC recreational and social activities

NORTH COAST REGIONAL PLAN 2041 Goals, Objectives & Strategies	CONSISTENT Yes or No	COMMENTS
<ul style="list-style-type: none"> • identify local and subregional specialisations • address freight, service and delivery considerations • identify future employment lands and align infrastructure to support these lands • provide flexibility in local planning controls • are responsive to future changes in industry to allow a transition to new opportunities • provide flexibility and facilitate a broad range of commercial, business and retail uses within centres • focus future commercial and retail activity in existing commercial centres, unless there is no other suitable site within existing centres, there is a demonstrated need, or there is positive social and economic benefit to locate activity elsewhere • are supported by infrastructure servicing plans for new employment lands to demonstrate feasibility prior to rezoning 		
<p>Strategy 11.4: New employment areas are in accordance with an employment land strategy endorsed by the Department of Planning and Environment.</p>	N/A	
<p>Objective 12: Create a diverse visitor economy</p>	N/A	
<p>Strategy 12.1: Council strategic planning and local plans should consider opportunities to:</p> <ul style="list-style-type: none"> • enhance the amenity, vibrancy and safety of centres and township precincts • create green and open spaces that are accessible and well connected and enhance existing green infrastructure in tourist and recreation facilities • support the development of places for artistic and cultural activities • identify appropriate areas for tourist accommodation and tourism development • protect heritage, biodiversity and agriculture to enhance cultural tourism, agri-tourism and eco-tourism • partner with local Aboriginal communities to support cultural tourism and connect ventures across the region • support appropriate growth of the night time economy • provide flexibility in planning controls to allow sustainable agritourism and ecotourism • improve public access and connection to heritage through innovative interpretation • incorporate transport planning with a focus on active transport modes to connect visitors to key destinations. 	Yes	Provides for diverse social and recreational opportunities for residents and visitors
<p>Objective 13: Champion Aboriginal self-determination</p>	N/A	
<p>Strategy 13.1: Provide opportunities for the region's LALCs, Native Title holders and community recognised Aboriginal organisations to utilise the NSW planning system to achieve development aspirations, maximising the flow of benefits generated by land rights to Aboriginal communities through strategic led planning.</p>	N/A	
<p>Strategy 13.2: Prioritise the resolution of unresolved Aboriginal land claims on Crown land.</p>	N/A	

NORTH COAST REGIONAL PLAN 2041 Goals, Objectives & Strategies	CONSISTENT Yes or No	COMMENTS
<u>Strategy 13.3:</u> Partner with community recognised Aboriginal organisations to align strategic planning and community aspirations including enhanced Aboriginal economic participation, enterprise and land, sea and water management.	N/A	
<u>Strategy 13.4:</u> Councils consider engaging Aboriginal identified staff within their planning teams to facilitate strong relationship building between councils, Aboriginal communities and key stakeholders such as Local Aboriginal Land Councils and local Native Title holders.	N/A	
<u>Strategy 13.5:</u> Councils should establish a formal and transparent relationship with local recognised Aboriginal organisations and community, such as an advisory committee.	N/A	
<i>Objective 14: Deliver new industries of the future</i>	N/A	
<u>Strategy 14.1:</u> Facilitate agribusiness employment and income-generating opportunities through the regular review of council planning and development controls, including suitable locations for intensive agriculture and agribusiness.	N/A	
<u>Strategy 14.2:</u> Protect established agriculture clusters and identify expansion opportunities in local plans that avoid land use conflicts, particularly with residential and rural residential land uses.	N/A	
<i>Objective 15: Improve state and regional connectivity</i>	N/A	
<u>Strategy 15.1:</u> Protect proposed and existing transport infrastructure and corridors to ensure network opportunities are not sterilised by incompatible land uses or land fragmentation.	N/A	
<i>Objective 16: Increase active and public transport usage</i>	N/A	
<u>Strategy 16.1:</u> Encourage active and public transport use by: <ul style="list-style-type: none"> • prioritising pedestrian amenity within centres for short everyday trips • providing a legible, connected and accessible network of pedestrian and cycling facilities • delivering accessible transit stops and increasing convenience at interchanges to serve an ageing customer • incorporating emerging anchors and commuting catchments in bus contract renewals • ensuring new buildings and development include end of trip facilities 	N/A	

NORTH COAST REGIONAL PLAN 2041 Goals, Objectives & Strategies	CONSISTENT Yes or No	COMMENTS
<ul style="list-style-type: none"> • integrating the active transport network with public transport facilities • prioritising increased infill housing in appropriate locations to support local walkability and the feasibility of public transport stops. 		
<p><u>Strategy 16.2:</u> Local plans should encourage the integration of land use and transport and provide for environments that are highly accessible and conducive to walking, cycling and the use of public transport and encourage active travel infrastructure around key trip generators.</p>	N/A	
<p>Objective 17: Utilise new transport technology</p>	N/A	
<p>Strategy 17.1: Councils should consider how new transport technology can be supported in local strategic plans, where appropriate.</p>	N/A	
<p>GOAL 3: GROWTH, CHANGE AND OPPORTUNITY</p>		
<p>Objective 18: Plan for sustainable communities</p>	Yes	
<p>Objective 19: Public spaces and green infrastructure support connected and healthy communities</p>	Yes	
<p><u>Strategy 19.1:</u> Councils should aim to undertake public space needs analysis and develop public space infrastructure strategies for improving access and quality of all public space to meet community need for public spaces. This could include:</p> <ul style="list-style-type: none"> • drawing on community feedback to identify the quantity, quality and the type of public space required • prioritising the delivery of new and improved quality public space to areas of most need • considering the needs of future and changing populations • identifying walkable and cyclable connectivity improvements and quality and access requirements that would improve use and enjoyment of existing infrastructure • consolidating, linking and enhancing high quality open spaces and recreational areas • working in partnership with local Aboriginal communities to develop bespoke cultural infrastructure which responds to the needs of Aboriginal communities and facilitates continued cultural practices. 	Yes	<p>Reclassification of the land to operational allows Council to transfer ownership to the PCYC to provide and deliver services to the community in a more efficient manner</p>
<p><u>Strategy 19.2:</u> Public space improvements and new development should consider the local conditions, including embracing opportunities for greening and applying water sensitive urban design principles.</p>	N/A	
<p><u>Strategy 19.3:</u> Encourage the use of council owned land for temporary community events and creative practices where appropriate by reviewing development controls.</p>	N/A	
<p><u>Strategy 19.4:</u> Local environmental plan amendments that propose to reclassify public open space must consider the following:</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. 	Yes	<p>The reclassification will not change the current use for recreational and social purposes. The contract of sale includes a caveat on the land title to protect the rights of the vendor in the</p>

NORTH COAST REGIONAL PLAN 2041 Goals, Objectives & Strategies	CONSISTENT Yes or No	COMMENTS
		event that the purchaser ceases to continue to provide recreational services to the community, allowing the vendor to purchase the property for \$1.10 is the caveat terms are not met.
Objective 20: Celebrate local character	N/A	
<u>Strategy 20.1:</u> Ensure strategic planning and local plans recognise and enhance local character through use of local character statements in local plans and in accordance with the NSW Government's Local Character and Place Guideline.	N/A	
<u>Strategy 20.2:</u> Celebrate buildings of local heritage significance by: <ul style="list-style-type: none"> • retaining the existing use where possible • establishing a common understanding of appropriate reuses • exploring history and significance • considering temporary uses • designing for future change of use options. 	N/A	

Appendix 6 LSPS Assessment Checklist

LSPS Action	LSPS Action (guiding Principle)	Applicable	Complies (Y / N or N/A)	Detailed Answer
1.1	<p>Does the proposal promote the long term liveability, health and resilience of the community, and supporting economic, social and cultural improvement?</p> <p>Particularly through:</p> <ul style="list-style-type: none"> a) Protecting and enhancing terrestrial and aquatic biodiversity and our natural environment? b) A regenerative landscape planning approach that includes listening to First Nations People and caring for country? c) A hierarchy of avoiding, mitigating and managing natural hazards, as well as considering environmental constraints to be used in planning and design? d) Ensuring a collaborative approach to place making, that engages those who can contribute to making the Clarence Valley a community full of opportunities? e) North Coast Settlement Planning Guidelines 2019? 	No	N/A	
1.2	<p>Does the proposal comply with the North Coast Urban Design Guidelines?</p> <p>Does the proposal comply with the Urban Design for Regional NSW guidelines?</p>	No	N/A	
2.1	<p>Does the proposal / process help expand existing partnerships with our First Nations communities to be involved in decision making?</p> <p>Have you referred to the NSW Government Architect 'Connecting with Country' and Designing with Country guidelines?</p>	No	N/A	

LSPS Action	LSPS Action (guiding Principle)	Applicable	Complies (Y / N or N/A)	Detailed Answer
2.2	Are First Nations communities involved in the development of strategic plans, inclusive of local growth management, housing and biodiversity strategies?	Strategic plans	N/A	
2.3	Has the proposal involved collaboration with Traditional Owners, Local Aboriginal Land Councils and DPIE in identifying sites of cultural significance and assets with economic development potential?	All	N/A	
2.5	Have you considered the Clarence Valley Aboriginal Heritage Study and relevant studies and planning controls?	All	N/A	
2.6	Does the proposal incorporate First Nations cultural heritage and design in new developments?	Construction / design projects	N/A	
3.3	For any expansion of existing commercial or industrial lands or new development – is appropriate infrastructure that promotes active travel to work options included (walking, cycling, PT, accessibility etc.)?	All	N/A	
3.4	Have you explored options to promote smaller homes in appropriate locations of our existing centres to help achieve a target of 40% infill housing across the Clarence LGA?	Strategic planning	N/A	

LSPS Action	LSPS Action (guiding Principle)	Applicable	Complies (Y / N or N/A)	Detailed Answer
4.3	Does the proposal comply with the Clarence Valley Affordable Housing Strategies, Plans and Policies?	All	N/A	
5.2	Does the proposal comply with the Crime Prevention Through Environmental Design (CPTED) and Safer by Design Evaluation?	Construction / design projects	N/A	
5.5	Are there opportunities to involve School Infrastructure NSW (SINSW) to explore and implement joint and shared use opportunities where there is mutual benefit for the school and the community?	All	N/A	
6.4	Is the re-use of Grafton Gaol and the Health Precinct sympathetic to the character of the surrounding streets and aspirations for the economic vitality of the Grafton CBD?	Grafton gaol and hospital precinct	N/A	
7.3	Have you explored options with state government (esp. TfNSW) and infrastructure providers to accelerate the provision of infrastructure and availability of residential and employment land to support a growing community and job opportunities in the Clarence Valley, where appropriate?	Strategic plans and major projects	N/A	
7.4	Working with State government, do facilities and redevelopment (Hospitals, Education, Corrections etc.) provide supporting infrastructure which will support a healthy, prosperous and sustainable Clarence Valley community, including for walking, cycling and other active travel? Will an 'active travel plan' be prepared to promote walking, cycling and sustainable modes of travel?	NSW Government projects	N/A	
8.1	Have you checked with TfNSW and other stakeholders to identify any impacts on major transport corridors and ensure they are protected for future transport alignments and avoid the encroachment of incompatible land uses?	Strategic plans and major projects	N/A	

LSPS Action	LSPS Action (guiding Principle)	Applicable	Complies (Y / N or N/A)	Detailed Answer
9.2	Have you checked with SES, RFS and other emergency management authorities that the proposal will help make a more resilient community?	All	N/A	
9.3	Do Infrastructure proposals include the provision of 'green infrastructure' as well as its integration with recreation and open space planning? Have you considered the governments Greener Places guideline?	All	N/A	
10.2	Will the proposal help implement the TfNSW Movement and Place Framework ? Have you checked with TfNSW? Will the proposal help to promote active transport, including opportunities to develop an active transport network, through the development of an integrated transport and land use settlement strategy for the valley, along with a 'place plan' for key centres such as Grafton, and areas of 'investigation' for urban development?	All	N/A	

LSPS Action	LSPS Action (guiding Principle)	Applicable	Complies (Y / N or N/A)	Detailed Answer
11.1	Does the proposal help implement the Clarence Valley Regional Economic Development Strategy ?	All	N/A	
11.4	Will the proposal help promote job opportunities in the marine industries? Does the proposal accord with the Far North Coast & Mid North Coast Marine based Industry Policy ?	All	N/A	
12.1	Does the proposal help support Grafton CBD as the principal activity centre for business, retail, culture, entertainment and prestige events in the region?	All	N/A	
13.2	Have you examined opportunities to leverage proximity to Gold Coast Airport and Toowoomba Wellcamp Airport in the supply chain for products from the Clarence Valley?	All	N/A	
13.3	Does the proposal help to protect rural zoned land and productive agricultural land from urban and rural residential development by directing development to identified investigation areas and not adjacent to productive agricultural land? Does the proposal help to implement state government policy, such as the 'right to farm'?	All	N/A	
13.4	Does the proposal help to implement the North Coast farmland mapping project undertaken by DPI and DPIE, supplemented with local studies?	All	N/A	
13.5	Have you explored opportunities for artisan food and drink industry developments to be located within existing business zones and centres to improve the vitality and viability of our main streets, particularly in Grafton and Yamba?	Strategic Plans	N/A	

LSPS Action	LSPS Action (guiding Principle)	Applicable	Complies (Y / N or N/A)	Detailed Answer
13.6	<p>Does the proposal help to implement work by relevant agencies to support bushfire recovery and future resilience of the agriculture and food producing sector of the Clarence?</p> <p>Does the proposal help to establish networks and training opportunities for primary producers to work with local First Nations to improve land management, especially cultural burning?</p>	All	N/A	
13.7	Does the proposal identify opportunities to increase resilience of rural landscapes and promote regenerative agriculture, especially to increase carbon in soils to improve productive capacity, contribute to reducing atmospheric CO2, increase water holding capacity of soil so reducing drought impact and significantly reducing the effects of runoff and soil erosion on roads, bridges and other infrastructure?	All	N/A	
13.8	<p>Does the proposal help to:</p> <p>a) reduce the density and proximity of energy dense nutrient poor (ENDP) aka 'fast food' outlets, particularly for vulnerable populations?</p> <p>b) facilitate community gardens and urban agriculture on public and private land, particularly in new land release areas and urban fringes so that neighbourhoods have access to local food growing lands?</p>	All	N/A	

LSPS Action	LSPS Action (guiding Principle)	Applicable	Complies (Y / N or N/A)	Detailed Answer
	<p>c) increase access to drinking water through the provision of bubbler/taps in public places, sporting venues and community facilities, and limit/discourage the consumption of sugar sweetened beverages (SSBs)?</p> <p>d) support and encourage community food centres (aka food hubs) which supply and promote locally grown produce and take a social justice approach to food?</p> <p>e) support and encourage local farmers markets which supply local produce thereby reducing food miles and supporting local and regional farmers?</p>			
14.1	<p>Does the change to the planning framework help to implement the Clarence River Way Masterplan?</p> <p>Will the proposal help to welcome and sustainably manage visitors to the area, particularly to enable appropriate development in Grafton and our river towns and coastal areas?</p>	All	N/A	
14.2	<p>Does the proposal help to update the Clarence Valley LEP and relevant DCPs to build on the strengths of the Clarence River and support appropriate tourism opportunities and help implement aspects of the Clarence River Way Masterplan?</p>	Strategic Plans	N/A	
14.3	<p>Does the proposal help to identify opportunities to expand nature-based adventure and cultural tourism by leveraging the Clarence Valleys natural, heritage and community assets?</p>	All	N/A	
15.1	<p>Will the proposal help to protect areas of High Environmental Value (HEV)?</p> <p>Does the proposal take a strategic approach to land use planning, informed by our biodiversity strategy and strategic environmental goals, particularly for corridors and areas of high environmental value?</p>	All	N/A	
15.2	<p>Does the proposal help to achieve waterway health and protect our marine environment?</p>	Strategic plans	N/A	

LSPS Action	LSPS Action (guiding Principle)	Applicable	Complies (Y / N or N/A)	Detailed Answer
15.3	<p>Will the proposal help to ensure that water quality and aquatic biodiversity impacts are considered in planning decisions?</p> <p>Will the changes ensure that the planning framework aligns with our coast and estuary management plans/programs, including to promote the values of riparian vegetation vegetated buffers and permeable surfaces to maintain and improve water quality and hydrology?</p>	All	N/A	
16.2	Have you checked biodiversity mapping layers and fauna corridors with Council?	All	N/A	
16.6	Does the proposal help implement Councils Biodiversity Strategy 2020?	All	N/A	
17.1	<p>Does the proposal help create safer, more disaster resilient communities?</p> <p>Have you had particular regard to the long term social and economic costs of the potential effects of natural hazards and risk to life and evacuation capacity?</p>	All	N/A	
18.3	Does the proposal consider the Clarence Valley Regional Water Efficiency Strategic Plan ?	All	N/A	

LSPS Action	LSPS Action (guiding Principle)	Applicable	Complies (Y / N or N/A)	Detailed Answer
19.1	Does the proposal help to sustainably manage natural, mineral and forestry resources? (e.g. Protecting quarry's from urban encroachment and vice versa)	All	N/A	
20.1	Does the proposal help to grow regional and sub-regional relationships with adjoining Councils, state government and other organisations?		N/A	
21.1	Does the proposal help increase community participation in decision making and comply with the Councils Community Participation Plan ?	All	N/A	
22.1	Will the proposal help Grafton to be recognised as a Regional City in the North Coast Regional Plan?	All	N/A	
23.1	Will the proposal help achieve the Priorities of the Local Strategic Planning Statement?	All	N/A	

Appendix 7 Councils Local Strategy and Strategic Plan/s Consistency Checklist

Strategy/Strategic Plan	Relevant component/statement of consistency
The Clarence 2032	Yes – the reclassification to operational land to enable the transfer of ownership to the PCYC is consistent with the theme “society” and following objectives: <ul style="list-style-type: none"> - “a safe and active community where healthy lifestyles and better health outcome are encouraged and supported with accessible infrastructure for residents of all ages and abilities” - “a community supportive of its young people and their safety, growth and development”
Council’s Delivery Program and Operational Plan (Note: this changes annually)	Yes (as above)
Maclean Urban Catchment Local Growth Management Strategy 2011	N/A
South Grafton Heights Precinct Strategy	N/A
Clarence Valley Settlement Strategy 1999	N/A
Lower Clarence Retail Strategy (May 2007)	N/A
Yamba Retail/Commercial Strategy (May 2002)	N/A
Clarence Valley Regional Economic Development Strategic	N/A
Clarence Valley Employment Lands Strategy 2022	N/A
Clarence Valley Rural Lands Strategy 2022	N/A
Clarence Valley Affordable Housing Strategy	N/A
Clarence Valley Council Biodiversity Management Strategy 2020-2025	N/A

Clarence River Way Masterplan 2009 and Masterplan II	N/A
Clarence Valley Open Spaces Strategic Plan 2012	N/A

Appendix 8 SEPP Checklist

Name of SEPP	Relevant/applicable?	Comment/statement of consistency
<i>The following consolidated State Environmental Planning Policies (SEPPs) are current from March 2022 and whilst not all may be applicable to the Clarence Valley LGA they are all being acknowledged and some are considered in more detail where relevant.</i>		
1. State Environmental Planning Policy (Primary Production) 2021	N/A	
2. State Environmental Planning Policy (Resources and Energy) 2021	N/A	
3. State Environmental Planning Policy (Resilience and Hazards) 2021	N/A	
4. State Environmental Planning Policy (Industry and Employment) 2021	N/A	
5. State Environmental Planning Policy (Transport and Infrastructure) 2021	N/A	
6. State Environmental Planning Policy (Biodiversity and Conservation) 2021	N/A	
7. State Environmental Planning Policy (Planning Systems) 2021	N/A	
8. State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021	N/A	
9. State Environmental Planning Policy (Precincts – Central River City) 2021	N/A	
10. State Environmental Planning Policy (Precincts – Wester Parkland City) 2021	N/A	
11. State Environmental Planning Policy (Precincts – Regional) 2021	N/A	
12. State Environmental Planning Policy (Housing) 2021	N/A	

Name of SEPP	Relevant/applicable?	Comment/statement of consistency
13. State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development	N/A	
14. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	N/A	
15. State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	N/A	
16. State Environmental Planning Policy (Sustainable Buildings) 2022	N/A	

Appendix 9 Section 9.1(2) - Local Planning Directions Checklist

SECTION 9.1 DIRECTION	CONSISTENCY	COMMENTS
Focus Area 1: Planning Systems		
1.1 Implementation of Regional Plans	Yes	An assessment against the NCRP 2041 is included at appendix 5.
1.2 Development of Aboriginal Land Council Land	N/A	
1.3 Approval and Referral Requirements	Yes	<p>Consultation and approval has been granted from the then Department of Planning, Industry and Environment – Crown Lands and Water Division to the compulsory acquisition of the land for the purpose to rectify the encroachment and resale of the Grafton Regional Sports Complex to the PCYC.</p> <p>This planning proposal is of an administrative nature, which may not require wider agency consultation. The Gateway determination, should it proceed, may identify additional agency consultation requirements.</p>
1.4 Site Specific Provisions	Yes	The proposal does not propose to rezone the land
Focus Area 1: Planning Systems – Place based		
1.5 -1.18 Sydney based – not applicable to the Clarence Valley	N/A	

SECTION 9.1 DIRECTION	CONSISTENCY	COMMENTS
Focus Area 2: Design and Place – N/A		
Focus Area 3: Biodiversity and Conservation		
3.1 Conservation Zones	N/A	
3.2 Heritage Conservation	N/A	
3.3 Sydney Drinking Water Catchments	N/A	
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North coast LEPs 26	N/A	
3.5 Recreation Vehicle Areas	N/A	
3.6 Strategic Conservation Areas	N/A	
3.7 Public bushland	N/A	
3.8 Willandra Lakes	N/A	
3.9 Sydney Harbour Foreshores and Waterways Area	N/A	
3.10 Water Catchment Protection	N/A	
Focus Area 4: Resilience and Hazards		
4.1 Flooding	Yes	The subject land is mapped flood prone land. This proposal to reclassify the land to operational is of an administration nature and does not propose to rezone the land, change the current use, increase development capacity / density of the land, or contain provisions that will permit any development specified under Direction 4.1(3 & 4).

SECTION 9.1 DIRECTION	CONSISTENCY	COMMENTS
		In the event of flood, emergency evacuation of the facility will be undertaken in compliance with the Clarence Valley Local Flood Plan (2023) – Sub Plan, however it is considered that the establishment will not be operational in the event of a flood in excess of 2% AEP.
4.2 Coastal Management	N/A	
4.3 Planning for Bushfire Protection	N/A	
4.4 Remediation of Contaminated Land	N/A	
4.5 Acid Sulfate Soils	Yes	<p>The subject lands are mapped class 4 acid sulfate soils.</p> <p>This planning proposal to reclassify the subject lands to operational are of an administrative nature, no additional works or land zoning changes are proposed in relation to this proposal.</p> <p>In the event that future works are proposed on the land, an ASS management plan will be provided with the development application.</p>
4.6 Mine Subsidence and Unstable land	N/A	
Focus area 5: Transport and Infrastructure		
5.1 Integrating Land Use and Transport	N/A	
5.2 Reserving land for Public Purposes	Yes	The subject land was acquired from the then Department of Planning, Industry and Environment - Crown Lands and Water Division under section 19 of the <i>Land Acquisition (Just Terms Compensation) Act 1991</i> which was

SECTION 9.1 DIRECTION	CONSISTENCY	COMMENTS
		<p>approved by Her excellency the Governor on 30 March 2022; which removed all public land reservations.</p> <p>In addition, this proposal does not propose to rezone the land or effect a change in the current use, the sole purpose is to rectify an encroachment of the Grafton Regional Sports Complex building so the land and complex can be sold to the PCYC who currently manage the facility.</p>
5.3 Development Near Regulated Airports and Defense Airfields	N/A	
5.4 Shooting Ranges	N/A	
Focus Area 6: Housing		
6.1 Residential Zones	N/A	
6.2 Caravan Parks and Manufactured Home Estates	N/A	
Focus Area 7: Industry and Employment		
7.1 Business and Industrial Zones	N/A	
7.2 Reduction in non-hosted short-term rental accommodation period.	N/A	
7.3 Commercial and Retail Development along the Pacific Highway, North Coast.	N/A	
Focus Area 8: Resources and Energy		
8.1 Mining, Petroleum Production and Extractive Industries	N/A	

SECTION 9.1 DIRECTION	CONSISTENCY	COMMENTS
Focus Area 9: Primary Production		
9.1 Rural Zones	N/A	
9.2 Rural Lands	N/A	
9.3 Oyster Aquaculture	N/A	
9.4 Farmland of State and Regional Significance on the NSW Far North Coast.	N/A	