

Public Hearing Report

Reclassification of Council Owned Land

Prepared for Gunnedah Shire Council

DOCUMENT CONTROL:

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USAGE NOTE:

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The Report Author (Donna Ausling) declares that she does not have, nor expects to have, a beneficial interest in any of the subject properties. Nor does she have any reportable political donations within the meaning of section 147(3) of the *Environmental Planning & Assessment Act 1979* to declare.

TABLE OF CONTENTS

1. BACKGROUND.....	4
2. THE PUBLIC HEARING.....	5
3. RECOMMENDATION.....	6

1. BACKGROUND

Introduction

I was requested by Gunnedah Shire Council to act as an Independent Chair for a Public Hearing relating to the reclassification of a Council-owned property in the Gunnedah Shire Council area.

The Hearing was held at the Smithurst Theatre, Conadilly Street, Gunnedah on 1 September 2016 at 4.00pm.

I have reviewed the information provided by Council following the public exhibition period. I have been advised that advertising and notification of the proposal was undertaken by Gunnedah Shire Council in accordance with relevant legislative requirements.

Background to the Proposal

In March 2016 Gunnedah Shire Council resolved to support the preparation of a Planning Proposal to reclassify certain land in Gunnedah Shire from Community Land to Operational Land under the *Local Government Act 1993*, to permit a proposed boundary adjustment of 92 and 94A Beulah Street, Gunnedah, to satisfy the current alignment of Ashford's Watercourse (Council resolution no. 14.03/16).

The reclassification will effectively rectify an encroachment resultant from the movement of Ashford's Watercourse in northerly direction. The Council proposes the following:

- *The alignment of Ashford's Watercourse located through Lot 23 DP1140182 be realigned to follow the natural creek bank and drain with the boundaries between Part Lot 23 DP1140182 and Lots 2 and 3 DP380804 respectively be adjusted to the existing fence lines.*
- *No compensation be paid to Council for the annexing of the land being Part of Lot 23 DP1140182 (304m²) by the registered proprietors of Lot 2 and Lot 3 DP380804 but the registered proprietors be responsible for all legal fees, survey and registration fees associated with the realignment of the boundary adjustment.*

Reclassification of Council-Owned Land

The *Local Government Act 1993* (the Act) requires that all Council-owned land must be classified as either 'community' or 'operational'. Community land is public land that is held by Council for one or more community uses. It cannot be sold, and specific provisions apply with respect to leasing. Operational land is land held in Council ownership for operational purposes, and there are no restrictions regarding its use or disposal.

Pursuant to the Act, reclassification of land from Community to Operational requires an amendment to the *Gunnedah Shire Local Environmental Plan 2012*.

The Planning Proposal

The process of amending the Local Environmental Plan commences with a Planning Proposal, which requires the endorsement of Council and then is forwarded to the Minister of Planning for a Gateway Determination. In this case, Council has prepared a Planning Proposal which aims to:

- Reclassify part of Lot 23 DP1140182 from Community Land to Operational Land under the *Local Government Act 1993*.
- Amend the *Gunnedah Local Environmental Plan 2012 Land Zoning Mapping* to rezone part of proposed Lots 3 and 4 from *RE1 Public Recreation* to *R3 Medium Density Residential*.
- Amend the *Gunnedah Local Environmental Plan 2012 Minimum Lot Size (MLS)* mapping to apply a minimum lot size of 450m² to proposed Lots 3 and 4.
- Create a Land Reclassification (Part Lots) Map for the *Gunnedah Local Environmental Plan 2012*.

The Need for a Public Hearing

Section 29 of the *Local Government Act 1993* specifies that a Public Hearing must be held in the case of a Local Environmental Plan amendment that proposes the reclassification of community land.

The intention of the hearing is to allow members of the community to make submissions to an independent party about the proposed reclassifications. The independent party then reports to Council on these submissions. Council will consider the recommendations of the public hearing report and the issues raised during the public exhibition period prior to making a determination on the Planning Proposal.

2. THE PUBLIC HEARING

Introduction

The Public Hearing was held at Gunnedah Shire Council's Smithurst Theatre on the afternoon of 1 September 2016. Council advertised the hearing in accordance with relevant legislative requirements.

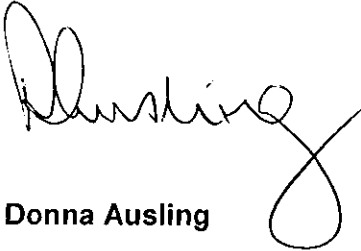
Two (2) people attended the hearing, being the Independent Chair (Ms Donna Ausling) and the Gunnedah Shire Council Environmental Planner (Mr Brendan Williams). No members of the public attended the hearing. After waiting thirty (30) minutes, the meeting was declared closed.

Submissions

Nil submissions were made - as detailed above, no members of the public were in attendance at the Hearing.

3. RECOMMENDATION

Given that no community concerns or interests have been identified in respect of this matter, I recommend that Council continue with the reclassification of the subject land in accordance with the Gunnedah Shire Council staff recommendations.

A handwritten signature in black ink, appearing to read "Ausling", with a large, stylized flourish extending from the end of the word.

Donna Ausling