



**Item No:** 2.6  
**Title:** Request to amend SEPP Gosford City Centre to reclassify 73-75 Mann St Gosford  
**Department:** Environment and Planning

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22 March 2022 Ordinary Council Meeting

Reference: CPA/3903 - D14959244  
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Executive: David Milliken, Director Environment and Planning (Acting)

### **Recommendation**

- 1 That Council prepare a Planning Proposal to amend SEPP Gosford City Centre to enable the reclassification of Lot B DP 321076 and Lot 2 DP 543135 (73-75 Mann Street, Gosford) from community land to operational land.**
- 2 That Council submit the Planning Proposal to the Minister for Planning in accordance with Section 3.35(2) of the Environmental Planning and Assessment Act 1979, requesting a Gateway Determination, pursuant to Section 3.34 of the Environmental Planning and Assessment Act 1979.**
- 3 That Council undertake public authority and community consultation in accordance with the Gateway Determination requirements.**
- 4 That Council conduct a public hearing consistent with the requirements of Section 29 of the Local Government Act 1993.**

### **Report purpose**

The purpose of this report is to recommend the reclassification of Lot B DP 321076 and Lot 2 DP 543135 (73-75 Mann Street Gosford) from community land to operational land under Section 30 of the *Local Government Act 1993*.

### **Executive Summary**

The subject land was originally acquired in 2019 for the purpose of the then proposed Gosford Cultural Precinct (consisting of a Regional Library and Regional Performing Arts Centre).

Upon acquisition by Council in 2019, the parcels of land were classified as community land.

On 25 September 2019, Council resolved to withdraw from any further work on the Gosford Cultural Precinct and proceed with a stand-alone Regional Library.

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In 2020 as part of a review of assets, Council determined the properties were surplus to its needs and is seeking to reclassify the land to “operational land” in order to facilitate its sale. It will not be possible to sell the site while it is classified as community land.

By disposing of land that is surplus to its needs Council will make it available to be repurposed or redeveloped by others with uses that contribute to the revitalisation of the Gosford City Centre.

Reclassification of community land must follow the procedure described by the Department of Planning and Environment’s LEP Practice Note 16-001: *Classification and reclassification of public land through a local environmental plan*.

The reclassification of land process requires the preparation of a Planning Proposal, community consultation as well holding a public hearing, using an independent facilitator. The purpose of a public hearing is to give interested people an opportunity to have their say on the proposed reclassification before a decision is made.

The Planning Proposal is then finalised for Council endorsement following consideration of any public submissions and issues raised during the public hearing.

The subject sites have been earmarked for inclusion in the TAFE NSW campus redevelopment and therefore the reclassification supports this.

### **Background**

Lot B DP 321076 and Lot 2 DP 543135 (73-75 Mann Street Gosford) are owned by Central Coast Council. The land was originally acquired in 2019 by private treaty for the purpose of building a Gosford Cultural Precinct. The parcel was acquired by agreement under the framework of the Land Acquisition (Just Terms Compensation) Act.

On 25 September 2019, Council resolved to withdraw from any further work on the Gosford Cultural Precinct and proceed with a stand-alone Regional Library. The Regional Library will now be developed on the site of the Parkside Building in Gosford at 123A Donnison Street (Lot 100 DP 711850).

Council is reviewing plans for the Regional Performing Arts Centre (RPACC). The site for the RPACC will not be developed on any of the land previously identified for the Cultural Precinct and other locations are now being considered.

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On the 30 November 2020 Council resolved the following:

*1258/20 That Council resolve to reclassify the following land from community to operational land and sell for not less than market value as determined by an independent valuer;*

*a) 73 Mann Street Gosford (Lot B in DP 321076)*

*b) 75 Mann Street Gosford (Lot 2 in DP 543135)*

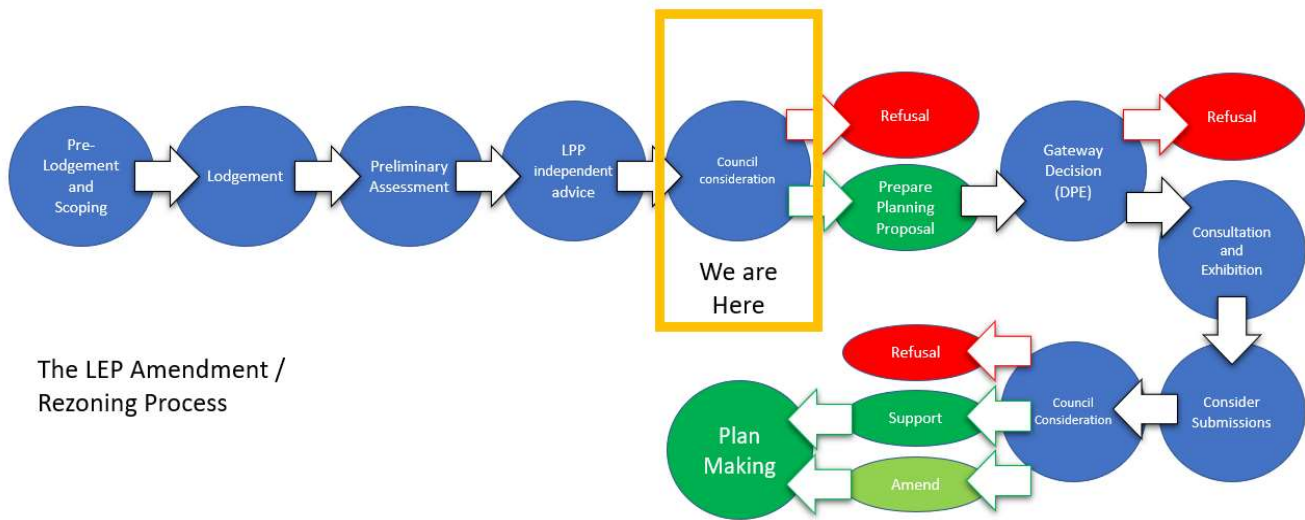
As per the *Local Government Act 1993* (LG Act) all public land must be classified. There are two classifications for public land – *community land* or *operational land*. Community land is land made available for use by the general public / community uses, while operational land is land required for Council's operational functions, such as a Council depot or for commercial land holdings.

Following its acquisition by Council, the subject land was classified as community land. Council has determined that this land is surplus and that it should be made available to be repurposed or redeveloped by others with uses that contribute to the revitalisation of the Gosford City Centre. As per Clause 45(1) of the LG Act, Council has no power to dispose of community land. Even if Council chooses to lease the land, Clause 45 of the LG Act significantly restricts the range of uses for which a lease over community land might be granted, and the time period of such a lease. If the site remains as community land, most of the uses for which the buildings might be leased are not permissible under the provisions of Clause 45 of the LG Act. It is therefore recommended that Council reclassify the land to operational land.

The reclassification process for Council land is specified in Part 6 Section 2 of the LG Act, and the Department of Planning, Industry and Environment's LEP Practice Note 16-001 – *Classification and reclassification of public land through a local environmental plan*.

The land is proposed to be reclassified by amending the State Environmental Planning Policy (Gosford City Centre) 2018 (Gosford SEPP). The wording and effect of the relevant part of the Gosford SEPP (Clause 5.2 and Schedule 4) is the same as Clause 5.2 and Schedule 4 of the Gosford Local Environmental Plan LEP 2014, and the proposed reclassification will follow the same process as any other land reclassification. The Department of Planning and Environment has advised that even though an amendment to a State Environmental Planning Policy is required, Council should proceed as it would for an amendment to a Local Environmental Plan via a Planning Proposal.

The Planning Proposal is currently at the stage in the Local Environmental Plan Amendment Process shown in Diagram 1.



**Diagram 1 – LEP Amendment/Rezoning Process**

**Current Status**

The site is located within the commercial core of Gosford City Centre (Figure 1). Located at the front of the site are vacant single storey commercial buildings with ground floor access to Mann Street, with car parking located to the rear. Henry Parry Drive, to the rear, is elevated and separated from the site by a steep embankment.

The land is not currently used for a community purpose and has been previously used for commercial purposes.

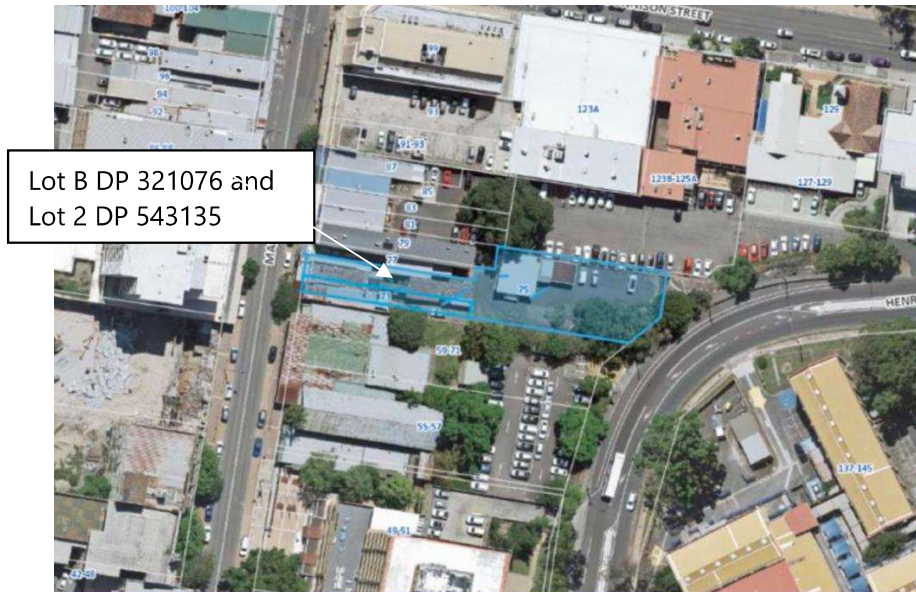


Figure 1 – Aerial photograph of the subject site

### Consultation

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

Council must also hold a public hearing when reclassifying public land from community to operational land.

After the public exhibition period has ended for the Planning Proposal, at least 21 days public notice is to be given before the public hearing. There are specific requirements for an independent person to chair the hearing and prepare a public hearing report, and that Council make the report publicly available.

Council will consider the outcomes of the public exhibition process for the Planning Proposal and the public hearing in finalising the land reclassification.

### Financial Considerations

At its meeting held 19 October 2020, Council resolved the following:

*1108/20 That any motions put before Council for the remainder of this term of Council that have financial implications require the Chief Executive Officer to provide a report on how those additional costs will be met.*

The following statement is provided in response to this resolution of Council.

Adoption of the staff recommendation has no budget implications for Council. Strategic Planning will undertake the work and engage a consultant to assist with the assessment. As the Asset Sales is being undertaken by the Economic and Property Development Unit, this

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work has been budgeted for and arranged through existing allocations within Economic Development and Property's budget.

In addition, the reclassification of the site to operational land will enable the potential sale of this site. Funds from the eventual sale of the land will enable Council to continue to deliver a range of social/community services and infrastructure to the community.

### Link to Community Strategic Plan

Theme 5: Liveable

### Goal C: A growing and competitive region

S-C2: Revitalise Gosford City Centre, Gosford Waterfront and town centres as key destinations and attractors for business, local residents, visitors and tourists.

### Risk Management

Council is complying with the provisions of the *LG Act* and with the Department of Planning, Industry and Environment's LEP Practice Note 16-001 - *Classification and reclassification of public land through a local environmental plan*.

### Options

- 1 Proceed with the reclassification. This approach enables greater flexibility in the use of the land including its potential sale, consistent with Council's resolution of 30 November 2020. **This is the recommended option.**
- 2 Do not proceed with the proposed reclassification of the site. There is a Council resolution to reclassify and sell the site. If the reclassification does not proceed, Council's resolution of 30 November 2020 cannot be implemented, and the land will remain as community land, with inherent limitations in its future use, leasing, and an inability to dispose of the property. Not recommended.

### Critical Dates or Timeframes

Council will adhere to the Department of Planning, Industry and Environment's strict Gateway Determination timeframes, requiring the finalisation of Planning Proposals within 6 to 12 months of issuing a gateway Determination.

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**Attachments**

<b>1</b>	Proposal Summary cover sheet for Council report	Provided Under Separate Cover	D15019474
<b>2</b>	Strategic Assessment	Provided Under Separate Cover	D15021477
<b>3</b>	Minutes of LPP Meeting 24022022	Provided Under Separate Cover	D15070068