

## OFFICERS' REPORTS – PART A - FOR DETERMINATION

### ENVIRONMENT AND PLANNING

1. **PLANNING PROPOSAL TO RECLASSIFY LAND – FROM COMMUNITY TO OPERATIONAL AT 163 ALBURY STREET, HOLBROOK, NSW 2644, ON LOT 10 DP 571557, AND AN ADMINISTRATIVE AMENDMENT TO THE HERITAGE MAP - HER 003D.**

PLANNING PORTAL REFERENCE NUMBER: PP-2024-2558

COUNCIL PLANNING PROPOSAL NUMBER: PP-2024-2558

Report prepared by Director Environment and Planning – Colin Kane and  
Town Planner – Gayan Wickramasinghe

#### REASON FOR REPORT

The purpose of this report is to seek a resolution from Council to proceed with a planning proposal to reclassify the above-mentioned Council-owned site, also known as '*Commander Holbrook Park*,' from community to operational land, extinguish its public park status, and note that change under Schedule 4, Part 2 of the Greater Hume Local Environmental Plan (GHLEP) 2012.

Once the land reclassification is completed, the existing local heritage item of significance, also known as the '*Submarine, scale model*,' will be relocated from the above development site to 17 Wallace Street, Holbrook, on Lot 2 DP 804402. Therefore, the resolution also seeks to amend Schedule 5, Part 1 of the GHLEP 2012 and the associated heritage map 'HER\_003D' to reflect this change.

#### REFERENCE TO DELIVERY PLAN

The following strategies have direct or indirect connection with the proposed reclassification as outlined in the Greater Hume Council Community Strategic Plan 2022-2032:

- Support local job creation by creating industrial areas and employment opportunities;
- Encourage social enterprises and businesses to grow local employment.

#### DISCUSSION

Council is required to classify all public land as either "*Community*" or "*Operational*" under the provisions of sections 25 and 26 of the Local Government Act, 1993. Community land is land used for a public purpose, while operational land is land that facilitates the functions or operations of Council (**Figure 1**) (e.g., works depots, garages, etc.). Council can sell operational land; however, community land cannot be sold, must be categorised (for example, as general community use or as a park), and must be included in a plan of management.

On 21 February 2024, Council's Director of Environment and Planning presented a report outlining that Habitat Planning informed Council of their wish to reclassify '*Commander Holbrook Park*' on behalf of the owner of the existing supermarket operating at 155 Albury Street, Holbrook, on Lot 13 DP 827736. The site is Council-owned and classified as community land, and the purpose of the reclassification and subsequent sale of the land is to expand the adjoining hardware business and construct a new IGA supermarket (**Figure 5**).

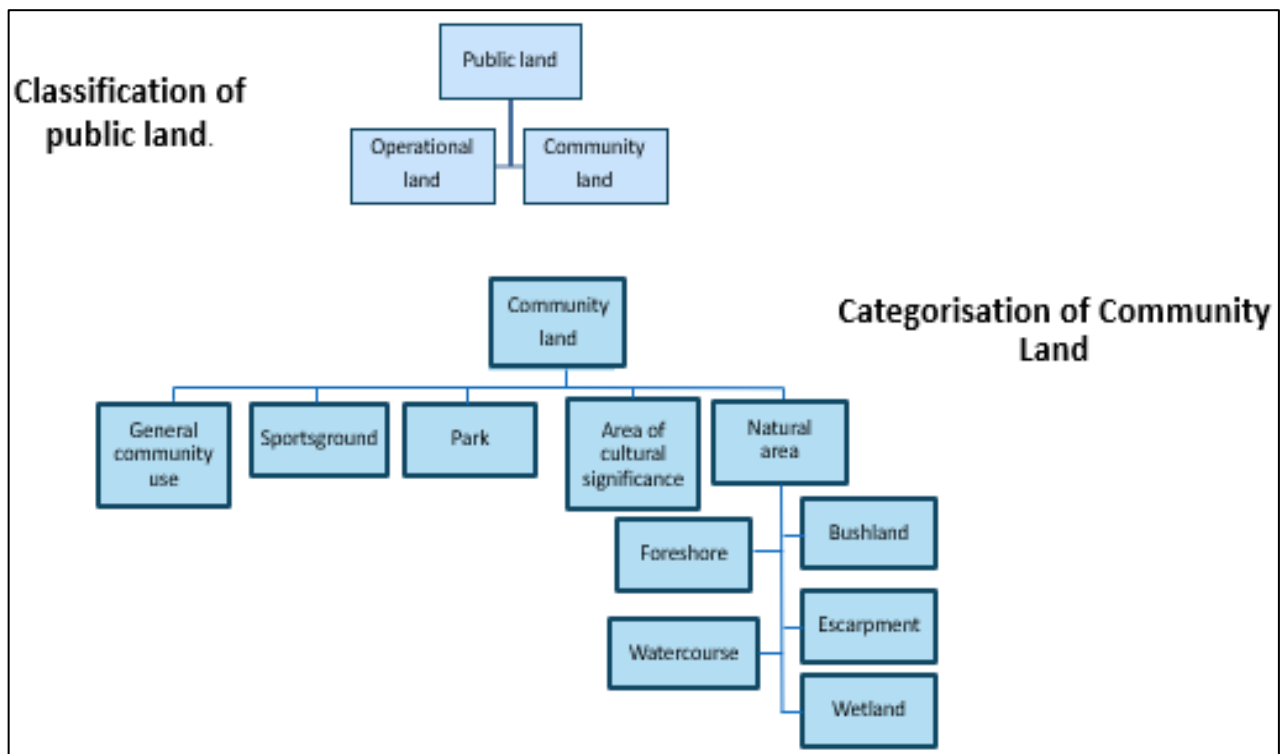
ORDINARY MEETING OF GREATER HUME COUNCIL  
TO BE HELD AT  
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ON WEDNESDAY, 19 FEBRUARY 2025

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At that meeting Council resolved that:

1. *“Indicates that it is in agreement that a planning proposal be undertaken to reclassify Commander Holbrook Park from community land to operational land;*
2. *Will be informed by community consultation through this process;*
3. *Agrees that owners of Holbrook IGA will meet all associated costs to undertake the planning proposal;*
4. *Will receive further reports in relation to the outcome of the planning proposal and possible future sale of the land.”*

In line with the above resolution, Habitat Planning (the applicant here after) has lodged a planning proposal (**ANNEXURE XXX**) to reclassify the above mentioned allotment via the Planning Portal.



*Figure1 – Classification of Council owned public land and categories of community land*

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The planning proposal has been prepared in accordance with the following documents:

1. Local Environmental Plan Making Guideline- NSW Department of Planning and Environment (August 2023); and
2. LEP Practice note (PN 16-001) relating to the classification and reclassification of public land through a local environmental plan.

The subject land is currently zoned RU5 Village pursuant to the GHLEP 2012, as indicated below, and has a total area of 1,363sqm according to Council's GIS Mapping System. The site contains a local heritage item of significance, No. 1118, also known as the '*Submarine, scale model.*' Should Council resolve to classify the land as 'operational' land, it will retain the existing RU5 land use zone and the provisions related to its listing as a heritage item under the GHLEP 2012 (**Figures 2 and 3**).



*Figure 2 - 163 Albury Street also known as 'Commander Holbrook Park.'*

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*Figure 3 - 163 Albury Street also known as 'Commander Holbrook Park' with applicable zoning controls.*

The consequential amendment to the above proposal is to relocate the local heritage item of significance, No. 1118, from the subject development site to the adjoining Lot 2 DP 804402, located across the other side of Wallace Street, also known as 'Germanton Park' (**Figure 4**).

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*Figure 4 – Proposed relocation of ‘Submarine, scale model’ also known as local heritage item 1118 to 17 Wallace Street, Holbrook also known as ‘Germanton Park’ by applicant.*

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The planning proposal documentation includes the indicative layout of the proposed supermarket, retail premises, and associated car parking arrangements. It is noted that the existing RU5 zone permits a shop to be erected under the commercial premises land use definition within that zone, subject to consent.



*Figure 5 –  
Proposed  
expansion of  
the shop and  
associated  
carpark by  
applicant.*

The planning proposal discusses two alternative options that may achieve the same outcome without needing to amend the GHLEP 2012. The applicant further argues that, due to numerous site constraints and the scale of the proposed development, the planning proposal is the best means to achieve the ultimate outcome.

The applicant, in their planning proposal correspondence, noted that they had previous consultations with the 'Holbrook Lions Club' and the 'Friends of Holbrook Submarine Museum' prior to lodging the proposal with Council. The applicant also noted that they have received a letter (**ANNEXURE 1**) in support of the proposed reclassification from the 'Holbrook Lions Club.'

It is noted a meeting was held between Council's Director of Environment and Planning, Mr. Colin Kane; the Director of the NSW Office for Veterans Affairs (OVA) of the Department of Communities and Justice, Ms. Caroline Mackaness; and the 'Friends of Holbrook Submarine Museum Sub-Committee' on 17 December 2024. As a result of that meeting Council was provided with written correspondence (**ANNEXURE 2**) requesting that Council not proceed with the planning proposal. If Council does proceed, they request that an options analysis be undertaken to investigate alternatives to the proposal. Their request arises because they consider that the park is a dedicated war memorial, and its replacement with a car park is contrary to the respect and recognition shown towards veterans by the community.

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In response, as briefly discussed above, Council staff noted that the applicant has undertaken two alternative pathways, as detailed below:

1. The intent of the proposed reclassification is to develop a new, expanded supermarket on existing Lot B DP 338974, also known as 70 Wallace Street, Holbrook (which is located to the west of the site subject to this reclassification). As part of that development, the applicant is required to provide additional car parking to comply with relevant planning controls (i.e., Greater Hume Development Control Plan 2013). Therefore, unless this land is available, the potential development on Lot B DP 338974 will not be able to proceed.
2. The applicant noted that the owners are able to construct a new supermarket immediately adjacent to Albury Street, with car parking at the rear of the site off Wallace Street. Nevertheless, due to various safety concerns, incompatibility with the existing building fabric—and difficulties associated with reconfiguring manoeuvrability within the site, the applicant stated that the second option is not viable.

The letter dated 18 December 2024 from Ms. Caroline Mackaness has also requested that they participate in a meeting with Council staff who are processing the planning proposal to discuss these matters. Council planning staff acknowledge this request, and in the event that Council decides to seek the Gateway Determination from the Department of Planning for the proposal, it is anticipated that a condition will be included in any Gateway Approval requiring Council to undertake public consultation and a hearing for the proposal. Therefore, it is expected that this requirement can be fulfilled as part of this process.

In order to proceed with the required arrangements, the subject land needs to be classified as “Operational” under the LG Act 1993. It is noted [Section 5.2 of the Greater Hume Local Environmental Plan \(GHLEP\) 2012](#) provides Council with the opportunity to classify or reclassify public land for the purposes of the LG Act 1993 whilst additional specific provisions are also included in Section 27, 29, 30 and 34 of the LG Act. In general, reclassification of public land through an amendment to Schedule 4 (Classification and reclassification of public land) of GHLEP 2012 is subject to both the local plan-making process and public consultation in accordance with the [Environmental Planning & Assessment Act \(EP&A Act\) 1979](#).

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The process for achieving the reclassification of '**Lot: 10 DP: 571557**' from 'community' to 'operational' is as follows:

1. Submit the planning proposal to the Department of Planning Housing and Infrastructure for a Gateway Determination once Council resolved to support for the proposal.
2. Agency referrals are completed **IF REQUIRED** under the Gateway Determination. The Planning Proposal cannot proceed until any matters of concern raised by an agency are resolved.
3. Community consultation is undertaken in accordance with the Gateway Determination for a minimum period of 28 days. Public hearing will also be undertaken in accordance with s29 of the Local Government Act 1993 during this time. The Public Hearing is chaired by an independent facilitator who then submits a report to Council identifying issues raised.
4. A report is prepared for Council addressing submissions received during the public exhibition and issues raised at the public hearing.
5. Subject to Council Resolution, the Planning Proposal is then forwarded to the Department of Planning Housing and Infrastructure for finalisation and amendment of GHLEP 2012.

It is expected that any agency referral and public hearing of the proposal will form part of any Gateway Determination letter issued by the Department of Planning Housing and Infrastructure.

#### **BUDGET IMPLICATIONS**

Finalisation of this process can be undertaken with Council internal staff. It is noted as endorsed by Council in its resolution dated 21 February 2024, all associated cost will be borne by the beneficiary of the proposal.

#### **CONCLUSION**

The proposed reclassification of the land from community to operational, and its sale to the adjoining supermarket owner, will assist in the redevelopment of the site to expand the much-needed large-scale supermarket within the Holbrook locality.

The proposed reclassification of the land does not change the current land use. Although the applicant has provided a concept layout for the development, it is important to note that, should Council resolve to sell this land once the reclassification is completed, any new development on the land will be assessed against the relevant controls outlined in the GHLEP 2012 and other applicable provisions in the Greater Hume Development Control Plan 2013. Council will also undertake separate public notification as part of that development application.

The rationale for the proposed reclassification is set out in the body of the report and in the attached planning proposal.

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**RECOMMENDATION**

1. In accordance with Section 30(1) of the Local Government Act 1993 Council resolve to inform the Department of Planning Housing and Infrastructure of the intention to prepare the Planning proposal to reclassify the land from community land to operational land at 163 Albury Street Holbrook on Lot 10 DP 571557 and subsequent administrative amendments to the heritage map – ‘HER\_003D’.
2. In accordance with Section 3.34(1) of the Environmental Planning and Assessment Act 1979 Council request a Gateway Determination from the Minister for Planning