

**Appendix 1 - List of Council owned public
land parcels proposed to be reclassified
from community to operational**

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Property	Property Name	Formatted Address	Land No	Lot	Plan No	Council	Date Acquired	Land Zoning	Land Use	Lease	Restrictions on Title
104459	Clarence Valley Weeds Authority Complex/Depot	Lilypool Road SOUTH GRAFTON NSW 2460	18969	7	114051	USC	Prior to 1993	IN1 General Industrial	utility & services - works depot	No	Crown Grant
106691	Works Depot	11 Schwinghammer Street SOUTH GRAFTON NSW 2460	21619	163	751385	USC	18/06/1999	IN1 General Industrial	utility & services - works depot	No	Crown Grant showing memorandum
106691	Works Depot	11 Schwinghammer Street SOUTH GRAFTON NSW 2460	24012	274	751385	USC	18/06/1999	IN1 General Industrial	utility & services - works depot	No	Crown Grant showing memorandum
132362	Part Cameron Park	7-9 Centenary Drive MACLEAN NSW 2463						Part SP2 Infrastructure part B2 Local Centre	utility & services - public carpark	No	Crown Grant and Easement
113717	North Coast Water Office Building	1 Macnaughton Place MACLEAN NSW 2463	61899	103 Pt	1189229	MSC	Prior to 1993	B2 Local Centre	utility & services - office accommodation	No	Crown Grant and Proposed Easement
113717	North Coast Water Office Building	1 Macnaughton Place MACLEAN NSW 2463	26403	408	751388	LCCC	Prior to 1993	B2 Local Centre	utility & services - office accommodation	No	Crown Grant and Proposed Easement
130922	Vacant Operational Land	6 Crowther Drive JUNCTION HILL NSW 2460	33047	1	612175	LCCC	Prior to 1993	R2 Low Density Residential	vacant land / undeveloped	No	Crown Grant, Easement and Restrictions
130923	Vacant Operational Land	8 Crowther Drive JUNCTION HILL NSW 2460	60337	505	1151839	TBA	TBA	R2 Low Density Residential	vacant land / undeveloped	No	Crown Grant, Easement and Restrictions
130924	Vacant Operational Land	10 Crowther Drive JUNCTION HILL NSW 2460	60338	506	1151839	TBA	TBA	R2 Low Density Residential	vacant land / undeveloped	No	Crown Grant, Easement and Restrictions
			60339	507	1151839	TBA	TBA	Residential	vacant land / undeveloped	No	Crown Grant, Easement and Restrictions

**Appendix 2 - report considered by
Council on 17 May 2016**

ITEM	13.025/16	PLANNING PROPOSAL TO RECLASSIFY VARIOUS LANDS OWNED BY COUNCIL AS 'OPERATIONAL'
Meeting	Council	17 May 2016
Directorate	Environment, Planning & Community	
Reviewed by	Director - Environment, Planning & Community (Des Schroder)	
Attachment	Yes	

SUMMARY

Council's land rationalisation project has required a detailed assessment of the status of a number of Council owned land parcels. That process has raised questions over the legality of resolutions of the former Maclean and Ulmarra Councils and the Lower Clarence County Council to classify their land holdings as per the requirements of Schedule 7, Clause 6 of the newly proclaimed *Local Government Act 1993* during the Act's transitional period (1 July 1993 – 30 June 1994). Additionally, a number of land acquisitions since that time (by Clarence Valley, Copmanhurst and Ulmarra Councils and the Lower Clarence County Council/North Coast Water) have no apparent evidence of being accompanied by the required corresponding resolution to classify those lands as operational.

As a consequence, and to remove any legal ambiguity that all of those land parcels are taken to be classified as community land, it is intended to effectively "classify" those lands by reclassifying them as operational as originally intended. This formalises the clear intention of those Councils at the time upon which a number of subsequent actions have relied upon in good faith. This is facilitated by a planning proposal. There are 207 properties identified.

OFFICER RECOMMENDATION

That Council :

1. Prepare a planning proposal under Section 55 of the *Environmental Planning and Assessment Act 1979* to amend the Clarence Valley Local Environmental Plan 2011 (CVLEP) by including in Schedule 4 of the CVLEP as operational land, those land parcels at Attachment 2 to this report.
2. Authorise the General Manager to submit the planning proposal to the Gateway and to conduct a public hearing as required by the *Local Government Act 1993*.

LINKAGE TO OUR COMMUNITY PLAN

Theme	5 Our Leadership
Objective	5.1 We will have a strong, accountable and representative Government
Strategy	5.1.4 Provide open, accountable and transparent decision making for the community

BACKGROUND

The introduction of the *Local Government Act 1993* (LG Act) on the 1 July 1993 changed the way that public land vested in or under the control of Council's was to be managed and used. All Council owned land had to be classified as either "community" or "operational" land under Sections 25 and 26 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.

“Operational” land on the other hand is more akin to normal land ownership, where land can be sold, leased or used by Council like a private landowner.

The transitional requirements of the LG Act are set out in Schedule 7, Clause 6(2) which identifies criteria by which land parcels are taken to be community land on the commencement date of the Act (1 July 1993) (eg land dedicated under Section 94, zoned recreation, etc.).

Clause 6 of the Schedule also detailed the requirements for the classification of the remaining land vested in or under the control of a council. That was:

(3) Within 1 year after the relevant commencement (ie. before 1 July 1994), a council may, by resolution, classify, as community land or operational land, any public land that is vested in it or under its control and that is not classified by subclause (2).

If the classification of the remaining land was not completed within the 1 year period it was subsequently taken to have been classified as community land (Schedule 7, Clause 6(7)).

From the commencement date of the LG Act (1 July 1993) to 19 December 2000, councils had to classify land prior to or on its date of acquisition as operational if this was to be its purpose otherwise it was taken to be classified as community land. From the 20 December 2000, a change of the legislation provided councils up to three months after its acquisition to classify as community or operational, otherwise it was taken to have been classified as community.

Advice received from Council’s solicitor, Marsdens, has confirmed anomalies in the procedures and processes adopted by the former Councils and their compliance with the requirements of the LG Act in regards to the classification of land vested in or under its control.

KEY ISSUES

An essential part of the current asset and land rationalisation process has been to review the status of land parcels that may potentially be surplus to Council’s requirements so that, inter alia, any impediments to their possible sale can be identified.

In doing so, anomalies in some of the previous Council’s resolutions in respect of their land classification processes have arisen, in particular with the former Maclean and Ulmarra Councils and the Lower Clarence County Council, as well as with some subsequent land purchases in other council areas. Whilst the intent of those Councils is quite clear, a thorough search of Council minutes from the time have not been able to resolve apparent issues with the timing of the resolutions or in the making of a resolution itself.

This casts doubt on the legality of those resolutions and hence the land classifications, the implication being that a number of land parcels presumed to be operational land may in fact have defaulted to the classification of community land. Legal advice has been sought in regard to the resolution of the former Maclean Council (refer Attachment 1).

The specific circumstances are summarised below.

Maclean Shire Council Public Land Classification Process

The Council appears to have delegated the authority to classify its land holdings to its Planning and Environmental Services Committee. Whilst that Committee undertook this process and adopted their land register on 22 June 1994, legal advice suggests that the Council had no power to delegate such an action to a Committee. The Full Council endorsed the Committee’s classification of land and land register on 13 July 1994, however, this was after the required LG Act deadline of 30 June 1994. Hence, failure to meet that deadline suggests that all land may have defaulted to a community land classification.

Ulmarra Shire Council Public Land Classification Process

The Ulmarra Council Meeting held on 29 June 1994 resolved:

THAT Council adopt the Public Land Management List as proposed with map numbers 4 and 7 being amended to Operational Land.

An extensive search of Council Minutes of the time has failed to identify the list of land parcels that accompanied this resolution. Hence, it is not possible to determine with certainty which lands were actually classified operational under this resolution, despite the fact that the resolution complied with the LG Act's 30 June 1994 deadline.

Lower Clarence County Council (now North Coast Water)

There is no available evidence of the Lower River County Council having prepared or adopted a land register nor any classification for their land holdings.

Subsequent Land Dealings

Properties acquired by the various Councils from 1 July 1993 to 19 December 2000 were required to be individually classified prior to or on the date of acquisition, or if after that date, prior to or within three months of the acquisition. Failure to do so means that such land parcels default to a community classification.

Detailed searching of Council minutes has been unable to find any evidence of the required resolution for 103 such properties. These properties are included in the list at Attachment 2.

In regard to any properties that have been sold by Council since 1993 that may be affected by this issue, the attached legal advice indicates that the indefeasibility provisions of the *Real Property Act 1900* mean that such transfers cannot be set aside notwithstanding the transfer being in breach of the Local Government Act. This would apply to, amongst others, the completed sale by Council to Metcash Food and Grocery Pty Ltd of land in Centenary Drive, Maclean associated with the Maclean IGA supermarket proposal.

Current Property Dealings

As part of the exhibition of the planning proposal, Council is required to disclose any current land transactions that may be affected and the financial nature of Council's interest. This will include the following properties currently being offered for sale as part of the asset rationalisation project :

- 11 Schwinghammer Street, South Grafton (former Council depot site)
- 1 McNaughton Place, Maclean (North Coast Water office)

Additionally, Council will need to include the land swap agreement with Chums Investments Pty Ltd as part of the revised Maclean IGA supermarket proposal as this transfer has not been finalised (Lot 102 DP 1189229, 3-5 Centenary Drive, Maclean).

Recommended Action

The legal advice identifies that the remedy to these anomalies is to prepare an amendment to the Clarence Valley Local Environmental Plan 2011 ("planning proposal") to reclassify the identified land parcels as operational. This is achieved by inserting the identified land parcels into Schedule 4 of that Plan.

Attachment 2 identifies those land parcels intended to have been classified as operational lands by the Ulmarra and Maclean Council land registers in 1994. This list has been amended by :

- Adding land holdings of the Lower Clarence County Council,
- deleting land parcels subsequently sold,
- reflecting current usage and decisions,

- adding land parcels subsequently acquired as detailed in the earlier sections of this report.

This list forms the basis for the local environmental plan amendment. That draft plan will require public exhibition and the LG Act also requires that a public hearing be held as part of that exhibition process.

Good governance dictates that having become aware of the irregularities surrounding these resolutions that action should be undertaken to remedy the situation in an open and transparent manner.

COUNCIL IMPLICATIONS

Budget/Financial

Research of the Council land registers and preparation of a planning proposal is being undertaken with Council staff resources. For transparency reasons, it is intended to engage a consultant experienced in these legislative provisions to peer review the planning proposal and conduct the public hearing.

Asset Management

Clarification of these matters is a prerequisite to any associated land asset sales.

Policy or Regulation

Local Government Act 1993

Environmental Planning and Assessment Act 1979

Consultation

Internal consultation with Governance, Strategic and Economic Planning, and Open Spaces and Facilities. External consultation will be required through the formal exhibition of the draft planning proposal, should a Gateway Determination be received, and through the LG Act's requirement for a public hearing. As part of the exhibition of the planning proposal, Council is required to exhibit a statement (in plain English) detailing any financial dealings that it may have with any particular land parcel. This will include any lands currently being offered for sale through the land rationalisation project and the land that Council has agreed to transfer to Chums Investments Pty Ltd as part of the land swap associated with the Maclean IGA supermarket proposal.

Legal and Risk Management

The recommended action rectifies possible legal ambiguities associated with important Council decisions in 1994.

Prepared by	David Morrison, Manager Strategic and Economic Planning
Attachment	1. Legal Advice – Maclean Council Land Register 2. Land proposed to be classified operational by planning proposal



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The General Manager
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4 May 2016

Dear Sir,

Re: Advice on "operational" or "community" land

We refer to the email of instruction received from Ashley Lindsay dated 2 March 2016 which had attached to it a Legal Advice Request and other documents.

In accordance with the Legal Advice Request, we confirm that we are instructed to advise Council concerning the following matters:

1. Do the actions of Maclean Shire Council in adopting the "Land Register" at its Planning and Environmental Services Committee meeting on 27 April 1994 and then by the Council on 10 May 1994, comply with the requirements of the *Local Government Act, 1993* so as to classify land owned by Council as either "community" or "operational".
2. If the answer to 1 is no, what is the classification of the land described in the schedule entitled "Council Owned" attached to the report to the Planning and Environmental Services Committee dated 22 June 1994 which was adopted by the Council on 13 July 1994? Does section 729 of the *Local Government Act, 1993* operate to protect the resolution of the Committee on 22 June 1994 and the Council on 13 July 1994?
3. If land that was classified as community land was sold by Council, is it unlawful and what remedies are available?

Background

On 1 July 1993, the *Local Government Act, 1993* ("LG Act") came into force and commenced operation.

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Pursuant to Division 1 of Part 2 of Chapter 6 of the LG Act, all public land within a Local Government Area must be classified as either "community" or "operational".

A Note to Section 26 of the LG Act advises that on the date of commencement (being 1 July 1993) certain land vested in or under the control of a Council is taken to have been classified as community land by the operation of Clause 6 of Schedule 7 of the LG Act.

Clause 6 of Schedule 7 of the LG Act provides:

"Part 2 - Provisions arising out of Chapter 6 (What are the service functions of councils?)

6 *Classification of existing public land*

- (1) *This clause applies to all public land within a council's area as at the commencement of Part 2 of Chapter 6 (the "relevant commencement").*
- (2) *On the relevant commencement, the following land that is vested in or under the control of a council is taken to have been classified as community land:*
 - (a) *land comprising a public reserve,*
 - (b) *land subject to a trust for a public purpose,*
 - (c) *land dedicated as a condition of a development consent under section 94 of the Environmental Planning and Assessment Act 1979 ,*
 - (d) *land reserved, zoned or otherwise designated for use under an environmental planning instrument as open space,*
 - (e) *land controlled by a council that is vested in the corporation constituted by section 8 (1) of the Environmental Planning and Assessment Act 1979 .*
- (3) *Within 1 year after the relevant commencement, a council may, by resolution, classify, as community land or operational land, any public land that is vested in it or under its control and that is not classified by subclause (2).*
- (4) *A resolution under subclause (3) to classify public land that is not owned by the council must not be made without the consent of the owner.*
- (5) *On the making of a resolution under subclause (3) that classifies public land as operational land, the land is discharged from any trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any*

part of the land, subject to the terms of the resolution, but is not discharged from:

- (a) any reservations that except land out of a Crown grant relating to the land, and*
- (b) reservations of minerals (within the meaning of the Crown Lands Act 1989).*
- (6) The classification of public land by resolution under subclause (3) may be changed only by a local environmental plan or, in the case of land that has been classified as operational land, by a resolution under section 33.*
- (7) Any public land that may be classified by resolution under subclause (3) and that is not classified within 1 year after the relevant commencement is taken to have been classified as community land.*
- (8) The provisions of this clause are in addition to, and do not limit the operation of, the other provisions of this Act with respect to the classification of land."*

Clause 6(2) in Schedule 7 of the LG Act details the type of land that must be taken to have been classified as community land as at 1 July 1993.

Thereafter Clause 6(3) of Schedule 7 of the LG Act provides a mechanism wherein the Council then has one (1) year from 1 July 1993 within which it may, by resolution, classify any public land that is not subject to Clause 6(2) as community land or operational land.

The Note to Part 2 of Chapter 6 of the LG Act advises that "The purpose of classification is to identify clearly that land which should be kept for use by the general public (community) and that land which need not (operational). The major consequence of classification is that it determines the ease or difficulty with which land may be alienated by sale, leasing or some other means".

The Note then details as an example that community land must not be sold (except for limited exceptions) and must not be leased or licensed for more than twenty-one (21) years.

The Maclean Shire Council ("**Maclean S C**") was in 1993 a local government area that had been constituted under the *Local Government Act, 1919*. This local government area covered the Shires of Copmanhurst to the west, Ulmarra to the south and Richmond River to the north.

The minutes of a meeting of the Planning and Environmental Services Committee ("**the Committee**") of Maclean S C dated 23 March 1994 confirm that the Committee resolved to adopt the following recommendation:

"That the Committee recommend to Council the following procedure to meet the statutory deadline of 1st July 1994 for classification of public land:

- (i) The Planning and Environmental Services Committee to be given delegated authority to determine what Council lands should be categorised community or operational.*
- (ii) A special meeting of the Committee be called, if necessary, to determine submissions and resolve the classification issues in June.*
- (iii) Information on categorising of public land and submissions from the public be circularised to the Committee members and Directors on a regular basis to facilitate decision making."*

The minutes of the Ordinary Meeting of Maclean S C dated 13 April 1994 confirm that Maclean S C resolved to adopt the Committee recommendation of 23 March 1994.

On 27 April 1994, the Committee once more met and resolved as follows:

"That the draft classification of all Council owned land be placed on public exhibition for a period of one (1) month after any alterations are incorporated as agreed to at the Committee Meeting.

Recommendation: *That the Lands Register and Supplement recommendation be altered with the following amendments: Parcel Nos. 11910, 11943, 12135 be classified as operational.*

Further Recommendation: *Parcel No. 7014 Kolora Park be altered to the description of drainage reserve".*

At the Ordinary Meeting of Maclean S C on 10 May 1994, it resolved to adopt the recommendation of the Committee of 27 April 1994.

The Committee next met on 22 June 1994 and the report to the Committee made the following recommendation:

"That the Committee adopt, for the purposes of the Local Government Act, a classification of 'Operational' for all parcels of land listed in the schedule of properties (see attached)."

The schedule referred to in the report is attached to this advice and provides details of land under the subheadings "Council Owned" and "Council Controlled".

The report relevantly noted that "The first stage of the classification process has now been completed with the compilation of the Public Lands Register. The Public Lands Register only includes those parcels of land considered to be "Operational" land. The report then goes on to state "Therefore, all

mandatory requirements under the Act have now been fulfilled with the exception of the formal adoption, by Council, of the Operational classification".

The minutes of the Ordinary Meeting of Maclean S C dated 13 July 1994 record that Maclean S C resolved to adopt the report of the Committee from its meeting of 22 June 1993.

In 2004, Maclean S C was amalgamated with the areas of Grafton City, Copmanhurst and Pristine Waters to form the Clarence Valley Council ("**the Council**").

Upon the amalgamation, all of the public land that was vested in Maclean S C became vested in the Council.

On 11 May 2010, the Council resolved to accept an offer with respect to the sale of land at Centenary Drive, Maclean identified as Lot 11 in DP814000. This land was land detailed in the schedule attached to the report of the Committee dated 22 June 1994 and the Council was of the belief that it was classified as operational under the LG Act. Contracts for the sale of this land to Metcash Food and Grocery Pty Limited were exchanged on 17 November 2011. We are instructed that settlement of the sale ultimately occurred on 31 January 2014. The sale was with respect to part of the land described above as Lot 11 in DP814000 after that land had been subdivided.

It is understood that this land has since been sold by Metcash Food & Grocery Pty Limited to Chums' Investments Pty Limited and that this sale occurred in February 2015.

Advice

1. Do the actions of Maclean S C in adopting the "Land Register" at its Planning and Environmental Services Committee meeting on 27 April 1994 and then by the Maclean S C on 10 May 1994, comply with the requirements of the *Local Government Act, 1993* so as to classify land owned by Maclean S C as either "community" or "operational"?

In purporting to classify as operational the parcels of land identified in the schedule Maclean SC seemed to have been relying upon the power provided to a council by clause 6(3) of Schedule 7 of the LG Act.

Clause 6(3) of Schedule 7 provides that it is "*a council*" that is able to "*by resolution*" classify public land vested in it or under its control. The council may however only exercise this power so long as it is "*Within 1 year*" of 1 July 1993 – that is before 1 July 1994.

"*council*" is defined in the Dictionary to the LG Act as follows:

"council:

- (a) *means the council of an area, and includes an administrator, and*

- (b) *in Part 11 of Chapter 15, includes the Lord Howe Island Board constituted under the Lord Howe Island Act 1953."*

The definition does not include a committee of the council but rather refers to the elected body.

Therefore, in our view, any resolution by the Committee cannot be a resolution of the council for the purposes of Clause 6(3) of Schedule 7 of the LG Act.

In any event it would seem that any resolution by the Committee that purports to classify public land in accordance with the LG Act is beyond power. In this regard section 377(1)(l) of the LG Act relevantly provides:

"377 General power of the council to delegate

- (1) *A council may, by resolution, delegate to the general manager or any other person or body (not including another employee of the council) any of the functions of the council, other than the following:*
- (l) *a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6,"*

Accordingly the decision to classify public land under the LG Act is only a decision that can be made by the council.

It would seem that this may have been understood by Maclean S C at the time as the report to the Committee on 22 June 1994 noted that *"all mandatory requirements under the Act have now been fulfilled with the exception of the formal adoption, by Council, of the Operational classification"*.

Whilst it would seem that the Council itself, rather than a committee of the Council may have resolved to classify public land under the LG Act at its meeting of 13 July 1994 it was too late by this time. 13 July 1994 was outside of the one (1) year period allowed for a resolution in accordance with clause 6(3) of Schedule 7 of the LG Act.

Although the Council on 10 May 1994 adopted the recommendation of the Committee of 27 April 1994 in our view the resolution of the Committee was not sufficient to act as classifying public land in accordance with clause 6(3) of Schedule 7 of the LG Act. This is because the resolution of the Committee on 27 April 1994 only authorised *"That the draft classification of all Council owned land be placed on public exhibition for a period of one (1) month after any alterations are incorporated as agreed to at the Committee meeting"*. Firstly, the classification was a draft and secondly the resolution only authorised the placement of the draft classification on public exhibition.

Accordingly the actions of Maclean S C, through its Committee and in adopting the *"Land Register"* at the Committee meeting on 27 April 1994 and then the ordinary meeting on 10 May 1994 could not be

said to comply with the requirements of the LG Act so as to classify public land in accordance with clause 6(3) of Schedule 7 of the LG Act.

2. If the answer to 1 is no, what is the classification of the land described in the schedule entitled "Council Owned" attached to the report to the Planning and Environmental Services Committee dated 22 June 1994 which was adopted by the Council on 13 July 1994? Does section 729 of the Local Government Act, 1993 operate to protect the resolution of the Committee on 22 June 1994 and the Council on 13 July 1994?

The classification of the land in the schedule must be community land under the LG Act.

In this regard clause 6(7) of Schedule 7 of the LG Act makes this clear when it provides as follows:

"6 Classification of existing public land

- (7) *Any public land that may be classified by resolution under subclause (3) and that is not classified within 1 year after the relevant commencement is taken to have been classified as community land."*

Although it may be argued that the resolution of Maclean S C on 13 July 1994 acted to classify the public land we confirm our earlier view expressed that the resolution was contrary to clause 6(3) of Schedule 7 of the LG Act and therefore did not act to properly classify the public land in the schedule.

In this regard it is our view that section 729 of the LG Act does not operate to protect or validate the resolution of the council on 13 July 1994.

Section 729 of the LG Act provides as follows:

"729 Proceedings alleging non-compliance with a procedural requirement

The validity or effectiveness of a decision of a council may not be questioned in any legal proceedings on the ground that, in making or purporting to make the decision, the council failed to comply with a procedural requirement of this Act or the regulations (including a requirement as to the giving of notice) unless the proceedings are commenced within 3 months after the date of the decision."

Firstly section 729 of the LG Act only acts as a potential defence or protection to a council in the event of legal proceedings challenging a decision of the council where it is alleged that a council has failed to comply with a procedural requirement under the LG Act. The effect of section 729 of the LG Act is to place a time limit on the commencement of proceedings of three (3) months from the date of the decision that is being challenged.

It has been held however that with respect to such provisions placing a time limit on the ability to challenge a decision of a council that such challenges are not precluded and can be made outside of

the time limit provided if the basis of the challenge is bad faith, manifest jurisdictional error, ultra vires or a breach of the rules of natural justice rather than solely for a failure to comply with the LG Act and Regulations: ***Woolworths Ltd v Bathurst CC (1987) 63 LGRA 55.***

It would seem to be strongly arguable that if the resolution of the Committee was to be relied upon by Council in maintaining that a classification of public land has properly occurred in accordance with clause 6(3) of Schedule 7 of the LG Act then such a decision could be challenged on the basis of jurisdictional error and the challenge to that decision could be made outside of the three (3) month time limit notwithstanding section 729 of the LG Act.

If Council sought to rely upon the resolution of the council on 13 July 1994 then it would seem that decision would also not be protected by the time limit imposed by section 729 of the LG Act as it is strongly arguable that the decision was made ultra vires the LG Act in that it was outside the one (1) year window provided by clause 6(3) of Schedule 7 of the LG Act.

3. If land that was classified as community land was sold by Council, is it unlawful and what remedies are available?

The purported classification by Maclean S C of public land in reliance upon clause 6(3) of Schedule 7 of the LG Act would seem to be unlawful.

The public land detailed in the schedule is taken to have been classified as community land pursuant to clause 6(7) of Schedule 7 of the LG Act.

The only way that this classification can now be changed is by a local environmental plan: section 27 of the LG Act.

With respect to the sale by the Council of any land that was not properly classified as operational in accordance with the LG Act it would seem that, as long as the transfer document has been registered, Council and the purchaser are protected by the indefeasibility provisions of the *Real Property Act 1900*.

Section 45(1) of the LG Act makes it clear that the Council has no power to sell or dispose of land that is community land. A transfer by a council of community land in breach of section 45(1) of the LG Act is a transfer therefore without power and therefore invalid. However it has been held that once the transfer is registered, the transferee obtains an indefeasible title to the land unless there is an implied repeal by section 45(1) of the indefeasibility provisions of the *Real Property Act 1900*: ***City of Canada Bay Council v F & D Bonaccorso Pty Ltd (2007) 156 LGERA 2914.***

It was held in this case by the New South Wales Court of Appeal that there is no such implied repeal as section 45(1) of the LG Act and the indefeasibility provisions of the *Real Property Act 1900* can stand together even if they are taken to operate sequentially. Whilst any person may move the Land

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and Environment Court for an order restraining the registration of such a transfer before it occurs, once the transfer is registered there is virtually a new grant of the fee simple in the land and the transferee obtains a clean title.

With respect to the sale to Metcash Food & Grocery Pty Ltd by Council it would seem that the transfer must have been registered with the Registrar General as we understand the land was subsequently on sold to Chums' Investments Pty Ltd. If this is so then the indefeasibility provisions of the *Real Property Act 1900* are engaged to prevent the transfer being set aside notwithstanding the transfer being in breach of section 45(1) of the LG Act.

We trust that this advice is of assistance and should you have any further queries concerning the same then please do not hesitate to contact the writer.

Yours faithfully

MARSDENS LAW GROUP

A handwritten signature in black ink, appearing to read 'David Baird', written over a horizontal line.

DAVID BAIRD
Partner

COUNCIL OWNED

LOT NO.	SECTION	DP	LOCALITY	CURRENT USE
1		958904	Golf Links Rd Woodford Is.	Quarry
1		593452	Off Brooms Hd. Rd. Brooms Hd.	Effluent Disposal
2		210573	Off Alexander St. Maclean	Car Parking
1		210573	Off Alexander St. Maclean	Car Parking
3		210573	Alexander St. Maclean	Car Parking
4		210573	Alexander St. Maclean	Car Parking
11		814000	Off Centenary Dr. Maclean	Car Park/Recreation
248		751392	Off Golf Links Rd. Maclean	Quarry
8	1a	758631	River St. Maclean	Administration Centre
9	1a	758631	River St. Maclean	Administration Centre
2	1a	758631	River St. Maclean	Old Council Chambers
2		536000	River St. Maclean	Administration Centre
1		821976	River St. Maclean	Administration Centre
10		813746	River St. Maclean	Administration Centre
3		580053	River St. Maclean	Admin. Centre & Shop
1		703435	Martins Point Rd. Harwood Is.	Drainage Reserve
286		262200	Crystal Lake Yamba	Drainage Reserve
223		260230	Crystal Lake Yamba	Drainage Reserve
7		259179	Iona Close Maclean	Drainage Reserve
6		259179	Iona Close Maclean	Drainage Reserve
6		245074	Roderick St. Maclean	Drainage Reserve
12		249236	Roderick St. Maclean	Drainage Reserve
90		817169	Sovereign St. Iluka	Drainage Reserve
80		834892	Conrad Close Iluka	Drainage Reserve
13		222741	Goldings St. Yamba	Drainage Reserve
2		238219	Golding St. Yamba	Drainage Reserve
434		823599	Pacific Highway Maclean	Tourist Centre
1		255019	Pacific Highway Harwood	Unused
2		255019	Pacific Highway Harwood	Unused
3		255019	Pacific Highway Harwood	Unused
4		255019	Pacific Highway Harwood	Unused
5		255019	Pacific Highway Harwood	Unused
6		255019	Pacific Highway Harwood	Unused
7		255019	Pacific Highway Harwood	Unused
10		246286	Clarence St. Harwill	Hall & Bush Fire Shed
2		566349	Park St. Harwill	Pump Station
2311		786369	Off Lawrence Rd. Harwill	Treatment Works
22		746368	Yamba Rd. Yamba	Proposed Drainage Res.
7		597790	Pine Ave. Townsend	Works Depot
1		335226	River St. Maclean	Old Carotakers Cottage
1		783972	River St. Maclean	Old Works Depot
2		783972	Off River St. Maclean	Old Works Depot
13		708656	Off Gardiners Rd. Townsend	Dog Pound Etc.
45		13179	Stanley St. Maclean	Library
1		437073	McLachlan St. Maclean	Swimming Pool
1		553965	Off McPhee St. Maclean	Treatment Plant
3		564828	Off McPhee St. Maclean	Treatment Plant
1		564875	Central Ave. Maclean	Pump Station
3		592739	Munro Lane Maclean	Car Parking
83		608741	Susan St. Yamba	Pathway
27		833223	Brooms Head Rd. Gulmarrad	Proposed Buffer
13		836738	Brooms Head Rd. Gulmarrad	Proposed Buffer
9		832413	Iluka Road Woombah	Proposed Buffer
8		246486	Ridge Street Harwill	Part Ridge Street
22		246486	Ridge Street Harwill	Part Ridge Street

21	246486	Ridge Street Ilarwill	Part Ridge Street
9	246486	Ridge Street Ilarwill	Part Ridge Street
5	209029	McLachlan Street Maclean	Part McLachlan St.
3	209029	McLachlan Street Maclean	Part McLachlan St.
1	207929	Centenary Drive Maclean	Part Centenary Dr.
1	504178	Platers Road Gulmarrad	Part Platers Road
A	961868	Union Street Maclean	Part Union Street
B	961868	Union Street Maclean	Part Union Street
1	512409	Union Street Maclean	Part Union Street
2	321533	Union Street Maclean	Part Union Street
1	321533	Union Street Maclean	Part Union Street
1	394229	Union Street Maclean	Part Union Street
1	719897	Union Street Maclean	Public Recreation
A	343324	Yamba Rd. Romiaka Channel	Part Yamba Road
1	343112	River Street Harwood Island	Part River Street
2	343112	River Street Harwood Island	Part River Street
2	507185	Alexander Street Maclean	Public Recreation
3	507185	Alexander Street Maclean	Public Recreation
46	627	Off McLachlan Street Maclean	Tennis Courts
45	627	Off McLachlan Street Maclean	Tennis Courts
43	627	Off McLachlan Street Maclean	Tennis Courts
44	627	Off McLachlan Street Maclean	Tennis Courts
42	627	McLachlan Street Maclean	Tennis Courts
41	627	McLachlan Street Maclean	Tennis Courts
36	627	McLachlan Street Maclean	Tennis Courts
1	723033	McLachlan Street Maclean	Tennis Courts
14	1789	Stanley Street Maclean	Old Quarry
13	1789	Stanley Street Maclean	Old Quarry
15	1789	Stanley Street Maclean	Old Quarry
8	758631	Grafton Street Maclean	Museum
2	634170	Goodwood Street Maclean	Treatment Plant
85	13075	River Street Maclean	Being Purchased
86	13075	River Street Maclean	Being Purchased
82	247247	Wattle Drive Yamba	Unused & Pump Stn.
13	259179	Rannoch Avenue Maclean	Sporting Fields
14	259179	Rannoch Avenue Maclean	Sporting Fields
323	790104	Neptune Place Yamba	Works Depot
4	790910	Off Carrs Drive Yamba	Proposed Motorway
14	810243	Off Carrs Drive Yamba	Proposed Motorway
3	611316	Woolwich Street Yamba	Proposed Motorway
1	604873	Off Queen Street Yamba	Pump Station
1	604872	Iolanthe Street Yamba	No. 1 Pump Station
11	578982	Coonawarra Court Yamba	No. 4 Pump Station
1	604874	Off Angouric Road Yamba	Treatment Works
2	627960	Off Angouric Road Yamba	Treatment Works
Pt. 2312	786369	Off Lawrence Road Woodford	Being Purchased
31	818873	Jubilee Street Townsend	Proposed Industrial

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COUNCIL CONTROLLED

13	628352	Gordon Street Palmers Island	Bush Fire Shed
Pt.1	578513	Central Avenue Maclean	Sporting Fields
Pt.1	903436	Mill Road Palmers Island	Cricknet Oval

Property Name	Address	Land No	Lot	Section	Plan No	Council	Date Acquired	Classification	Land Zoning
Angourie Reservoir	Angourie Road YAMBA NSW 2464	28060	1		630793	LCCC	Prior to 1993	Operational	RU2 Rural Landscape
Angourie Sewerage Works - Pump Station	Lakes Boulevard WOOLLOWEYAH NSW 2464	28084	1		853530	TBA	TBA	Operational	RE1 Public Recreation
Angourie Sewerage Works - Pump Station	The Crescent ANGOURIE NSW 2464	28191	1		857790	TBA	TBA	Operational	E1 National Parks and Nature Reserves
Areas beside Highway near 5th Gtn Flood Levee	Pacific Highway SOUTH GRAFTON NSW 2460	52725	13		858248	TBA	TBA	Operational	SP2 Infrastructure
Areas beside Highway near 5th Gtn Flood Levee	Pacific Highway SOUTH GRAFTON NSW 2460	52727	12		858248	TBA	TBA	Operational	RU1 Primary Production
Areas beside Highway near 5th Gtn Flood Levee	Pacific Highway SOUTH GRAFTON NSW 2460	57725	10		858248	TBA	TBA	Operational	RU1 Primary Production
Areas beside Highway near 5th Gtn Flood Levee	Pacific Highway SOUTH GRAFTON NSW 2460	57726	11		858248	TBA	TBA	Operational	B5 Business Development
Areas beside Highway near 5th Gtn Flood Levee	Pacific Highway SOUTH GRAFTON NSW 2460	57727	14		858248	TBA	TBA	Operational	RU1 Primary Production
Art Gallery	5 Robinson Avenue GRAFTON NSW 2460	21343	3		38033	CVC	7/04/2006	Operational	R1 General Residential
Ashby Reservoir	Ashby/Tullymorgan Road ASHBY NSW 2463	32039	1		597773	LCCC	Prior to 1993	Operational	E3 Environmental Management
Baileys House - Vacant Residential Building	9-13 River Street ULMARRA NSW 2462	49563	1		782589	TBA	TBA	Operational	R2 Low Density Residential
Baileys House - Vacant Residential Building	9-13 River Street ULMARRA NSW 2462	49564	2		782589	TBA	TBA	Operational	R2 Low Density Residential
Bayside Park & Crystal Water Drainage Reserve	9-13 River Street ULMARRA NSW 2462	49565	3		782589	TBA	TBA	Operational	R2 Low Density Residential
Bayside Park & Crystal Water Drainage Reserve	Gumnut Road YAMBA NSW 2464	25443	223		260230	MSC	Prior to 1993	Operational	W2 Recreational Waterways
BMX Track	Gumnut Road YAMBA NSW 2464	25445	286		262200	MSC	Prior to 1993	Operational	W2 Recreational Waterways
BMX Track	Abbott Street SOUTH GRAFTON NSW 2460	22211	2		781398	GCC	Prior to 1993	Operational	RU1 Primary Production
Boothbys Creek Deviation MR 152	Lawrence Road SOUTHGATE NSW 2460	51464	1		1086466	TBA	TBA	Operational	RU1 Primary Production
Brooms Head Garbage Depot	Brooms Head Road BROOMS HEAD NSW 2463	26431	1		593452	MSC	Prior to 1993	Operational	SP2 Infrastructure
Brooms Head Reservoir	Brooms Head Road GULMARRAD NSW 2463	37429	1		602750	TBA	TBA	Operational	E3 Environmental Management
Brushgrove Bushfire Brigade and SES Site	Short Street BRUSHGROVE NSW 2460	27479	10		866701	TBA	TBA	Operational	SP2 Infrastructure
Cameron Park Car Park	7-9 Centenary Drive MACLEAN NSW 2463	26173	1		210573	MSC	Prior to 1993	Operational	SP2 Infrastructure
Cameron Park Car Park	7-9 Centenary Drive MACLEAN NSW 2463	26177	4		210573	MSC	Prior to 1993	Operational	SP2 Infrastructure
Causleys Pit & STP	Golf Links Road ILARWILL NSW 2463	61486	19		1181678	MSC	Prior to 1993	Operational	SP2 Infrastructure
Chatsworth Reservoir	Iluka Road WOOMBAAH NSW 2469	34421	50		746017	LCCC	Prior to 1993	Operational	R5 Large Lot Residential
Clarence Valley Weeds Authority Complex/Depot	Lilypool Road SOUTH GRAFTON NSW 2460	18969	7		114051	USC	Prior to 1993	Operational	IN1 General Industrial
Closed Road	School Lane SOUTHGATE NSW 2460	14456	1		311088	TBA	TBA	Operational	RU2 Rural Landscape
Community Services	4 Short Street MACLEAN NSW 2463	33527	85		13075	MSC	21/04/1994	Operational	B2 Local Centre
Community Services	4 Short Street MACLEAN NSW 2463	33528	86		13075	MSC	21/04/1994	Operational	B2 Local Centre
Copmanhurst Water Pump Station	Orchard Road MOUNTAIN VIEW NSW 2460	11842	7		249644	LCCC	Prior to 1993	Operational	RU2 Rural Landscape
Council Offices & Chambers	50 River Street MACLEAN NSW 2463	25600	10		821746	MSC	Prior to 1993	Operational	B2 Local Centre
Council Offices & Chambers	50 River Street MACLEAN NSW 2463	26699	1		821976	MSC	Prior to 1993	Operational	B2 Local Centre
Council Offices & Chambers	50 River Street MACLEAN NSW 2463	33364	2		536000	MSC	Prior to 1993	Operational	B2 Local Centre
Council Offices & Chambers	50 River Street MACLEAN NSW 2463	33834	3		580053	MSC	Prior to 1993	Operational	B2 Local Centre
Council Works Depot	3 Neptune Place YAMBA NSW 2464	35902	323		790104	MSC	Prior to 1993	Operational	IN1 General Industrial
Coutts Crossing Golf Course	Geregarrow Road COUTTS CROSSING NSW 2460	40753	6		113233	NSC	Prior to 1993	Operational	RU1 Primary Production
Coutts Crossing Golf Course	Geregarrow Road COUTTS CROSSING NSW 2460	40754	2		807718	NSC	Prior to 1993	Operational	RU2 Rural Landscape
Coutts Crossing Sewerage Treatment Plant	Geregarrow Road COUTTS CROSSING NSW 2460	40751	1		633296	NSC	Prior to 1993	Operational	RU2 Rural Landscape
Drainage Reserve	Riverdale Court GRAFTON NSW 2460	15789	68		1063932	TBA	TBA	Operational	R1 General Residential
Drainage Reserve	Alumy Close GRAFTON NSW 2460	16043	7		1075881	TBA	TBA	Operational	R1 General Residential
Drainage Reserve	Ellen Street SOUTH GRAFTON NSW 2460	17528	12		24197	TBA	TBA	Operational	RU2 Rural Landscape
Drainage Reserve	32 Bacon Street GRAFTON NSW 2460	20317	5		783521	TBA	TBA	Operational	R1 General Residential
Drainage Reserve	38A Moorhead Drive SOUTH GRAFTON NSW 2460	23422	129		234311	TBA	TBA	Operational	R1 General Residential
Drainage Reserve	Conrad Close ILUKA NSW 2466	27233	80		834892	MSC	Prior to 1993	Operational	R2 Low Density Residential
Drainage Reserve	Conrad Close ILUKA NSW 2466	26712	90		817169	MSC	Prior to 1993	Operational	R2 Low Density Residential
Drainage Reserve	11 William Avenue YAMBA NSW 2464	31111	18		1072939	CVC	10/09/2004	Operational	R2 Low Density Residential
Drainage Reserve	35 William Avenue YAMBA NSW 2464	31125	30		1072939	CVC	10/09/2004	Operational	R2 Low Density Residential
Drainage Reserve	Harold Tory Drive YAMBA NSW 2464	31145	9		1062514	TBA	TBA	Operational	R2 Low Density Residential
Drainage Reserve	Deering Street YAMBA NSW 2464	31146	48		1072939	CVC	10/09/2004	Operational	R2 Low Density Residential
Drainage Reserve	Bush Drive SOUTH GRAFTON NSW 2460	52465	39		1105976	TBA	TBA	Operational	R1 General Residential
Drainage Reserve	Hoof Street GRAFTON NSW 2460	52552	6		1109055	TBA	TBA	Operational	R1 General Residential
Drainage Reserve	Olen Close WOOLI NSW 2462	47091	21		232340	TBA	TBA	Operational	R2 Low Density Residential
Effluent Ponds	Cambridge Street SOUTH GRAFTON NSW 2460	16571	3		719112	TBA	TBA	Operational	SP2 Infrastructure
Flood Levee Bank	Arthur Street GRAFTON NSW 2460	60467	1		1154607	TBA	TBA	Operational	RU2 Rural Landscape
Former Fire Control Centre and School Building	School Drive SWAN CREEK NSW 2462	61861	2		1109372	TBA	TBA	Operational	R2 Low Density Residential
Future Commercial Development	Rogan Bridge Road WATERVIEW HEIGHTS NSW 2460	45031	114		707524	NSC	Prior to 1993	Operational	RU2 Rural Landscape
Glenreagh Water Reservoir	80 Kookaburra Drive GLENREAGH NSW 2450	49592	22		788094	USC	Prior to 1993	Operational	R5 Large Lot Residential
Glenreagh Water Supply Pump Station	Coramba Street GLENREAGH NSW 2450	47957	2		758452	TBA	TBA	Operational	RE1 Public Recreation

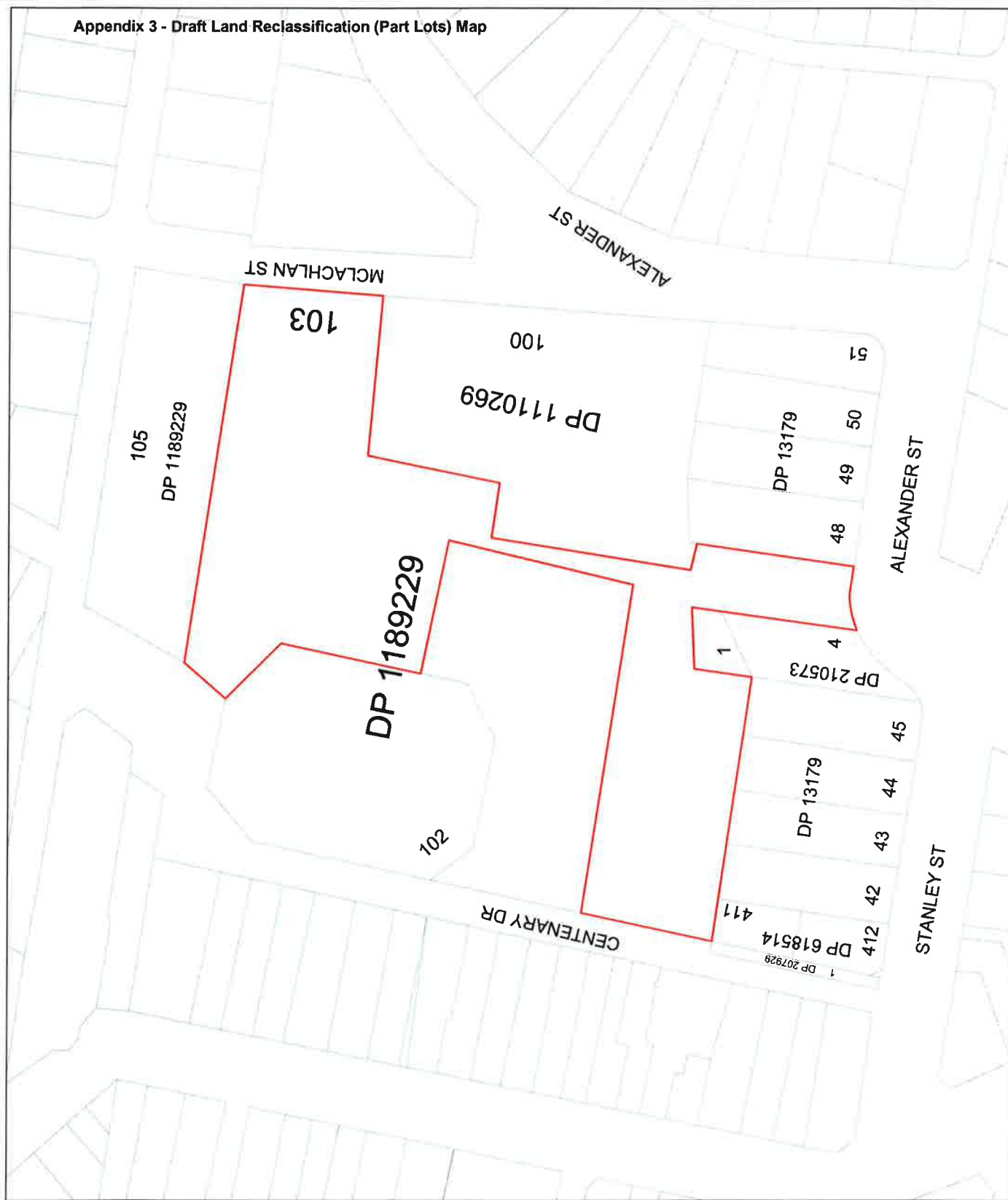
Property Name	Address	Land No	Lot	Section	Plan No	Council	Date Acquired	Classification	Land Zoning
Glenugie Bushfire Brigade Shed	7426 Pacific Highway GLENUGIE NSW 2460	47770	106		1030572	TBA	TBA	Operational	RU2 Rural Landscape
Glenugie Bushfire Brigade Shed	7426 Pacific Highway GLENUGIE NSW 2460	50853	142		1000128	TBA	TBA	Operational	RU2 Rural Landscape
Golding Street Drainage Reserve	Golding Street YAMBA NSW 2464	35496	13		222741	MSC	Prior to 1993	Operational	R2 Low Density Residential
Golding Street Drainage Reserve	Golding Street YAMBA NSW 2464	35513	2		238219	MSC	Prior to 1993	Operational	R2 Low Density Residential
Grafton Community & Function Centre	59 Duke Street GRAFTON NSW 2460	24690	11		605661	TBA	TBA	Operational	B3 Commercial Core
Guilmarrad Roadside Buffer Public Reserve	Parklands Drive GULMARRAD NSW 2463	27169	27		833223	MSC	Prior to 1993	Operational	R5 Large Lot Residential
Guilmarrad Roadside Public Reserve	Brooms Head Road GULMARRAD NSW 2463	27421	13		836738	MSC	Prior to 1993	Operational	R5 Large Lot Residential
Halfway Creek Roadside Public Reserve	134 Browns Road HALFWAY CREEK NSW 2460	41706	42		602517	USC	Prior to 1993	Operational	SP2 Infrastructure
Ilarwill Public Hall & Bushfire Brigade Shed Site	40 Clarence Street ILARWILL NSW 2463	34305	10		246486	MSC	Prior to 1993	Operational	R2 Low Density Residential
Ilarwill Sewerage Works	Park Street ILARWILL NSW 2463	28188	2313		857839	MSC	Prior to 1993	Operational	SP2 Infrastructure
Ilarwill Water Pump Station	Lawrence Road ILARWILL NSW 2463	39293	10		814134	TBA	TBA	Operational	RU1 Primary Production
Ilarwill Sewerage Works	Talumbi Street ILARWILL NSW 2463	34366	2		566349	MSC	Prior to 1993	Operational	SP2 Infrastructure
Iluka Reservoirs	Thompson Street ILUKA NSW 2466	38359	1		615575	LCCC	Prior to 1993	Operational	SP2 Infrastructure
Iluka Sewerage Works Site	Johnsons Lane ILUKA NSW 2466	28883	243		872815	TBA	TBA	Operational	SP2 Infrastructure
Iona Close Drainage Reserve	Iona Close MACLEAN NSW 2463	32886	6		259179	MSC	Prior to 1993	Operational	R2 Low Density Residential
Kolora Park Drainage Reserve	Yamba Road YAMBA NSW 2464	37024	22		746368	MSC	Prior to 1993	Operational	RE1 Public Recreation
Lanitza Bushfire Brigade Site & Community Centre	10 Curlew Drive LANITZA NSW 2460	47564	20		733357	TBA	TBA	Operational	RU2 Rural Landscape
Lanitza Rubbish Tip/Garbage Depot	4163 Orara Way LANITZA NSW 2460	47751	166		789434	TBA	TBA	Operational	RU2 Rural Landscape
Lawrence Reservoir	70 High Street LAWRENCE NSW 2460	26418	1		567494	LCCC	Prior to 1993	Operational	R2 Low Density Residential
Loxton Park & Susan Street Pathway	Susan Street YAMBA NSW 2464	52548	52		1103119	MSC	Prior to 1993	Operational	RE1 Public Recreation
Maclean Civic Centre	48 River Street MACLEAN NSW 2463	51578	8	1A	758631	MSC	Prior to 1993	Operational	B2 Local Centre
Maclean Civic Centre	48 River Street MACLEAN NSW 2463	51579	9	1A	758631	MSC	Prior to 1993	Operational	B2 Local Centre
Maclean Civic Centre	48 River Street MACLEAN NSW 2463	51580	1		667217	MSC	Prior to 1993	Operational	B2 Local Centre
Maclean Library	7-9 Stanley Street MACLEAN NSW 2463	33533	45		13179	MSC	Prior to 1993	Operational	SP2 Infrastructure
Maclean Reservoir	Stanley Street MACLEAN NSW 2463	38863	1		525069	LCCC	Prior to 1993	Operational	SP2 Infrastructure
Maclean Reservoir	Stanley Street MACLEAN NSW 2463	38864	22		631491	LCCC	Prior to 1993	Operational	SP2 Infrastructure
Maclean Reservoir	Stanley Street MACLEAN NSW 2463	38865	4		720457	TBA	TBA	Operational	SP2 Infrastructure
Maclean Sewer Pump Station	Central Avenue MACLEAN NSW 2463	26415	1		564875	MSC	Prior to 1993	Operational	R2 Low Density Residential
Maclean Sewerage Works	McPhee Street MACLEAN NSW 2463	26416	1		535965	MSC	Prior to 1993	Operational	SP2 Infrastructure
Maclean Sewerage Works	McPhee Street MACLEAN NSW 2463	27424	3		564828	MSC	Prior to 1993	Operational	SP2 Infrastructure
Maclean Tourist Centre Complex & Wharf (Ferry Pk)	Pacific Highway GULMARRAD NSW 2463	26998	434		823599	MSC	Prior to 1993	Operational	SP3 Tourist
Maclean Works Depot	8-14 Ironbark Drive TOWNSEND NSW 2463	32897	7		597790	MSC	Prior to 1993	Operational	IN1 General Industrial
Martins Point Road Drainage Reserve	Martins Point Road HARWOOD NSW 2465	37330	1		703435	MSC	Prior to 1993	Operational	R2 Low Density Residential
McIntosh Park Car Park	Kerrani Place COUTTS CROSSING NSW 2460	41375	34		263059	TBA	TBA	Operational	RE1 Public Recreation
Minnie Water Water Reservoir Site	Minnie Water Road MINNIE WATER NSW 2462	48808	12		863562	TBA	TBA	Operational	SP2 Infrastructure
Minnie Water Water Reservoir Site	Minnie Water Road MINNIE WATER NSW 2462	50245	1		719850	TBA	TBA	Operational	SP2 Infrastructure
Mountain View Reservoir	Orchard Road MOUNTAIN VIEW NSW 2460	15119	132		703205	LCCC	Prior to 1993	Operational	RU2 Rural Landscape
North Coast Water Office Building	1 Macnaughton Place MACLEAN NSW 2463	26403	408		751388	LCCC	Prior to 1993	Operational	B2 Local Centre
North Coast Water Office Building	1 Macnaughton Place MACLEAN NSW 2463	33047	1		612175	LCCC	Prior to 1993	Operational	B2 Local Centre
North Coast Wharf	Munro Lane MACLEAN NSW 2463	33373	3		592739	MSC	Prior to 1993	Operational	B2 Local Centre
Old Maclean Garbage Depot and Dog Pound	Re Road TOWNSEND NSW 2463	32330	13		708656	MSC	Prior to 1993	Operational	IN1 General Industrial
Old Quarry Site - Stanley Street Quarry	Carrington Street MACLEAN NSW 2463	32520	13		1789	MSC	Prior to 1993	Operational	R2 Low Density Residential
Old Quarry Site - Stanley Street Quarry	Carrington Street MACLEAN NSW 2463	32521	14		1789	MSC	Prior to 1993	Operational	R2 Low Density Residential
Old Quarry Site - Stanley Street Quarry	Carrington Street MACLEAN NSW 2463	32522	15		1789	MSC	Prior to 1993	Operational	R2 Low Density Residential
Old School Residence	School Drive SWAN CREEK NSW 2462	61860	1		1109372	TBA	TBA	Operational	R2 Low Density Residential
Padmount Substation & Krennos Water Pump Station	Orara Way KREMNOS NSW 2460	44673	761		1043021	TBA	TBA	Operational	RU2 Rural Landscape
Padmount Substation & Krennos Water Pump Station	Orara Way KREMNOS NSW 2460	51611	1		1086566	TBA	TBA	Operational	RU2 Rural Landscape
Palmer Island Village Park	12-16 River Street PALMERS ISLAND NSW 2463	33911	1	2	2107	TBA	TBA	Operational	R2 Low Density Residential
Palmer Island Village Park	12-16 River Street PALMERS ISLAND NSW 2463	33912	2	2	2107	TBA	TBA	Operational	R2 Low Density Residential
Palmer Island Village Park	12-16 River Street PALMERS ISLAND NSW 2463	33913	3	2	2107	TBA	TBA	Operational	R2 Low Density Residential
Palmer Island Village Park	12-16 River Street PALMERS ISLAND NSW 2463	33914	4	2	2107	TBA	TBA	Operational	R2 Low Density Residential
Palmer Island Village Park	12-16 River Street PALMERS ISLAND NSW 2463	33915	5	2	2107	TBA	TBA	Operational	R2 Low Density Residential
Palmer Island Village Park	12-16 River Street PALMERS ISLAND NSW 2463	33917	6	2	2107	TBA	TBA	Operational	R2 Low Density Residential
Part Cameron Park	7-9 Centenary Drive MACLEAN NSW 2463	61899	103 Pt		1189229	MSC	Prior to 1993	Operational	SP2 Infrastructure
Part of Road Reserve	River Street HARWOOD NSW 2465	27444	2		343112	MSC	Prior to 1993	Operational	R2 Low Density Residential
Part of Road Reserve	River Street HARWOOD NSW 2465	27445	1		343112	MSC	Prior to 1993	Operational	R2 Low Density Residential
Pococks Quarry	1512 Stockyard Creek Road STOCKYARD CREEK NSW 2460	15453	15		848467	TBA	TBA	Operational	RU2 Rural Landscape

Property Name	Address	Land No	Lot	Section	Plan No	Council	Date Acquired	Classification	Land Zoning
Public Reserve	Kirchner Street GRAFTON NSW 2460	15847	26		1067404	TBA	TBA	Operational	RU2 Rural Landscape
Pump Station	455 Rushforth Road SOUTH GRAFTON NSW 2460	21385	57		814754	TBA	TBA	Operational	R5 Large Lot Residential
Pump Station	178 Armidale Street SOUTH GRAFTON NSW 2460	23157	8		775860	TBA	TBA	Operational	RU2 Rural Landscape
Regional Landfill Complex	704 Armidale Road ELLAND NSW 2460	43372	87		751370	TBA	TBA	Operational	RU2 Rural Landscape
Regional Landfill Complex	704 Armidale Road ELLAND NSW 2460	43857	9		622189	TBA	TBA	Operational	RU2 Rural Landscape
Regional Landfill Complex	704 Armidale Road ELLAND NSW 2460	43868	10		622189	TBA	TBA	Operational	RU2 Rural Landscape
Regional Water Supply	704 Armidale Road ELLAND NSW 2460	43880	5		586153	TBA	TBA	Operational	RU2 Rural Landscape
Regional Water Supply	Armidale Road BLAXLANDS CREEK NSW 2460	41603	90		752811	TBA	TBA	Operational	SP2 Infrastructure
Regional Water Supply	2566 Armidale Road BLAXLANDS CREEK NSW 2460	41612	71		752811	TBA	TBA	Operational	RU2 Rural Landscape
Regional Water Supply	2566 Armidale Road BLAXLANDS CREEK NSW 2460	41613	87		752811	TBA	TBA	Operational	SP2 Infrastructure
Regional Water Supply	Wild Drake Road BLAXLANDS CREEK NSW 2460	41622	851		811105	TBA	TBA	Operational	SP2 Infrastructure
Regional Water Supply	2568 Armidale Road BLAXLANDS CREEK NSW 2460	41623	79		752811	TBA	TBA	Operational	RU2 Rural Landscape
Regional Water Supply	Shannondale Road SHANNONDALE NSW 2460	42056	3		1055326	TBA	TBA	Operational	SP2 Infrastructure
Regional Water Supply	Shannondale Road SHANNONDALE NSW 2460	42059	4		1055326	TBA	TBA	Operational	E3 Environmental Management
Reservoir	Wharf Street MACLEAN NSW 2463	28569	1		623900	LCCC	Prior to 1993	Operational	SP2 Infrastructure
Reservoir No 2 Waterview Heights	Hampton Road WATERVIEW HEIGHTS NSW 2460	45692	230		880455	TBA	TBA	Operational	E3 Environmental Management
Road Reserve	Murrayville Road ASHBY HEIGHTS NSW 2463	28848	4		41223	TBA	TBA	Operational	RU2 Rural Landscape
Road Reserve	River Road PALMERS ISLAND NSW 2463	29391	21		884213	TBA	TBA	Operational	RU1 Primary Production
Road Reserve	Airport Road GLENUGIE NSW 2460	58925	9		1123632	TBA	TBA	Operational	RU1 Primary Production
Road Reserve	Riverbend Road KUNGALA NSW 2460	61324	1		1175325	TBA	TBA	Operational	RU2 Rural Landscape
Roadside Public Reserve	4078 Orara Way LANITZA NSW 2460	47752	167		789434	TBA	TBA	Operational	RU2 Rural Landscape
Roadside Reserve	2725 Orara Way KREMNOS NSW 2460	44376	8		746338	USC	Prior to 1993	Operational	RU2 Rural Landscape
Roadside Reserve	2725 Orara Way KREMNOS NSW 2460	44387	9		746338	USC	Prior to 1993	Operational	RU2 Rural Landscape
Roadside Reserve	Orara Way LANITZA NSW 2460	45205	34		739799	TBA	TBA	Operational	RU2 Rural Landscape
Roadside Reserve	Orara Way LANITZA NSW 2460	45315	35		739799	TBA	TBA	Operational	RU2 Rural Landscape
Roadside Reserve	Orara Way LANITZA NSW 2460	45648	36		739799	TBA	TBA	Operational	RU2 Rural Landscape
Roadside Reserve	Orara Way LANITZA NSW 2460	46342	37		739799	TBA	TBA	Operational	RU2 Rural Landscape
Roadside Reserve	Orara Way LANITZA NSW 2460	46803	38		739799	TBA	TBA	Operational	RU2 Rural Landscape
Roderick Street Drainage Reserve	Roderick Street MACLEAN NSW 2463	33401	12		249236	MSC	Prior to 1993	Operational	RU2 Rural Landscape
Roderick Street Drainage Reserve	Roderick Street MACLEAN NSW 2463	33411	6		245074	MSC	Prior to 1993	Operational	R2 Low Density Residential
Romiaka Channel Reserve	Yamba Road YAMBA NSW 2464	26305	1		1043701	TBA	Prior to 1993	Operational	RU1 Primary Production
Romiaka Channel Reserve	Yamba Road YAMBA NSW 2464	32216	1		343324	MSC	Prior to 1993	Operational	RU1 Primary Production
Rushforth Road Reservoir and Bushfire Shed	701 Rushforth Road SOUTH GRAFTON NSW 2460	60468	1		1154652	TBA	TBA	Operational	RU2 Rural Landscape
Ryan Park Drainage Reserve	McLachlan Street MACLEAN NSW 2463	33662	1		719897	MSC	Prior to 1993	Operational	R2 Low Density Residential
Ryan Park Tennis Complex	McLachlan Street MACLEAN NSW 2463	25933	36		627	MSC	Prior to 1993	Operational	R2 Low Density Residential
Ryan Park Tennis Complex	McLachlan Street MACLEAN NSW 2463	25934	41		627	MSC	Prior to 1993	Operational	R2 Low Density Residential
Ryan Park Tennis Complex	McLachlan Street MACLEAN NSW 2463	25935	42		627	MSC	Prior to 1993	Operational	R2 Low Density Residential
Ryan Park Tennis Complex	McLachlan Street MACLEAN NSW 2463	25936	43		627	MSC	Prior to 1993	Operational	R2 Low Density Residential
Ryan Park Tennis Complex	McLachlan Street MACLEAN NSW 2463	25937	44		627	MSC	Prior to 1993	Operational	R2 Low Density Residential
Ryan Park Tennis Complex	McLachlan Street MACLEAN NSW 2463	25938	45		627	MSC	Prior to 1993	Operational	R2 Low Density Residential
Ryan Park Tennis Complex	McLachlan Street MACLEAN NSW 2463	25939	46		627	MSC	Prior to 1993	Operational	R2 Low Density Residential
Ryan Park Tennis Complex	McLachlan Street MACLEAN NSW 2463	33103	1		723033	MSC	Prior to 1993	Operational	R2 Low Density Residential
SES Depot, Slipway and Boatramp	River Street MACLEAN NSW 2463	60529	721		1148111	MSC	Prior to 1993	Operational	R2 Low Density Residential
Sewage Pump Station	Schwonberg Street TOWNSEND NSW 2463	60530	722		1148111	MSC	Prior to 1993	Operational	W3 Working Waterways
Southgate Reservoir	Boormans Lane SOUTHGATE NSW 2460	14226	1		623796	LCCC	Prior to 1993	Operational	W3 Working Waterways
Stone Cottage Museum	19-21 Grafton Street MACLEAN NSW 2463	32742	8	19	758631	MSC	Prior to 1993	Operational	W3 Working Waterways
Taylor's Quarry	407 Peckhams Road EWINGAR NSW 2469	14049	81		1044692	TBA	TBA	Operational	RU2 Rural Landscape
Townsend Sewerage Treatment Works	Schwonberg Street TOWNSEND NSW 2463	33519	2		634170	MSC	Prior to 1993	Operational	RU1 Primary Production
Tyson Street Pump Station	Tyson Street SOUTH GRAFTON NSW 2460	25233	24		1033607	TBA	TBA	Operational	SP2 Infrastructure
Ulmarra Pump Station (Water)	Pacific Highway ULMARRA NSW 2462	50792	1		808423	TBA	TBA	Operational	IN1 General Industrial
Unit 2 Hargraves Villas	2/26 Kendall Avenue WOOLU NSW 2462	49899	93		711766	USC	Prior to 1993	Operational	R2 Low Density Residential
Unit 3 Hargraves Villas	3/26 Kendall Avenue WOOLU NSW 2462	49900	93		711766	USC	Prior to 1993	Operational	R2 Low Density Residential
Unit 4 Hargraves Villas	4/26 Kendall Avenue WOOLU NSW 2462	49902	93		711766	USC	Prior to 1993	Operational	R2 Low Density Residential
Unit 5 Hargraves Villas	5/26 Kendall Avenue WOOLU NSW 2462	49903	93		711766	USC	Prior to 1993	Operational	R2 Low Density Residential
Unit 6 Hargraves Villas	6/26 Kendall Avenue WOOLU NSW 2462	49904	93		711766	USC	Prior to 1993	Operational	R2 Low Density Residential
Vacant Land	School Drive SWAN CREEK NSW 2462	61862	3		1109372	TBA	TBA	Operational	R2 Low Density Residential
Vacant Operation Land	Morven Street MACLEAN NSW 2463	33171	B		961868	MSC	Prior to 1993	Operational	R2 Low Density Residential

Property Name	Address	Land No	Lot	Section	Plan No	Council	Date Acquired	Classification	Land Zoning
Vacant Operational Land	Centenary Drive MACLEAN NSW 2463	27466	1		207929	MSC	Prior to 1993	Operational	B2 Local Centre
Vacant Operational Land	Union Street MACLEAN NSW 2463	32638	1		321533	MSC	Prior to 1993	Operational	B2 Local Centre
Vacant Operational Land	Union Street MACLEAN NSW 2463	33189	2		321533	MSC	Prior to 1993	Operational	R2 Low Density Residential
Vacant Operational Land	Union Street MACLEAN NSW 2463	33694	A		961868	MSC	Prior to 1993	Operational	R2 Low Density Residential
Vacant Operational Land	9C Cross Street DUNDURRABIN NSW 2453	41744	7		758363	TBA	TBA	Operational	R2 Low Density Residential
Vacant Operational Land	19 Coldstream Street ULMARRA NSW 2462	49381	1		517080	TBA	TBA	Operational	B1 Neighbourhood Centre
Vacant Operational Land	6 Crowther Drive JUNCTION HILL NSW 2460	60337	505		1151839	TBA	TBA	Operational	R2 Low Density Residential
Vacant Operational Land	8 Crowther Drive JUNCTION HILL NSW 2460	60338	506		1151839	TBA	TBA	Operational	R2 Low Density Residential
Vacant Operational Land	10 Crowther Drive JUNCTION HILL NSW 2460	60339	507		1151839	TBA	TBA	Operational	R2 Low Density Residential
Vacant Operational Land	Clarence Street GRAFTON NSW 2460	60891	17		1163618	TBA	TBA	Operational	R1 General Residential
Waste Transfer & Recycle Station	Paperbark Drive TOWNSEND NSW 2463	30919	3		1065514	MSC	Prior to 1993	Operational	IN1 General Industrial
Wherrett Park & Iona Close Drainage Reserve	Central Avenue MACLEAN NSW 2463	38715	7		259179	MSC	Prior to 1993	Operational	R2 Low Density Residential
Witonga Drive Drainage Reserve	Witonga Drive YAMBA NSW 2464	28420	10		866724	TBA	TBA	Operational	R2 Low Density Residential
Witonga Drive Drainage Reserve	Witonga Drive YAMBA NSW 2464	29221	12		881975	TBA	TBA	Operational	R2 Low Density Residential
Witonga Drive Drainage Reserve	Witonga Drive YAMBA NSW 2464	29644	54		1013843	TBA	TBA	Operational	R2 Low Density Residential
Woody Head Reservoir	Iluka Road THE FRESHWATER NSW 2469	28704	1		615576	LCCC	Prior to 1993	Operational	SP2 Infrastructure
Woolli Pump Station Site	2831 Woolli Road LAKE HIAWATHA NSW 2462	47147	1		105575	TBA	TBA	Operational	E1 National Parks and Nature Reserves
Woolli Water Reservoir	Riverside Drive WOOLLI NSW 2462	39669	1		867671	TBA	TBA	Operational	SP2 Infrastructure
Woombah Reservoir	Iluka Road WOOMBAAH NSW 2469	34376	103		626999	LCCC	Prior to 1993	Operational	RU1 Primary Production
Woombah Roadside Buffer Public Reserve	Ibis Close WOOMBAAH NSW 2469	27193	9		832413	MSC	Prior to 1993	Operational	R5 Large Lot Residential
Works Depot	11 Schwinghammer Street SOUTH GRAFTON NSW 2460	21619	163		751385	USC	18/06/1999	Operational	IN1 General Industrial
Yamba Motorway	11 Schwinghammer Street SOUTH GRAFTON NSW 2460	24012	274		751385	USC	18/06/1999	Operational	IN1 General Industrial
Yamba Motorway Land	Orion Drive YAMBA NSW 2464	25555	14		810243	MSC	Prior to 1993	Operational	SP2 Infrastructure
Yamba Motorway Land	Carris Drive YAMBA NSW 2464	26633	4		790910	MSC	Prior to 1993	Operational	SP2 Infrastructure
Yamba Motorway Land	Yamba Road YAMBA NSW 2464	27349	8		833711	TBA	TBA	Operational	SP2 Infrastructure
Yamba Reservoir	262 Yamba Road YAMBA NSW 2464	29854	22		1027208	TBA	TBA	Operational	SP2 Infrastructure
Yamba Sewer Pump Station	Angourie Road YAMBA NSW 2464	34941	3		611316	MSC	Prior to 1993	Operational	SP2 Infrastructure
Yamba Sewer Pump Station	Woolli Street YAMBA NSW 2464	26501	1		802768	TBA	TBA	Operational	SP2 Infrastructure
Yamba Sewer Treatment Works	Redman Lane YAMBA NSW 2464	26417	1		604872	MSC	Prior to 1993	Operational	RE1 Public Recreation
Yamba Sewer Treatment Works	Clarence Street YAMBA NSW 2464	27422	1		604873	MSC	Prior to 1993	Operational	SP2 Infrastructure
Yamba Sewer Treatment Works	97 Angourie Road YAMBA NSW 2464	25391	1		604874	MSC	Prior to 1993	Operational	SP2 Infrastructure
Yamba Sewerage Pump Station	97 Angourie Road YAMBA NSW 2464	25392	2		627960	MSC	Prior to 1993	Operational	SP2 Infrastructure
	Coonawarra Court YAMBA NSW 2464	27439	11		578982	MSC	Prior to 1993	Operational	R2 Low Density Residential

**Appendix 3 - Draft Land
Reclassification (Part Lots) Map**

Appendix 3 - Draft Land Reclassification (Part Lots) Map



Draft Land Reclassification Map

Land Reclassification (Part Lots)

- Operational Land
- Community Land

Cadastral

Cadastral 09/06/2016
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This map is for explanation purposes only.
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0 15 30
Metres

Scale: 1:1,000 @ A3 Landscape

Projection: GDA 1984
Rich Lane 25

Map Identification Number