

Planning Services

Gateway Determination Report

LGA	Lake Macquarie
RPA	Lake Macquarie City Council
NAME	To reclassify Community Land to Operational Land at Various Sites – Town Centres Amendment (0 homes, 0 jobs)
NUMBER	PP_2017_LAKEM_006_00
LEP TO BE AMENDED	Lake Macquarie Local Environmental Plan 2014
ADDRESS	Item: <ol style="list-style-type: none"> 1. 94A & 100A The Boulevard, Toronto 2. 209, 211A, part 201 & part 205 Brighton Avenue, Toronto 3. Part 20 The Boulevard, Toronto 4. 40, 42 & 56 Maude Street & 2 Edgar Street, Belmont 5. 39 George Street, Belmont 6. 23A & 25 John Street, Warners Bay
DESCRIPTION	Item: <ol style="list-style-type: none"> 1. Lot 12 & Lot 17 DP 1002630 2. Lots 13 & 15 DP 1002630, Lots 103, 101, & 100 DP 243194 3. Lot 1 DP 915793 4. Lots 23, 24, 31 & 32 Sec I DP 2374 5. Lot 1 DP 334449 6. Lot 1 & 3 DP 719621
RECEIVED	28 August 2017
FILE NO.	17/13028
QA NUMBER	qA419145
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

INTRODUCTION

Description of Planning Proposal

The Planning Proposal involves the reclassification of various Council-owned sites from Community Land to Operational Land for the purposes of future town planning.

Site Description

The Planning Proposal consists of various sites (see below figures). The sites are all urban in nature and comprise of vacant land, leased dwellings and commercial buildings and vacant dwellings.



Figure 1 – Items 1 & 2 – Toronto

Item 1: 94A & 100A The Boulevard - Lot 12 & Lot 17 DP 1002630

Item 2: 209, 211A, part 201 & part 205 Brighton Avenue - Lots 13 & 15 DP 1002630, Lots 103, 101, & 100 DP 243194



Figure 2 – Item 3 – Toronto

Part 20 The Boulevard - Lot 1 DP 915793



Figure 3 – Item 4 – Belmont
 40, 42 & 56 Maude Street & 2 Edgar Street - Lots 23, 24, 31 & 32 Sec I DP 2374



Figure 4 – Item 5 – Belmont
 Item 5 - 39 George Street BELMONT - Lot 1 DP 334449



Figure 5 – Item 6 – Warners Bay
23A & 25 John Street - Lot 1 & 3 DP 719621

Surrounding Area

The sites are in the Toronto, Belmont and Warners Bay town centres and are surrounded by core commercial and residential areas.

Summary of Recommendation

Proceed as per submitted.

PROPOSAL

Objectives or Intended Outcomes

The Planning Proposal seeks to amend Schedule 4 of the Lake Macquarie LEP to enable the reclassification of various sites from Community Land to Operational Land.

Explanation of Provisions

It is proposed that the LEP be amended to reclassify items 1 – 6 from Community to Operational Land by including each item in Schedule 4 of the Lake Macquarie LEP and including additional Land Reclassification (Part Lots) Maps in the Lake Macquarie LEP.

Mapping

It is proposed that the following five Land Reclassification (Part Lots) Maps (Figures 6 – 10) be created in the Lake Macquarie LEP.



Figure 6 – Items 1 & 2 – Toronto
 Item 1: 94A & 100A The Boulevard - Lot 12 & Lot 17 DP 1002630
 Item 2: 209, 211A, part 201 & part 205 Brighton Avenue - Lots 13 & 15 DP 1002630, Lots 103, 101, & 100 DP 243194

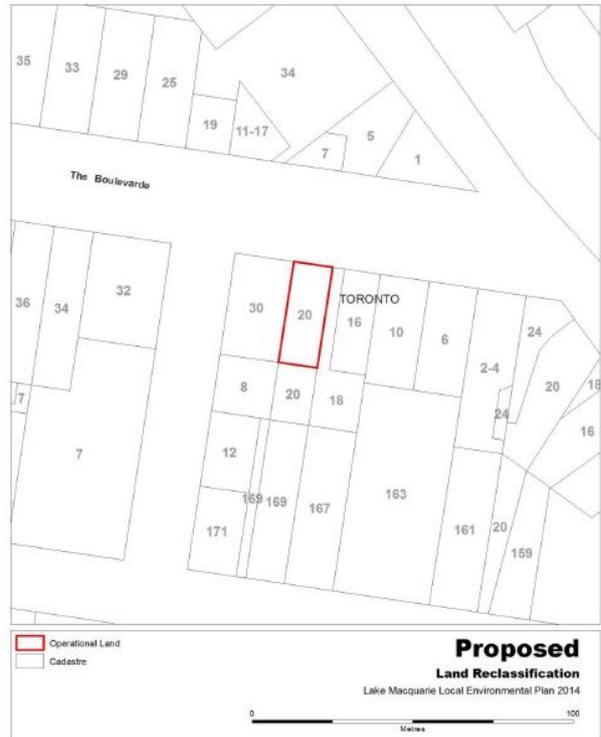


Figure 7 – Item 3 – Toronto
 Part 20 The Boulevard - Lot 1 DP 915793



Figure 8 – Item 4 – Belmont
 40, 42 & 56 Maude Street & 2 Edgar Street - Lots 23, 24, 31 & 32 Sec I DP



Figure 9 – Item 5 – Belmont
 Item 5 - 39 George Street BELMONT - Lot 1 DP 334449



Figure 10 – Item 6 – Warners Bay
23A & 25 John Street - Lot 1 & 3 DP 719621

NEED FOR THE PLANNING PROPOSAL

The Planning Proposal is not the result of a report or strategic study. The subject properties have been identified through routine administrative tasks as either administrative anomalies or as being no longer required or considered appropriate for their intended purpose.

An investigation of each property has determined that they are appropriate for reclassification. These investigations and reasons for the reclassifications are outlined below. Also outlined below is a summary table detailing what interests in the land the Planning Proposal seeks to remove for each item. The removal of certain Public Reserve Notations, interests, covenants and restrictions is pursuant to section 30 of the Local Government Act.

Item 1 – 94A & 100A The Boulevard, Toronto

Item 2 – 209, 211A, part 201 & part 205 Brighton Avenue, Toronto

This site was initially going to be used for an extension of Hinton Lane from the existing Woolworths carpark structure to the Anglican Church on the corner of Cary Street and Brighton Avenue. In 1989 Council abandoned the rear laneway and as the land was never dedicated as “Road”, it became Community Land by default. In 2014, Aldi’s development was approved, part of which included the construction of a retaining wall across the Hinton Lane extension (see Figure 11 below). Consequently, the laneway is impossible to build. Council intends to revitalise the Toronto Town Centre by developing this land in conjunction with some surrounding land that it owns and accordingly, reclassification is required to enable the land to be used for this purpose.

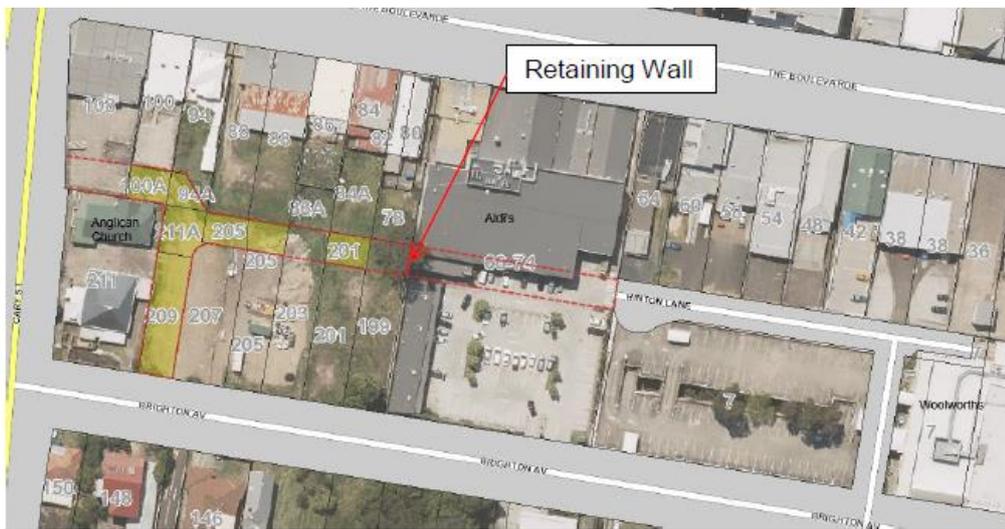


Figure 11 – Item 1 and Item 2 Subject properties

Interests in the land:

Item No	Address	Classification of Land	Interests in land	Reason why interests are extinguished
1	94A The Boulevard TORONTO Lot 12 DP 1002630	Community change to Operational for Town Centre revitalisation	Crown Grant	Retain
			7413455 - Land required for Road Purposes	Extinguish – Road abandoned & land will now be redeveloped for commercial purposes
	100A The Boulevard TORONTO Lot 17 DP 1002630	Community change to Operational for Town Centre revitalisation	Crown Grant	Retain
			1984497 - Lease in 1998 for 5 years	Extinguish – Lease expired & not renewed, no longer required.
			7903972 - Land required for Road Purposes	Extinguish – Road abandoned & land will now be redeveloped for commercial purposes

2	201 Brighton Avenue TORONTO Lot 103 DP 243194	Community change to Operational for Town Centre revitalisation	Crown Grant	Retain
	205 Brighton Avenue TORONTO Lot 101 DP 243194	Community change to Operational for Town Centre revitalisation	Crown Grant	Retain
	205 Brighton Avenue TORONTO Lot 100 DP 243194	Community change to Operational for Town Centre revitalisation	Crown Grant	Retain
	209 Brighton Avenue TORONTO Lot 15 DP 1002630	Community change to Operational for Town Centre revitalisation	Crown Grant	Retain
	211A Brighton Avenue TORONTO Lot 13 DP 1002630	Community change to Operational for Town Centre revitalisation	Crown Grant	Retain

Item 3 – Part 20 The Boulevard, Toronto

Historically, this site contained a community hall and library, which was transferred to Council in 1956. The Newcastle earthquake of 1989 damaged the hall and as DA was required to fix it, Council decided to call for tenders for the commercial use of the building.

The subject site is currently used as a yoga studio, gym and commercial space. The site comprises of two lots, being Lot 2 DP 4929 and Lot 1 DP 915793. In 1993 when Council had to classify its land, only one lot (Lot 2 DP 4929) was listed as Operational Land and the other lot has by default become Community Land. Consequently, the properties require reclassification to reflect and permit the current use of the site.

Interests in the land:

3	20 The Boulevard TORONTO Lot 1 DP915793	Community change to Operational for Town Centre revitalisation	Crown Grant	Retain
			AJ895839 – Lease expires 2017	Retain – Renewal option of 3 years taken
			AM610633 – Lease expires 2020	Retain
			AM610634 – Lease expires 2022	Retain

Item 4 – 40, 42 and 56 Maude Street & 2 Edgar Street, Belmont

Council has been slowly acquiring the subject properties since its 1990 local strategy recommended mixed development and public carparking for the Herbert and Maude Streets Precinct. The land at 40 Maude Street is currently vacant, and the other lands contain existing dwelling houses which are leased by Council. Research of the subject lands cannot find the advertisements in the newspaper making them Operational Land. Accordingly, by default, these lands have become Community Land. Council wishes to develop this land in conjunction with some surrounding land that it also owns, with the intention of revitalising the Belmont Town Centre. Reclassification is required to enable development of the land.

Interests in the land:

4	40 Maude Street BELMONT Lot 23 Sec I DP 2374	Community change to Operational for Town Centre revitalisation	Crown Grant	Retain
	42 Maude Street BELMONT Lot 24 Sec I DP 2374	Community change to Operational for Town Centre revitalisation	Crown Grant	Retain
	56 Maude Street BELMONT Lot 31 Sec I DP 2374	Community change to Operational for Town Centre revitalisation	Crown Grant	Retain
			A966490 – Excludes Minerals	Retain
	2 Edgar Street BELMONT Lot 32 Sec I DP 2374	Community change to Operational for Town Centre revitalisation	Crown Grant	Retain
			A966490 – Excludes Minerals	Retain

Item 5 – 39 George Street, Belmont

The subject site is contained within the Belmont Town Centre Area Plan, and was purchased in 1995 for investment purposes. Council has leased the residential building on the site since. When the land was purchased it was not advertised as Operational Land and by default became Community Land. Council wishes to develop the land in conjunction with surrounding land that it also owns, with the intention of revitalising the Belmont Town Centre. Accordingly, the land requires reclassification for this purpose.

Interests in the land:

5	39 George Street BELMONT Lot 1 DP 334449	Community change to Operational for Town Centre revitalisation	Crown Grant B877555	Retain Retain – Minerals & Rights to Mine
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Item 6 – 23A & 25 John Street, Warners Bay

In 1986 Council undertook a land exchange with Australia Post to enable expansion of the post office to the north of its then site to over part of Council-owned land. The site at 25 John Street is currently being used as a road, giving rear access to the retail shops fronting King Street. Whilst 23a John Street is being used as a footpath running along the northern side of the post office building. Neither parcels of land have been dedicated as “Road”. Following the introduction of the Local Government Act 1993, Council was required to advertise all Operational Land. The subject lands were not advertised in 1993 to classify them as Operational Land and accordingly, the land has become Community Land by default. Council intends to revitalise the Warners Bay Town Centre by reclassifying and developing the land.

Interests in the land:

6	23A John Street WARNERS BAY Lot 1 DP 719621	Community change to Operational for Town Centre revitalisation	Crown Grant	Retain
			BK 1926 No 222	Retain –Rights to Mine
	25 John Street WARNERS BAY Lot 3 DP 719621	Community change to Operational for Town Centre revitalisation	Nil	

The Planning Proposal is required, as it is the only means of reclassifying the subject sites. None of the lands were dedicated to Council in lieu of section 94 contributions, therefore reclassification by way of a LEP amendment, pursuant to the provisions of the Environmental Planning and Assessment Act 1979, is the only action available to achieve the desired outcomes.

The Planning Proposal is the best means of achieving the objectives of the Proposal, as the properties are classified as Community Land under the provisions of the Local Government Act and have statutory limitations on their use. To achieve the long-term objective for each parcel, each must first be reclassified to Operational Land.

STRATEGIC ASSESSMENT

Regional

Hunter Regional Plan 2036

The proposed reclassifications are consistent with Goal 3 – ‘Thriving Communities’ and Direction 20 – ‘Revitalise existing communities’ under the Hunter Regional Plan 2036. The reclassifications will enable Council to undertake planning and place-making for the Toronto, Belmont and Warners Bay centres by developing land already in its ownership. For example, vital social infrastructure, such as pedestrian links/arcades and meeting places/pedestrian malls will be facilitated by reclassifying the subject sites.

The centres of Toronto, Belmont and Warners Bay are all identified as centres of local significance under the Hunter Regional Plan 2036. Specifically, they are identified to implement the Town Centres Area Plans and to develop these centres into higher density, compact mixed use centres.

Local

Lifestyle 2030 Strategy

Lifestyle 2030 Strategy (LS2030) provides the long-term direction for the overall development of the city and describes Council's high level policies for managing private and public development in Lake Macquarie.

Strategic Direction 3 – 'A well designed adaptable and liveable city', outlines the need for Local Area Plans with specific development guidelines for the Toronto, Belmont and Warners Bay town centres, as well as a stronger functional and urban design relationship between the Lake and the centres (Outcomes 3.6 and 3.8). The Proposal will revitalise the City's centres in accordance with Outcomes 3.6 and 3.8 and enable the development of vacant areas of the City's centres (Outcome 3.3).

The Proposal is consistent with the strategic plan maps in LS2030, which identify that the land for reclassification is located within Toronto, Belmont or Warners Bay Town Centres with surrounding core commercial and living urban areas.

Section 117(2) Ministerial Directions

The Planning Proposal is consistent with virtually all applicable S 117 Directions. Many of the Directions do not apply to the Proposal as it is for reclassification only and does not involve the creation, alteration or removal of a zone. Those Directions listed below are deemed to be most relevant for further discussion.

1.1 Business and Industrial Zones

This Direction is applicable as the subject land is within a business zone. The Proposal is consistent with this Direction as it only involves reclassification and the zoning boundaries of the zones and development controls will remain the same.

2.2 Coastal Protection

The subject lands are identified within the coastal zone. The Proposal is only to reclassify the land and therefore is consistent with the direction. Any future development on these sites will require compliance with the NSW Coastal Policy.

4.1 Acid Sulfate Soils

The following sites are identified within the Lake Macquarie Acid Sulfate Soils Planning Maps:

Item 1 – 94A & 100A The Boulevard TORONTO – Class 5

Item 2 – 209, 211A, part 201 & part 205 Brighton Avenue TORONTO – Class 5

Item 3 – 20 The Boulevard, TORONTO – Class 5

Item 4 – 40, 42 & 56 Maude Street & 2 Edgar Street BELMONT – Class 2

Item 5 – 39 George Street BELMONT – Class 3

Item 6 – 23A & 25 John Street WARNERS BAY – Class 5

The proposal is for reclassification only with the zone remaining the same (therefore, it is not considered an intensification of the use). Any future development on these sites would need to be aware of this constraint and would be required to address the requirements of Clause 7.1 of the Lake Macquarie LEP 2014.

4.2 Mine Subsidence and Unstable Land

All lands (except Item 4 - 40, 42 & 56 Maude Street & 2 Edgar Street, Belmont) are identified as being within a Mine Subsidence District. Consultation with the Mine Subsidence Board will be undertaken to satisfy the requirements of this direction.

4.3 Flood Prone Land

The following sites are identified as Flood Prone land:

Item 4 – 40, 42 & 56 Maude Street & 2 Edgar Street, Belmont– High hazard

These are all located within existing zones and as no zoning changes are proposed this Proposal does not involve an intensification of use. Any future development on these sites would need to be aware of the flooding constraint and would be required to address the requirements of Clause 7.3 of the Lake Macquarie LEP 2014 at DA stage.

Direction 6.2 Reserving Land for Public Purposes

The Proposal is inconsistent with this Direction as the approval of the Director General of the Department of Planning and Environment has not been obtained in relation to the reduction in existing reservation of land for public space. This is considered to be of minor significance due to the existing undeveloped nature of the land and that the land is no longer required for road purposes.

State Environmental Planning Policies

State Environmental Planning Policy No 71 – Coastal Protection

SEPP 71 applies to all items, as they are identified as being within 1,000m of Lake Macquarie. The reclassifications will not have any detrimental effects on the foreshore of Lake Macquarie because the sites are already within designated town centres. Any future development on the land would be subject to a DA and the provisions of SEPP 71 will need to be considered and addressed at that time.

SITE SPECIFIC ASSESSMENT

Social

The Planning Proposal does not have any immediate social implications, however future uses of the subject sites and development opportunities associated with revitalising the various town centres may have social impacts. Social implications will be assessed under any future DA for the proposed land.

Environmental

The Planning Proposal does not result in any environmental implications.

Economic

Reclassification of the subject sites will facilitate future economic opportunities for the sites, including redevelopment for commercial purposes. Three of the properties were specifically purchased for laneways and therefore, if future options for the sites include sale, or commercial redevelopment of the sites, then the portion of these lands to the whole development will need to be compensated back into Council's Roads & Drainage fund at that time.

The remaining parcels of land were purchased for strategic purposes therefore any proceeds or costs will be contributed to the Strategic Property Reserve.

CONSULTATION

Community

Council proposes to exhibit the Proposal for 28 days in accordance with section 5.5.2 of the Department's LEP guideline. This approach is supported, as the Planning Proposal contains reclassification of public land. Council has further indicated that any identified landowners and adjoining landowners will be notified of the Proposal.

In accordance with section 29 of the *Local Government Act 1993*, a public hearing will be held. The public hearing will be undertaken in accordance with section 5.5.3 of the Department's LEP guideline.

Agencies

Council has indicated that it will consult with the Mine Subsidence Board to satisfy S 117 Direction 4.2, Mine Subsidence and Unstable Land.

TIMEFRAME

Council proposes a 10-month timeline from Gateway to making of the Plan. It is recommended that a 12-month timeframe is given.

DELEGATION

Council has not requested delegation, given that all the subject sites are Council-owned and currently classified as Community Land.

CONCLUSION

That the Planning Proposal is supported to proceed.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. Agree that the majority of relevant S 117 Directions have been addressed and that there are no inconsistencies with these Directions.
2. Note that consistency with Section 117 Direction 4.2 Mine Subsidence and Unstable Land can be determined after Council consults the Mine Subsidence Board.
3. Note that the Planning Proposal is inconsistent with Section 117 Direction 6.2 Reserving Land for Public Purposes but that this is considered to be of minor significance.

It is recommended that the delegate of the Minister for Planning determine that the Planning Proposal should proceed subject to the following conditions:

1. The Planning Proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
 - The Mine Subsidence Board

3. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.
4. Given the nature of the Planning Proposal, Council should not be authorised to exercise delegation to make this plan.



21/9/2017

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