

PLANNING PROPOSAL

Version for Final Report to DoPE

Reclassification of Community Land to Operational Land at

2C T C Frith Avenue BOOLAROO

(Part Lot 2 DP 1183441)

**Amendment to
Lake Macquarie Local Environmental Plan 2014**

**Prepared by
LAKE MACQUARIE CITY COUNCIL**



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Planning Proposal

2C T C Frith Avenue BOOLAROO

Draft Amendment F2014/00781 to Lake Macquarie Local Environmental Plan 2014

Version for Final Report to DoPE

Local Government Area:	Lake Macquarie City Council (LMCC)
Name of Draft LEP:	Draft Amendment F2014/00781 to Lake Macquarie Local Environment Plan 2014
Subject Land:	2C T C Frith Avenue BOOLAROO Part Lot 2 DP 1182441 <i>(Refer to Annex 1 for further details)</i>
Land Owners:	Lake Macquarie City Council (LMCC)
Applicant:	Lake Macquarie City Council (LMCC)
Department of Planning and Environment reference number:	PP_2015_LAKEMAC_004_00
Council Reference Number:	F2014/01084
Date:	June 2015
Author:	Joanne Marshall – Statutory Property Officer

INTRODUCTION

This Planning Proposal provides an explanation of the intended effect and justification for the following proposed amendments to the Lake Macquarie Local Environmental Plan:

Reclassification of the following Council owned site from Community Land to Operation Land:

- Part Lot 2 DP 1182441 (2C T C Frith Avenue BOOLAROO)

Council resolved its meeting on the 9th February 2015 to support the preparation and lodgement of this Planning Proposal to the Department of Planning and Environment. Council considered public submissions and results from the public hearing at its meeting on 13 July 2015. A copy of the Council resolutions are attached in Annex D.

The Planning Proposal has been prepared in accordance with section 55 of the *Environmental Planning and Assessment Act 1979* and the format specified within the relevant Department of Planning Guidelines including '*A Guide to Preparing Local Environmental Plans*' and '*A Guide to Preparing Planning Proposals*'.

Part 1 – OBJECTIVES OR INTENDED OUTCOMES

The Planning Proposal seeks to amend Schedule 4 of the Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014) as follows:

- i) Reclassification of part of Lot 2 DP 1183441 (2C T C Frith Avenue Boolaroo) from Community Land to Operational Land for the purpose of a boundary adjustment.

Part 2 – EXPLANATION OF PROVISIONS

The provisions in this planning proposal will amend LMLEP 2014 (See Annex F) as outlined below:

- i) To amend Schedule 4 Part 1 to reclassify part of Lot 2 DP 1183441 (2C T C Frith Avenue Boolaroo) from Community Land to Operational Land for the purpose of a boundary adjustment

No maps will be amended as part of this Planning Proposal

Part 3 – Justification for the Provisions

Section A - Need for the Planning Proposal

1. Is the planning proposal a result of any strategic study or report?

The Planning Proposal has not been prepared following any outcomes of a study or report relevant to the subject property. The proposal involves a boundary adjustment which is considered minor in nature and accordingly no strategic study or report has been prepared.

The boundary adjustment would enable the Developer to rationalise the road configuration enabling a new location for the road and a new housing lot, in exchange Council would receive additional land along the T C Frith Avenue frontage for incorporation into the Drainage Reserve. The land was originally dedicated to Council by the applicant at no cost to Council, and was classified as Community at the time of dedication in March 2013 as it was intended to be used as a drainage reserve. This use still remains with the proposed boundary realignment. In order to allow the development to continue in its current form, that part of the drainage reserve to be exchanged needs to be reclassified as Operational Land.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The proposed Planning Proposal amendment is considered the best means of achieving the intended outcome for this property. The land was originally dedicated to Council by the applicant at no cost to Council, and was classified as Community at the time of dedication in March 2013 as it was intended to be used as a drainage reserve.

Investigations reveal that the land **was not** dedicated to Council in lieu of section 94 contributions and therefore reclassification by way of LEP amendment, pursuant to the provisions of the Environmental Planning and Assessment Act 1979, is the only action available to achieve the desired outcomes.

3. (a) If the provisions of the planning proposal include the extinguishment of any interests in the land, what are the reasons why the interests are proposed to be extinguished.

The subject land known as 2C T C Frith Avenue BOOLAROO (Lot 2 DP 1182441) has been dedicated to Council as a drainage reserve. Accordingly, Council seeks to remove the Drainage Reserve Notation for that part of the land to be transferred and reclassified, pursuant to section 30 of the Local Government Act 1993.

Please see Annex F for proposed changes to Schedule 4 of Lake Macquarie Local Environmental Plan 2014.

3. (b) The concurrence of the landowner, where the land is not owned by the relevant planning authority.

Pursuant to section 28 of the Local Government Act 1993, Council may not forward a Planning Proposal which includes a proposal to classify or reclassify public land, without the approval of the owner of that land.

Lake Macquarie Council is the landowner for that part of the land to be reclassified (from Community to Operational land).

Section B – Relationship to Strategic Planning Framework

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including exhibited draft strategies)?

Lower Hunter Regional Strategy

The proposed reclassifications and rezoning are consistent with the Lower Hunter Regional Strategy (LHRS), which has a focus on encouraging residential development and increasing housing choice.

The strategy specifically identifies Glendale as an emerging Major Regional Centre. The subject land is at Boolaroo which is on the southern edge of the Glendale growth area, and accordingly, the adjoining subdivision for residential housing supports the strategy.

The proposal is not contrary to the provisions of the Lower Hunter Conservation Plan.

5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Lifestyle 2030 Strategy

Lifestyle 2030 (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 within Lake Macquarie.

The proposal is consistent with the strategic plan maps in the LS2030.

As stated earlier in this report, the land situated at Boolaroo is on the southern edge of Glendale which is identified as a Regional growth centre for the area. The intended future use of the site to promote residential development is consistent with the objectives of the strategy.

The site is not identified in the Green System map as having any significant environmental features.

6. *Is the planning proposal consistent with applicable state environmental planning policies (SEPPs)?*

An assessment of the proposal against the relevant State Environmental Planning Policies (SEPPs) is provided within *Annex B*.

7. *Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?*

An assessment of the proposal against the Section 117 Ministerial Directions is provided within *Annex C*.

Section C – Environmental, Social and Economic Impact

8. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

The land proposed for reclassification has not been identified as containing critical habitat or threatened species, populations or ecological communities, or their habitats.

8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

The site and surrounding land have previously been identified as significantly contaminated land and remediation works have taken place. A Site Audit Statement has been issued by the NSW Environment Protection Authority stating that the land is now suitable for residential use.

Due to the remediation works the land is clear of all vegetation and ground cover. Lot 2 DP 1183441 (2C T C Frith Avenue Boolaroo) contains a drainage basin which currently contains water.

Due to the small-scale nature of the proposed reclassification, Council officers consider it unnecessary to prepare an environmental study in this instance.

9. *How has the planning proposal adequately addressed any social and economic effects?*

The proposed reclassification will not create any social or economic change, but as it involves a land exchange it will enhance the social and economic benefits for the community for the following reasons:

- The site is vacant and is currently being used as a drainage reserve, which will continue;
- The proposed land exchange will enable a better layout of the adjoining land subdivision; and
- The proposed boundary adjustment will enable a land exchange giving the community approximately the same amount of open space within the locality.

No negative social or economic effects are anticipated from the proposed amendments.

Section D – State and Commonwealth Interests

10. Is there adequate public infrastructure for the planning proposal?

The proposal will not require any changes to the delivery of public infrastructure to the land included in the Planning Proposal.

11. What are the views of State and Commonwealth Public Authorities consulted?

The Gateway Determination required the following public authority to be consulted under section 56(2)(d) of the Environmental Planning and Assessment Act 1979:

- Mine Subsidence Board – Who raised no objection (See Annex E)

Part 4- Maps

The maps proposed to be included as part of the LEP Amendment are outlined within Part 2 of this Planning Proposal and are attached within *Annex A*.

Part 5- Community Consultation

Consultation with Public Authorities/Groups

The following public authorities/groups have been consulted – Mine Subsidence Board, and Awabakal Aboriginal Land Council.

No objections were received in relation to the Planning Proposal (See Annex E).

Exhibition

The proposal was placed on public exhibition from 21 March to 24 April 2015 with no submissions being received.

Public Hearing

A public hearing was held on 2 June 2015. No members of the public attended the hearing.

The independent facilitator's report prepared for the Public Hearing is attached as Annex G

Part 6 – Project Timeline

The following table provides an indicative timeline for the Draft Local Environmental Plan:

Task	Timeline
Gateway Determination	March 2015
Public Exhibition (28 days)	April 2015
Public Hearing	June 2015
Consideration of submissions & prepare report on Public Hearing	June 2015
Report to Council post exhibition	July 2015
Submission to Department	August 2015
Notification of Plan Made	October 2015

ANNEX A - MAPS

Figure 1 – Locality map

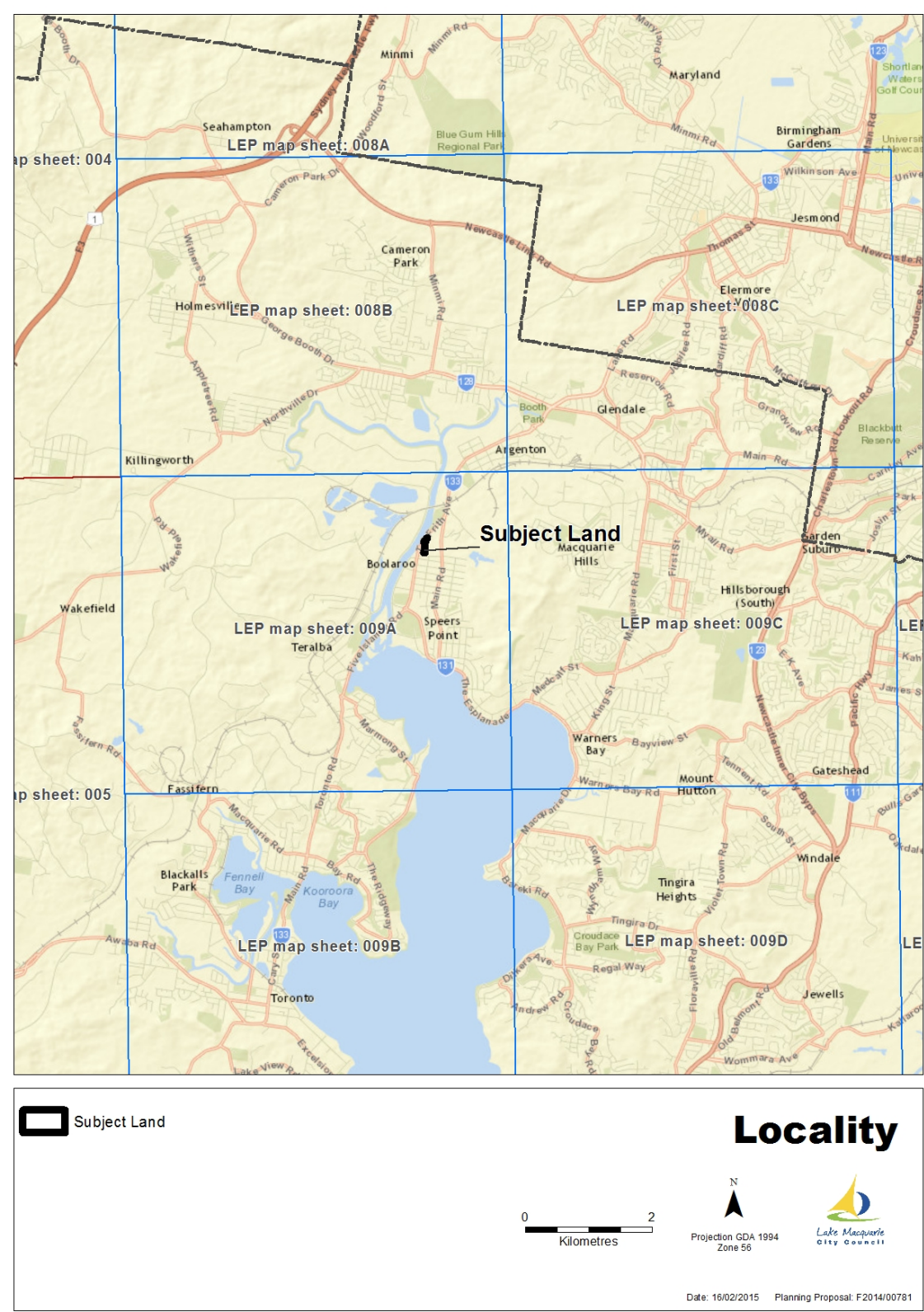


Figure 2 – Aerial map



Figure 3 – Existing zone under LMLEP 2014

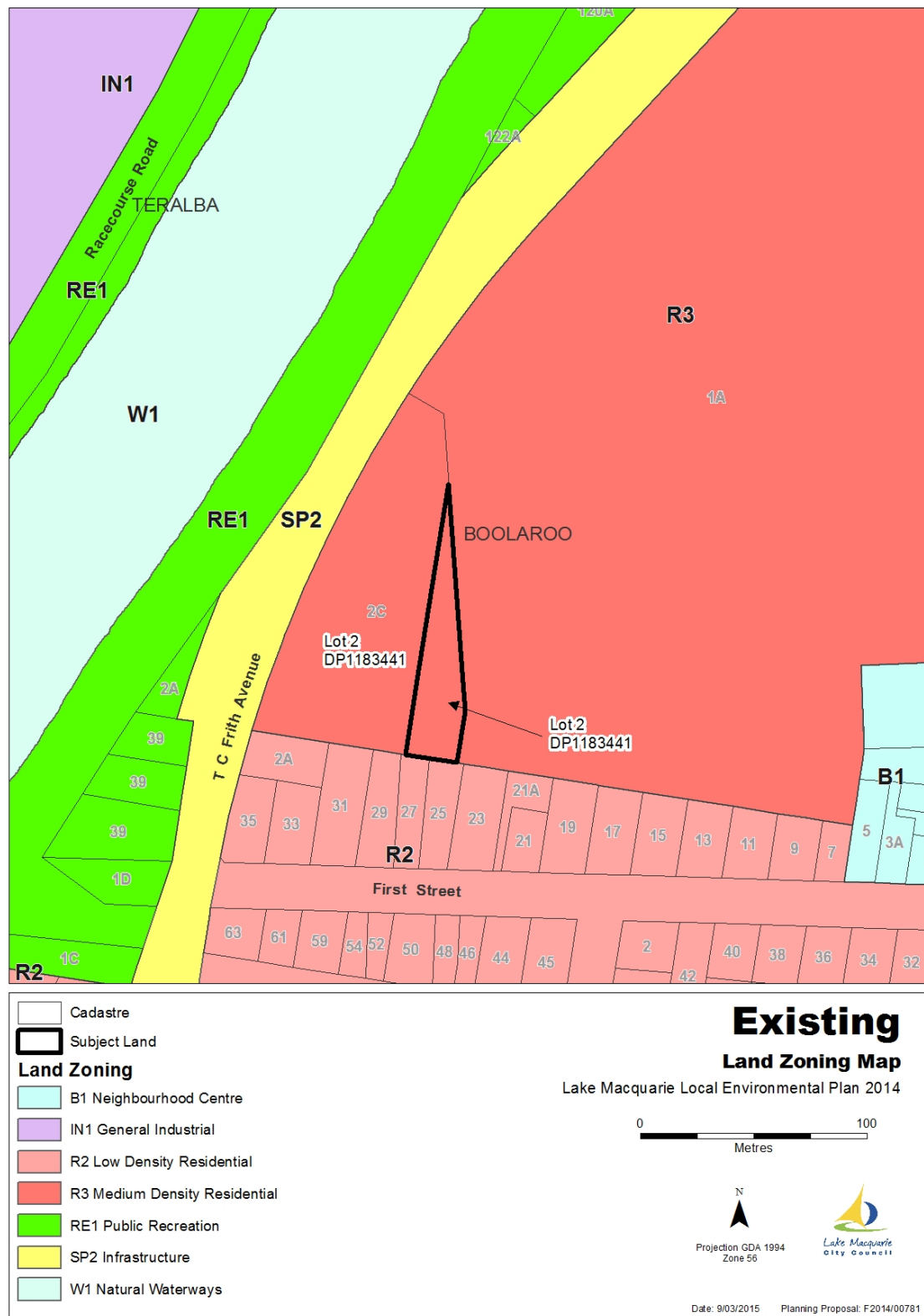
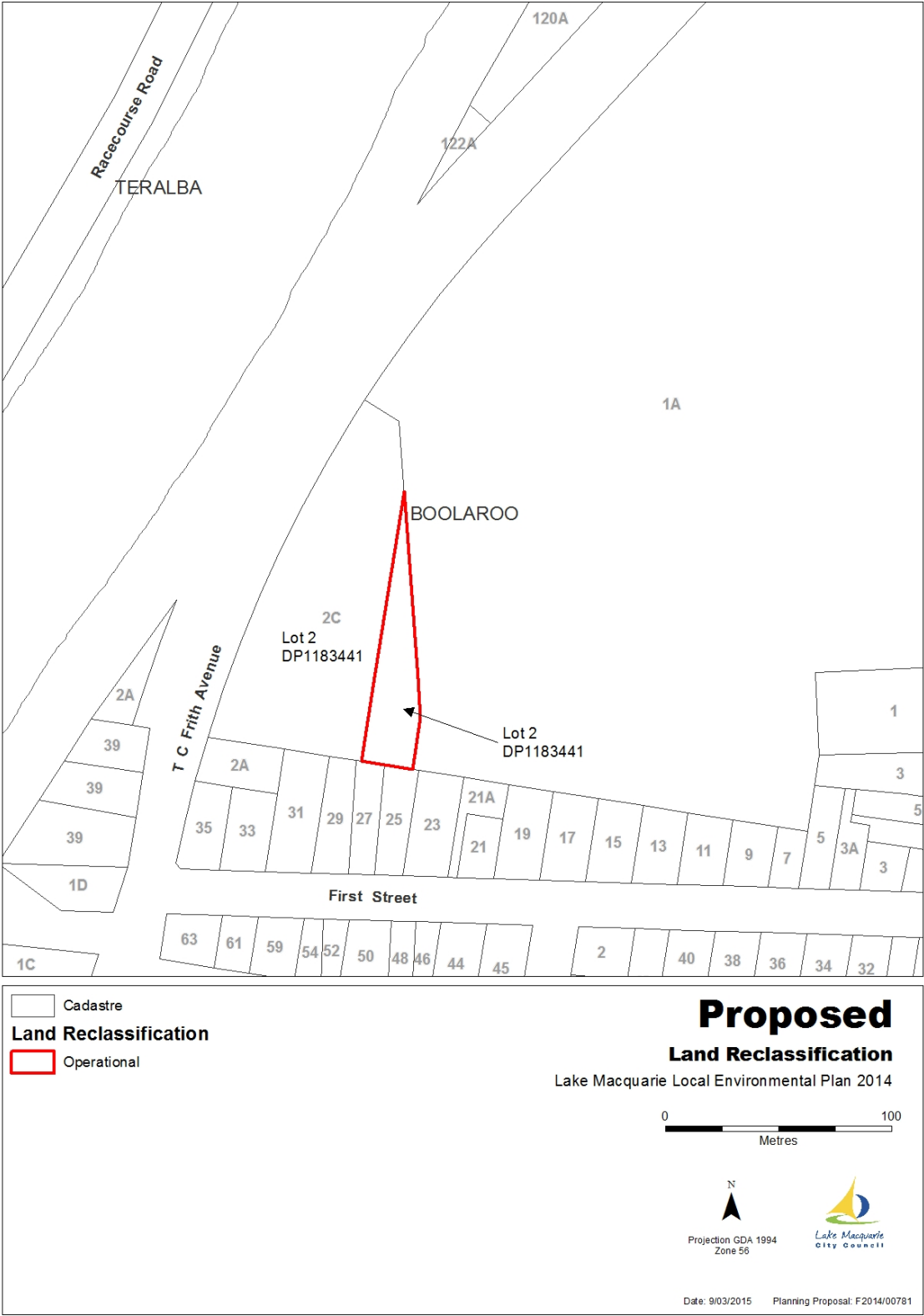


Figure 4 – Draft Land Reclassification Map under LMLEP 2014



ANNEX B – SEPP ASSESSMENT

Planning Proposal's Assessment against Applicable SEPPs

SEPP	Applicable	Consistency
State Environmental Planning Policy No 19—Bushland in Urban Areas	N/A	The land and surrounding area relating to the Planning Proposal 2C T C Frith Avenue BOOLAROO (Lot 2 DP 1182441) is denude of all vegetation and ground cover. Accordingly this SEPP does not apply.
State Environmental Planning Policy No 32-Urban Consolidation (Redevelopment of Urban Land)	N/A	The proposal only involves reclassification, the zoning and development controls shall remain the same and accordingly is considered to be consistent with the SEPP.
State Environmental Planning Policy No 55 – Remediation of Land	Yes	The land and surrounding area relating to the Planning Proposal 2C T C Frith Avenue BOOLAROO (Lot 2 DP 1182441) and 1A Main Road (Lot 1 DP 1183441) have previously been identified as Contaminated Land. Remediation works have taken place, and a Site Audit Statement has now been issued by the NSW Environment Protection Authority stating that the land is now suitable for residential use. The land is zoned R3 Medium Density Residential and shall remain, the Planning Proposal only relates to the classification of the land.
State Environmental Planning Policy No 71—Coastal Protection	Yes	The land relating to the Planning Proposal 2C T C Frith Avenue BOOLAROO (Lot 2 DP 1182441) is located within the Coastal zone. The Planning Proposal relates to a reclassification involving a boundary adjustment and will not affect the Matters for Consideration under clause 8 of the SEPP. Accordingly it is considered to be consistent with the SEPP.
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	N/A	The proposal only involves reclassification, the zoning and development controls shall remain the same and accordingly is considered to be consistent with the SEPP.

ANNEX C – MINISTERIAL DIRECTION ASSESSMENT

Planning Proposal's assessment against Ministerial Directions

Ministerial Direction	Applicable	Consistency
1. Employment and Resources		
1.1 Business and Industrial Zones	N/A	-
1.2 Rural Zones	N/A	-
1.3 Mining, Petroleum Production and Extractive Industries	N/A	-
1.4 Oyster Aquaculture	N/A	-
1.5 Rural Lands	N/A	-
2. Environment and Heritage		
2.1 Environment Protection Zones	N/A	-
2.2 Coastal Protection	Yes	The proposed reclassification for the boundary adjustment will not impact upon the provisions of the NSW Coastal Policy, Coastal Design Guidelines 2003, or the NSW Coastline Management Manual.
2.3 Heritage Conservation	N/A	-
2.4 Recreation Vehicle Area	N/A	-
3. Housing, Infrastructure and Urban Development		
3.1 Residential zones	Yes	The reclassification of this planning proposal will allow for a boundary adjustment to facilitate future residential development in the subject area. It is considered to be of minor significance and that the planning proposal is consistent with the objectives of this ministerial direction.

Planning Proposal's assessment against Ministerial Directions

Ministerial Direction	Applicable	Consistency
3.2 Caravan Parks and Manufactured Home Estates	N/A	-
3.3 Home Occupations	N/A	-
3.4 Integrating Land Use and Transport	Yes	It is considered that the proposed reclassification outlined within the planning proposal is of minor significance and consistent with the objectives of this ministerial direction.
3.5 Development Near Licensed Aerodromes	N/A	-
3.6 Shooting Ranges	N/A	-
4. Hazard and Risk		
4.1 Acid Sulfate Soils	Yes	The subject site is identified as Class 2 within the Lake Macquarie Acid Sulfate Soils Planning Map. Any future development on this site would need to be aware of this constraint and address the requirements of Clause 7.1 of the LMLEP 2014.
4.2 Mine Subsidence and Unstable Land	Yes	The subject site is identified within a Mine Subsidence District. Consultation with the Mine Subsidence Board will be undertaken following receipt of the Gateway Determination to comply with the requirements of this direction.
4.3 Flood Prone Land	N/A	The subject site is identified as Flood Prone land. This is not surprising as the subject land is a Drainage Reserve. The reclassification is to enable a boundary adjustment and is considered to be of a minor significance. Any future development on the new residential lot would need to be aware of this constraint and address the requirements of Clause 7.3 of the LMLEP 2014.
4.4 Planning for Bushfire Protection	N/A	-

Planning Proposal's assessment against Ministerial Directions

Ministerial Direction	Applicable	Consistency
5. Regional Planning		
5.1 Implementation of Regional Strategies	Yes	The Lower Hunter Regional Strategy applies to the site. The strategy has been addressed within Part 3 – Section B (4) of the Planning Proposal.
5.2 Sydney Drinking Water Catchments	N/A	-
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	N/A	-
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	N/A	-
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	N/A	-
5.6 Sydney to Canberra Corridor	N/A	-
5.7 Central Coast	N/A	-
5.8 Second Sydney Airport: Badgerys Creek	N/A	-
5.9 North West Rail Link Corridor Strategy	N/A	-
6. Local Plan Making		
6.1 Approval and Referral Requirements	Yes	It is considered that the planning proposal is consistent with the objectives of this ministerial direction.
6.2 Reserving Land for Public Purposes	N/A	The site the subject of the Planning Proposal, is dedicated as Drainage Reserve.
6.3 Site Specific Provisions	N/A	The reclassification included within the Planning Proposal will not change the zone of the site or the land surrounding the subject site. No site specific provisions or development standards in addition to those already contained within the LEP will be

Planning Proposal's assessment against Ministerial Directions

Ministerial Direction	Applicable	Consistency
applied.		
7. Metropolitan Planning		
7.1 Implementation of the Metropolitan Plan for Sydney 2036	N/A	-

ANNEX D – COUNCIL RESOLUTIONS

15STRAT012 Reclassification Request Amendment - Lake Macquarie Local Environmental Plan 2014 - Boolaroo

Council Ref: F2014/00781 - D07275469
Report By: Statutory Property Officer - Joanne Marshall

Précis:

Council (under delegation) has provided Development Consent for a residential land subdivision at 1A Main Road Boolaroo (Lot 1 DP 1183441) and a boundary adjustment is required in respect to the existing Drainage Reserve located at 2C T C Frith Avenue Boolaroo (Lot 2 DP 1183441). The boundary adjustment will enable a land exchange, a better layout of the adjoining subdivision and works to be undertaken to the Drainage Reserve as part of the land subdivision. The Drainage Reserve is classified Community Land and before the land exchange can take place, the section of land to be exchanged needs to be reclassified to Operational Land.

Recommendation:

- A. Council authorises the commencement of action to prepare a Planning Proposal, as follows:
 - i) Reclassification of part of Lot 2 DP 1183441 (2C T C Frith Avenue Boolaroo) from Community Land to Operational Land for the purpose of a boundary adjustment as indicated on Attachment 1;
 - ii) Classification of part of Lot 1 DP 1183441 (1A Main Road Boolaroo) to Community Land for the purpose of a boundary adjustment.
- B. Council authorises the notification of Council's resolution, and submits a Planning Proposal pursuant to section 55 of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979), to the Department of Planning & Environment (DoPE).
- C. Upon receipt of DoPE's Gateway Determination under section 56 of the EP&A Act 1979, and in accordance with DoPE's direction, Council authorises the exhibition of the Planning Proposal.
- D. Council authorises notification of the public hearing, in a local newspaper, in accordance with section 29 of the Local Government Act 1993 (LG Act 1993).
- E. If no submissions are received in respect to C and D above, and no variations are proposed, then the Planning Proposal shall be submitted to the Minister in accordance with section 59 of the Environmental Planning and Assessment Act 1979.
- F. If submissions are received in respect to C and D above, then a further report to Council shall be submitted to consider such submissions.

Background:

In April 2014, Council was approached by Environmental Property Services Pty Ltd (EPS) acting for the current owner of land (1A Main Road Boolaroo), which adjoins the subject land (2C T C Frith Avenue), owned by Council.

EPS had prepared a subdivision plan for the subdivision of their adjoining land, being Lot 1 DP 1183441 with the plan showing a road and a lot over the Council-owned drainage

reserve (Lot 2 DP 1183441). Discussions were held and it was agreed that a boundary adjustment would be undertaken to adjust the boundary of the Drainage Reserve, wherein a land exchange would be facilitated. The boundary adjustment would enable the Developer to rationalise the road configuration enabling the road and housing lot, in exchange Council would receive additional land along the T C Frith Avenue frontage for incorporation into the Drainage Reserve. Given that the land was originally dedicated to Council by the applicant at no cost to Council, this course of action seemed reasonable. Council signed the Development Application (DA) to allow the DA to be lodged over its land. The DA was approved by Council (under delegation) on 2 September 2014 (DA/442/2014).

It has now come to Council's attention that the boundary adjustment cannot be facilitated as the Drainage Reserve (Lot 2 DP 1183441) is classified as Community Land. Pursuant to section 45 of the LG Act 1993 Council has no power to sell, exchange or otherwise dispose of community land and accordingly the land needs to be reclassified to Operational Land. The land was classified as Community at the time of dedication in March 2013 as it was intended to be used as a drainage reserve. This use still remains with the proposed boundary realignment. In order to allow the development to continue in its current form, that part of the drainage reserve to be exchanged, as shown on Attachment 1, at 2C TC Frith Avenue Boolaroo (Lot 2 DP 1183441) needs to be reclassified as Operational Land.

Proposal:

Council has provided DA approval for a land subdivision on the adjoining land (Lot 1 DP 1183441) and a boundary adjustment is required in respect to the existing Drainage Reserve (Lot 2 DP 1183441). The boundary adjustment will enable a land exchange, a better layout of the adjoining subdivision and works to be undertaken to the Drainage Reserve as part of the land subdivision. The Drainage Reserve is classified Community Land and before the land exchange can take place, the section of land to be exchanged needs to be reclassified to Operational Land.

Approval is being sought for reclassification of the land from Community Land to Operational Land to facilitate a boundary adjustment.

Consultation:

No objections have been raised to the proposed reclassification from the relevant Council officers:

- Principal Development Engineer
- Coordinator – Social & Community Planning
- Ecosystem Enhancement Coordinator
- Coordinator – Recreation & Land Planning
- Environmental Planner
- Senior Development Planner
- Senior Strategic Landuse Planner
- Development Planner – Flora & Fauna
- Chief Subdivision Engineer

Implications:

Policy Implications:

The proposals are generally consistent with relevant State Environmental Planning Policies; section 117(2) Ministerial Directions and the Lower Hunter Regional Plan. No significant issues or areas of concern have been identified.

Environmental Implications:

The site and surrounding land has previously been identified as significantly contaminated land and remediation works have taken place. A Site Audit Statement has now been issued by the NSW Environment Protection Authority stating that the land is now suitable for residential use.

Due to the remediation works the land is clear of all vegetation and ground cover. Lot 2 DP 1183441 (2C T C Frith Avenue Boolaroo) contains a drainage basin which currently contains water.

Due to the small-scale nature of the proposed reclassification, Council officers consider it unnecessary to prepare an environmental study under section 57 of the EP&A Act 1979.

Social Implications:

No social impacts are envisaged to result from the change in classification given:

- The site is vacant and is currently being used as a drainage reserve, which will continue;
- The proposed land exchange will enable a better layout of the adjoining land subdivision; and
- The proposed boundary adjustment will enable a land exchange giving the community approximately the same amount of open space within the locality.

Infrastructure Asset Implications:

The reclassification and subsequent land exchange will negate the requirement for further maintenance of that land. The land is currently vacant and contains a drainage basin which is in a current maintenance schedule. Eventually maintenance responsibility for the drainage infrastructure will pass to Council.

Financial Implications:

The land was originally dedicated to Council by the applicant at no cost to Council. During the Development Application stage, it was agreed that a boundary adjustment would be undertaken to adjust the boundary of the Drainage Reserve, wherein a land exchange would be facilitated.

The administrative costs of the reclassification will be shared (50%) with the adjoining owner.

Risk and Insurance Implications:

If Council proceeds with the reclassification and subsequent land exchange then the subdivision on the adjoining land can take place as approved, and there would be no risks to Council.

The level of risk associated with the preparation of a Planning Proposal is minimised by following due process as established by the Environmental Planning & Assessment Act 1979, the Local Government Act 1993, the Environmental Planning and Assessment Regulation 2000, and Council's Procedure Document, Amending LMLEP to Reclassify Land. This action is covered by Council's professional indemnity insurance as a standard activity.

If the reclassification does not proceed then the land exchange would not be possible. The adjoining owner would then need to revise their subdivision plan, requiring a new Development Application to be submitted with additional costs and time associated with this process.

Options:

1. To proceed as recommended and commence preparation of a Planning Proposal. This option is favoured as it will enable the boundary adjustment and land exchange to occur, and will result in a better layout of the adjoining subdivision.
2. To do nothing. This option is not favoured as this may expose Council to risk. the adjoining owner would then need to revise their subdivision plan, requiring a new Development Application to be submitted with additional costs and time associated with this process.

Conclusion:

It is considered appropriate to reclassify the existing Drainage Reserve located at 2C T C Frith Avenue Boolaroo (Lot 2 DP 1183441) to Operational Land to enable a boundary adjustment for a land exchange to occur. This will result in a better layout of the adjoining residential subdivision at 1A Main Road Boolaroo (Lot 1 DP 1183441).

Manager Property & Business Development – Kate Cramp

Council Minute Item

Action

City Strategy Committee

9/02/2015

TRIM Ref: D07275469

Subject: Reclassification Request Amendment - Lake Macquarie Local Environmental Plan 2014 - Boolaroo

Date to be Completed by: 23/02/2015

Instructions to User

This TRIM action is assigned to you to complete. Record all actions taken in TRIM using InfoCouncil's process to add a note, and then complete the TRIM action via InfoCouncil.

Council Decision:

12

Moved. Cr. W Harrison

Seconded. Cr. Langford

- A. Council authorises the commencement of action to prepare a Planning Proposal, as follows:
- i) Reclassification of part of Lot 2 DP 1183441 (2C T C Frith Avenue Boolaroo) from Community Land to Operational Land for the purpose of a boundary adjustment as indicated on Attachment 1;
 - ii) Classification of part of Lot 1 DP 1183441 (1A Main Road Boolaroo) to Community Land for the purpose of a boundary adjustment.
- B. Council authorises the notification of Council's resolution, and submits a Planning Proposal pursuant to section 55 of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979), to the Department of Planning & Environment (DoPE).
- C. Upon receipt of DoPE's Gateway Determination under section 56 of the EP&A Act 1979, and in accordance with DoPE's direction, Council authorises the exhibition of the Planning Proposal.
- D. Council authorises notification of the public hearing, in a local newspaper, in accordance with section 29 of the Local Government Act 1993 (LG Act 1993).
- E. If no submissions are received in respect to C and D above, and no variations are proposed, then the Planning Proposal shall be submitted to the Minister in accordance with section 59 of the Environmental Planning and Assessment Act 1979.
- F. If submissions are received in respect to C and D above, then a further report to Council shall be submitted to consider such submissions.

In accordance with Section 375A of the Local Government Act 1993 a division took place.

For the Motion

Cr. Fraser
Cr. Johnston
Cr. Coghlan
Cr. Adamthwaite
Cr. Denton
Cr. Griffith
Cr. Langford

Against the Motion

Cr. Pauling
Cr. Paxinos
Cr. W Harrison
Cr. J Harrison
Cr. Dawson
(carried)

(Carried)

End

*The minutes of City Strategy Committee on 9/02/2015 is located in TRIM folder titled
'GOVERNANCE - COUNCIL MEETINGS - Minutes and Agenda - Council Agendas & Minutes -
PDF Version'*

15STRAT045 Proposed Reclassification of 2C T C Frith Avenue Boolaroo

Council Ref: F2015/00510 – D07434552

Report By: Statutory Property Officer – Joanne Marshall

Précis:

Council has recently provided Development Approval for a land subdivision of 1A Main Road Boolaroo (Lot 1 DP 1183441) which adjoins Council owned land known as 2C T C Frith Avenue Boolaroo (Lot 2 DP 1183441). As a result, of the Development Approval, a boundary adjustment is required in respect to the existing Drainage Reserve located on 2C T C Frith Avenue (Lot 2 DP 1183441). The boundary adjustment will enable a land exchange, a better layout of the adjoining subdivision and works to be undertaken to the Drainage Reserve as part of the land subdivision.

To facilitate the above, Council resolved at its meetings on 9 February 2015 to commence action to prepare a draft Local Environmental Plan to reclassify part of the Council owned site, known as 2C T C Frith Avenue Boolaroo. A Planning Proposal was submitted to the Department of Planning and Environment on 9 February 2015 and a Gateway Determination was issued on 4 March 2015. Council has subsequently placed the Planning Proposal on public exhibition and a public hearing was held on 2 June 2015.

Council's consent is now required to finalise the reclassification of this parcel of land.

Recommendation:

- A. Council authorises the submission of the final Planning Proposal (Attachment 3), including any necessary minor amendment, to the Department of Planning and Infrastructure, under section 59 of the Environmental Planning and Assessment Act 1979, and requests the Department to instruct Parliamentary Counsel to prepare the legal instrument.
- B. Concurrently, Council requests the Minister for Planning to make the Boolaroo Amendment to the Lake Macquarie Local Environmental Plan 2014, in accordance with the final Planning Proposal.
- C. Upon completion of A & B above, Council places notification in the Government Gazette for the Classification of part of Lot 1 DP 1183441 (1A Main Road Boolaroo) to Community Land for the purpose of a boundary adjustment.

Background:

Council resolved at its meeting 9 February 2015 to commence action to prepare a draft Local Environmental Plan to reclassify part of the land at Lot 2 DP 1183441 (2C T C Frith Avenue Boolaroo).

A Planning Proposal was submitted to the Department of Planning & Environment (DoPE) on 9 February 2015, who then issued a Gateway Determination (advising that the Planning Proposal may proceed) on 4 March 2015. The Gateway Determination required that the classification of Part Lot 1 DP 1183441 (1A Main Road Boolaroo) be removed from the planning proposal as this classification does not require an amendment to the LEP.

The Gateway Determination also required the Planning Proposal to be exhibited for a period of 28 days under Sections 56(2)(c) and 57 of the Environmental Planning & Assessment Act 1979 (EP&A Act), as well as consultation with the Mine Subsidence Board under Section 56(2)(d) of the EP&A Act.

In accordance with Section 29 of the Local Government Act 1993 (LG Act), a public hearing was held on 2 June 2015.

After satisfying the requirements of the Gateway Determination and the requirements of the LG Act, the Planning Proposal along with details of the public submission, is now provided to Council to determine whether support for the proposed reclassification is granted. This decision will then be forwarded to DoPE under section 59 of the EP&A Act and if authorised, the legal instrument known as the Boolaroo Amendment will be made by the Minister for Planning.

Proposal:

Council has recently provided Development Approval for a land subdivision of 1A Main Road Boolaroo (Lot 1 DP 1183441) which adjoins Council owned land known as 2C T C Frith Avenue Boolaroo (Lot 2 DP 1183441). As a result of the Development Approval, a boundary adjustment is required in respect to the existing Drainage Reserve located on 2C T C Frith Avenue (Lot 2 DP 1183441). The boundary adjustment will enable a land exchange, a better layout of the adjoining subdivision and works to be undertaken to the Drainage Reserve as part of the land subdivision.

The Drainage Reserve is classified Community Land and before the land exchange can take place, the section of land to be exchanged needs to be reclassified to Operational Land.

Approval is sought for reclassification of the land from Community Land to Operational Land to facilitate a boundary adjustment.

Consultation:

Consultation with Public Authorities/Groups

The following public authorities/groups have been consulted – Mine Subsidence Board, and Awabakal Aboriginal Land Council.

No objections were received in relation to the Planning Proposal (See Annex E of Planning Proposal).

Exhibition

The proposal was placed on public exhibition from 21 March to 24 April 2015 with no submissions being received.

Public Hearing

A public hearing was held on 2 June 2015. No members of the public attended the hearing.

The independent facilitator's report prepared for the Public Hearing is included as Attachment 4 to this report.

Implications:

Policy Implications:

The proposal has been assessed against relevant State Environmental Planning Policies, Section 117(2) directions and the Lower Hunter Regional Strategy 2006. No unjustified

inconsistencies have been identified. Details of the consideration are included within the Planning Proposal in Attachment 3.

The proposal is also consistent with the Lake Macquarie Local Environmental Plan 2014, Lifestyle 2030 Strategy and the Lower Hunter Regional Strategy. The proposal will not impact upon heritage items.

Environmental Implications:

The site and surrounding land has previously been identified as contaminated land and remediation works have taken place. A Site Audit Statement has been issued by the NSW Environment Protection Authority stating that the land is now suitable for residential use.

Due to the remediation works, the land is clear of all vegetation and ground cover. Lot 2 DP 1183441 (2C T C Frith Avenue Boolaroo) contains a drainage basin, which currently contains water.

Due to the small-scale nature of the proposed reclassification, Council considers it unnecessary to prepare any environmental studies that may be required under Section 54(3) of the EP&A Act 1979. The land is devoid of vegetation and no adverse environmental effects are anticipated.

Social Implications:

No social impacts are envisaged to result from the change in classification given:

- The site is vacant and is currently being used as a drainage reserve, which will continue;
- The proposed land exchange will enable a better layout of the adjoining residential land subdivision; and
- The proposed boundary adjustment will enable a land exchange giving the community approximately the same amount of open space within the locality.

Infrastructure Asset Implications:

The land is currently vacant and contains a drainage basin, which is in a current maintenance schedule. This will continue once the land exchange has occurred.

The land was originally dedicated to Council by the applicant at no cost to Council. During the Development Application stage, it was agreed that a boundary adjustment would be undertaken to adjust the boundary of the Drainage Reserve, wherein a land exchange would be facilitated.

The administrative costs of the reclassification will be shared (50%) with the adjoining owner.

Risk and Insurance Implications:

If Council proceeds with the reclassification and subsequent land exchange then the subdivision on the adjoining land can take place as approved, and there would be no risks to Council.

The level of risk associated with the preparation of a Planning Proposal is minimised by following due process as established by the Environmental Planning & Assessment Act 1979, the Local Government Act 1993, the Environmental Planning and Assessment Regulation 2000, and Council's Procedure Document, Amending LMLEP to Reclassify Land. This action is covered by Council's professional indemnity insurance as a standard activity.

If the reclassification does not proceed then the land exchange would not be possible. The adjoining owner would then need to revise their subdivision plan, requiring a new Development Application to be submitted with additional costs and time associated with this process.

Options:

3. To proceed as recommended. This option is favoured, as no warranted objection to the proposal has been received.
4. To not proceed. This option is not favoured as this may expose Council to risk. The adjoining owner would then need to revise their subdivision plan, requiring a new Development Application to be submitted with additional costs and time associated with this process.

Conclusion:

It is considered appropriate to reclassify the part of the existing Drainage Reserve located on 2C T C Frith Avenue Boolaroo (Lot 2 DP 1183441) to Operational Land to enable a boundary adjustment for a land exchange to occur. This will result in a better layout of the adjoining residential subdivision at 1A Main Road Boolaroo (Lot 1 DP 1183441).

Council Minute Item

Action

City Strategy Committee

13/07/2015

TRIM Ref: D07434552

Subject: Proposed Reclassification of 2C T C Frith Avenue Boolaroo

Date to be Completed by: 27/07/2015

Instructions to User

This TRIM action is assigned to you to complete. Record all actions taken in TRIM using InfoCouncil's process to add a note, and then complete the TRIM action via InfoCouncil.

Council Decision:

47

Moved. Cr. Wallace

Seconded. Cr. W Harrison

- A. Council authorises the submission of the final Planning Proposal (Attachment 3), including any necessary minor amendment, to the Department of Planning and Infrastructure, under section 59 of the Environmental Planning and Assessment Act 1979, and requests the Department to instruct Parliamentary Counsel to prepare the legal instrument.
- B. Concurrently, Council requests the Minister for Planning to make the Boolaroo Amendment to the Lake Macquarie Local Environmental Plan 2014, in accordance with the final Planning Proposal.
- C. Upon completion of A & B above, Council places notification in the Government Gazette for the Classification of part of Lot 1 DP 1183441 (1A Main Road Boolaroo) to Community Land for the purpose of a boundary adjustment.

In accordance with Section 375A of the Local Government Act 1993 a division took place.

For the Motion

Cr. Fraser
Cr. Wallace
Cr. Coghlan
Cr. Adamthwaite
Cr. Denton
Cr. Griffith
Cr. Langford
Cr. Pauling
Cr. W Harrison
Cr. J Harrison
Cr. Dawson

Against the Motion

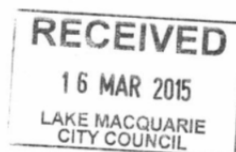
(Carried)

End

The minutes of City Strategy Committee on 13/07/2015 is located in TRIM folder titled 'GOVERNANCE - COUNCIL MEETINGS - Minutes and Agenda - Council Agendas & Minutes - PDF Version'

ANNEX E – COMMUNITY CONSULTATION SUBMISSIONS

In reply please send to: Newcastle District Office
Our reference: FN01-09467L0 PG.VS
Your reference: F2014/00781
Contact: Paul Gray (02) 4908 4356



ABN: 87 445 348 918

NEWCASTLE

Ground Floor
NSW Government Offices
117 Bull Street
Newcastle West 2302
PO Box 488G Newcastle 2300
Telephone: (02) 4908 4300
Facsimile: (02) 4929 1032
DX 4322 Newcastle West

PICTON

100 Argyle Street
Picton 2571
PO Box 40 Picton 2571
Telephone: (02) 4677 1967
Facsimile: (02) 4677 2040
DX 26053 Picton

SINGLETON

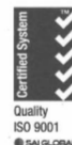
The Central Business Centre
Unit 6, 1 Pitt Street
Singleton 2330
PO Box 524 Singleton 2330
Telephone: (02) 6572 4344
Facsimile: (02) 6572 4504

WYONG

Suite 3 Feldwin Court
30 Hely Street
Wyong 2259
PO Box 157 Wyong 2259
Telephone: (02) 4352 1646
Facsimile: (02) 4352 1757
DX 7317 Wyong

HEAD OFFICE

PO Box 488G
Newcastle 2300
Telephone: (02) 4908 4395
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Email
mail@minesub.nsw.gov.au

Web
www.minesub.nsw.gov.au

24 Hour
Emergency Service
Free Call 1800 248 083

General Manager
Lake Macquarie City Council
Box 1906
HRMC NSW 2310

12 March 2015

Dear Madam

REZONING APPLICATION NO TENQ15-12492L1
LOT 2 DP 1183441 NO 2C T C FRITH AVE BOOLAROO

The Mine Subsidence Board has no objections to the proposed rezoning as described in your letter of 9th March 2015 and accompanying plan.

The applicant should be advised to seek the Board's approval for any proposed subdivision or the erection of improvements at the appropriate time.

Yours faithfully

Paul Gray
for Ian Bullen
Acting District Manager

T 14 (Auto) Nov 2001

PUTTING SERVICE AND THE NEEDS OF PEOPLE FIRST

ANNEX F – CHANGES TO SCHEDULE 4 OF LAKE MACQUARIE LOCAL ENVIRONMENTAL PLAN 2014

Lake Macquarie Local Environmental Plan 2014

Schedule 4 Classification and reclassification of public land

(Clause 5.2)

Part 1 Land classified, or reclassified, as operational land—no interests changed

Column 1	Column 2
Locality	Description

Part 2 Land classified, or reclassified, as operational land—interests changed

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged
Boolaroo		
2c T C Frith Avenue	Part Lot 2 DP 1183441	Nil

Part 3 Land classified, or reclassified, as community land

Column 1	Column 2
Locality	Description
Nil	

Michael Murray and Associates Pty Ltd

Public Hearing Report

Reclassification of Community Land

Tuesday 2nd June 2015

**Lake Macquarie City Council Administration Centre
Committee Room**

Michael Murray & Associates
4 Kanwary Close
Raymond Terrace NSW 2324

Phone: 0419 638344

Email: mm@mmurray.com.au

Background

A public hearing was conducted in the Committee Room at Lake Macquarie City Council Administration Centre on Tuesday 2nd June 2015, to enable members of the community to express, and have recorded their views on the proposal to reclassify the following parcel of land from Community to Operational Land:

- 2c TC Frith Avenue Boolaroo (Part Lot 2 DP 1183441)

The public hearing had been advertised by Council in the local press in accordance with regulatory requirements.

Attendance

The hearing was attended by Council staff members Joanne Marshall, Statutory Property Officer, Colin Bartley, Community Land Planner (Lake & Facilities), Kate Davies, Media PR Coordinator, Michelle Shepherd, Coordinator Property Services, Jonathon Sjostedt, Trainee Planner, and the independent facilitator, Michael Murray.

There were no members of the public in attendance to provide feedback on this proposal.

The Process

The Hearing was formally opened at the due start time of 6.00pm. There were no members of the public in attendance and the Hearing was formally terminated at 6.20pm.

The Feedback

No feedback was received in relation to this proposal.

Conclusion

I am satisfied as the independent facilitator of the hearing that the hearing was advertised in accordance with the legal requirements and confirm that there were no members of the community in attendance to provide feedback on this proposal.

The meeting closed at 6.20pm.



Michael Murray
Managing Director, Michael Murray & Associates
4th June 2015

Deposited Plan DP 1183441



BOX 1W
(DP1183441)



NEW SOUTH WALES
CERTIFICATE OF TITLE

REAL PROPERTY ACT, 1900



TITLE NUMBER	
2/1183441	
SECTION	DATE OF ISSUE
1	7/3/2013
REGISTERED INSTRUMENT CODE	
D3HP-V5-R96P	

ANY ATTEMPT TO ALTER THIS CERTIFICATE WILL BE A CRIMINAL OFFENCE UNDER THE REAL PROPERTY ACT.

I certify that the person described in the First Schedule is the registered proprietor of an estate in fee simple (or such other estate or interest as is set forth in the Schedule) in the land within described subject to such exceptions, encumbrances, interests and rights as appear in the Second Schedule and in any additional entries in the Folio of the Register.

REGISTRAR GENERAL



LAND

LOT 2 IN DEPOSITED PLAN 1183441

AT BOCLAROO.

LOCAL GOVERNMENT AREA: LAKE MACQUARIE.

PARISH OF KAHLEAH COUNTY OF NORTHUMBERLAND

TITLE DIAGRAM: DP1183441

FIRST SCHEDULE

LAKE MACQUARIE CITY COUNCIL

SECOND SCHEDULE

1. RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
2. LAND IS DEDICATED AS A DRAINAGE RESERVE
3. A188530 LAND EXCLUDES MINERALS AND IS SUBJECT TO RIGHTS TO MINE

**** END OF CERTIFICATE ****

WARNING: BEFORE DEALING WITH THIS LAND, SEARCH THE CURRENT FOLIO OF THE REGISTER

4851970