

**Amendment to the
Newcastle Local Environmental Plan 2003**

**Reclassification of land
from Community to Operational**

6 Frances Street, Wallsend

Contents

Part 1	Objectives or intended outcomes	2
Part 2	Explanation of provisions	2
Part 3	Justification	2
Part 4	Community Consultation	7
Map 1	Proposed classification	8
Map 2	Current zoning.....	9
Map 3	Location.....	10
Map 4	Aerial	11
Table 1	Consideration of State Environmental Planning Policies	12
Table 2	117 Directions	15
Table 3	Public Lands Reclassification Policy adopted 1 June 2000	18
Table 4	LEP Practice Note: PN09-003.....	20

Part 1 - Objectives or Intended Outcomes

To reclassify part of 6 Frances Street, Wallsend (the subject site) from community to operational land (**Map 1**) to enable Council the option of selling the site.

Part 2 - Explanation of Provisions

It is proposed to insert the following provision into Schedule 5- 'Classification and reclassification of public land as operational land', Part 3- 'Land classified or reclassified under amendment section 30 of Local Government Act 1993- interest not changed' of the Newcastle LEP 2003;

'Part Lot 1 DP 552405 known as 6 Frances Street, Wallsend, as shown edged heavy black on the map marked "Newcastle Local Environmental Plan 2003 (Amendment No 10)". '

Part 3 – Justification

Section A - Need for the planning proposal.

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

The planning proposal is not a result of any strategic study or report. The reclassification of the land is proposed to allow Council the option of selling the land in the future.

It would appear from Council records that the subject site was originally intended to be classified as operational. The property register states that when the land was resumed by Council by gazettal in 1971, it was acquired for the 'purpose of improving and embellishing the area and selling the whole or any portion of such land in one or more lots'. This indicates that the land should have been classified as operational however, in 1993 when Council was required to classify all Council owned land, the land was not classified at the time. As such, the land reverted to Community land by default.

The subject site is zoned 4(a) Urban Services and is currently not used for any community uses. In order for Council to have greater options in the management of the subject site it is proposed to reclassify the subject site as operational.

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

Amending the Newcastle Local Environmental Plan (LEP) 2003 to reclassify the subject land from community to operational is the best means of achieving the objectives of the planning proposal. Reclassifying the land to operational will allow Council greater options in the management of the site. Reclassification will also allow the site to be potentially utilised for employment generating activities consistent with the objectives of the current 4 (a) Urban Services zone.

Consideration was given to deferring the planning proposal as part of the Comprehensive Newcastle LEP to be gazetted in 2011. However, as the proposed instrument is a 'straight' conversion of existing zones consistent with the Standard

Instrument, it is considered appropriate to continue preparation of reclassification of land separately so the Comprehensive LEP timeframes can be met.

3. *Is there a net community benefit?*

A document addressing significant public interest issues and a community benefit assessment has been prepared in accordance with *Newcastle City Council Public Land Reclassification Policy (table 3)*. These tables show that there are no significant public interests on the land, and that there will be a net positive benefit for the community if the land was reclassified.

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 the Sydney Metropolitan Strategy and exhibited draft strategies)?*

The Lower Hunter Regional Strategy is Council's relevant Regional Strategy as set out by the Department of Planning. The strategy identifies a need for future commercial and industrial land to provide an additional 66,000 jobs in the Lower Hunter by 2031. The subject land is currently zoned as 4 (a) Urban Services. Reclassifying the site to operational will allow the site to be sold and developed for appropriate employment generating uses which are permissible in the 4 (a) Urban Services zone.

It is considered the planning proposal is consistent with the Lower Hunter Regional Strategy, particularly with the following actions:

"Ensure sufficient employment lands are available in appropriate locations, including within centres and as traditional industrial land, to provide sufficient capacity to accommodate growth in existing and emerging industries and businesses."

If the sale of the subject site takes place it is proposed that the site will be developed for employment purposes, thereby providing economic and employment benefits to the Wallsend area, in accordance with the Lower Hunter Regional Strategy.

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

The Newcastle Urban Strategy is Council's local strategic planning document. The Newcastle Urban Strategy states that the aim of Newcastle Urbanism 'is to provide greater access to housing, employment, transport and social and cultural services'. The proposed reclassification will allow employment activities to be carried out near housing and transport infrastructure, located near Sandgate and Minmi Road.

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

The planning proposal is consistent with State Environmental Planning Policies (Table 1).

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

The planning proposal is consistent with Section 117 directions (**Table 2**).

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 is not identified as containing threatened species, critical habitat, ecological communities or their habitat. The subject site is cleared (photo 1) and according to Council's property data does not contain any significant vegetation. Reclassifying the land will not impact on any critical habitat or threatened species on the subject property or in surrounding areas.



Photo 1: The subject site from Sandgate Road.

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

Subsequent development of the site for employment generating purposes resulting from the reclassification and any potential sale may result in minor environmental impacts to surrounding areas.

Acid Sulfate soils

The subject land is classified as Class 3 on the 'Potential Acid Sulfate Soils Planning Map'. The classification of the land within the Class 3 category will not impact upon the proposed reclassification as no construction is proposed. Any future development projects would need to be aware of the acid sulfate soil classification and requirement for preparation of an acid sulfate soil management plan in accordance with Clause 25 of the Newcastle Local Environmental Plan 2003.

Contamination

The subject land was used as a rail corridor and subsequent filling of the land in the intervening years suggests the lot may be potentially contaminated. The contamination status of the lot will not impinge on the proposed reclassification of the land. Any future development projects need to meet the requirements for potential remediation in accordance with Element 4.2 of the Newcastle Development Control Plan 2005.

Stormwater Drainage

The subject site adjoins a transitional area for stormwater drainage. The transition encompasses both a concrete stormwater channel and a softer-type soil/land channel. The reclassification of the parcel of land to operational land will allow future development to encroach closer to the stormwater channel/creekline. The encroachment of future development near the channel/creekline has the potential to decrease water quality within the stormwater system which drains to a State Environment Planning Policy 14 (SEPP 14) – Coastal wetland. The impact on water quality within the creekline/channel and implementation of a riparian zone in accordance with Element 4.3 of the Newcastle DCP 2005 would be addressed as part of any future development application for the site. The reclassification of the land and potential sale will entail the loss of the land surrounding the channel/creekline and Council's potential opportunities to improve water quality within catchment, outside of the realms of any future development application

Flooding

Council's data has indicated that the subject site is flood prone. Reclassification of the site will not require any flood studies to be completed. However, based on present knowledge, any future Development Application would be required to contain conditions relating to flood risk management.

Bushfire

The subject land falls within a 100metre buffer zone around Bush Fire vegetation Category 1. The proponent of a development application would have to address the Requirements of The NSW Rural Fire Service *Guideline Bush Fire Prone Land Mapping* (Version 3 June 2006).

Additional studies are not required at this stage to support the reclassification as no development is proposed. Any future development which did occur would need to submit a development application and may need to provide further studies.

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

The reclassification may result in a loss of informal public open space; however, the subject site is zoned 4 (a) Urban Services and not 6(a) Open Space. The social impact of this has been deemed to be low as the current space does not contain any park equipment and is not suitable for recreational use in its current form.

Social effects have been considered and the subject site is not part of the proposed Newcastle Cycleway.

Reclassifying the subject land to operational will impact positively on Council financially as the subject site will be an asset which Council will have the potential to sell.

Section D - State and Commonwealth interests.

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

The planning proposal is seeking to reclassify the site and is not proposing additional development. The subject site is located near Minmi Road, a major road which will provide vehicular access to the area **(Photo 2)**. There is adequate public infrastructure for the proposal.



Photo 2: Minmi Road from the subject site.

12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

No consultation has been carried out at this stage. At this stage it is not proposed to consult with any State and Commonwealth Public Authorities, however, consultation will occur in accordance with the gateway determination.

Part 4 – Community Consultation

Council proposes that the planning proposal be exhibited in accordance with the requirements of section 57 of the EP&A Act 1979 and section 29 of the Local Government Act 1993.

It is proposed that the planning proposal will be placed on public exhibition for a minimum of 28 days as the proposal is to reclassify community land. Written notification of the community consultation will be provided in a local newspaper and on Councils website. In addition to this adjoining landowners will be notified in writing. The written notice will contain:

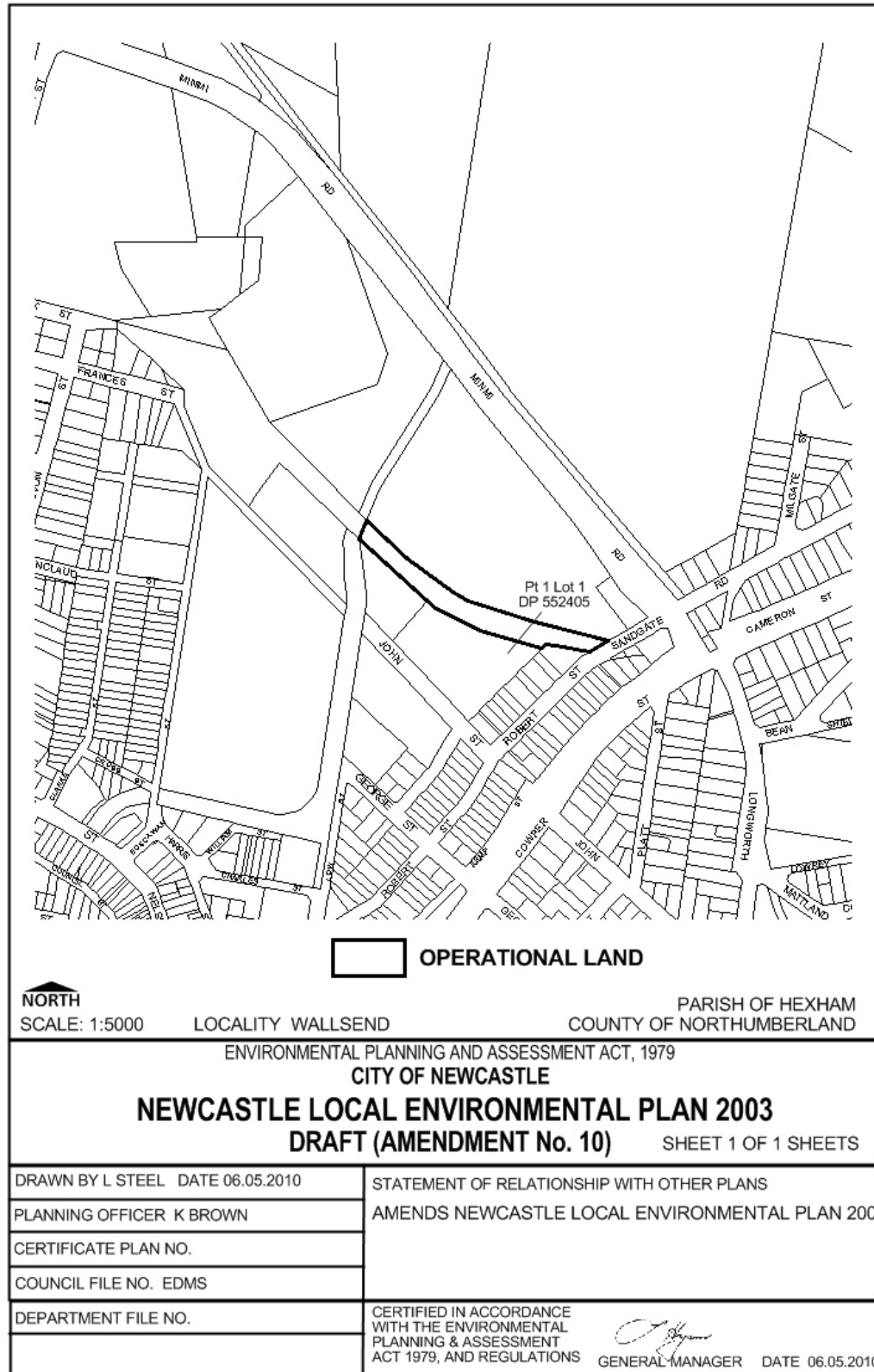
- a brief description of the intended outcomes of the planning proposal
- an indication of the land which is affected by the proposal
- information on where and when the planning proposal can be inspected
- the name and address of Council for the receipt of submissions and
- the closing date for submissions.

During the public exhibition period the following documents will be placed on public exhibition:

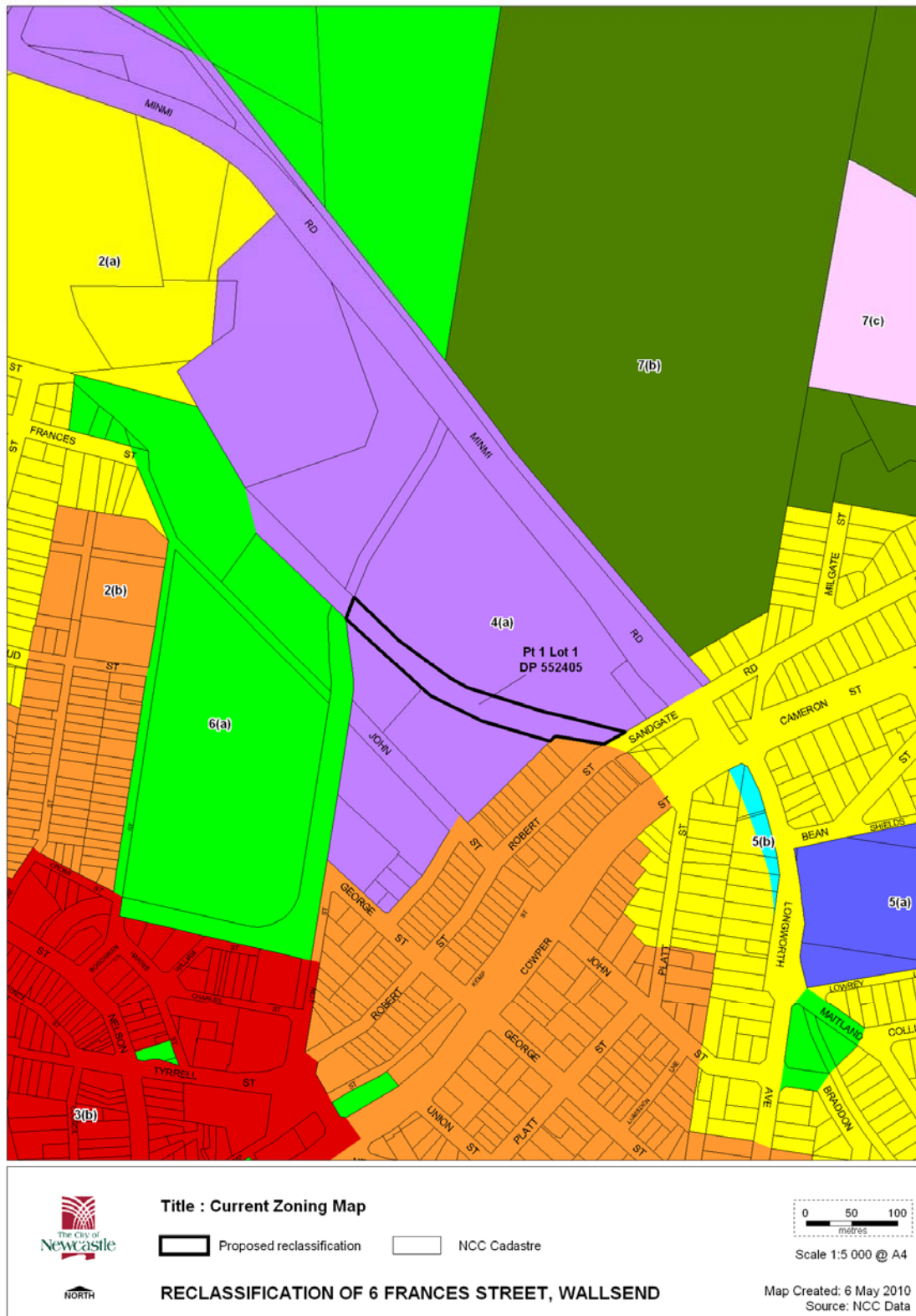
- the planning proposal
- the gateway determination
- the council report
- the LEP practice note: Classification and reclassification of land through a Local Environmental Plan (PN09-003) and
- any additional studies.

A public hearing will be required to be held as the planning proposal is reclassifying land from community to operational. In accordance with the Department of Planning Circular (PN09-003) the public hearing will be held after the close of the exhibition period. Public notice of the public hearing will be sent and published at least 21 days before the start of the public hearing.

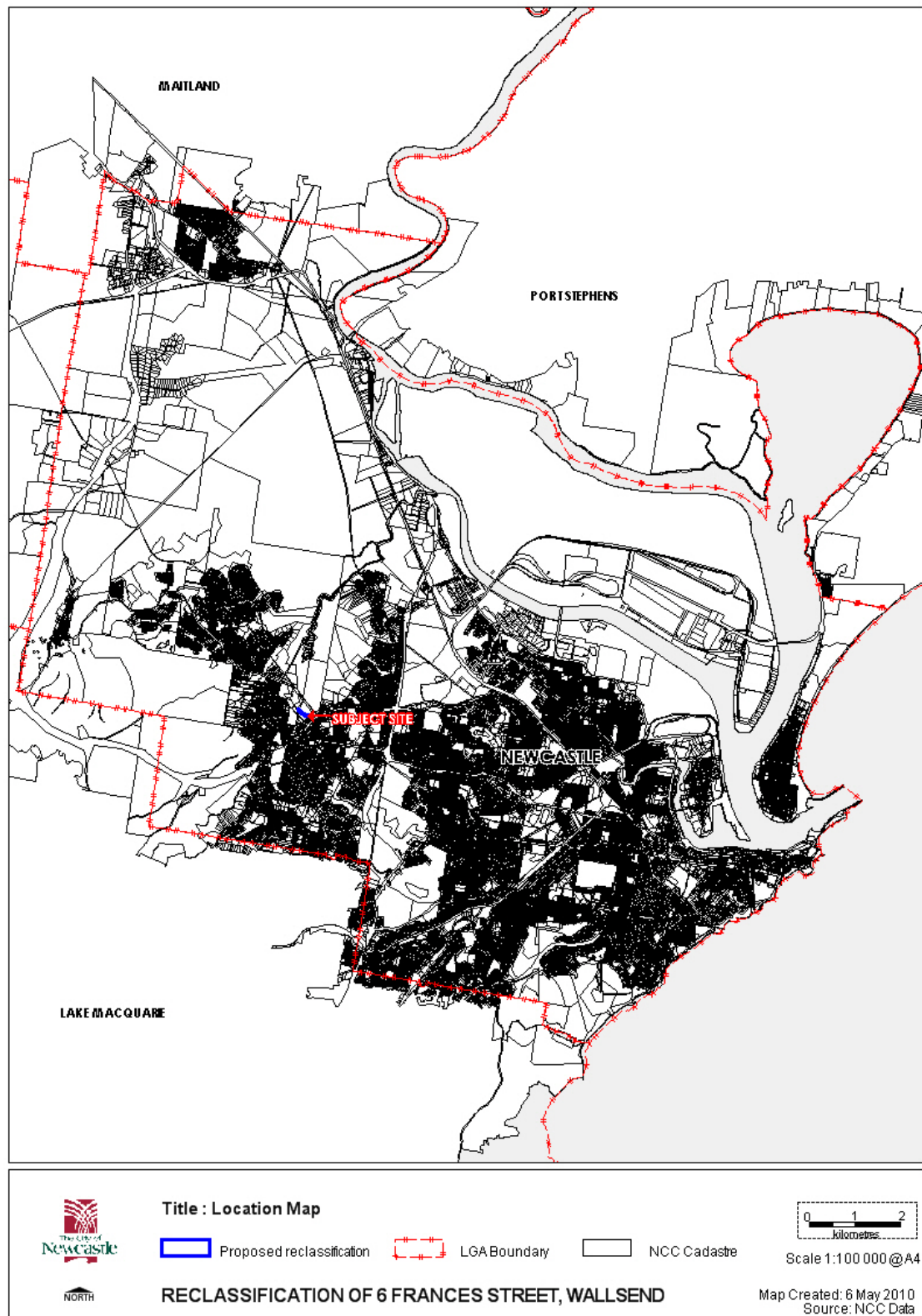
Map 1 - Proposed classification



Map 2 - current zoning



Map 3 - location



Map 4 - aerial



Table 1 - Consideration of State Environmental Planning Policies

	Applicable	Consistent	Reason for inconsistency
State Environmental Planning Policy No 1—Development Standards	No	n/a	
State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development	No	n/a	
State Environmental Planning Policy No 6—Number of Storeys in a Building	No	n/a	
State Environmental Planning Policy No 14—Coastal Wetlands	No	n/a	
State Environmental Planning Policy No 15—Rural Land sharing Communities	No	n/a	
State Environmental Planning Policy No 19—Bushland in Urban Areas	No	n/a	
State Environmental Planning Policy No 21—Caravan Parks	No	n/a	
State Environmental Planning Policy No 22—Shops and Commercial Premises	No	n/a	
State Environmental Planning Policy No 26—Littoral Rainforests	No	n/a	
State Environmental Planning Policy No 29—Western Sydney Recreation Area	No	n/a	
State Environmental Planning Policy No 30—Intensive Agriculture	No	n/a	
State Environmental Planning Policy No 32—Urban Consolidation (Redevelopment of Urban Land)	No	n/a	
State Environmental Planning Policy No 33—Hazardous and Offensive Development	No	n/a	
State Environmental Planning Policy No 36—Manufactured Home Estates	No	n/a	
State Environmental Planning Policy No 39—Spit Island Bird Habitat	No	n/a	
State Environmental Planning Policy No 41—Casino Entertainment Complex	No	n/a	
State Environmental Planning Policy No 44—Koala Habitat Protection	No	n/a	

	Applicable	Consistent	Reason for inconsistency
State Environmental Planning Policy No 47—Moore Park Showground	No	n/a	
State Environmental Planning Policy No 50—Canal Estate Development	No	n/a	
State Environmental Planning Policy No 52—Farm Dams and Other Works in Land and Water Management Plan Areas	No	n/a	
State Environmental Planning Policy No 53—Metropolitan Residential Development	No	n/a	
State Environmental Planning Policy No 55—Remediation of Land	No	n/a	
State Environmental Planning Policy No 59—Central Western Sydney Economic and Employment Area	No	n/a	
State Environmental Planning Policy No 60—Exempt and Complying Development	No	n/a	
State Environmental Planning Policy No 62—Sustainable Aquaculture	No	n/a	
State Environmental Planning Policy No 64—Advertising and Signage	No	n/a	
State Environmental Planning Policy No 65—Design Quality of Residential Flat Development	No	n/a	
State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)	No	n/a	
State Environmental Planning Policy No 71—Coastal Protection	No	n/a	
State Environmental Planning Policy (Affordable Rental Housing) 2009	No	n/a	
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	No	n/a	
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	No	n/a	
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	No	n/a	
State Environmental Planning Policy (Infrastructure) 2007	No	n/a	
State Environmental Planning Policy (Kosciuszko National Park—Alpine Resorts) 2007	No	n/a	

	Applicable	Consistent	Reason for inconsistency
State Environmental Planning Policy (Major Development) 2005	No	n/a	
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	No	n/a	
State Environmental Planning Policy (Rural Lands) 2008	No	n/a	
State Environmental Planning Policy (Sydney Region Growth Centres) 2006	No	n/a	
State Environmental Planning Policy (Temporary Structures and Places of Public Entertainment) 2007	No	n/a	
State Environmental Planning Policy (Western Sydney Parklands) 2009	No	n/a	

Table 2 - 117 Directions

	Applicable	Consistent
1. Employment and Resources		
1.1 Business and Industrial Zones	Yes, as the draft LEP will affect land within a business or industrial zone (4(a) Urban Services)	The planning proposal is consistent with the direction as it: • retains an existing business and industrial zone • does not reduce potential floor space for employment use and related public services in a business zone, and • retains the area and location of an existing business zone.
1.2 Rural Zones	Not applicable	n/a
1.3 Mining, Petroleum Production and Extractive Industries	Not applicable	n/a
1.4 Oyster Aquaculture	Not applicable	n/a
1.5 Rural Lands	Not Applicable	n/a
2. Environment and Heritage		
2.1 Environment Protection Zones	Not Applicable	n/a
2.2 Coastal Protection	Not Applicable	n/a
2.3 Heritage Conservation	Not Applicable	n/a
2.4 Recreation Vehicle Areas	Not Applicable	n/a
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	Not Applicable	n/a
3.2 Caravan Parks and Manufactured Home Estates	Not Applicable	n/a
3.3 Home Occupations	Not Applicable	n/a

	Applicable	Consistent
3.4 Integrating Land Use and Transport	Yes, as the draft LEP affects land zoned for industrial and business uses.	The planning proposal is consistent with this direction as it is the right location for a bulky good store as: • The site will indirectly support a major centre, being located just 500m from the Wallsend commercial centre. • The site is located near Minmi Road which is a major road and will provide transport to the site. • There is one other Homemakers industrial estate in the Newcastle Local Government Area which is located at Kotara, approximately 5km south of Wallsend. This is consistent with the 'Right place for Businesses and Services Planning Policy' which states that there should only be one or two clusters of Bulky goods stores.
3.5 Development Near Licensed Aerodromes	Not Applicable	n/a
4. Hazard and Risk		
4.1 Acid Sulfate Soils	Yes, the subject land contains acid sulphate soils.	Given that an intensification of land uses is not proposed it is considered that an acid sulphate soil study is not required for a reclassification. A study may need to be prepared at the development application level in accordance with direction 4.1.
4.2 Mine Subsidence and Unstable Land	Not Applicable	n/a
4.3 Flood Prone Land	Yes, the subject land is flood prone.	The reclassification of the subject site is not proposing an intensification of land uses. Any future development application which is submitted would be subject to flooding risk management conditions.

	Applicable	Consistent
4.4 Planning for Bushfire Protection	Yes, the subject land is located in a 100m buffer zone around Bush Fire Vegetation Category 1.	The reclassification of the subject site is not proposing an intensification of land uses. Any future development application which is submitted may require consultation with the NSW Rural Fire Service.
5. Regional Planning		
5.1 Implementation of Regional Strategies	Yes	Yes, the draft LEP is consistent with the Lower Hunter Regional Strategy.
5.2 Sydney Drinking Water Catchments	Not Applicable	n/a
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not Applicable	n/a
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not Applicable	n/a
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	Not Applicable	n/a
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	Not Applicable	n/a
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	Not Applicable	n/a
5.8 Second Sydney Airport: Badgerys Creek	Not Applicable	n/a
6. Local Plan Making		
6.1 Approval and Referral Requirements	Yes	Yes, the planning proposal is not proposing to add any provisions which require referral of development applications to the Minister.
6.2 Reserving Land for Public Purposes	Yes	Yes, the planning proposal is seeking the approval of the Minister for Planning.
6.3 Site Specific Provisions	Not Applicable	n/a

Table 3 - Public Lands Reclassification Policy Adopted 1 June 2000

Name of site: Part of 6 Frances Street, Wallsend (Lot 1 DP 552405)	
Step 1: Are there any significant public interest issues affecting the land?	
Biodiversity conservation	The land is not of significance to biodiversity conservation.
Significant natural features	The land does not contain any significant natural features.
Cultural significance	The site does not contain items of cultural significance.
Public health and safety	The land does contain natural hazards; it is bushfire prone, flood prone, contains acid sulphate soils and may be contaminated. These natural hazards will not impact on the reclassification as no development is being proposed. Any future development application would have to address these issues.
Public access	The parcel of land to be reclassified does not contain a designated pathway for access to community facilities. The subject site is not part of the Newcastle Cycle strategy. There are community facilities such as sports fields and a swimming pool located nearby however access to these facilities is easily gained through Boscawan and Frances Street. The land does not have significance for public access.
Special legal status	The community does not have a special legal interest in the land. The land is not subject to any trust for public purposes and is not a public reserve.
Proceed to step 2?	No significant public interests have been raised, therefore the proposal may proceed to step 2.

Step 2: Will there be a net positive benefit for the community?	
Financial impact	The proposal will have a positive financial impact on Council. Council has the option of selling operational land. If the land is sold Council will not be responsible for ongoing maintenance costs. The land is valued at approximately \$500,000.
Land management impact	There will be no land management impacts.

Impact on community uses and opportunities	Reclassifying the site will not result in a reduction of usable parkland or recreation grounds. The subject land is currently in a form which is unusable for the public as it is zoned 4 (a) Urban Services. It is only a small section of the subject site which is to be reclassified; the remainder will continue to be community land. There are sports grounds nearby which are classified as Community. There is no need for alternative community land to be provided, given the amount of recreational land nearby.
Impact on enjoyment of community land	Reclassification of the site will have a minimal impact on enjoyment of the community land. The land currently has very little community use as it is a vacant parcel of land and is not suitable for recreational activities.
Social impact	Reclassifying the subject land will have a minimal social impact on the community.
Economic Impact	The proposal is likely to have a positive impact on the economy as the land can be sold and used for employment generating activities, which are permissible in the current 4 (a) Urban Services zone.

Table 4 - LEP Practice Note - Written Statement

LEP Practice Note: PN 09-003 Classification and reclassification of public land through a local environmental plan	
Requirement	Response
Reason why the planning proposal is being prepared.	The planning proposal is being prepared so that the land can be classified as operational and allow Council the option of selling the subject site.
Current and proposed classification	The land is currently classified as Community land and it is proposed that the land be classified as Operational land.
Reason for the reclassification	Council is proposing the reclassification as they wish to have the option of selling the subject site which is not being used by Council. Council is not proposing to change the zoning of the subject site.
Council's ownership of the land	The subject site is owned by Council.
How and when the interest was acquired.	The subject site was purchased by Council in 1971 via Government Gazette. The land was previously used as a rail corridor.
The reason Council acquired an interest in the land.	Council has acquired an interest in the land as they wish to have the option of selling the subject site in the future and the site is not being used by Council in its current form.
Any agreements over the land.	There is no legal agreement over the land.
An indication of any financial loss or gain from the reclassification.	The site is currently valued at \$500,000.
The asset management objectives being pursued.	Council would like to have a greater number of options available for the management of the site, including having the option to sell the site. If the site was sold Council would not be responsible for ongoing maintenance costs.
Whether there has been an agreement for the sale or lease of the land.	Council is in process of negotiating to sell the adjoining land Lot 2 DP 234315 and Lot 21 DP 588346 although no legal agreement has been entered into. The purchaser has expressed an interest in acquiring the subject site being part of Lot 1 DP 552405 and if reclassified would be included in the negotiations. If a sale takes place it is proposed that

	the site will be developed as a bulky goods estate. It is likely that the sale would proceed soon after reclassification.
Relevant matters required in plan making under the EP&A Act.	The reclassification is proposed to be carried out in accordance with: S55 Relevant Authority to prepare a planning proposal S56 Gateway determination S57 Community Consultation
A copy of the practise note.	Attached