

**10.4 RECLASSIFICATION OF COMMUNITY LAND TO OPERATIONAL LAND
AT EAST MAITLAND TO FACILITATE EXTENSION OF CHELMSFORD
DRIVE THROUGH TO MOLLY MORGAN DRIVE.****File No:** RZ 10-013**Attachments:**

1. Locality Plan
2. Conceptual Intersection Configuration
3. Applicant's Request to Initiate
Reclassification

Responsible Officer: Leanne Harris - Group Manager Service Planning and
Regulation
David Simm - Manager Development & Environment**Author:** Stephen Punch - Principal Planner

EXECUTIVE SUMMARY

Council are continuing its assessment of Development Application No. 08-918 relating to the expansion of the Stocklands Greenhills retail precinct. One of the major considerations with the proposal relates to the proper management of traffic. Various traffic management solutions have been reviewed by both Council and the RTA and this process is continuing as traffic generation figures, traffic distribution and modelling are being refined.

Two traffic management options appear to be emerging as the most likely outcomes for the development:

- 1. Upgrading of the New England Highway and Mitchell Drive intersection; and*
- 2. Construction of an extension to Chelmsford Drive between the New England Highway and Molly Morgan Drive.*

While Option 1 can largely be accommodated within the existing road reserve, Option 2 involves the occupation and use of land classified as 'community land' under the Local Government Act 1993. In order for Council to impose conditions on the development consent requiring construction and dedication of the Chelmsford Drive link, this land needs to be reclassified to 'operational land' via an LEP amendment process.

The reclassification of the land to accommodate traffic management Option 2 should not be construed as being pre-emptive of the outcome of the development application process. Rather, it is creating the proper legal planning platform for the imposition of development consent conditions in the event that the development application assessment process adopts the Chelmsford Drive extension as the most appropriate traffic management solution for the development. While the demand for the Chelmsford Drive extension is driven by the redevelopment of the Stocklands retail centre (that is, the link could not be justified in the absence of the proposed Stocklands expansion) the broader Green Hills retail/commercial precinct will derive benefit from the proposal in the form of improved traffic conditions and access to the highway.

It is important that the LEP amendment process commence as quickly as possible in order that the reclassification be in place at the time the development application assessment is complete and ready for determination.

A number of environmental investigations are to be undertaken – ecological, stormwater and acoustic – however it is appropriate that these reports be provided as additional supporting information with the reclassifications and development application for the Greenhills retail centre expansion.

OFFICER'S RECOMMENDATION

THAT

1. In accordance with Section 56 of the Environmental Planning and Assessment Act 1979, a planning proposal be submitted to the Department of Planning to amend Maitland Local Environmental Plan 1993 for the purpose of reclassifying part of the following lots from Community Land to Operational Land:
 - Part of Lot 7, DP 831327, Molly Morgan Drive East Maitland
 - Part of Lot 250, DP 264015, Molly Morgan Drive East Maitland
 - Part of Lot 22, DP 591803, New England Highway East Maitland
2. If the planning proposal is given a gateway determination to proceed, consultation with the community, including a public hearing be undertaken.
3. All community consultation be undertaken in accordance with Section 57 of the EPA Act, the directions of the gateway determination and the requirements of LEP Practice Note PN 09-003.
4. A further report be presented to Council following the public consultation process.

COUNCIL RESOLUTION

THAT

1. In accordance with Section 56 of the Environmental Planning and Assessment Act 1979, a planning proposal be submitted to the Department of Planning to amend Maitland Local Environmental Plan 1993 for the purpose of reclassifying part of the following lots from Community Land to Operational Land:
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the EPA Act, the directions of the gateway determination and the requirements of LEP Practice Note PN 09-003.

4. A further report be presented to Council following the public consultation process.

Moved Cllr Mudd, Seconded Cllr Garnham

CARRIED

The Mayor in accordance with Section 375A of the Local Government Act 1993 called for a division.

The division resulted in 11 for and 0 against, as follows:

For:	Cllr Baker	Against:
	Cllr Blackmore	
	Cllr Casey	
	Cllr Garnham	
	Cllr Geoghegan	
	Cllr Humphery	
	Cllr Meskauskas	
	Cllr Mudd	
	Cllr Penfold	
	Cllr Tierney	
	Cllr Wethered	

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It is important that the LEP amendment process commence as quickly as possible in

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OFFICER'S RECOMMENDATION

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2. If the planning proposal is given a gateway determination to proceed, consultation with the community, including a public hearing be undertaken.
3. All community consultation be undertaken in accordance with Section 57 of the EPA Act, the directions of the gateway determination and the requirements of LEP Practice Note PN 09-003.
4. A further report be presented to Council following the public consultation process.

REPORT

Council would be aware that Development Application No. 08-918 for the redevelopment of the Stocklands Green Hills retail precinct was submitted in April 2008 and remains undetermined. The principal reason for this is that substantial work is being undertaken in relation to developing an appropriate traffic management solution for the project. This is taking considerable time due to the scenario planning and computer modelling required. Both Council and the RTA have been involved in detailed discussions and negotiations with Stocklands to ensure that an appropriate and robust traffic management solution is achieved.

A further reason for the delay in the determination of the application is that Stocklands are currently undertaking some design revisions for the centre which will allow improved continuity of trade while construction works are underway. These revised plans are expected to be submitted in October/November and will be the subject of additional community consultation.

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Two (2) traffic management options are being considered. Although these options are still under design development and are yet to be subject to Paramics modelling they are generally described as follows:

1. Upgrading of the New England Highway and Mitchell Drive intersection.
 - Additional through lane including merge tapers proposed on the westbound side of the highway;
 - Separate left turn leg provided at the Mitchell Drive/Molly Morgan Drive roundabout to facilitate improved left turning conditions for westbound traffic leaving the precinct;
 - Upgrade Mitchell Drive/Molly Morgan Drive roundabout to two circulating lanes
2. Construction of an extension to Chelmsford Drive between the New England Highway and Molly Morgan Drive.
 - This design will potentially incorporate dual travel lanes in each direction with provision for left turn slip lanes provided to and from the highway.

The above options are shown diagrammatically at **Attachment 2** however it should be noted that the configuration of these intersection improvements is preliminary only and should not be construed as being representative of the final design outcome. The applicant is undertaking computer modelling of each of these scenarios and ultimately the adoption of a preferred option with potential design revision will occur through the development application assessment and consent process.

While the upgrade at the New England Highway and Mitchell Drive intersection can largely occur within the existing road reserve, the alternative option of the Chelmsford Drive link will need to cross land currently zoned 6(a) Public Recreation and classified as Community Land under the Local Government Act 1993. Council will not be positioned to impose consent conditions relating to the construction of the Chelmsford Drive link unless the land is reclassified as Operational Land. Rezoning of the land is not required as road works are permissible within the 6(a) zone with development consent. The land requiring reclassification in order to accommodate a potential extension of Chelmsford Drive is shown on the locality plan at **Attachment 1**.

It is emphasised that the reclassification of the land to accommodate traffic management Option 2 should not be in any way construed as being pre-emptive of the outcome of the development application process. Rather, it is creating the proper legal planning platform for the imposition of development consent conditions in the event that the development application assessment process adopts the Chelmsford Drive extension as the most appropriate traffic management solution for the development. While the demand for the Chelmsford Drive extension is driven by the redevelopment of the Stocklands retail centre (that is, the link could not be justified in the absence of the proposed Stocklands expansion) the broader Green Hills retail/commercial precinct will derive benefit from the proposal in the form of improved traffic conditions and access to the highway.

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Stockland's planning consultant to the current development application has formally requested that Council commence the reclassification process and this letter is provided at **Attachment 3**.

Amendment to the Maitland LEP 1993

The section of 6(a) Public Recreation land requiring reclassification has an area of approximately 9000sqm. The properties involved are:

- Part of Lot 7, DP 831327 - This lot contains the creek corridor of Two Mile Creek however the section subject to the reclassification is well clear of the main creek channel;
- Part of Lot 250, DP 264015 - This lot is principally a drainage reserve which runs between the adjoining medium density housing development;
- Part of Lot 22, DP 591803 - This lot runs parallel to the highway and contains a grassed mound which acts as a buffer between the highway and the adjoining medium density housing development.

Existing Site Conditions

The topography of the site comprises relatively gentle grades with fall to both the Two Mile Creek corridor and the minor drainage channel running between the adjoining medium density housing development.

The existing concrete pedestrian pathway that connects Molly Morgan Drive to the highway pedestrian signals at Chelmsford Drive runs through all three lots. Existing mature native vegetation in the form of Lower Hunter Spotted Gum Ironbark Forest (Endangered Ecological Community) is also located within the reclassification area predominantly on Lot 7.

Notwithstanding the pedestrian walkway which connects the New England Highway/Chelmsford Drive pedestrian signals to Molly Morgan Drive, the subject land does not have any other active community function such as a park. The land represents primarily a drainage reserve and buffer to the New England Highway.

Environmental Studies

The types of impacts that need to be addressed in the event that the road extension of Chelmsford Drive is to occur are:

- Impacts on the existing vegetation and fauna communities which occupy the site;
- Drainage investigations to determine potential water quality/quantity and riparian corridor impacts and mitigation measures in relation to Two Mile Creek;
- Acoustic investigations to determine the level of impact of traffic related noise on the nearest residences and potential noise mitigation measures.

It is considered appropriate that these matters be addressed in detail as part of the reclassification process.

RECLASSIFICATION OF COMMUNITY LAND TO OPERATIONAL LAND AT EAST MAITLAND TO FACILITATE EXTENSION OF CHELMSFORD DRIVE THROUGH TO MOLLY MORGAN DRIVE. (Cont.)

The loss of a small portion of EEC is not considered likely to have a significant impact on the local or regional viability of this community given its relatively isolated location between two major road corridors and the broader distribution of this community to the south and west of the subject land. The absence of very old trees with nesting hollows also suggests that the loss of some of this vegetation will not have any significant impact on habitat. A more comprehensive assessment of the ecological characteristics of the site will be undertaken as part of the revised development application documentation to be prepared and submitted by the applicant with the revised plans for the centre to be submitted in the later part of this year.

The potential acoustic and drainage impacts of the proposal are able to be addressed by engineering solutions to ensure that the acoustic amenity of the surrounding residential environment is maintained and that water quality and quantity are suitable in terms of run-off to the adjoining Two Mile Creek. Again, it is considered that both the acoustic and drainage investigations should form part of the DA documentation to be submitted by the applicant.

Consultation

Extensive consultation has occurred to date with the NSW Roads and Traffic Authority concerning various traffic management options for the Green Hills precinct in conjunction with the assessment of the current development application. The RTA have given in principle support to the modelling of the two traffic management options described in this report however a final decision on the preferred option will not be made until the modelling has been conducted and the results reviewed as part of the DA assessment process.

Preliminary discussions have been held with the Department of Environment Climate Change and Water (DECCW) given the proximity of the Option 2 roadworks to the Two Mile Creek corridor. DECCW advise that protection and maintenance of water quality and hydraulic performance of the creek are important along with possible enhancement of the riparian corridor. These issues can be addressed through appropriate engineering investigations.

Reclassification Process

The reclassification will follow the 'gateway' LEP amendment process established under Part 3 Division 4 of the Environmental planning and Assessment Act, 1979. A formal 'planning proposal' will be forward to the Department of Planning in the circumstance that Council resolves to support the reclassification of the land. The Department of Planning's LEP Practice Note (PN 09-003) titled "Classification and re-classification of public land through a local environmental plan" dated 12 June 2009 provides a guide to Council's who are going through the process of reclassifying community land. The practice note requires the following matters to be considered by a Council in forming a decision whether to proceed with the reclassification of 'community land':

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Department of Planning Requirement	Response
Justification for the planning proposal	The Maitland Activity Centres and Employment Clusters Strategy 2010 identifies the following relevant objectives for the Greenhills Retail Precinct: • Maintaining the retail function as the dominant activity, to ensure it continues to provide a regionally significant concentration of retail uses, which contributes to Maitland's local economy; • With future growth of the retail precinct, adequate traffic management and car parking levels are provided to ensure easy access to the precinct and reduce traffic congestion within the locality. The strategy goes on to identify potential for significant expansion of the Greenhills retail precinct to accommodate demand from the local Maitland community and the wider regional community. The importance of a proper response to traffic demand is highlighted by the strategy. The Maitland LEP 1993 provides a floor space ratio of 2:1 for the current 3(a) zone at Greenhills while the draft 2011 LEP is also anticipating a floor space ratio of 2:1 for the corresponding B3 zone. The expansion of the Stocklands Greenhills retail centre is generally consistent with Council's strategic planning for the centre within the context of the broader LGA. There are however limitations in the design and the capacity of the surrounding road network that potentially would constrain this expansion. The proposed reclassification is creating the proper legal planning platform for the imposition of development consent conditions in the event that the development application assessment process adopts the Chelmsford Drive extension as the most appropriate traffic management solution for the development. While the demand for the Chelmsford Drive extension is driven by the redevelopment of the Stocklands retail centre (that is, the link could not be justified in the absence of the proposed Stocklands expansion) the broader Greenhills retail/commercial precinct will derive benefit from the proposal in the form of improved traffic conditions and access to the highway. The reclassification does not reduce the practical usability of the land for community purposes

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Department of Planning Requirement	Response
	given its function as either drainage reserve or highway buffer. The residue land would remain unaffected by the reclassification. In the event that the subject land is reclassified and the extension of Chelmsford Drive does not proceed then the subject land would remain in Council's ownership and its use remain unchanged as the current 6(a) Public Recreation zoning (and proposed RE1 zoning under the draft LEP 2011) and physical limitation of the land would be a constraining factor to its disposal and use for another purpose.
Reasons why Council acquired an interest	The three allotments of land the subject of the reclassification have been in Councils care and control for many years: • Lot 250, DP 264015 since March 1983 when it was dedicated to Council as public reserve as a residue lot in a subdivision which contained a watercourse; • Lot 22, DP 591803 since May 1978 when it was dedicated to the Council as public reserve to buffer against the New England Highway; • Lot 7, DP 831327 since prior to 1978 being the residue land comprising highway buffer and creek corridor after the creation of various lots on Molly Morgan Drive which were zoned and developed for commercial purposes.
Details that would accompany a plan at exhibition	Information which would form part of any public exhibition for the reclassification of the land would include: • Relevant Council report • Locality Plan • Conceptual intersection configuration for Chelmsford Drive extension.
Any proposal to extinguish or retain other interests in the land through the reclassification	Council are the current owners of each of the subject lots. The land is not proposed to change ownership however, in the event that the extension of Chelmsford Drive is constructed, the subject land will become dedicated to the Council as 'public road' in lieu of its current status as 'public reserve'.
A justification/explanation as to why such interests are being extinguished	Not applicable – no interests extinguished.

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Department of Planning Requirement	Response
Any rezoning associated with the reclassification	Development for the purposes of roads is permissible within the current 6(a) Public Recreation zone. A rezoning is therefore not warranted in the circumstances.
Any preliminary comments by a relevant government agency in which the land is vested or held	The subject land is vested in the ownership, care and control of the Council with no other interest held by a separate government agency. It should be noted that the approval of the DECCW and RTA are required for any proposed works under the Water Management Act 2000 and the Roads Act 1993 respectively.
Consideration of any relevant directions, eg. Section 117 Direction 6.2 – Reserving Public Land, where appropriate	Section 117 Direction 6.2 is not relevant to the proposed reclassification on the basis that: (a) the proposal does not facilitate the provision of public services and facilities by reserving land for public purposes, and (b) the proposal is not intended to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.

The draft LEP reclassifying the land to 'operational land' will be placed on public exhibition and a public meeting held in accordance with the requirements of the both the Environmental Planning and Assessment Act 1979 and the Local Government Act 1993.

FINANCIAL IMPLICATIONS

This matter has no direct financial impact upon Council's adopted budget or forward estimates.

The environmental studies required and the fees for the preparation of the LEP amendment will be funded by the developer

POLICY IMPLICATIONS

This matter has no specific policy implications for Council.

STATUTORY IMPLICATIONS

The preparation of the local environmental plan is instructed by Part 3 of the Environmental Planning and Assessment Act 1993.

In preparing the local environmental plan for land owned and controlled by Council, the requirements of the Department of Planning's LEP Practice Note (PN 09-003) titled "Classification and re-classification of public land through a local environmental plan" dated 12 June 2009 will be followed.

RECLASSIFICATION OF COMMUNITY LAND TO OPERATIONAL LAND AT EAST MAITLAND TO FACILITATE EXTENSION OF CHELMSFORD DRIVE THROUGH TO MOLLY MORGAN DRIVE. (Cont.)

CONCLUSION

The expansion of the Stocklands Greenhills retail centre is generally consistent with Council's strategic planning for the centre within the context of the broader LGA as endorsed by the Council under the Maitland Activity Centres and Employment Clusters Strategy 2010. There are however limitations in the design and the capacity of the surrounding road network that potentially would constrain this expansion.

The proposed reclassification is creating the proper legal planning platform for the imposition of development consent conditions in the event that the development application assessment process adopts the Chelmsford Drive extension as the most appropriate traffic management solution for the development. While the demand for the Chelmsford Drive extension is driven by the redevelopment of the Stocklands retail centre (that is, the link could not be justified in the absence of the proposed Stocklands expansion) the broader Greenhills retail/commercial precinct will derive benefit from the proposal in the form of improved traffic conditions and access to the highway

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EXTENSION OF CHELMSFORD DRIVE THROUGH TO MOLLY MORGAN DRIVE. (Cont.)

Service Planning and Regulation Reports

RECLASSIFICATION OF COMMUNITY LAND TO OPERATIONAL LAND AT EAST MAITLAND TO FACILITATE EXTENSION OF CHELMSFORD DRIVE THROUGH TO MOLLY MORGAN DRIVE.

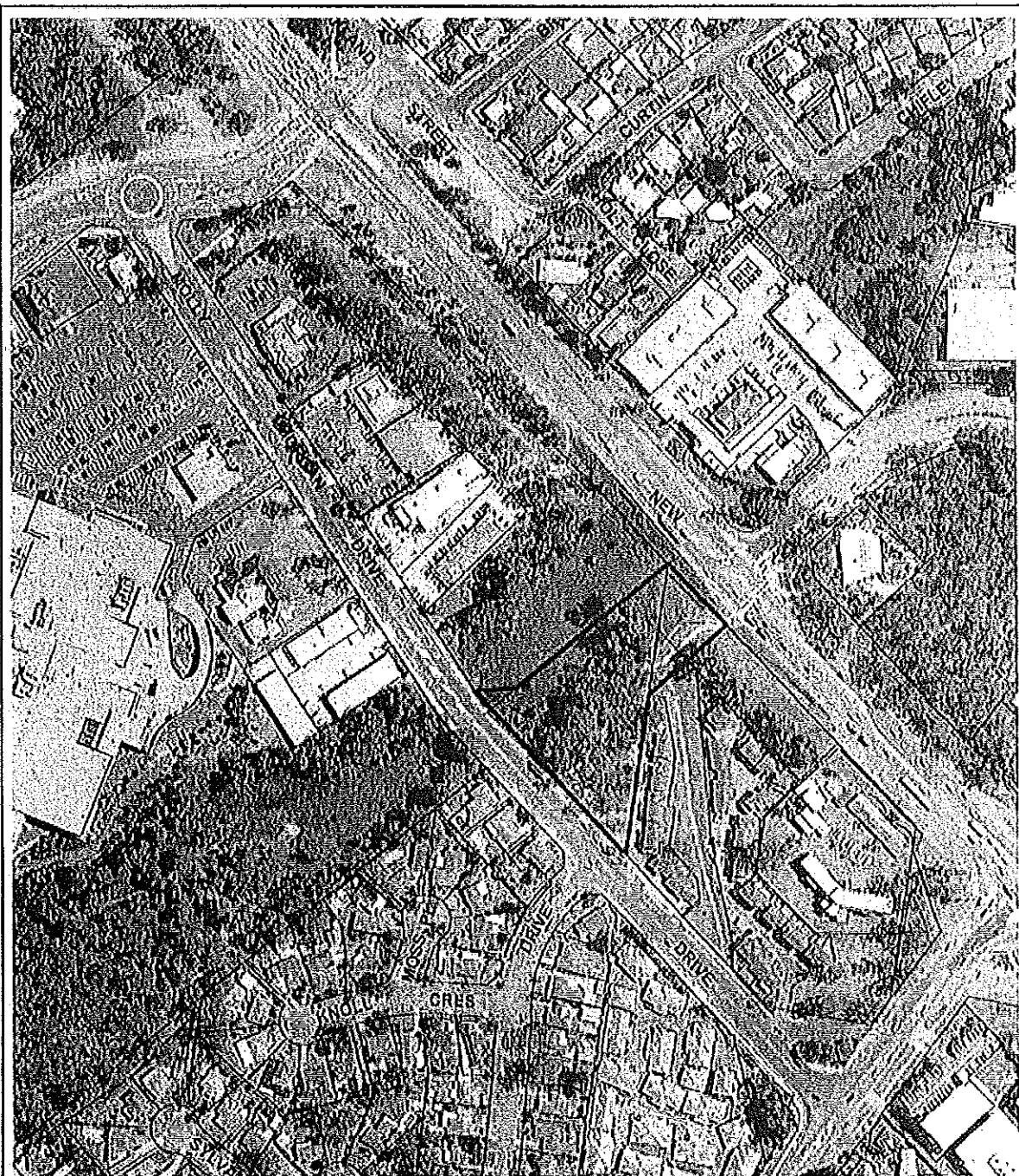
Locality Plan

Meeting Date: 27 July 2010

Attachment No: 1

Number of Pages: 1

RECLASSIFICATION OF COMMUNITY LAND TO OPERATIONAL LAND AT EAST MAITLAND TO FACILITATE EXTENSION OF CHELMSFORD DRIVE THROUGH TO MOLLY MORGAN DRIVE. (Cont.)



RECLASSIFICATION FROM COMMUNITY LAND TO OPERATIONAL LAND
Pt Lot 22 DP691803, Pt Lot 250 DP264015 & Pt Lot 7 DP831327



Scale 1:3 000
Printing Date: June 2010



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This map has been prepared on the basis of information available to Council at the date of issue. However, that information may be subject to change over a limited time and should therefore be verified with Maitland City Council.

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Service Planning and Regulation Reports

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Conceptual Intersection Configuration

Meeting Date: 27 July 2010

Attachment No: 2

Number of Pages: 2

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RECLASSIFICATION OF COMMUNITY LAND TO OPERATIONAL LAND AT EAST MAITLAND TO FACILITATE EXTENSION OF CHELMSFORD DRIVE THROUGH TO MOLLY MORGAN DRIVE. (Cont.)

Service Planning and Regulation Reports

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Applicant's Request to Initiate Reclassification

Meeting Date: 27 July 2010

Attachment No: 3

Number of Pages: 1

RECLASSIFICATION OF COMMUNITY LAND TO OPERATIONAL LAND AT EAST MAITLAND TO FACILITATE EXTENSION OF CHELMSFORD DRIVE THROUGH TO MOLLY MORGAN DRIVE. (Cont.)



Our Ref: IA/200717/080710lr

8 July, 2010

General Manager
Maitland City Council
PO Box 220
MAITLAND NSW 2320

Attention: Mr Stephen Punch

Dear Stephen,

RE: DA 08-918 Stockland Green Hills – PARAMICS traffic model options

Further to my letter of 21 June, 2010 and our meeting with the RTA on 1 July, 2010 I confirm that Stockland intend to evaluate both the Mitchell Drive and Chelmsford Road traffic works options through the PARAMICS computer model. As soon as RTA comments on the design parameters for the works options are received the 2019 modelling will proceed.

As previously discussed, although Stockland have agreed to model both options, we remain concerned that there are significant impediments to the implementation of the Chelmsford Road extension option, not the least of which is the present classification of Council owned land between the New England Highway and Molly Morgan Drive as Community Land. Stockland is presently committed to neither option but wishes to ensure that external (ie non traffic related) constraints are minimized in relation to the decision as to the most appropriate traffic management outcome for the proposed shopping centre expansion.

Accordingly, we request that Council commence the process of reclassification to Operational Land of relevant parts of Lot 7 DP831327, Lot 22 DP591803 and Lot 250 DP264015 via an amending LEP as soon as possible to remove the uncertainty of this factor from the final stages of consideration of traffic management options.

If you have any queries in relation to the above, please do not hesitate to contact me.

Yours faithfully

A handwritten signature in black ink, appearing to read "Ian Adams".

Ian Adams
Director
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