

## Planning Services

IRF19/821

## Plan Finalisation Report

**Local Government Area:** Maitland

### 1. NAME OF DRAFT LEP

Maitland Local Environmental Plan 2011 Amendment No. 29 (draft LEP).

### 2. SITE DESCRIPTION

The planning proposal applies to a portion of land at Lot 3 DP 900245 The Avenue, Lorn (the site), as shown on Figure 1 under.



Figure 1 – Site context (land to be reclassified is shaded red, Lot 3 outlined red)

### 3. PURPOSE OF PLAN

The planning proposal aims to reclassify part of Lot 3 DP 900245. The land is the car park associated with Ron Bown park (1,600 m<sup>2</sup>). Ron Bown park makes up the balance of Lot 3 (3,794 m<sup>2</sup>).

The proposal would reclassify the car park from community land to operational land to allow properties which adjoin the car park to obtain rear access. Currently rear access occurs on an informal basis. Council advises that as the land is classified as community land it is unable to formalise the access arrangements. It therefore seeks to reclassify the car park to operational land to allow this to occur.

Council intends to retain ownership of Lot 3 DP 900245 and confirms that it does not wish to discharge any existing interests. As a result, the part lot is to be added to Part 1 of Schedule 4 Classification and reclassification of public land in the LEP. A reclassification map would be added to the LEP that would identify the part of the lot affected by the reclassification.

#### **4. STATE ELECTORATE AND LOCAL MEMBER**

The site falls within the Maitland State Electorate. Jennifer Aitchison MP is the State Member for Maitland.

The site falls within the Paterson Federal Electorate. Meryl Swanson MP is the Federal Member for Paterson.

To the regional planning team's knowledge, neither MP has made any written representations regarding the proposal.

**NSW Government Lobbyist Code of Conduct:** There have been no meetings or communications with registered lobbyists with respect to this proposal.

**NSW Government reportable political donation:** There are no donations or gifts to disclose and a political donation disclosure is not required.

#### **5. GATEWAY DETERMINATION**

The Gateway determination issued on 24 July 2018 (**Attachment B**) determined that the proposal should proceed subject to conditions.

The proposal is due for finalisation on 24 July 2019.

#### **6. PUBLIC EXHIBITION**

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 2 August 2018 to 31 August 2018. Two submissions were received, one that supported the proposal and one which objected, raising concerns that the proposed access arrangements would reduce the size of the park, adverse safety and amenity impacts would result due to increased traffic, and that Council would gain financially from the proposed change.

A public hearing was also held on 3 October 2018 where 10 members of the public attended. The hearing identified some support for the proposal but also concerns. Additional concerns to those raised in submissions related to the loss of parking for the park, and queried who would be responsible for the car park following the proposed changes.

Council considered the issues raised in community submissions and the public hearing in the report dated 23 October 2018. The assessment noted that there would be no loss of land utilised for the park as it is to remain community land, and that impacts from traffic and on car-parking supply would be considered at the development application stage. Council intends to retain ownership of the car park.

Council's response to the issues is considered adequate. The reclassification would allow Council to formalise the access arrangements that already exist and affect this land. As access already occurs (albeit informally), no change is proposed to the parkland itself, and Council intends to retain ownership, it is considered unlikely that the proposal would adversely affect the continued use of Ron Bown park.

The planning proposal was not referred to local planning panel under section 2.19(1)(b).

## 7. ADVICE FROM PUBLIC AUTHORITIES

Council was not required to consult with any public authorities in accordance with the Gateway determination.

## 8. POST-EXHIBITION CHANGES

There were no amendments made to the planning proposal following public exhibition.

## 9. ASSESSMENT

Council seeks to formalise the existing rear access arrangements for properties that adjoin the car park at Ron Bown park. It advised that it does not have the power to grant a lease or licence over community land for residential vehicle access to a non-Council owned property under the *Local Government Act 1993*, hence the need to reclassify the car park portion of the park.

The reclassification would facilitate the access outcome sought by Council. Council has adequately responded to the issues raised in submissions. Importantly, no change is proposed to the adjoining local recreation park and Council intends to retain ownership of the car park. Adverse impacts from the proposed reclassification are considered unlikely.

### Section 9.1 Directions

The delegate of the Secretary previously agreed to the change in reservation of land for public purposes under Direction 6.2 Reserving Land for Public Purposes. The LEP is consistent with all relevant 9.1 Directions.

### State environmental planning policies

If the draft LEP is consistent with relevant SEPPs.

### State, regional and district plans

Neither the Hunter Regional Plan (HRP) 2036 or Greater Newcastle Metropolitan Plan (GNMP) 2036 provide any specific guidance relevant to this proposal. It is considered that the draft LEP is broadly consistent with the aims of the HRP and GNMP.

## 10. MAPPING

The LEP includes a Land Reclassification (Part Lots) Map to clearly identify the land being reclassified. The map and map cover sheet have been checked by the Department's ePlanning Team and sent to Parliamentary Counsel.

## 11. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979* (**Attachment D**). Council confirmed on 11 January 2019 that it supports the draft and that the plan should be made (**Attachment E**).

## 12. PARLIAMENTARY COUNSEL OPINION

On 18 January 2019 Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

## 13. RECOMMENDATION

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because the reclassification will:

1. enable Council to formalise existing rear access arrangements which rely on the car park at Ron Bown park; and

2. not impact on access to the existing car park or local playground and recreation area.



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