



city council

PLANNING PROPOSAL

AMENDMENT TO THE MAITLAND LEP 2011

**Reclassification of Part Lot 3 DP 900245 at The Avenue, Lorn
From 'Community Land' to 'Operational Land'**

Version 0.1
23/05/2018



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Appendix 1: Council report and resolution 08.05.2018 (attached separately).

INTRODUCTION

This planning proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979*. It explains the intended effect of, and justification for the proposed amendment to *Schedule 4 Classification and reclassification of public land* of Maitland Local Environmental Plan (LEP) 2011.

The subject site is identified as Lot 3 DP 900245 at the Avenue, Lorn (Refer to Figure 1). Lot 3 is owned by Maitland City Council and it contains the Ron Bown Park and car park. The subject land is currently classified as Community Land under the Local Government Act 1993. The properties fronting Belmore Road have been gaining access to their properties through the car park over many years. There have been no formal arrangements for this access to date.

The owners of 19 - 21 Belmore Road, Lorn are in the planning stages of a major redevelopment of their land and have requested that Council give them permission to gain rear access to their properties over the car park adjoining Ron Bown Park off the Avenue at Lorn. This matter was the subject of a report to the Council meeting on 8 May 2018. In noting the report, Council resolved to support the reclassification of the car park area at Ron Bown Park from Community Land to Operational Land to grant access to those properties adjoining Ron Bown Park. A copy of the Council report and resolution is attached as **Appendix A**.

The subject site is currently zoned as B1 Neighbourhood Centre under the Maitland LEP 2011. The planning proposal is not seeking to change the zoning of the land. The Lot 3 covers 3794m² and approximately 1600m² of it to be reclassified as Operational Land. (Refer to Figure 2).

The formalisation of rear access to those properties over the car park area will allow improved and safer access to the residents/businesses and enable future development of the area in a manner consistent with its current zoning provisions.

Figure 1: Locality Plan

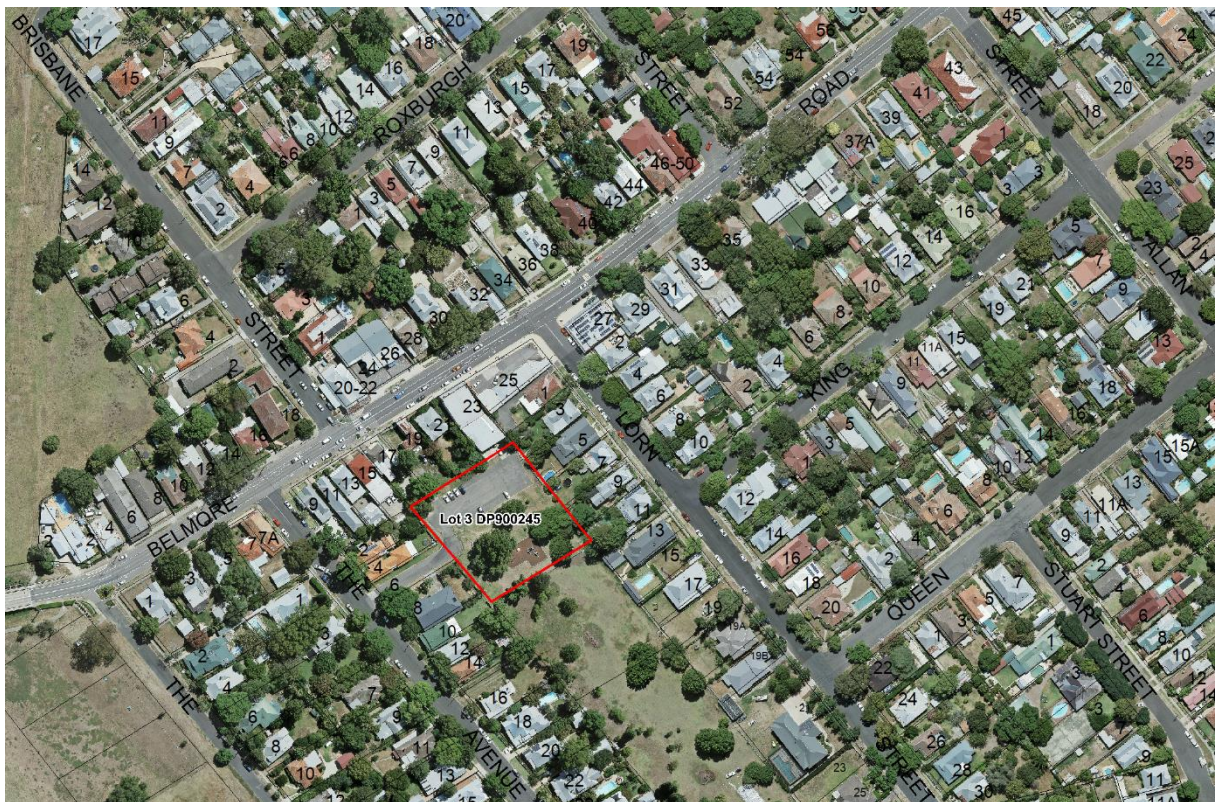


Figure 2: Proposed area to be reclassified as operational land



PART 1: OBJECTIVES OR INTENDED OUTCOMES

The objective of the proposal is to amend *Schedule 4 Classification and reclassification of public land* of Maitland LEP 2011 to include a portion of Lot 3 DP 900245, the Avenue Lorn under *Part 1 Land classified, or reclassified, as operational land – no interests changed*.

PART 2: EXPLANATION OF PROVISIONS

The planning proposal seeks to amend the Maitland LEP 2011 by:

- Including the Lot 3 DP 900245 within *Part 1 – Land classified or reclassified, as operational land – no interests changed* within *Schedule 4 Classification and reclassification of public land*, as follows:
 - a) Column 1 to insert "Lorn"
 - b) Column 2 to insert "Part of Lot 3 DP 900245, identified as operational land on the Land Reclassification (Part Lots) Map"
- Amending Land Reclassification Map (Part Lots) to identify part Lot 3 DP 900245 as operational land to comply with the Department's *Standard Technical Requirements for Spatial Datasets and Maps (August 2017)*.

The effect of the proposed amendments is to reclassify part Lot 3, the Avenue, Lorn from community land to operational land.

PART 3: JUSTIFICATION

In accordance with the Department's 'Guide to Preparing Planning Proposals 2016', this section provides a response to the following matters:

- Section A: Need for the planning proposal;
- Section B: Relationship to strategic planning framework;
- Section C: Environmental, social and economic impact; and
- Section D: State and Commonwealth interests.

SECTION A – NEED FOR THE PLANNING PROPOSAL

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

The planning proposal is the result of a Council resolution to formalise rear access to properties along the Belmore Road over the existing car park area of the Ron Bown Park.

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

Amending the Maitland LEP 2011 is considered the best means of achieving the objectives of the planning proposal. Lot 3 DP 900245 is currently classified as community land under the Local Government Act 1993 which imposes limitations on the use of land. Council 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. However, no such restrictions

apply to operational land, where Council will be able to formalise rear access to those properties, following the reclassification.

SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

3. Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy?

Hunter Regional Plan 2036

The Hunter Regional Plan 2036 has a focus on providing the Hunter Region with a leading economy, a biodiversity rich natural environment, thriving communities and greater housing choice. However, there are no specific provisions related to the subject land. Due to the minor nature of the proposed change, it is considered that the proposal is not inconsistent with the Hunter Regional Plan's directions.

Draft Greater Newcastle Metropolitan Plan 2036

Draft Greater Newcastle Metropolitan Plan 2036 does not include any specific provisions related to Lorn neighbourhood centre. Due to the minor nature of the proposed change, it is considered that the proposed reclassification is not inconsistent with the draft Plan.

4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?

Maitland +10 Community Strategic Plan

The planning proposal aligns with the 'our built space' strategic directions and overarching objectives of the Maitland 10+ Community Strategic Plan.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

The proposal only involves reclassification under the Local Government Act 1993 and it does not propose any changes to current land use zoning, boundaries of the zone or development standards.

It is unlikely that the reclassification of the land to operational land would compromise the operation of any SEPPs, that apply to the land.

6. Is the planning proposal consistent with applicable Ministerial Directions?

An assessment of the planning proposal against the relevant Ministerial Directions are provided in the table below.

Table 1: Ministerial Directions

s117 DIRECTIONS	CONSISTENCY AND IMPLICATIONS
1. EMPLOYMENT AND RESOURCES	
1.1 Business and Industrial zones	
<p>The objective of this direction is to protect employment land, encourage employment growth and support the viability of centres.</p>	<p>The subject site is currently zoned as B1 Neighbourhood Centre under the Maitland LEP 2011. However, the proposal is confined to reclassification only and retains the current zoning, boundaries of the zone and development standards. Therefore, it is considered to be consistent with this Ministerial Direction.</p> <p>The proposal will have no adverse impacts upon the viability of the Lorn neighbourhood centre. It will enable the lodging of a development application for redevelopment of the properties within the Lorn neighbourhood centre along Belmore Road and provide an improved range of options regarding rear access over the subject land.</p>
2. ENVIRONMENT AND HERITAGE	
2.3 Heritage Conservation	
<p>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p>	<p>The subject site is located within the Lorn Heritage Conservation Area and these heritage provisions of Maitland LEP 2011 will remain unchanged. Therefore, it is considered to be consistent with the Ministerial Direction.</p>
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT	
3.4 Integrating Land Use and Transport	
<p>The objectives relate to the location of urban land and its proximity to public transport infrastructure and road networks, and improving access to housing, employment and services by methods other than private vehicles.</p>	<p>The proposal is for reclassification only with the current land use zone remaining the same and is not considered an intensification of the use of the land.</p> <p>The reclassification will formalise the rear access to the properties over the car park area and will facilitate the safe and efficient movement of traffic. In this context, it is considered that the proposal is consistent with the objectives of this direction.</p>

4. HAZARD and RISK

4.1 Acid Sulfate Soils

The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.

The site is identified in Class 5 of Acid Sulfate Soils maps under the Maitland LEP 2011. The proposal is for reclassification only with the zone remaining the same and is not considered an intensification of land use. Therefore, it is considered that the proposal is consistent with this Direction.

4.3 Flood Prone Land

The objectives of this direction are:

- (a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and
- (b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

The subject site is identified as flood prone land in Maitland LEP 2011. The proposal is for reclassification only with the zone remaining the same and it is not considered an intensification of land use within Lot 3. Accordingly, it is considered that the planning proposal is consistent with the objectives of this Ministerial Direction.

5. REGIONAL PLANNING

5.1 Implementation of Regional Strategies

This direction requires a draft amendment to be consistent with relevant state strategies that apply to the LGA.

The Hunter Regional Plan 2036 and draft Greater Newcastle Metropolitan Plan 2036 apply to Maitland LGA. There are no specific provisions/directions in these plans particularly relating to the subject land or the locality. Due to the minor and administrative nature of the proposed changes, it is considered that the proposal is generally consistent with the directions contained in the above plans.

6. LOCAL PLAN MAKING

6.2 Reserving Land for Public Purposes

The direction aims to facilitate (i) the provision of public services and facilities by reserving land for public purposes; and (ii) removal of reservations of land for public purposes where land is no longer required for acquisition.

The planning proposal seeks to reclassify part of an allotment from community land to operational land. The subject allotment is not defined as a 'public reserve' under the Local Government Act 1993.

Given that the use of subject site is remained unchanged (i.e. car park), it is considered that

the planning proposal is consistent with the intent of this direction.

LEP Practice Note PN 16-001: Classification and reclassification of public land through an LEP

The Department's Practice Note PN 16-001 includes a checklist for proposals seeking to classify or reclassify public land through an LEP. The information required to be addressed in the checklist for Lot 3 DP 900245 at the Avenue, Lorn is contained in below Table 3.

Table 2: Information checklist for proposal to classify public land through an LEP

Criteria	Comment
The current and proposed classification of the Land.	Current – community land Proposed – operational land
Whether the land is a 'public reserve' (defined in the LG Act).	The subject parcel of land is not defined as 'public reserve' under the Local Government Act 1993.
The strategic and site specific merits of the reclassification and evidence to support this.	The proposal is intended to change land classification under the local Government Act 1993 and it is not driven by any specific strategic directions. The reclassification will enable development consents granted on the adjoining properties to formalise rear access arrangements to their properties over the Ron Bown Park's car park.
Whether the planning proposal is the result of a strategic study or report.	The planning proposal is the result of a Council resolution to formalise access to properties along the Belmore Road over the existing car park area (Refer to <i>Appendix A</i>).
Whether the planning proposal is consistent with council's community plan or other local strategic plan.	The planning proposal primarily aligns to the strategic direction 'our built space' identified within the Maitland 10+ Community Strategic Plan.
A summary of council's interests in the land, including: <ul style="list-style-type: none"> - how and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution) - if council does not own the land, the land owner's consent; - the nature of any trusts, dedications etc. 	At its meeting on 14 December 1975, Council resolved to purchase the subject land for public car parking purposes. Also, it is currently owned by Council.
Whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why.	There are no identified interests in the subject allotment that Council is seeking to discharge. Maitland City Council is the landowner of the subject site where

	reclassification is being sought and the ownership will remain unchanged. However, Council may decide to grant a licence for right of way to those who required rear access to their properties as a part of development approval process.
The effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will be discharged).	Council does not have the power to grant a development consent over community land for residential vehicle access to a non-Council owned property under the Local Government Act 1993. The effect of the proposed reclassification will enable Council to consider rear access to those properties as a part of development application process to ensure efficient and improved traffic circulation within the area.
Evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. electronic title searches, notice in a Government Gazette, trust documents).	A search of Council records revealed that the subject site is not designated as a 'public reserve' under the Local Government Act 1993 and there is no any identified interest on the subject land.
Current use(s) of the land, and whether uses are authorised or unauthorised.	The site is currently used as a public car park. It is an authorised use and will continue to operate in such manner after any change to land reclassification.
Current or proposed lease or agreements applying to the land, together with their duration, terms and controls.	There is no current or proposed lease on this property. However, Council may decide to grant a licence for right of way to those who required rear access to their properties as a part of development approval process.
Current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time).	Not applicable.
Any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy).	The subject site is currently zoned as B1 Neighbourhood Centre under the Maitland LEP 2011. The planning proposal is not seeking to change the current land use zoning of the land, boundaries of the zone or development standards.
How council may or will benefit financially, and how these funds will be used.	Not applicable. Council may decide to grant a licence for right of way to those who required rear access to their properties as a part of development approval process.
How council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal.	Not applicable.

A Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot.	A Land Reclassification (part lots) Map has been developed as a part of planning proposal. Refer to Part 4 Mapping.
Preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable.	No formal consultation with State and Commonwealth public authorities has been undertaken at this stage for this planning proposal.

SECTION C – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

7. 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 subject land does not contain any 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?

No adverse environmental effects are anticipated as a result of the planning proposal due to the minor nature of the proposed reclassification. However, any environmental effects on Lot 3, pertaining to the redevelopment of adjoining land will be addressed as a part of future development applications.

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

The proposal will allow for continued rear access arrangements for the properties fronting Belmore Road. The reclassification will enable and/or facilitate the future development of Lorn's neighbourhood centre for purposes consistent with its current zoning and strategic intent of the area. Therefore, 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 subject land is within an established Lorn neighbourhood centre and is currently used as public car park. The proposal only involves reclassification of car parking area within Lot 3 and it does not propose any changes to current zoning. Therefore, the proposal will not require any changes to the delivery of public infrastructure to subject site.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?

No formal consultation with State and Commonwealth public authorities has been undertaken at this stage for this planning proposal. Consultation will occur in accordance with the conditions outlined in the Gateway Determination to be issued for this planning proposal.

PART 4: MAPPING

The objectives of the proposed amendment will be achieved through an alteration to Schedule 4 of the Maitland LEP 2011.

The Maitland LEP 2011 is proposed to be amended by inserting the following under Part 1 of Schedule 4:

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

Column 1	Column 2
<i>Locality</i>	<i>Description</i>
Lorn	Part of Lot 3 DP 900245, the Avenue. identified as operational land on the Land Reclassification (Part Lots) Map

A new map sheet to Maitland LEP 2011 'Land Reclassification (Part Lots) Map – Sheet RPL_004A' will be necessary as part of this planning proposal.

See below, *Land Reclassification (Part Lots) Map – Sheet RPL_004A*.

PART 5: COMMUNITY CONSULTATION

Community consultation will be undertaken in accordance with the requirements of the Gateway Determination and *Schedule 1 Community participation requirements* of the Environmental Planning and Assessment Act 1979 and Section 29 of the Local Government Act 1993.

Public Exhibition

The planning proposal will be exhibited for 28 days in accordance with *Schedule 1 Community participation requirements* of the Environmental Planning and Assessment Act 1979, as it contains reclassification of public land.

The exhibition will be advertised in a free local newspaper and on Council's website. In addition, adjoining landowners will be notified of the proposal.

Public Hearing

In accordance with Section 29 of the Local Government Act 1993, a public hearing will be held.

Council will give notice of the arrangements for the public hearing in a local newspaper, Council's website and give notice in a letter to each of the persons who requested a public hearing when making a submission, at least 21 days before the date of the hearing.

PART 6: PROJECT TIMELINE

Task	Timeline
Issue Gateway Determination by the Department	June - July 2018
Public exhibition	July – August 2018
Public hearing	September 2018
Review of submissions	September 2018
Report to Council - post exhibition	October 2018
Commence legal drafting of the instrument and making of draft LEP	November 2018
Gazettal of the LEP Amendment	November 2018