



IRF22/3154

Gateway determination report – PP-2022-2197

2022 Roads LEP Amendment

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Acknowledgment of Country

DPE acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

| Relevant reports and plans |
|---|
| Planning Proposal, Gateway Version |
| Annex H – Supporting Information |
| Letter to Department – Draft Roads Amendment |
| Meeting Action Item – Reclassification of Various Sites |

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

| | |
|---------------------------------|---|
| LGA | Lake Macquarie |
| PPA | Lake Macquarie City Council |
| NAME | 2022 Roads LEP Amendment |
| NUMBER | PP-2022-2197 |
| LEP TO BE AMENDED | <i>Lake Macquarie Local Environmental Plan 2014</i> |
| ADDRESS | Various – Misc amendment |
| DESCRIPTION | Various – Misc amendment |
| RECEIVED | 7/09/2022 |
| FILE NO. | IRF22/3154 |
| POLITICAL DONATIONS | There are no donations or gifts to disclose and a political donation disclosure is not required |
| LOBBYIST CODE OF CONDUCT | There have been no meetings or communications with registered lobbyists with respect to this proposal |

1.2 Objectives of planning proposal

The objective of the planning proposal is to amend Schedule 4 of the local environmental plan to enable the reclassification of land from ‘community’ to ‘operational’ to facilitate dedication of the land parcels to road corridors, being the current use of the land.

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the *Lake Macquarie Local Environmental Plan 2014* per the changes below:

Table 3 Current and proposed controls

| Control | Current | Proposed |
|------------------|----------------|-----------------|
| Reclassification | ‘Community’ | ‘Operational’ |

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The planning proposal affects 14 sites across the local government area.

A detailed overview of each site is identified in **Appendix A**. The sites are described as:

- Item 1 - 460C Lake Road, Argenton, Lot 24 DP 1110828,
- Item 2 - 59C Clydebank Road, Balmoral Lot, 1 DP 361413,
- Item 3 - 49C Haig Street, Belmont, Part Lot 42 DP 1115062,
- Item 4 - 9C The Parade, Belmont, Lot 1 DP 209843,
- Item 5 - 4C Hendrick Street, Cardiff, Lot 2 Sec C DP 4143,
- Item 6 - 39D Macquarie Road, Cardiff, Lot 3 DP 559007,
- Item 7 - 14C Milson Street, Charlestown, Lot 1 & 2 DP 350691,
- Item 8 - 216C Pacific Highway, Charlestown, Lot B DP 399059,
- Item 9 - 14C Pacific Highway, Gateshead, Lot 1 DP 432780,
- Item 10 - 23A Emily Street, Marks Point, Lots 1 & 2 DP 371792,
- Item 11 - 94C Main Road, Speers Point, Lot 1 DP 181190,
- Item 12 - 2C Wood Street, Swansea, Lot 1 & 2 DP 329284, and
- Item 13 - Land adjoining 21 Dobell Drive, Wangi Wangi, Lot 343 DP 848273.

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the land reclassification maps, which are suitable for community consultation.

Maps indicating the sites are provided in **Appendix A**.

2 Background and Need for the planning proposal

The planning proposal is required to amend the classification of the land from 'community' to 'operational' to allow road widening and dedication. The current use of the land is for road purposes.

Council identified the properties were originally acquired for road widening purposes, but administrative processes to confirm the status of the land as road were not completed at the time. Under the transitional provisions of the *Local Government Act 1993* (NSW), the land became classified as 'community' by default.

Pursuant to section 47F of the *Local Government Act 1993* (NSW) 'community' land may not be dedicated as public road unless it meets specific requirements. The land referred to in this report does not meet those requirements, and therefore needs to be reclassified as operational land in order to accurately reflect its use and dedicate it as road.

3 Strategic assessment

3.1 Regional Plan, Metropolitan Plan and Local Strategic Planning Statement

The planning proposal does not seek to change the zone of land or principal local environmental plan controls. The planning proposal is not a result of outcomes outlined in Council's Local Strategic Planning System, the *Greater Newcastle Metropolitan Plan 2036* or the *Hunter Regional Plan 2036* or the draft *Hunter Regional Plan 2041*.

The planning proposal will facilitate opportunities to deliver a public road. Specifically, the proposal will achieve the *Hunter Regional Plan 2036*'s Objective 26.1 aligning land use and infrastructure planning to maximise the use and capacity of existing infrastructure and the efficiency of new infrastructure for all the land within the proposal.

Given the minor nature of the planning proposal, it does not conflict with outcomes or objectives outlined in the regional plans or local strategic planning statements.

3.2 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Ministerial directions is discussed below:

Table 4 Section 9.1 Ministerial direction assessment

| Directions | Consistent/ Not Applicable | Reasons for Consistency or Inconsistency |
|--|----------------------------|---|
| 5.2 Reserving Land for Public Purposes | Consistent | <p>Direction 5.2 identifies that a planning proposal must not create, alter or reducing existing zonings or reservations of land for public purposes without the approval of the relevant landowner.</p> <p>Item 6 adjoins a state road, being Macquarie Road. Item 8 also appears to adjoin a state road, being the Pacific Highway.</p> <p>It is recommended that during consultation, Transport for NSW is consulted on the proposed road dedication and determine whether they have any objection.</p> <p>The landowner is Council in this instance, and therefore the proposal is consistent with Direction 5.2.</p> |
| All other directions | Not Applicable | <p>Given the proposal does not rezone land or increase the potential for development on the land, the remaining ministerial directions are not applicable to this planning proposal.</p> |

3.3 LEP Practice Note PN 16-001

The planning proposal is consistent with the LEP Practice Note PN 16-001 as discussed in the table below.

Table 5 Assessment of planning proposal against LEP Practice Note PN 16-001

| Requirements | Consistent/ Not Applicable | Reasons for Consistency or Inconsistency |
|---|----------------------------------|---|
| Outline the current and proposed classification of the land | Consistent | The proposal outlines each sites classification is proposed to be amended from 'community' to 'operational'. |
| Whether the land is public reserve | Consistent | The proposal identifies the land is not public reserve. |
| The strategic and site-specific merits and evidence to support the proposal | Consistent | The proposal includes evidence demonstrating the strategic and site-specific merit to facilitate road dedication for the sites. |
| Whether the proposal is a result of a strategic study or report | Inconsistent | The proposal identifies it is not a result of a strategic study or report. In this case the inconsistency is considered minor given evidence demonstrating the strategic and site-specific merit of the proposals. |
| Whether the proposal is consistent with Council's strategic or other community plan | Consistent | The proposal provides an assessment against Council's community plan. |
| A summary of Council's interest in the land | Consistent | The proposal provides an overview of the site, including the landowner, the nature of the dedication and how the site was intended for road dedication. |
| Whether there is an interest in the land and if it is to be discharge | Consistent | The interest in the land is not intended to be discharged. |
| The effect of the reclassification and whether it will result in a loss of open-space | Consistent | The effect of the proposal is to facilitate road dedication and the land is not open-space or zoned for open-space. |
| Current use of the land | Consistent | The proposal identifies the current use of the land. |
| Current lease or proposed business dealings | Consistent | The proposal identifies current interests will remain. |
| Any rezoning associated with the land | Consistent | The proposal will not seek a rezoning of the land. |
| How council may or will benefit financially | Consistent | The proposal identifies that none of the land is expected to be sold, so no funds will be obtained. |
| Land reclassification map | Consistent | The proposal identifies relevant re-classification maps. |

| Requirements | Consistent/ Not Applicable | Reasons for Consistency or Inconsistency |
|--|----------------------------------|--|
| Any preliminary comments by a relevant government agency | Consistent | The proposal identifies no preliminary comments were provided by a relevant government agency. |

4 Site-specific assessment

4.1 Social, Economic and environmental

The planning proposal affects land that is either public road or forms part of a road corridor adjoining a road. The land is owned by Council. As the proposal will facilitate dedication of public owned land for a road, which it is currently being used for, the proposal is not considered to have any adverse social, economic or environmental impacts. Consideration of any site-specific impacts can be undertaken during the detailed assessment of any site-specific road expansion or works.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days and a public hearing to facilitate the proposal.

The exhibition period proposed is considered appropriate , and forms part of the conditions of the Gateway determination.

5.2 Agencies

Council has nominated the public agencies to be consulted about the planning proposal.

It is recommended Transport for NSW be consulted on the planning proposal and given 28 days to comment given Transport own the road corridor adjacent to the land being proposed for road dedication.

6 Timeframe

Council proposes a 9 month time frame to complete the local environmental plan.

The Department recommends a time frame of 9 months to ensure it is completed in line with its commitment to reduce processing times. It is recommended the gateway determination also includes conditions requiring council to exhibit and report on the proposal by specified milestone dates.

A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council has not request delegation to be the Local Plan-Making authority.

As the site/planning proposal is related to Council owned, the Department recommends that Council not be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions given it will facilitate road dedication and infrastructure services for the local community.

9 Recommendation

It is recommended the delegate of the Minister determine the planning proposal should proceed subject to the following conditions:

1. Consultation is required with Transport for NSW for a minimum of 28 days.
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. A public hearing is required to be held in accordance with Section 29 of the *Local Government Act 1993* and the Department's Practice Note PN 16-001.
4. The planning proposal must be exhibited 4 months from the date of the Gateway determination.
5. The timeframe for completing the local environmental plan is to be 9 months from the date of the Gateway determination.
6. Given the nature of the proposal, Council should not be authorised to be the local plan-making authority.

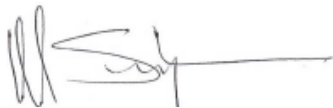


(Signature)

Tuesday 4 October 2022 (Date)

Alexandra Hafner

A/Manager, Central Coast and Hunter



17/10/2022

(Signature)

(Date)

Dan Simpkins

Director, Central Coast and Hunter




Assessment officer

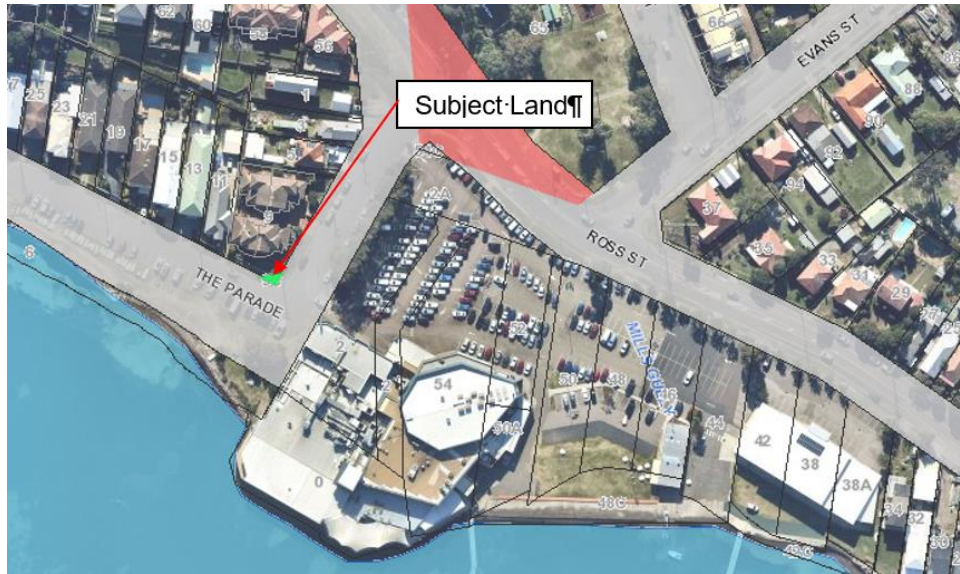
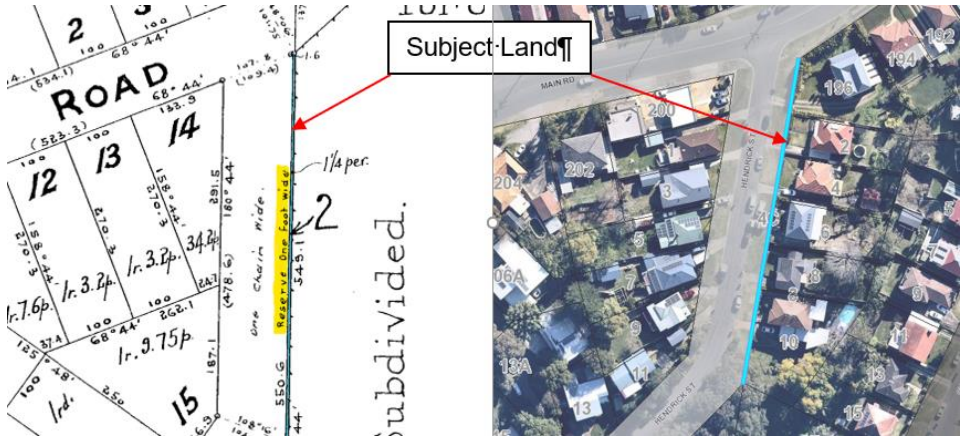

Thomas Holmes

Senior Planning Officer, Central Coast and Hunter

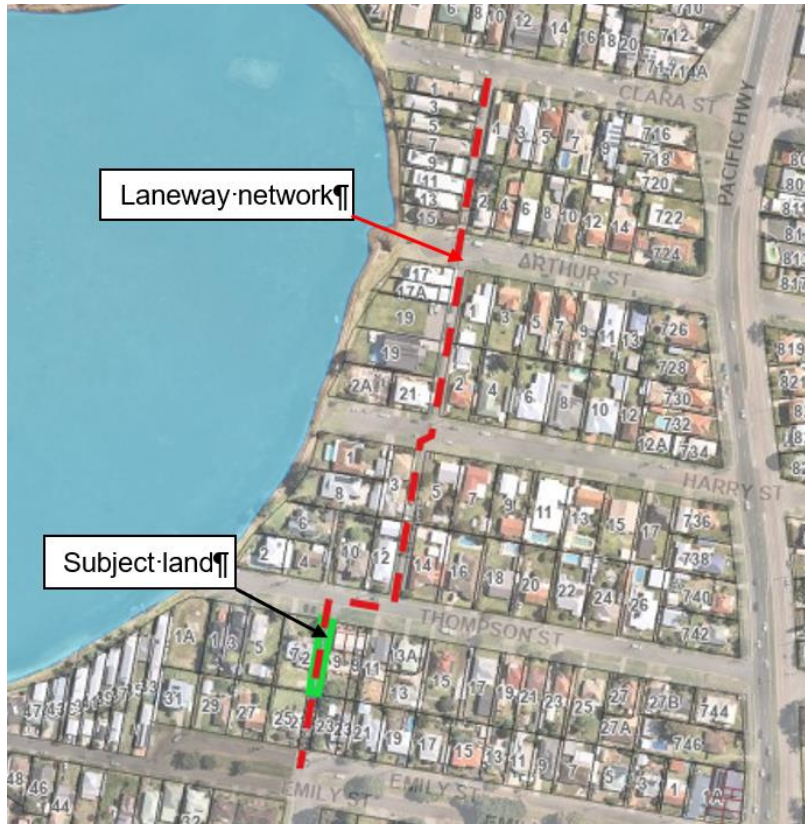

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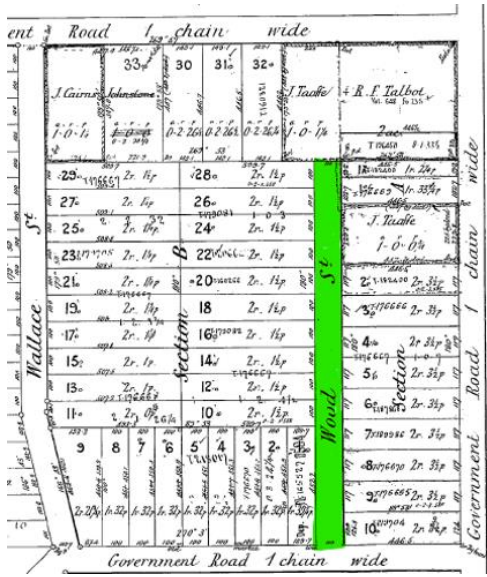


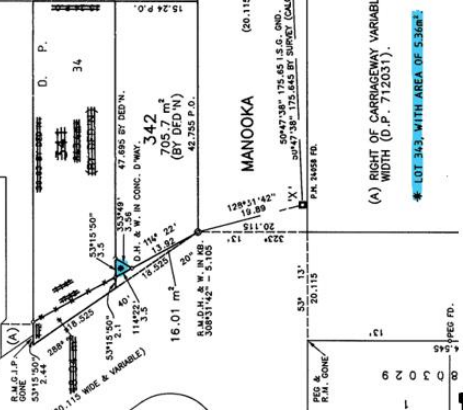
Appendix A: Detailed site assessment

| Site # | Site | Lot & Plan | Owner | Picture of Site | Are interests in the land being extinguished? | Is land proposed to be sold? | Current Classification | Proposed Classification | Current Zone | Proposed Zone |
|--------|------------------------------|-----------------|---------|--|---|------------------------------|------------------------|-------------------------|---------------------------------------|---------------|
| 1 | 460C Lake Road, Argenton | 24 on DP1110828 | Council |  | No | No | 'Community' | 'Operational' | SP2 Infrastructure (Railway Corridor) | No Change |
| 2 | 59c Clydebank Road, Balmoral | 1 on DP361413 | Council |  | No | No | 'Community' | 'Operational' | E2 Environmental Conservation | No change |
| 3 | 49c Haig Street, Belmont | 42 on DP1115062 | Council |  | No | No | 'Community' | 'Operational' | R2 Low Density Residential | No change |

| Site # | Site | Lot & Plan | Owner | Picture of Site | Are interests in the land being extinguished? | Is land proposed to be sold? | Current Classification | Proposed Classification | Current Zone | Proposed Zone |
|--------|-----------------------------|-------------------|---------|--|---|------------------------------|------------------------|-------------------------|----------------------------|---------------|
| 4 | 9c The Parade, Belmont | 2 on DP209843 | Council |  | No | No | 'Community' | 'Operational' | R2 Low Density Residential | No change |
| 5 | 4c Hendrick Street, Cardiff | 2 Sec C on DP4143 | Council |  | No | No | 'Community' | 'Operational' | R2 Low Density Residential | No change |
| 6 | 39D Macquarie Road, Cardiff | 3 on DP559007 | Council |  | No | No | 'Community' | 'Operational' | R2 Low Density Residential | No change |

| Site # | Site | Lot & Plan | Owner | Picture of Site | Are interests in the land being extinguished? | Is land proposed to be sold? | Current Classification | Proposed Classification | Current Zone | Proposed Zone |
|--------|-----------------------------------|-------------------|---------|--|---|------------------------------|------------------------|-------------------------|---------------------------------------|---------------|
| 7 | 14c Milson Street, Charlestown | 1 & 2 on DP350691 | Council |  | No | No | 'Community' | 'Operational' | SP2 Infrastructure (Railway Corridor) | No Change |
| 8 | 216c Pacific Highway, Charlestown | B on DP399059 | Council |  | No | No | 'Community' | 'Operational' | R3 Medium Density Residential | No Change |
| 9 | 14c Pacific Highway, Gateshead | 1 on DP432780 | Council |  | No | No | 'Community' | 'Operational' | SP2 Infrastructure (Railway Corridor) | No Change |

| Site # | Site | Lot & Plan | Owner | Picture of Site | Are interests in the land being extinguished? | Is land proposed to be sold? | Current Classification | Proposed Classification | Current Zone | Proposed Zone |
|--------|-------------------------------|-----------------|---------|--|---|------------------------------|------------------------|-------------------------|----------------------------|---------------|
| 10 | 23A Emily Street, Marks Point | 1 & 2 DP 371792 | Council |  | No | No | 'Community' | 'Operational' | B1 Neighbourhood Centre | No Change |
| 11 | 94C Main Road, Speers Point | 1 on DP181190 | Council |  | No | No | 'Community' | 'Operational' | R2 Low Density Residential | No change |

| Site # | Site | Lot & Plan | Owner | Picture of Site | Are interests in the land being extinguished? | Is land proposed to be sold? | Current Classification | Proposed Classification | Current Zone | Proposed Zone |
|--------|---|-------------------|---------|--|---|------------------------------|------------------------|-------------------------|-------------------------------|---------------|
| 12 | 2C Wood Street, Swansea | 1 & 2 on DP329284 | Council |   | No | No | 'Community' | 'Operational' | R2 Low Density Residential | No change |
| 13 | Land adjoining 21 Dobell Drive, Wangi Wangi | 343 on DP848273 | Council |   | No | No | 'Community' | 'Operational' | R3 Medium Density Residential | No change |