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| 22OS015 | Reclassification of Various Sites - 2022 Housekeeping Amendment to Lake Macquarie Local Environmental Plan 2014 |

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| Key focus area | 8. Organisational support |
| Objective | 8.2 Governance |
| File | F2019/00233 - D10633483 |
| Author | Statutory Property Officer - Joanne Marshall |
| Responsible manager | Executive Manager Future City Precincts - David Antcliff |

Executive Summary

As part of its administrative functions, Council regularly does a housekeeping review of its properties to determine if it is meeting the needs of residents and achieving best use out of its land.

Ten parcels of land have been identified through the housekeeping review, and each parcel has been investigated.

Nine of the parcels of land referred to in this report are classified as community land under the *Local Government Act 1993* (NSW) (LG Act). The use of community land is strictly governed by the LG Act as land intended for public access and use by the community. Commercial leasing, sale or use as road of community land is generally not permitted, or is subject to significant constraints.

Reclassification of those nine parcels of land as operational land is considered to be appropriate, having regard to the current and/or proposed use of each parcel, together with other associated amendments such as zoning or development standard amendments.

One parcel of land is already classified as operational land, but it was identified that an amendment to zoning and development standards relevant to that land would be appropriate, having regard to its current and/or proposed use.

This report seeks Council’s approval for the initial processes required to make these changes, primarily being a planning proposal for amendments to be made to the *Lake* *Macquarie Local Environmental Plan* *2014* (LMLEP).

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| Recommendation  Council:   1. approves amendments to the *Lake* *Macquarie Local Environmental Plan* *2014* (LMLEP) for the reclassification of community land as operational land, and amendments to zoning and development standards, in accordance with Table 1 of this report, in relation to the following properties:   Item 1 - 60-62 Main Road, Boolaroo, Lot 4 and 5 Sec E DP 3494  Item 2 – Part of 27C First Street, Cardiff South, Lot 30 DP 196, south of Ada Street  Item 3 – 27 First Street, Cardiff South, Lot 1 DP 190522 and 27C First Street, Cardiff South, Lot 30 DP 196, north of Ada Street  Item 4 - 21 Narara Road, Cooranbong, Lots 4, 5, 6 and 7 Section O DP 724  Item 5 - 48 Oakdale Road, Gateshead, Lot 20 DP 1115790  Item 6 - 4a Clare Street, Glendale, Lot 103 DP 553828  Item 7 - 62A Graham Street, Glendale, Lot 62 DP 247342  Item 8 – Part of 16 Skye Street, Morisset, Lot 1 Section 12 DP 758707  Item 9 - 38 Alison Street, Redhead, Lot 50 DP 844457  Item 10 - 20 Ruttleys Road, Wyee, Lot 495 DP 755242,   1. approves a planning proposal, for the purpose of reclassification and/or amendments to the LMLEP of the land referred to in part A of the recommendation, to be forwarded to the Minister for Planning for a Gateway Determination to be made pursuant to section 3.34 of the *Environmental Planning and Assessment Act 1979* (NSW) (EP&A Act),   C. undertakes consultation with State Government agencies and service authorities and prepares any required studies in accordance with the Gateway Determination,  D. places the draft planning proposal on exhibition, subject to the outcome of the Gateway Determination,  E. notifies stakeholders and affected landowners of the public exhibition,  F. undertakes a public hearing in accordance with section 29 of the *Local Government Act 1993*, and  G. receives a further report on the matter following public exhibition and the public hearing. |

Discussion

The LG Act requires Council to classify all its public land as either operational or community land. Operational land can be used by Council for its operational purposes and to facilitate the carrying out of Council functions, for example, depots, quarries, commercially leased land, public roads, etc. Community land is subject to significant restrictions on its use and management under the LG Act, and is intended for public access and community uses, for example, parks, bushland, community halls, etc.

Nine of the ten parcels of land referred to in this report are classified as community land, but it has been identified that they would be more appropriately classified as operational land, having regard to their current and/or proposed use. Some of the parcels also require associated amendments to zoning and/or development standards in order to achieve the intended outcomes and best reflect the current and/or proposed use.

The remaining parcel of land is already classified as operational land, but requires amendments to applicable zoning and/or development standards in order to achieve the intended outcomes and best reflect the current and/or proposed use for that land.

The provisions of the LG Act, *Environmental Planning and Assessment Act* *1979* (NSW) (EP&A Act), *Roads Act* *1993* (NSW) (Roads Act) and other relevant legislation mean a number of steps are required to implement the changes proposed to achieve the intended outcomes.

The initial step is a planning proposal for the reclassification and any amendments required to zoning or development standards, through amendment to the LMLEP under the EP&A Act. This report seeks Council’s approval for the submission of a planning proposal to amend the LMLEP accordingly.

A summary of the proposed changes and intended outcomes of the reclassification for each parcel of land is set out in Table 1 below.

**Table 1 – Proposed changes**

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| **Item No.** | **Address** | **Intended outcomes** | **Proposed changes to the LMLEP** |
| 1 | 60-62 Main Road, Boolaroo  Lot 4 and 5 Sec E DP 3494 | Commercially lease the whole of the property. | * Reclassify as operational land. |
| 2 | Part of 27C First Street, Cardiff South, Lot 30 DP 196, south of Ada Street | Dedicate as road. | * Reclassify as operational land. |
| 3 | 27 First Street, Cardiff South, Lot 1 DP 190522 and  27C First Street, Cardiff South, Lot 30 DP 196, north of Ada Street | Close the road, redevelop for residential use and sell to the public. | * Reclassify as operational land. * Rezone from R2 Low Density Residential to R3 Medium Density Residential. * Change Height of Buildings Map (HBM) from 8.5m to 10m. * Change Lot Size Map (LSM) from 450sqm to 900sqm. |
| 4 | 21 Narara Road, Cooranbong  Lots 4, 5, 6 and 7 Section O DP 724 | Sell to the public for residential use. | * Reclassify as operational land. * Rezone from RE1 Public Recreation to R2 Low Density Residential. * Add to LSM at 450sqm. |
| 5 | 48 Oakdale Road, Gateshead  Lot 20 DP 1115790 | Commercially lease the whole of the property. | * Reclassify as operational land. |
| 6 | 4a Clare Street, Glendale  Lot 103 DP 553828 | Sell to adjoining owners for residential use. | * Reclassify as operational land. * Rezone from RE1 Public Recreation to R3 Medium Density Residential. * Change HBM from 8.5m to 10m. * Add to LSM at 900sqm. |
| 7 | 62A Graham Street, Glendale  Lot 62 DP 247342 | Redevelop and sell to the public for residential use. | * Reclassify as operational land. * Rezone from RE1 Public Recreation to R2 Low Density Residential. * Add to LSM at 450sqm. |
| 8 | 16 Skye Street, Morisset  Lot 1 Section 12 DP 758707 | This is one lot of three lots to be sold together for residential use. This lot is constrained due to an Asset Protection Zone (APZ) and riparian zone required for the development of the other two lots. | * Reclassify as operational land. |
| 9 | 38 Alison Street, Redhead  Lot 50 DP 844457 | Redevelop and sell to the public for residential use. | * Reclassify as operational land. * Rezone from RE1 Public Recreation to R2 Low Density Residential. * Add to LSM at 450sqm. |
| 10 | 20 Ruttleys Road, Wyee  Lot 495 DP 755242 | Redevelop and sell to the public for residential use. | * Rezone from RU6 Transition to C4 Environmental Living. * Change LSM from 200ha to 2ha. |

The reclassification process is governed by part 3, division 3.4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). A planning proposal has been prepared in accordance with the legislative requirements, including:

* a statement of the intended outcomes
* the justification for those outcomes having regard to each individual parcel of land
* details of the community consultation and public hearing proposed in relation to the planning proposal
* the proposed process for implementing the outcomes of the planning proposal.

A detailed summary of the planning proposal, which provides further information in relation to the justification for the intended outcomes, is provided in Attachment 1.

In accordance with the requirements of the EP&A Act, the planning proposal will be forwarded to the Minister for Planning for a Gateway Determination to be made.

Upon completion of the requirements set out in the Gateway Determination, including any public exhibition, public hearing and consultation process, a further report will be submitted to Council. That report will include information regarding any submissions received, and make further recommendations as to proceeding with the planning proposal to achieve the intended outcomes.

Subsequent to the planning proposal process, further proposals in relation to the land to achieve the intended outcomes, such as commercial leasing, sale, or dedication or closure of the land as road pursuant to the Roads Act, may also be brought back before Council for further consideration if necessary (either individually or in groups), or may be undertaken by Council.

Assessment of options

It is recommended to proceed with the reclassification of the land, rezoning and any changes relevant to the development standards for each parcel of land as outlined in Table 1 above. The planning proposal outcomes will rectify the anomalies in the current classification, zoning and development standards for the parcels of land, having regard to their current or proposed future use.

If the reclassification of the parcels of land does not proceed, the land will remain classified, zoned and/or subject to development standards which are considered inappropriate for their current or proposed use.

Community engagement and internal consultation

As part of the process to determine if the reclassification should commence, the matters are submitted to Council’s Rezoning Advisory Panel (RAP). The RAP is made up of representatives from relevant Council departments and considers proposals based on the expertise of each department, and the merits of the proposal. Table 2 (below) sets out the date on which each proposal was considered and any key issues the RAP addressed.

**Table 2 – RAP consultation**

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| **Item No.** | **Address** | **RAP date** | **Issues raised** | **Resolution** |
| 1 | 60-62 Main Road, Boolaroo | 31 March 2022 | None | Proceed with reclassification. |
| 2 | Part of 27C First Street, Cardiff South, south of Ada Street | 21 October 2021 | None | Proceed with reclassification and rezoning. |
| 3 | 27 First Street, Cardiff South, and 27C First Street, Cardiff South, north of Ada Street | 21 October 2021 | Tree loss | This will be further assessed during the consultation period. However, there is no threatened species or wildlife corridors and existing tree cover is highly disturbed with no understorey. |
| New road layout | To be assessed at subdivision stage. |
| 4 | 21 Narara Road, Cooranbong | 30 November 2021 | Loss of open space | To overcome this, Council will reclassify another Council-owned site nearby to community land, which has a higher environmental value. |
| Bushfire | It will be easier to provide an APZ if the land is swapped, as this can be extended behind existing houses. |
| 5 | 48 Oakdale Road, Gateshead | 25 February 2020 | None | Proceed with reclassification. |
| 6 | 4a Clare Street, Glendale | 31 March 2022 | Council’s development of this land is not considered viable due to poor access (land only 4m wide). | Proceed with reclassification and rezoning and offer land to adjoining owners in accordance with Council’s Acquisition and Divestment of Land policy. |
| 7 | 62A Graham Street, Glendale | 21 October 2021 | Possible future loss of trees | This will be further assessed during the consultation period. However, there is no threatened species or wildlife corridors and it is an isolated site. |
| 8 | 16 Skye Street, Morisset | 25 August 2021 | Flooding | Not identified on Council’s current flooding maps. |
| Ecology, APZ and riparian zone | Can be accommodated if this site is sold with the adjoining two, but not built upon. |
| 9 | 38 Alison Street, Redhead | 21 October 2021 | Land under adjoining roads should also be rezoned | Noted and applied. |
| 10 | 20 Ruttleys Road, Wyee | 30 November 2021 | Most suitable zone without varying minimum lot sizes | Zone C2 was considered best. |
| Should land be retained as an off-set site | Off-set for this development can be accommodated on site. Would have low value elsewhere due to historic contamination issues (night soil site). |

Council’s Financial Planning and Legal teams were also consulted in the preparation of this report.

Community engagement, including a public hearing, will be undertaken in accordance with the requirements of the Gateway Determination made by the Minister for Planning.

Key considerations

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| **Economic impacts** | Reclassification of the following land is expected to unlock housing supply/infill housing opportunities:  Item 3 – 27 and 27C First Street, Cardiff  Item 4 – 21 Narara Road, Cooranbong  Item 6 – 4A Clare Street, Glendale  Item 7 – 62A Graham Street, Glendale  Item 8 – 16 Skye Street, Morisset  Item 9 – 38 Alison Street, Redhead  Item 10 - 20 Ruttleys Road, Wyee. |
| **Environment** | Items 5, 8 and 10 all have threatened or endangered species on the land.  Item 5 - 48 Oakdale Road, Gateshead, will be retained in Council’s ownership and the natural bushland will remain untouched.  Item 8 - 16 Skye Street, Morisset, is already partially cleared and will be sold with the two adjoining lots to the east. Development is subject to significant restrictions as it is required as both a riparian zone and APZ.  At item 10 - 20 Ruttleys Road, Wyee, only the disturbed areas will be subdivided and sold. |
| **Community** | The proposal is consistent with current usage for the land, and/or infill development of surrounding land, therefore the community impact is minimal. This will be further determined through community consultation and public hearing processes. |
| **Civic leadership** | The exhibition of the planning proposal and subsequent public hearing will satisfy statutory requirements and ensure consultation with the community and stakeholders. |
| **Financial** | Costs associated with advertising and holding a public hearing will be met by Council. Funds are available in the 2022-2023 budget.  The future intended proceeds from the reclassifications will go to the following Council budgets:   * No proceeds expected: Item 2 – land to be dedicated as road, Item 3 – land south of Ada St to be dedicated as road, Item 4 - proposed land swap, and Item 8 – land will have minimal value due to its constraint as an APZ and riparian zone. * Strategic Property Reserve: Items 1, 5 and 10. * Roads and Drainage Fund: Approximately 6500m2 of Item 3. * Community Land Reserve: Approximately 1190m2 of Item 3, as well as Items 6, 7 and 9. |
| **Infrastructure** | No work is required to the existing infrastructure during the reclassification stage. Any infrastructure required before the land can be developed or sold will be assessed at subdivision or development application stage. |
| **Risk and insurance** | Risks associated with preparation of a reclassification are minimised by following due processes under the *Environmental Planning and Assessment Act 1979,* the *Local Government Act 1993 a*nd Council procedures, as noted. Additionally, this action is covered by Council’s professional indemnity insurance as a standard activity. |

Legislative and policy considerations

Environmental Planning and Assessment Act 1979 (NSW)

*Local Government Act 1993 (NSW)*

*Roads Act 1993 (NSW)*

Local Environmental Plan Making Guideline, Dec 2021 - Department of Planning, Industry and Environment

LEP Practice Note PN 19-001 – NSW Department of Planning

Council’s Amending Local Environmental Plan to Reclassify Land Procedure

Attachments

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| 1. | Summary of Planning Proposal - Maps and Justification - 2022 Housekeeping Amendment |  | D10669411 |