

Public Hearing Report

Planning Proposal for Reclassification of Community Land

Properties: Lot 21 DP541629 High Street East Maitland and Lot 848 DP 703278, Part Lot 1538 DP832922 and Part Lot 8884 DP 786883 Thomas Coke Drive, Thornton

Submitted to Maitland City Council

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Issue	Date	Description	Initial
1	20/12/2022	Draft	SL
2	21/12/2022	Review	GH
3	22/12/2022	QA & Finalise	SL

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This document has been authorised by: _____

Stephen Leathley B.urb.Reg.Plan; MBA; Registered Planner (Fellow)

Planning Director

Date: 22 December 2022

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1. INTRODUCTION

Insite Planning Services (Insite) was commissioned by Maitland City Council to independently chair a Public Hearing and prepare a Public Hearing report into the reclassification of two (2) parcels of Council owned land from 'community' to 'operational'. The first of these land parcels is located at High Street East Maitland, and the second is part of the Allan and Don Lawrence Fields/ Reserve at Thomas Coke Drive, Thornton.

The reclassification is being achieved through a Planning Proposal that seeks to amend Maitland Local Environmental Plan 2011 (MLEP 2011) to change the classification of the two parcels of land that are owned by Maitland City Council (Council).

The first parcel is a small Lot owned by Council that forms part of a carpark located off High Street, East Maitland. This site is zoned B2 Local Centre under the MLEP 2011. Other land owned by Council within this carpark is classified 'operational', so the reclassification is seen as rectifying a current anomaly. This item was discovered when an adjoining owner sought to provide access to the rear of their property and Council was unable to provide legal access as the land is classified as 'community land'.

The proposal to reclassify part of the Allan and Don Lawrence Fields relates to that part of this site, which is located immediately adjacent to Thomas Coke Drive, Thornton. The land is currently used to provide pedestrian and vehicular access to the sporting complex, and for drainage purposes. It is zoned RE1 Public Recreation. The reclassification from community to operational land will enable the Council to provide legal access for an adjoining subdivision so it can connect to Thomas Coke Drive as required by the RFS.

The Public Hearing was required to consider the proposed reclassification of both sites as per the Gateway Determination for the Planning Proposal dated 30 June 2022.

The Public Hearing was conducted on 29 November 2022 and this Public Hearing report has been prepared in accordance with Section 29 of the Local Government Act 1993 and the Department of Plannings Practice Note PM 16*001.

This Public Hearing report details Council and the community submissions to both the Planning Proposal exhibition and the Public Hearing. It considers the reclassification proposals considering these submissions and offers recommendations for Council to consider as one piece of evidence in its broader decision making process around the proposed reclassification.

Table 1: Public Hearing Summary Details

Public Hearing Report Prepared by:	
Name:	Stephen Leathley Insite Planning Services PO Box 93, Cessnock NSW 2325
Contact:	Stephen Leathley – Planning Director Ph: 02 4998 7496 Email: stephen@insiteplan.com.au
Proposal Details:	
Local Government Authority:	Maitland City Council; PO Box 220 MAITLAND NSW 2320
Description of Proposal	Reclassification of land from 'community' to 'operational' at High Street East Maitland (Item 1) and Thomas Coke Drive Thornton (item 2)

Property Description:	<p>Item 1: Lot 21 of DP 541629 High Street, East Maitland (Council owned carpark)</p> <p>Item 2: Part of Allan and Don Lawrence Fields being Lot 848 DP 703278 John Arthur Avenue, Thornton, Part Lot 1538 of DP 832922 Thomas Coke Drive, Thornton and Part Lot 8884 of DP 786883 Government Road, Thornton</p>
Community Consultation Details:	
Exhibition Details	The Planning Proposal was publicly exhibited from 5 September 2022 for 28 days to 3 October 2022.
Submissions Received	Council advised that it received a total of five (5) community submissions during the exhibition period.
Notification of Public Hearing	The notice of the public hearing was placed on the Council website on the 4 November and a notice also appeared in the Maitland Mercury, a newspaper circulating in the local area of both sites. Council also notified adjoining landowners via a letter.
Public Hearing Details	<p>Date: 29 November 2022</p> <p>Time: 6.30pm to 7.33pm</p> <p>Location: Council Offices, Ken Tubman Drive, Maitland</p> <p>Attendees: Nine (9) members of the public plus three (3) Council staff and the chair.</p>

2. STATUTORY CONTEXT

Public land is any land that is vested in or under the control of a Council. Pursuant to Section 25 of the Local Government Act 1993, public land must be classified as either 'community' land or 'operational' land.

Community land is generally open to the public, for example, parks, reserves or sports grounds. Under s. 45 of the Local Government Act 1993, community land must not be sold, exchanged or otherwise disposed of, leased or licensed unless in accordance with the provisions of the Local Government Act 1993.

The classification of land as community reflects the importance of the land to the community because of its use or special features¹.

Operational land may be used for other purposes, for example, as access, works depots or garages, or held by a Council as a temporary asset.

Classification or reclassification of public land may be undertaken pursuant to s.27(1) of the Local Government Act 1993 via a Local Environmental Plan (LEP) made under the Environmental Planning and Assessment Act 1979 or pursuant to s. 27(2) of the Local Government Act 1993 via a resolution of Council.

Should Council resolve to reclassify community land to operational land via a LEP, a Council is required by s.29 of Local Government Act 1993 to convene a public hearing and this public hearing must be held after the close of the statutory exhibition period for the LEP.

Section 47G of the Local Government Act 1993 provides in part as follows:

"(2) The person presiding at a public hearing must not be;

(a) a councillor or employee of the Council holding the public hearing, or

(b) a person who has been a councillor or employee of that Council at any time during the five years before the date of his or her appointment.

(3) Not later than four days after it has received a report from the person presiding at the public hearing as to the result of the hearing, the Council must make a copy of the report available for inspection by the public at a location within the area of the Council."

For the purposes of Section 47G of the Local Government Act 1993, Mr Leathley has never been an employee of Maitland City Council. Further, Mr Leathley has never been a Councillor at Maitland City Council.

2.1 Public Hearings – Practice Note PN 16-001

This Practice Note published by the Department of Planning & Environment states as follows in respect to the public hearing process:

"Councils must hold a public hearing when reclassifying public land from community to operational (EP&A Act s.57 & LG Act s.29). This gives the community an opportunity to expand on written submissions and discuss issues with an independent person in a public forum.

After the exhibition period has ended, at least 21 days public notice is to be given before the hearing. This allows the person chairing the hearing sufficient time to consider written submissions and all issues raised.

There are specific requirements for the independence of the person chairing the hearing, their preparation of a public hearing report and council making the report publicly available (LG Act s.47G)."

3. SUBJECT LAND

There are two sites that are the subject of the Planning Proposal for reclassification of Council owned land from 'community' to 'operational' and these are:

- Council Car Park, East Maitland
- Part Allan and Don Lawrence Fields

Detail site descriptions are as follows:

3.1 Council Car Park, East Maitland

Just to the south of the railway overpass bridge on High Street East Maitland, there is a Council/public carpark located on the western side of the street. This carpark extends west from the street over a conventional lot before heading south along the rear of the commercial properties located along the High Street.

The legal title description of the land is Lot 21 DP541629.

The subject site is currently constructed as a carpark and has an area of ~215m².

Refer to figures 1 and 2 below for the property location and an aerial photo of the carpark and site itself.

Figure 3 is a plan of the carpark with those parcels coloured light blue being Council owned and classified as 'operational', while the green parcel is the subject land, and it is classified as 'community'. This plan highlights the anomaly that Council submits as evidence for the need to reclassify the land.

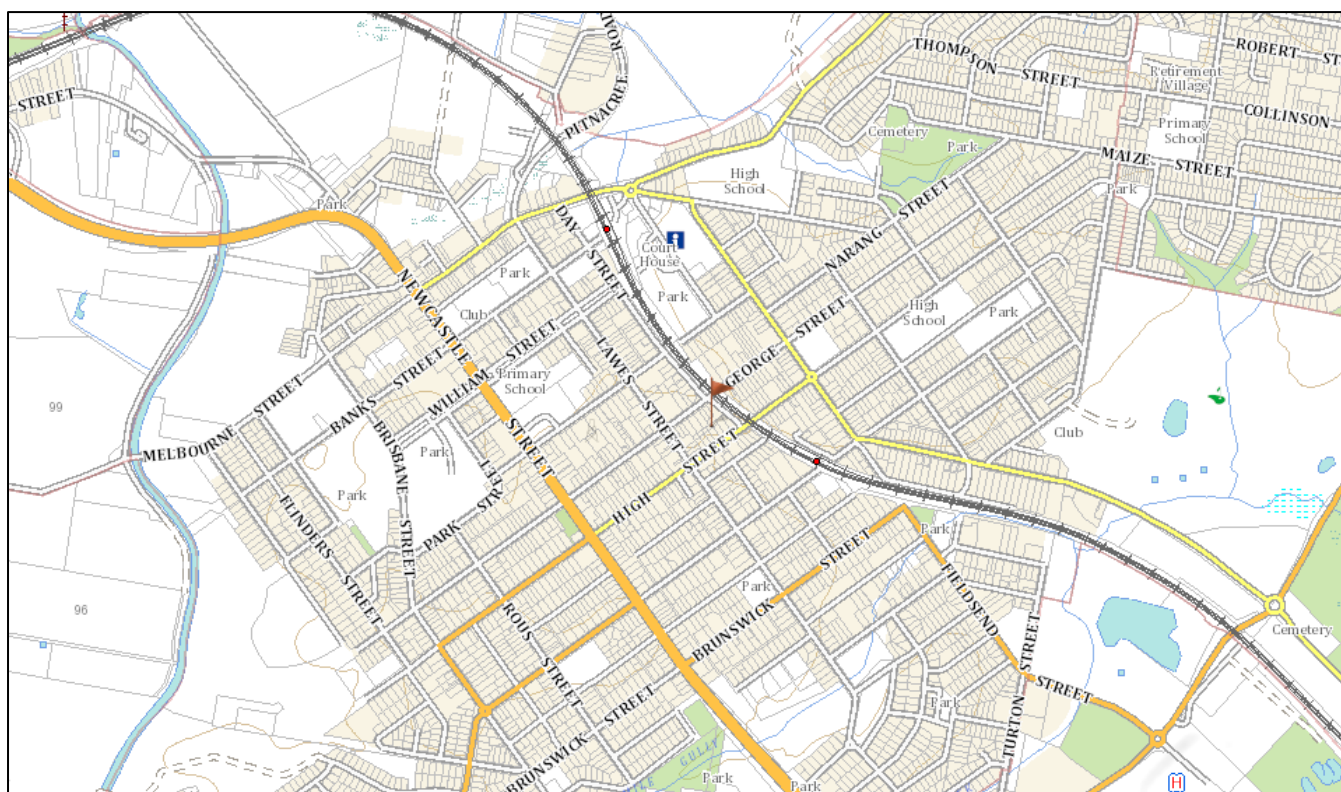
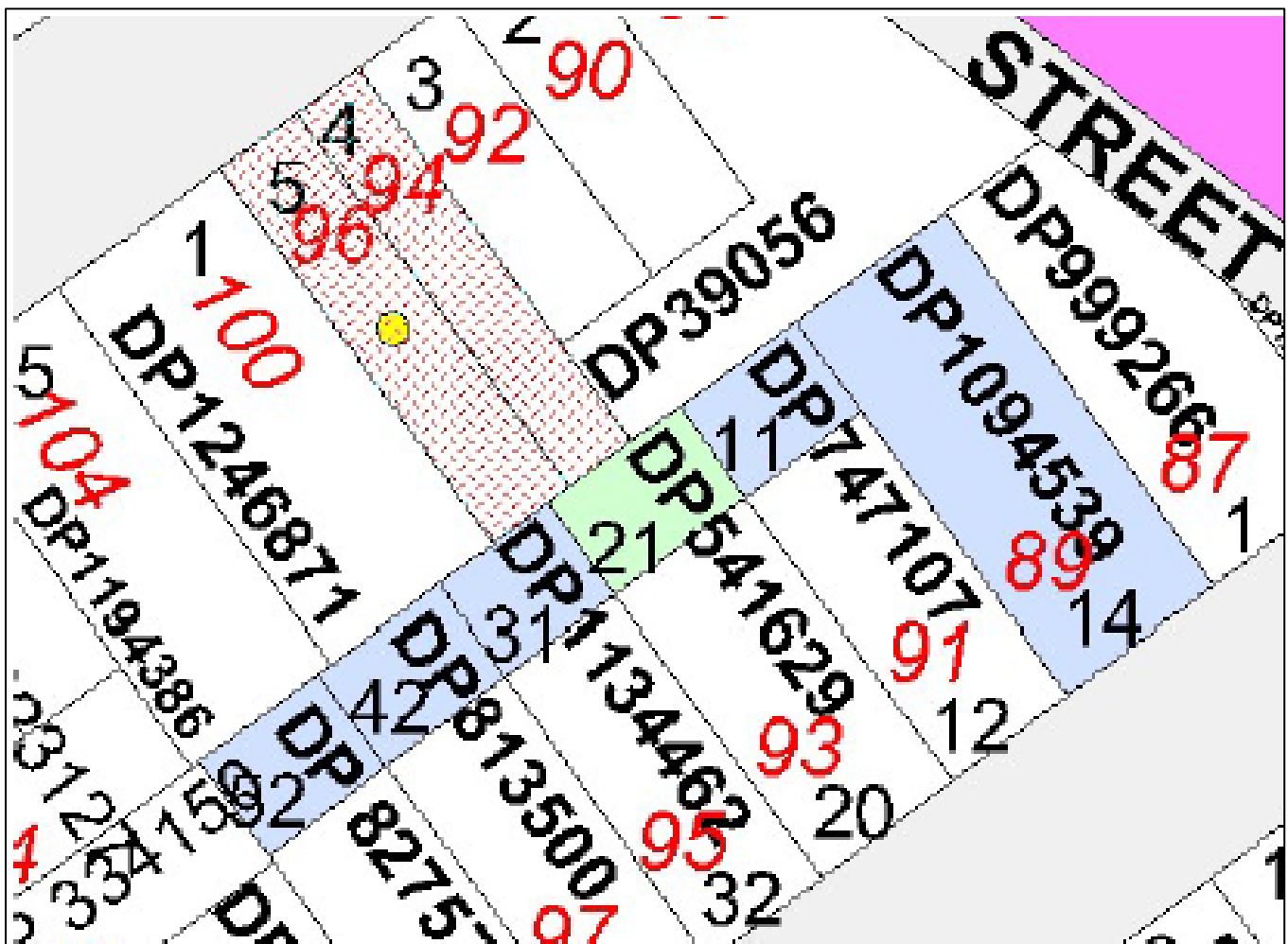


Figure 1: East Maitland Carpark Location (Source: SixMaps 2019).



Figure 2: East Maitland Carpark Aerial Photograph (Source: SixMaps 2019).



3.2 Part Allan and Don Lawrence Fields

Allan and Don Lawrence Fields (elsewhere referred to as 'Allan and Don Lawrence Reserve' and 'A and D Lawrence Sports Field') is a major sporting complex located at Thornton. It has frontage to Government Road (east) and Hillgate Drive (north) with vehicle and pedestrian access available via Thomas Coke Drive (south). Location is illustrated in **figure 4**.

The facility has a football (soccer) fields that are also used for cricket (turf and hard wickets) and athletics as well as change rooms, toilets, and canteen. There is also a children's playground as well as a carpark for ~70 vehicles. Council also allows the facility to be used as an off lead dog area. On the northern side of the facility, adjacent to Hillgate Drive and the intersection with Government Road, is an informal open space area with the western part of the site covered in native vegetation.

The land the subject of the Planning Proposal/ reclassification is the land on the southern end extending from Thomas Coke Drive to the carpark as illustrated in **figure 5** with an area of ~7,000m².

This section of the facility is used to access the site from Thomas Coke Drive for both vehicles and pedestrians.

The legal property description is as follows:

- Lot 848 DP 703278 John Arthur Avenue, Thornton,
- Part Lot 1538 of DP 832922 Thomas Coke Drive, Thornton and
- Part Lot 8884 of DP 786883 Government Road, Thornton

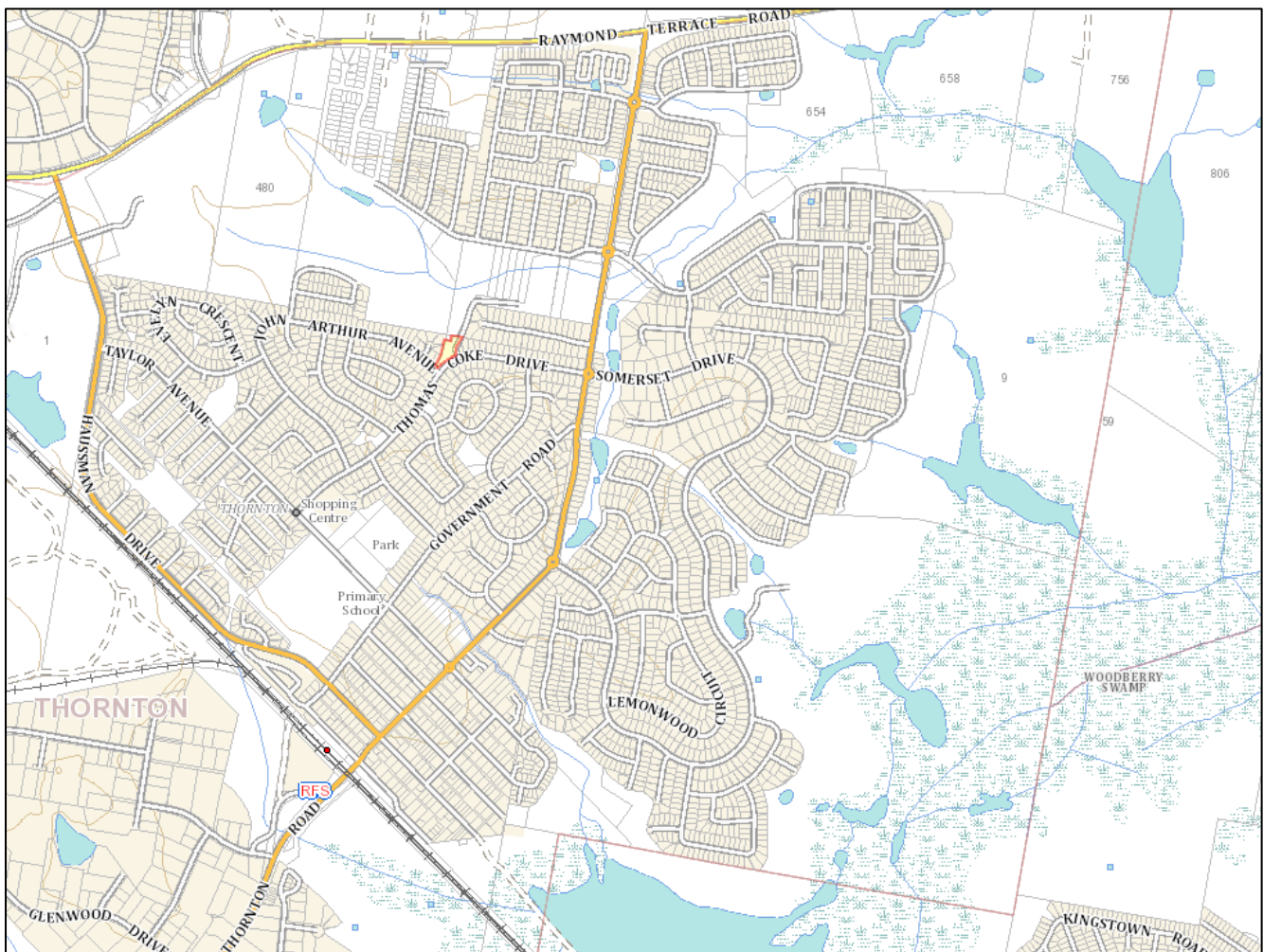


Figure 4: Location of Allan and Don Lawrence Fields (Source: SixMaps 2019)



Figure 5: Subject land to be reclassified (Source: MCC)

4. PURPOSE OF RECLASSIFICATION

The purpose of the reclassification of both sites has been set out in the Council report titled “10.3 Request for Gateway Determination – Reclassification of land at East Maitland and Thornton” as follows:

4.1 Council Car Park, East Maitland

“The purpose of the reclassification is to correct an anomaly that exists with a small parcel of land that forms part of Council owned car park...”

Council has received a development application for Alterations and Additions (DA2021/344) to the East Maitland Vet Clinic on George Street. As part of the proposal, there is a requirement to formalise access to the rear of the site, via the existing Council carpark. Principle agreement to the applicant obtaining a licence for this access (like the arrangement in place for the Lorn carpark) has been issued however the granting of this licence will be subject to approval.

Whilst Lot 21 DP541629 is identified as community land the adjoining parcels within the car park and access lane are classified as operational (Highlighted in Blue in Figure 3). Lot 21 DP 541629 contains a Certificate of Title with an accompanying letter from R.W. Thompson, Norrie & Co. stating that “This land represents the residue of the land acquired from Mr. Bourne after transfer of Lot 20 to The Salvation Army Property Trust”.

Access within the car park over Council land is available to the general public, the proposed Development Application identifies the requirement for access to the rear of 94- 96 George Street, a licence would be required to formalise such an arrangement, and to ensure that such authorised access would not be obstructed by any parked cars.”

4.2 Part Allan and Don Lawrence Fields

“The purpose of the reclassification is to provide legal access (through road), being a requirement from the NSW Rural Fire Service (RFS) Planning for Bushfire Protection 2019 and a previous condition of development consent (DA11-932).....

Regarding the existing development application, NSW RFS advised Council on 18 August 2021 that the additional information had not satisfactorily addressed the issues relating to access, specifically the provision of a through road. The proposed development can comply with Table 5.3B of “Planning for Bush Fire Protection 2019” but will require redesign of the subdivision layout though and reclassification of Council’s reserve to facilitate the construction of the road.

The NSW RFS have advised that they would accept, in the interim, a temporary unfettered road until such a time as the permanent road can be completed to the satisfaction of Council. This will still require reclassification.

Internal consultation with Community & Recreation Planning have previously advised that they do not object to a public road being constructed as described however, this would need to be a dedicated road and the road from Thomas Coke Drive would also need to be upgraded.....

Regionally, the site is considered as part of a “Priority Release Housing Area” in the Greater Newcastle Metro Plan and as a “Growth Area” within the Hunter Regional Plan 2036. The site is within the Thornton North Urban Release Area, and the Thornton North URA Development Control Plan applies to the site. Maitland +10 calls for: planning and development of new suburbs will provide for a mix of housing types” that supports the need for the overall subdivision development. This amendment to Schedule 4 of the MLEP 2011 will help in that facilitation.”

5. PUBLIC CONSULTATION

The Planning Proposal underwent two separate public consultation processes:

1. Public Exhibition of the Planning Proposal
2. Public Hearing

The outcomes of both processes were as follows:

5.1 Public Exhibition

The proposal to reclassify the two sites was publicly exhibited as part of the Planning Proposal from 5 September 2022 for 28 days to 3 October 2022. I have been advised that advertising and notification of the proposal was undertaken by Maitland City Council in accordance with the relevant legislative requirements.

The exhibition of the proposal was publicised via:

- A notice posted on Council's website
- Local newspaper (Maitland Mercury) for multiple weeks
- Exhibition in Council's offices and Council Library

A total of five (5) submissions from the public were received during the exhibition notification period all relating to the Allan and Don Lawrence Fields reclassification proposal. There was no submission made from the public relating to the East Maitland carpark reclassification proposal. A further submission was received by Council following the close of the exhibition and after the Public Hearing. I have included this submission in the table below.

Table 2 below provides a summary of these submissions.

Table 2: Summary of Community Submissions to the Planning Proposal Exhibition

Submitter	Summary of Submission
Tony & Jacqueline Martin	<ul style="list-style-type: none">• Object to reclassification and a road being built over the land.• Safety based reasons – this part of the reserve is used for pedestrian access, and in particular by school children.• There is a bus stop located adjacent to what would be the intersection of the new access road with Thomas Coke Drive – an intersection this close to a bus stop would be a safety concern.• Increase traffic onto Thomas Coke Drive from new growing subdivision is a safety concern.• Traffic generation from the new subdivision will cause safety & traffic congestion concerns in respect to the access to the reserve for both vehicles and pedestrians.• Mixing school children with a new access road would be a safety concern.• The land is used as overflow carparking for the reserve.• Subdivision should find an alternate access.
Belinda Gibbons	<ul style="list-style-type: none">• Object to reclassification and a road being built over the land.• Same reasons for objection as above.
Nicole Berry	<ul style="list-style-type: none">• Object to reclassification and a road being built over the land.• Same reasons for objection as above.

Chris Coleman	<ul style="list-style-type: none"> • Object to reclassification and a road being built over the land. • Same reasons for objection as above.
Gai Taylor	<ul style="list-style-type: none"> • Object to reclassification and a road being built over the land. • Same reasons for objection as above.
Murray Herdegen (late submission)	<p>Object to reclassification and a road being built over the land.</p> <p>Same reasons for objection as above.</p> <p>Impact on the environment through clearing of land.</p> <p>Comment: This appears to be a submission made in relation to DA 2019/682 as it references that DA not the Planning Proposal, and there should be no direct impacts on biodiversity as a result of this reclassification.</p>

5.1.1 Chairs Comment Regarding Submissions

The submitters all raised the same concerns, and all submissions were very similar in their form, content and structure.

5.2 Public Hearing

Council arranged a Public Hearing for the two reclassifications of public/Council land on 29 November 2022 from 6.30pm – 7.33pm at the Council Administration offices currently located on Ken Tubman Drive Maitland. The Public Hearing was conducted in accordance with Clause 29 of the *Local Government Act 1993*.

Council placed an advertisement in the local paper (Maitland Mercury) on the 4 November 2022 advising of the Public Hearing. Notices were also placed in the Council customer service area and the Maitland Library.

The hearing was chaired by Mr Stephen Leathley. The Public Hearing was also attended by the following Council staff:

- A Ovenden, Acting Manager, Strategic Planning
- P Gunasekara, Acting Co-ordinator, Strategic Planning
- G Hamer, Senior Strategic Planner (GH)

There were nine (9) public attendees that signed the attendance sheet. An Attendees list is held at Appendix 1.

The Public Hearing followed the ensuing protocol:

- Welcome and introduction to hearing from Chairperson including an acknowledgement of country
- Council presentation/submission to the public hearing outlining the Planning Proposal and two proposed reclassifications
- Community submissions
- Concluding remarks and comments on next steps from Chairperson

5.2.1 Council Presentation

A presentation was made by Mr Gary Hamer, Council's Senior Strategic Planner who has had carriage of the Planning Proposal process.

Mr Hamer discussed the meaning of "public land", "community land", "operational land" and the "re-classification" process.

He then went through both proposals, consistent with what is outlined in the Planning Proposal. His presentation included aerial photo's and plans of the reclassification proposals and discussed the background to each item which had led to the reclassification process being initiated.

A copy of the Presentation is provided at Appendix 2.

Only one issue was raised by members of the public during Mr Hamer's presentation and that related to the East Maitland Council carpark reclassification wherein a community member stated that they believed that there was an additional parcel of Council owned land that also formed part of the carpark that was also classified 'community'. Mr Hamer was unaware of this and figure 3, which is from Councils mapping system, does not identify this land. Mr Hamer undertook to investigate further.

5.2.2 Community Submissions – East Maitland Public Carpark

Two members of the public present expressed an interest in this reclassification proposal and were clearly in favour of the recommendation to reclassify the land to operational. They identified themselves as being involved in the East Maitland Veterinary Clinic which has rear access via the subject site. They explained that it was in their interest that the reclassification proceed so that they can negotiate an access easement for legal access via this land and onto High Street. Following their brief submission, they left the Public Hearing.

5.2.3 Community Submissions – Allan and Don Lawrence Fields

The remaining seven (7) community members were interested in this reclassification proposal with their being local community representatives led by Mr Murray Herdegen, and Mr Mark Warland leading the interests of the various sporting groups who utilise the sporting grounds/facility.

Following a presentation from Mr Herdegen, the local community representatives addressed the Chair as a collective in an informal discussion on the issues they had wherein they all object to the reclassification proposal for the following reasons:

- Clarification was provided by Mr Hamer on the land the subject of the reclassification as there was confusion by the community members present as to what land was part of the Allan and Don Lawrence Fields subject of the reclassification proposal, and the adjoining subdivision proposal. In summary, the adjoining vegetated land was largely where the subdivision was to occur.
- Reclassifying the land so that it can be sold to the developer of the adjoining subdivision to build a road was the primary issue of objection. Residents were concerned with the following impacts from that outcome:
 - Impacts and loss of pedestrian connectivity between the bus stop for school children located adjacent to the proposed access point onto Thomas Coke Drive for the proposed new road, and the residential estate located north of the reserve - Hillgate Drive, which is currently not serviced by a bus route. There was concern that the formal pathway that linked Thomas Coke Drive to the formal sporting fields area would be forfeited because of the proposal.
 - The loss of a formal pedestrian connectivity point would result in pedestrian safety issues as school children would continue to use this as a route on an informal basis to access the residential areas north of the reserve.
 - The proposed access point of the new road onto Thomas Coke Road would conflict with the existing bus stop and would have to be relocated to avoid safety issues with conflict between vehicles and buses and school children in the area, and there were no other nearby suitable locations for the bus stop.

- The bus stop and bus route carry children from eleven (11) different schools, so this area has a high level of pedestrian activity, and in particular school children.
- The local road network would become congested and not capable of catering for the additional traffic generated by the new residential estate that would direct traffic via this new road onto Thomas Coke Drive.
- The new intersection onto Thomas Coke Drive would not be able to operate efficiently leading to congestion, and it was not a safe location for an intersection being located on a bend with high traffic volumes.
- There would be extensive clearing of native vegetation because of the new road. (The Chair clarified that the native vegetation required to be cleared for the proposed road was not located within that part of the reserve proposed to be reclassified).
- There is currently a natural drainage line that runs through that part of the reserve proposed to be reclassified that would be impacted on by the proposed new road.
- Loss of important reserve area for community use – even though the area proposed for reclassification is not part of the formal sporting fields and carparking facility, it does serve important functions in terms of pedestrian connectivity and providing overflow carparking. Residents provided photo's of cars parking along the access road that leads into the formal carparking area, as well as elsewhere within this part of the reserve proposed for reclassification – refer to Appendix 3.
- The loss of the reserve area will result in overflow carparking occurring within local streets that don't have capacity for additional on-street carparking and will result in road safety issues.
- Concern that the new road would impact on the sewer pump station and other infrastructure.
- There was concern that the Council was 'giving away the land for free' with no benefit to the local or broader community who use the facility including the area to be reclassified.
- Local community members made submissions that the proposed road to service the subdivision should be diverted north to Hillgate Drive. (Council staff explained that land north of the residential subdivision had a conservation zoning making that option problematic and resulting in greater environmental impacts. The Chair also explained the RFS requirements for new subdivisions to have perimeter roads, and alternate means of access out of an area that was subject to bushfire threat as is the case with the adjoining land).
- There was criticism that Council was using the reclassification process that would result in a new road as a means to upgrade the access to the sporting facilities at no cost, or as a 'cheap way to upgrade the access road'.
- Concern was raised that the construction of the road would impact on adjoining residential properties that front Avaré Close.

Mr Warland then addressed the Chair outlining the concerns of the local sporting groups that use the facility. The following specific issues were raised:

- Loss of overflow carparking noting Council had effectively 'lost' about twelve (12) spaces when it resurfaced and re-line marked the carpark.
- The new housing in the area is resulting in a growing population which is and will continue to result in extra people joining the local sporting clubs and using this facility meaning the need for over flow carparking area will increase, not decrease. There is also a need for new sporting facilities.
- There is a need now for more formal carparking and if this land is used, it will be a lost opportunity.

The Chair then summarised the primary issues raised as follows:

- The rationale for Council to reclassify community land is to benefit a private development. Compensation to Council needs to be considered.
- Current shortfalls in car parking means that overflow parking occurs along the access handle to the sporting fields.
- Safety concerns on ingress and egress of the sporting fields due to the alignment of the road.
- Heavy concentration of school buses with the stop near the entrance of A & D Lawrence Ovals.
- Sporting demand is outstripping supply of sporting fields within the Thornton area.
- Potential impacts on existing infrastructure services including water and sewer.

6 CONCLUSION

I have carefully considered the issues surrounding the reclassification of both the High Street East Maitland car park (Lot 21 of DP 541629) and the front part of the Allan and Don Lawrence Fields fronting Thomas Coke Drive Thornton which are proposed for reclassification, both from 'community land' to 'operational land'. This consideration has included the issues raised by the community in written submissions to the Planning Proposal exhibition, verbal submissions at the Public Hearing, Council's own submission at the Public Hearing and my review of relevant Council reports, strategies, and plans.

In terms of the East Maitland High Street public carpark reclassification, there are no submissions in which to respond, and this appears a straight forward need for reclassification to rectify an anomaly. Importantly it will assist a growing local business to be able to formalise legal access to their property. I don't consider that there is any need for compensation in this regard given the anomaly status, and that other properties have been, and continue to have use of this carpark for access. In this regard I am satisfied that the reclassification satisfies the public interest.

However, the community have raised valid issues that Council will need to respond to before proceeding with the reclassification of the front part of the Allan and Don Lawrence Fields fronting Thomas Coke Drive Thornton to facilitate the adjoining subdivision. My recommendations in this regard are that the reclassification proceed, and as part of the commercial arrangements:

1. That the Council enter into a Voluntary Planning Agreement (VPA) with the developer of the subdivision of the land that requires the reserve land for the new road to service the new subdivision, and that the terms of the VPA ensure that:
 - a. Council is compensated for the land based on a land valuation process. The developer must be required to purchase this land from Council at its current value to compensate the community.
 - b. That the developer is responsible for providing, at their cost, a new pedestrian linkage from Thomas Coke Drive to the entrance to the Allan and Don Lawrence Fields and that the location and design be approved by Council and supported by a road safety audit.
 - c. That the width of the new road be such that it allows parallel carparking for the entire length in which it extends through the current reserve, and on both sides, to compensate for the loss of overflow parking within this reserve area. Further, that carparking be clearly line marked.
 - d. That the developer be responsible for providing drainage as per Council requirements.
 - e. That the developer provides a road safety audit in terms of the existing bus stop on Thomas Coke Drive, and if it is deemed unsafe in the context of the new intersection and additional traffic generation, that the developer of the subdivision be responsible for any costs associated with its relocation.
 - f. Where existing infrastructure within the reserve is required to be relocated or protected because of the construction of the new road, the developer be responsible for those costs.
2. Prior to proceeding with the Planning Proposal to reclassify the land, Council satisfy itself that the intersection onto Thomas Coke Drive is safe and will not result in any congestion issues. In this regard the developer should be required to provide a design, Traffic Impact Assessment and road safety audit.

A copy of this report be made available to the public in accordance with Section 47(G)(3) of the *Local Government Act 1993*.

This Public Hearing report is submitted to Council for consideration as one part of its broader decision making process around the draft Planning Proposal to reclassify land parcels located at High Street East Maitland and part of the Allan and Don Lawrence Fields/ Reserve at Thomas Coke Drive, Thornton.

APPENDIX 1

ATTENDEES LIST

1. M Warland
2. G Taylor
3. M Herdegen
4. C Coleman
5. B Gibbons
6. M Yates
7. L Trist
8. D Herdegen
9. J Taylor

APPENDIX 1

COUNCIL PRESENTATION

An aerial photograph of a residential area in Maitland, New South Wales, Australia. The image shows a grid of streets including Melrose, Belmore, and Stuart. A river is visible on the left side. The text is overlaid on this background.

Public Hearing

Reclassification from 'Community Land' to 'Operational Land'

Item 1 – Lot 21 DP 541629

Item 2 – Lot 848 DP 703278, Part Lot 1538 DP 832922 and Part Lot 8884 DP 786883, Thornton

**29 November 2022, 6.30 p.m.
Ken Tubman Building (MCC)**

maitland
city council

AGENDA

- 1. Welcome and introduction by Chairperson**
- 2. Presentation by Maitland City Council**
- 3. Speakers to raise matters of concern**
- 4. Clarification of issues raised by speakers**
- 5. Conclusion of the meeting**

Introduction

- Public land is managed under the *Local Government Act 1993* based on its classification. All public land must be classified as either “community” or “operational” land.
- Community land – is owned by Council, available for use of public (e.g. parks or sports grounds) and restrictions on how to use land.
- Operational land – is owned by Council, facilitates the functions of Council, no specific restrictions on Council powers to use.
- Reclassification of public land refers to the process of changing the classification of “community land” to “operational land”.
- Under Section 29 of the LG Act 1993, Council is required to hold a public hearing for any reclassification of public land.

Background - East Maitland

- The lot forms part of a conglomeration of allotments that form part of an access handle and car park in Council ownership
- The land was acquired after the transfer of Lot 20 DP 541629 to the Salvation Army (26th July 1973).
- The site was registered on 20th April 1979 as a Torrens title site.
- It is considered that the current classification is an anomaly given the use of the site, the adjoining similar allotments and zoning of the land.

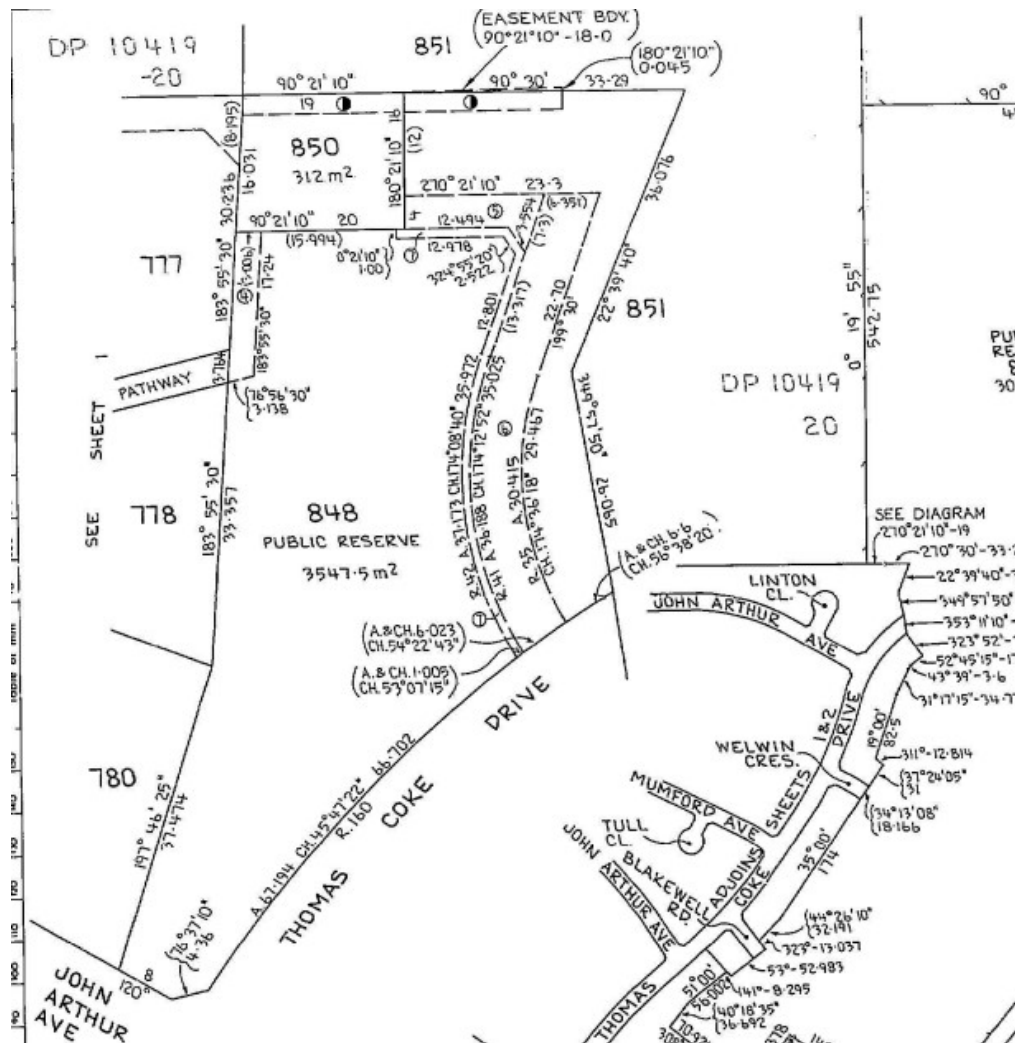
Proposed area to be reclassified



Background - Thornton

- The purpose of this reclassification is to provide practical and legal access being a requirement from the NSW Rural Fire Service (RFS) – Planning for Bushfire Protection 2019.
- The proposed reclassification site is the existing access handle (Right of Carriageway 6m) to the A & D Lawrence Fields.
- The proposal will require the upgrade to the access handle at the expense of the applicant and in accordance with Council Engineering Standards.

Thornton



- The land was dedicated as a Public Reserve (DP703278) to Council on 8th March 1984.
- Existing easements include easements to drain water and also right of carriageway (6m).

Proposed Area to be Classified Thornton



Planning Proposal

- Gateway Determination was issued by the Department of Planning & Environment on 30th June 2022
- Public exhibition was from 5 September to 3 October 2022
- Reclassification will:
 - East Maitland – amend an anomaly
 - Thornton – enable practical and legal access for residential purposes.

Gateway Determination



Department of Planning and Environment

Gateway Determination

Planning proposal (Department Ref: PP-2022-1301): to reclassify two sites in Maitland Local Government Area

I, the Director, Central Coast and Hunter at the Department of Planning and Environment, as delegate of the Minister for Planning and Homes, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the *Maitland Local Environmental Plan 2011* to reclassify the following sites from community to operational land, Lot 21 of DP 541629 Council Car Park/Rear Lane East Maitland and Lot 848 of DP 703278 (John Arthur Ave), Part Lot 1538 of DP 832922 and Part Lot 8884 of DP 786883 (Thomas Coke Drive), should proceed subject to the following conditions:

1. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - (a) the planning proposal is categorised as standard as described in the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 28 days; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021).
2. A public hearing is not required to be held into the matter under section 3.34(2)(e) of the Act. However, a public hearing is required to be held into the matter in accordance with the Department's Practice Note PN 16-001, as the planning proposal involves a reclassification of land from community to operational.
3. Consultation is required with the NSW Rural Fire Service under section 3.34(2)(d) of the Act and/or to comply with the requirements of section 9.1 Ministerial direction 4.3 Planning for Bushfire Protection.
4. The LEP should be completed on or before 7 March 2023.

Dated 30th day of June 2022.

Dan Simpkins
Director, Central Coast and Hunter Region
Department of Planning and Environment

Delegate of the Minister for Planning and
Homes

Next Steps...

- Following the public hearing, the Chairperson will prepare a report on the hearing and submit to Council.
- A copy of the report will be publicly available.
- Council will consider the submissions received during the public exhibition of planning proposal and a report regarding the public hearing.
- Council will then decide whether to proceed with the planning proposal or vary to the proposal.
- If Council decides to proceed, the Department of Planning & Environment will make arrangements for making of LEP.



Thank You

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maitland
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APPENDIX 3

OVERFLOW PARKING PHOTO'S



