

## Planning and Assessment

IRF20/1682

### Gateway determination report

<b>LGA</b>	Lake Macquarie
<b>PPA</b>	Lake Macquarie City Council
<b>NAME</b>	Housekeeping Amendment 2020
<b>NUMBER</b>	PP_2020_LAKEM_002_00
<b>LEP TO BE AMENDED</b>	Lake Macquarie Local Environmental Plan 2014
<b>ADDRESS</b>	Item 1 -35 McCullough Street and 119 Avondale Road, Cooranbong Item 2 - 8 Patrick Drive, Cooranbong Item 3 - various properties at Teralba Item 4 - 3/15 Tallawalla Road, Valentine Item 5 - 44 Government Road, Wyee Point Item 6 - 31C Skye Point Road, Coal Point Item 7 - 91C Skye Point Road, Coal Point Item 8 - 87C Skye Point Road, Coal Point Item 9 - 32 Yambo Street, Morisset Item 10 - 13B Saltwater Row, Murrays Beach Item 11 - 185C Skye Point Road, Coal Point Item 12 - 159 George Booth Drive, Seahampton Item 13 - 20 Sixth Street, Seahampton Item 14 - 1, 3 and 5 Grant Road, Coal Point Item 15 - 29B Haddington Drive, Cardiff South Item 16 - Main Road, Dora Creek Item 17 - 23 Park Road, Speers Point Item 18 - various properties at Warners Bay.
<b>DESCRIPTION</b>	Approximately 100 separate properties (see Attachment A)
<b>RECEIVED</b>	27/02/2020
<b>FILE NO.</b>	EF20/2963
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal.

# 1. INTRODUCTION

## 1.1 Description of planning proposal

The planning proposal (Attachment A) seeks to amend Lake Macquarie Local Environmental Plan (LEP) 2014 by:

- updating LEP maps to accommodate property description changes and to correct LEP zones and planning provision boundary errors (Items 1 to 5);
- removing Land Reservation Mapping to reflect Council and State agency ownership (Items 6 to 13);
- correcting foreshore building line errors (Item 14);
- amending heritage item descriptions and mapping errors (Items 15 to 17); and
- removing map sites from the Urban Release Area map (Item 18).

## 1.2 Site description and existing planning controls

The planning proposal comprises of approximately 100 sites (referred to as items in this report). The location of the items is shown in Figure 1. A description of each item is provided below.

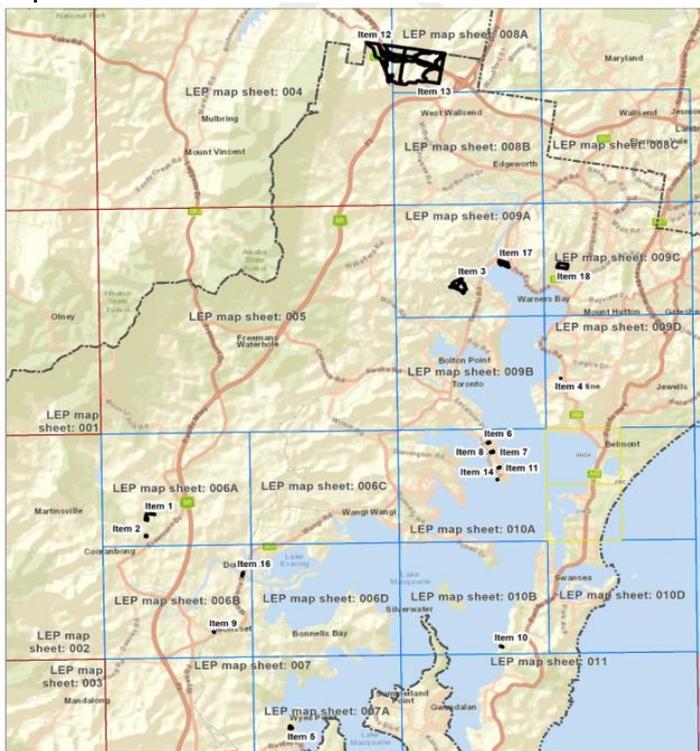


Figure 1 – Locality map

### Item 1 –

Item 1 is located at 35 McCullough Street and 119 Avondale Road, Cooranbong and comprises of three parts (see Figure 2).

- Site A is currently zoned R2 Low Density Residential and has a minimum lot size 450m<sup>2</sup> and a 8.5m maximum building height.
- Site B is currently zoned R3 Medium Density Residential and has planning controls of minimum lot size of 900m<sup>2</sup>, 10m maximum building height.

- Site C is currently zoned partly R2 Low Density Residential and R3 Medium Density Residential. It also has a minimum lot size partly 450 and 900m<sup>2</sup>, partly 8.5m and 10m maximum building height.

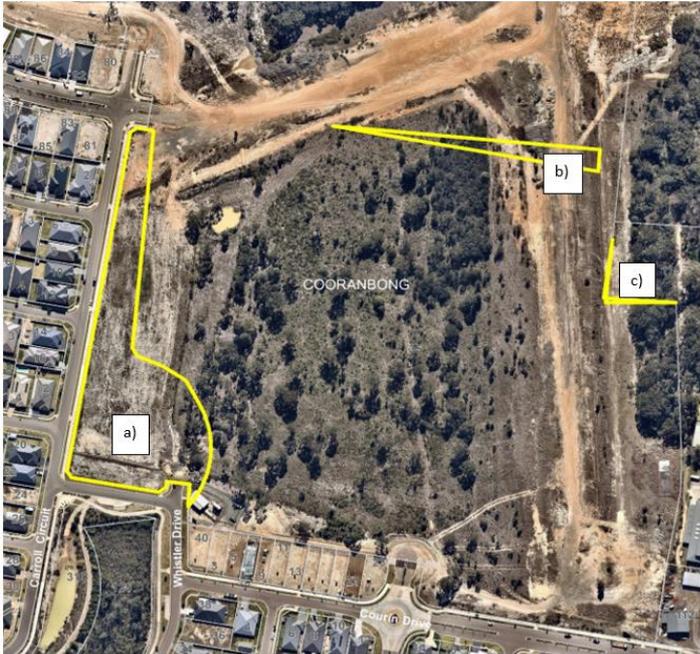


Figure 2 – Item 1

Item 2

Item 2 is located at 8 Patrick Drive, Cooranbong (Figure 3). The site is currently zoned R2 Low Density Residential and has a minimum lot size 450m<sup>2</sup>, 8.5m maximum building height.

Item 3

Item 3 includes various properties at Teralba (Figure 4). The site is outlined in heavy black and include R2 Low Density Residential and RE1 Public Recreation zones with a 450m<sup>2</sup> minimum lot over the R2 zoned land, and is identified for acquisition through the Land Reservation Acquisition map layer over the RE1 zoned land.



Figure 3 – Item 2

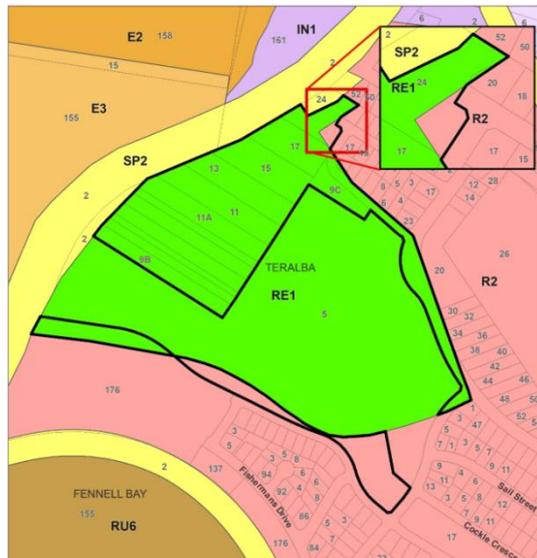


Figure 5 – Item 3

Item 4

Item 4 is located at 3/15 Tallawalla Road, Valentine (Figure 5). The site is currently zoned R2 Low Density Residential and has a minimum lot size 450m<sup>2</sup>, 8.5m maximum building height.



Figure 5 – Item 5

Item 5

Item 5 is located at 44 Government Road, Wye Point (Figure 6). The site is currently zoned partly R2 Low density residential and has planning controls - minimum lot size 450m<sup>2</sup>, 8.5m maximum building height. Partly zoned B1 Neighbourhood centre and has a 10m maximum building height.



Figure 6 – Item 5

**Item 6**

Item 6 is located at 31C Skye Point Road, Coal Point (Figure 7). The site is zoned E2 Environmental Conservation and is identified for acquisition through the land reservation acquisition map layer.

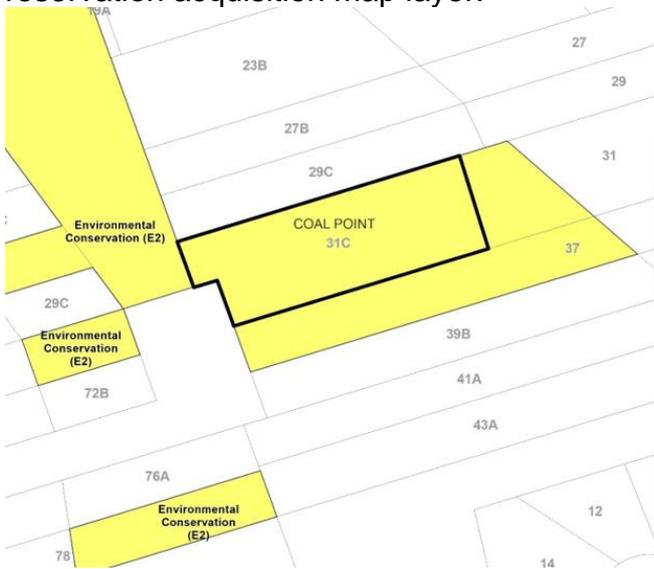


Figure 7 – Item 6

**Item 7**

Item 7 is located at 91C Skye Point Road, Coal Point (Figure 8). The site is zoned E2 Environmental Conservation and is identified for acquisition through the land reservation acquisition map layer.



Figure 8 – Item 7

**Item 8**

Item 8 is located at 87C Skye Point Road, Coal Point (Figure 9). The site is zoned E2 Environmental Conservation and is identified for acquisition through the land reservation acquisition map layer.

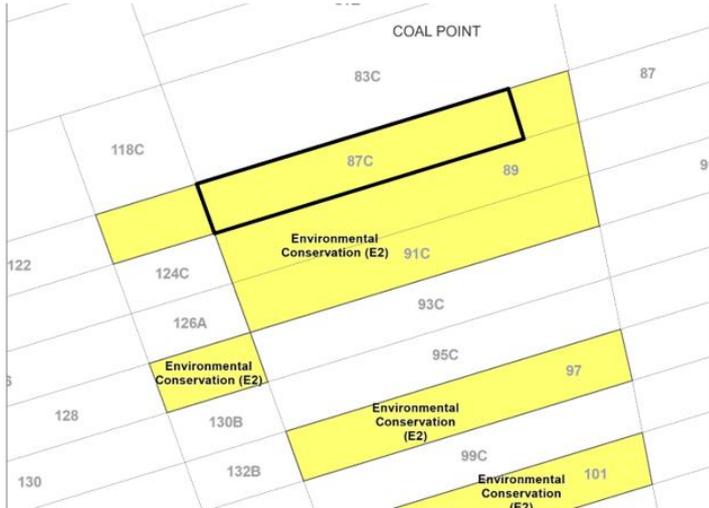


Figure 9 – Item 8

Item 9

Item 9 is located at 32 Yambo Street, Morisset (Figure 10). The site is zoned B3 Commercial core with a 13m maximum building height.



Figure 10 – Figure 9

Item 10

Item 10 is located at 13B Saltwater Row, Murrays Beach (Figure 11). The site is zoned RE1 Public recreation and is identified for acquisition through the land reservation acquisition map layer.



Figure 11 – Item 10

Item 11

Item 11 is located 185C Skye Point Road, Coal Point (Figure 12). The site is zoned E2 Environmental Conservation and is identified for acquisition through the land reservation acquisition map layer.



Figure 12 – Item 11

Item 12

Item 12 is located at 159 George Booth Drive, Seahampton (Figure 13). The site is zoned E1 National Park and is identified for acquisition through the land reservation acquisition map layer.

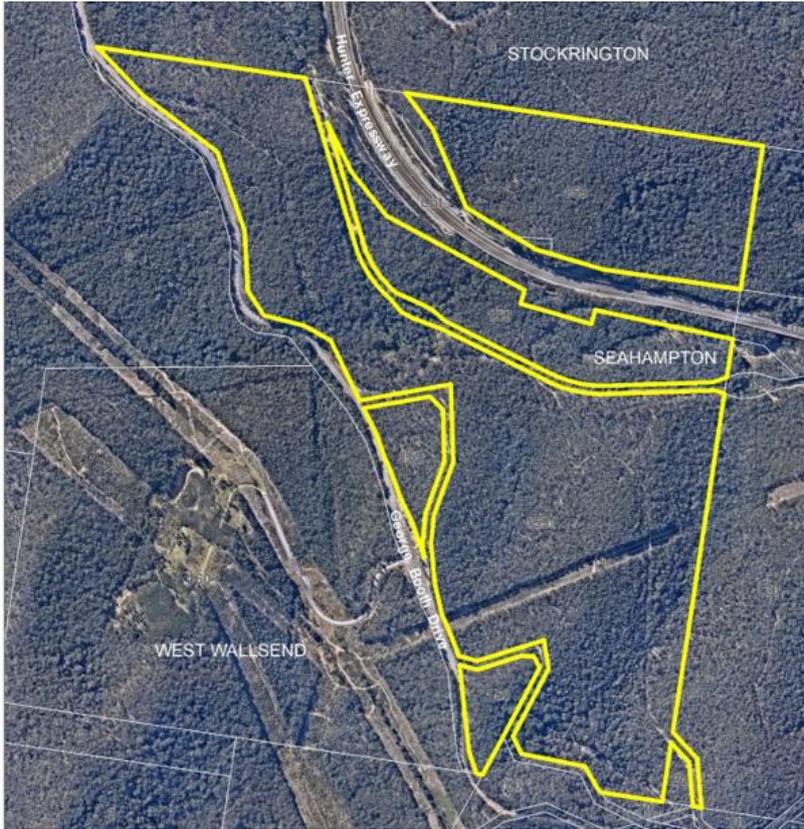


Figure 13 – Item 12

Item 13

Item 13 is located at 20 Sixth Street, Seahampton (Figure 14). The site is zoned E1 National Park and is identified for acquisition through the land reservation acquisition map layer.



Figure 14 – Item 13

Item 14

Item 14 is located at 1, 3 and 5 Grant Road, Coal Point (Figure 15). The site is zoned R2 Low density residential and is identified as having a foreshore building line.



Figure 15 – Item 14

**Item 15**

Item 15 is located at 29B Haddington Drive, Cardiff South (Figure 16). The site is identified in hatched yellow under and is zoned RE1 Public recreation.



Figure 16 – Item 15

**Item 16**

Item 16 is located at Main Road, Dora Creek (Figure 17). The site (bridge) is zoned SP2 Infrastructure.



Figure 17 – Item 16

**Item 17**

Item 17 is located at 23 Park Road, Speers Point (Figure 18). The site is zoned RE1 Public recreation.



Figure 18 – Item 17

**Item 18**

Item 18 includes various properties at Warners Bay (Figure 19). The site is zoned partly R1 Low density residential, R2 Medium density residential and E2 environmental conservation with varying planning controls - minimum lot size partly 450 and 900m<sup>2</sup> and 40 hectares, partly 8.5m and 10m maximum building height.

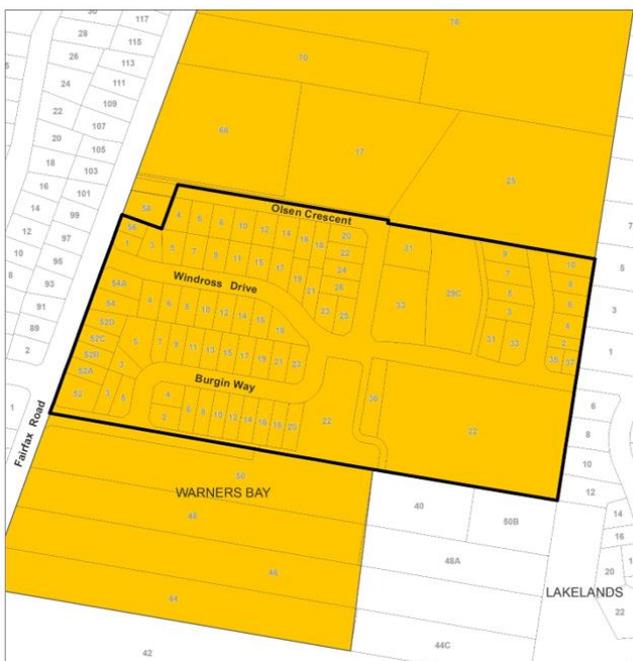


Figure 19 – Item 18

### **1.3 Summary of recommendation**

The proposal seeks to correct errors in the Lake Macquarie LEP to reflect up to date information. The proposal should proceed subject to conditions.

## **2. PROPOSAL**

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### **2.1 Objectives or intended outcomes**

The objectives of the proposal are clear and are supported with relevant maps to describe the changes and why the changes.

The Gateway determination requires the map for Item 14 to be updated prior to exhibition.

### **2.2 Explanation of provisions**

There are 18 Items with various components each as outlined in the proposal (Attachment A). A summary of the provisions is provided below:

- Items 1-5 – amend zoning, minimum lot size, height of buildings, reservation acquisition mapping to rectify boundary misalignments;
- Items 6 -13 – remove land reservation acquisition mapping from properties acquired by Council or State government;
- Item 14 – Amend the foreshore building line map to correct an anomaly;
- Items 15 – 17 – Amend property descriptions that are heritage listed, heritage mapping and include a new heritage item in Schedule 5; and
- Item 18 – remove urban release area mapping from subject properties that have already made satisfactory arrangements.

The explanation of provisions and the associated maps and information clearly outlines what provisions are proposed to be changed and why.

### **2.3 Mapping**

The proposal includes amendments to LEP maps. Existing and proposed maps are included to clearly show the proposed changes. An update to the maps associated with Item 14 are proposed to improve the context on the location.

The proposal outlines the need to amend the following LEP maps:

- land zoning map;
- height of building map;
- minimum lot size map;
- land reservation acquisition map;
- foreshore building line map; and
- heritage map.

The maps in the planning proposal are adequate and show the proposed changes.

## **3. NEED FOR THE PLANNING PROPOSAL**

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The proposal is not the result of a strategic planning study or report. Council advised that the planning proposal was prepared following the identification of errors, a

routine administrative review and to better reflect existing uses and to enable the LEP to remain current (**Attachment A**).

The proposal has five key objectives:

- update LEP maps to accommodate property description changes and to correct zones and planning provision boundary errors:
  - Item 1 - to rectify zone boundary misalignments to the subject site to facilitate the ongoing delivery of approved development;
  - Item 2 - to rectify zone boundary misalignments to the subject site to reflect approved development and the dedication of a biodiversity offset lot to Council;
  - Item 3 - to rectify zone boundary misalignments to the subject site to facilitate the ongoing delivery of approved development;
  - Item 4 - to rectify a zone boundary misalignment that occurred in 2018 associated with a housing development; and
  - Item 5 - to rectify a zone boundary misalignment to the subject property resulting from the zoning occurring prior to the subdivision of the land.
- remove sites on the Land Reservation Acquisition LEP map to reflect:
  - Council ownership of Items 6, 7, 8, 9, 10 and 11; and
  - State government (NPWS) ownership of Items 12 and 13.
- correct Building Foreshore Building Line errors:
  - to correct a mapping anomaly for Item 14 that occurred through a misinterpretation of Council's Lake Macquarie Foreshore Building Line Resolution 1988 Map No.27 which guided foreshore development including Foreshore Building Line (FBL) setbacks included in LMLEP 2014. A 10m setback was applied instead of a 26m setback.
- update heritage item descriptions and mapping errors including:
  - Item 15 – to update an incorrect street address;
  - Item 16 – to respond to a notification from the National Trust of Australia (NSW) to list a new heritage item for this site, being a rail bridge. The proposal contains adequate information to justify the inclusion of this item;
  - Item 17 - to rectify a mapping anomaly to Heritage Map (HER\_009A) to incorporate the entire property to reflect Heritage Item 149, known as 'Speers Point Park (including shelter shed and Minenwerfer (or German mortar))'. The proposal contains adequate information to justify the changes to this item.
- Remove sites from the Urban Release Area map:
  - Item 18 - amend the Urban Release Area (URA) map, known as 'Warners Bay Area 1' by removing the subject properties that have made satisfactory arrangements to contribute to the provision of State public infrastructure and have prepared a development control plan. The removal of the URA map from these properties will reduce administrative complexity at the development application stage.

- The Department's Planning Agreements Team was consulted to seek their advice on the proposed removal of these sites from the urban release area (URA) map. The team recommended against removing the land from the URA map as satisfactory arrangements certificates are generally issued with respect to development applications, not for land. As further intensification of the land is possible, the land should continue to be mapped as a URA. As such, it is recommended as a condition of Gateway that Item 18 is removed from the planning proposal.

In summary, the proposal is the best means for achieving the intended outcomes for items 1 to 17.

## **4. STRATEGIC ASSESSMENT**

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### **4.1 Regional**

As most of the proposed amendments are minor and seek to reflect existing uses, remove impediments to enable the development of surrounding land, the matters are considered inconsequential, the proposal is considered consistent with the Hunter Regional Plan.

Specifically, Items 15, 16 and 17 respond to heritage conservation matters which is consistent with Direction 19 of the Hunter Regional Plan.

### **4.2 Local**

Council identifies the following local strategies and policies, and concludes that the proposal is consistent with their stated priorities, objectives and directions.

- Lake Macquarie City Community Strategic Plan 2017-2027;
- draft Lake Macquarie Local Strategic Planning Statement (LSPS);
- Imagine Lake Mac Strategy - which reflects the planning priorities within the draft Lake Macquarie LSPS;
- Lake Macquarie Heritage Study 2017; and
- Lake Macquarie Development Control Plan 2014 – North Cooranbong Precinct Area Plan.

The proposal is consistent with the local strategic planning framework.

### **4.3 Section 9.1 Ministerial Directions**

The summary below discusses the proposal's potential inconsistencies with section 9.1 Directions. The planning proposal (**Attachment A**) provides a more detailed analysis.

The proposal includes multiple sites, including minor zone boundary adjustments for where land in zones business, residential, recreation and environmental zones are being changed with losses and gains in the amount of zoned land. Whilst these matters are minor and administrative, they have implications for some of the Directions.

#### **1.1 – Business and Industrial Zones**

The planning proposal must not reduce the total potential floor space area for employment uses and related public services in business zones.

Item 5 includes both gains and losses in the B1 Neighbourhood Centre land to reflect road reserves and lot boundaries resulting from the zoning occurring prior to the subdivision of the land. While no calculations of the difference in the area of zoned land as a result of these changes have been included in the proposal, the maps indicate the relatively minor significance of the change (see Figure 20), hence any reduction in zoned land (inconsistency) is considered minor and can be justified.

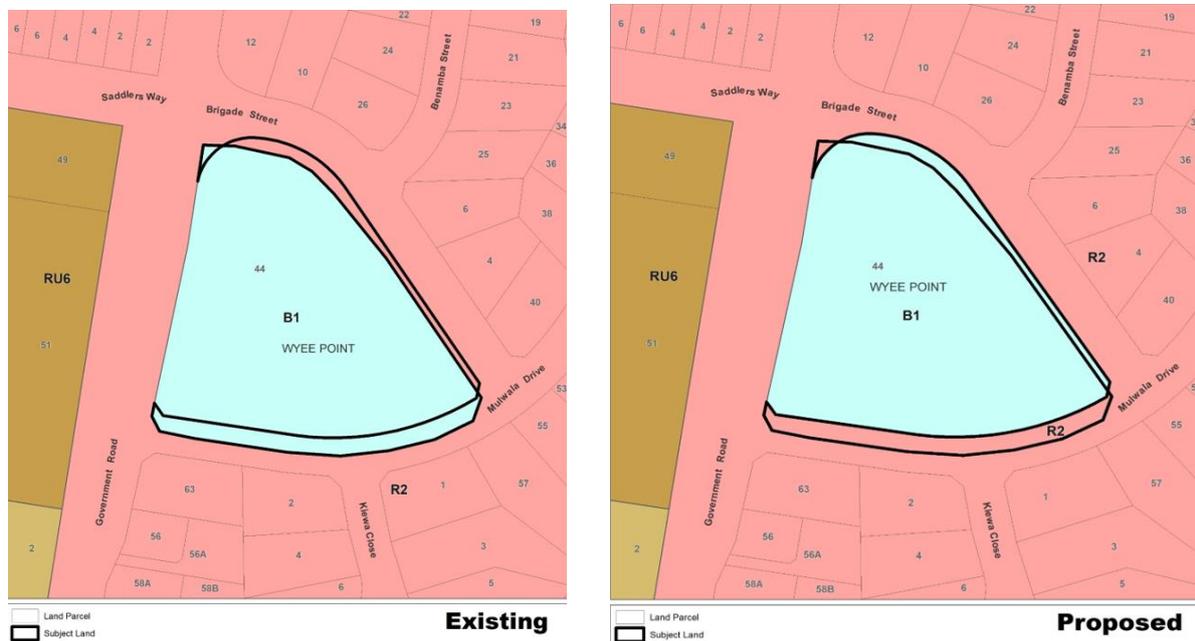


Figure 20 – Existing and proposed site

## 2.2 – Coastal Management

Items 4, 5, 14, 16 and 17 are located in the Coastal zone. The planning proposal will not intensify future development and is consistent with relevant provisions of NSW Coastal Policy, thus is consistent with this Direction.

## 2.3 – Heritage Conservation

Items 15, 16 and 17 respond to heritage conservation matters which is consistent with Direction.

### 3.1 – Residential Zones

While several of the items in the proposal consist of a loss of residential land reflecting road reserves and property boundaries to another zone, such as B1 Neighbourhood Centre, B4 Mixed Use zone, E2 Environmental Conservation and RE1 Public Recreation, the justification for these changes are consistent with the objectives and terms of the Direction.

### 4.2 Mine Subsidence and Unstable Land

The proposal is potentially inconsistent with this Direction for items 3, 4, 5, 14 and 17 and will need to consult with Subsidence Advisory NSW before consistency may be determined.

### 4.4 Planning for Bushfire Protection

Items 1, 2, 3 and 5 are considered consistent with this Direction as bushfire threat reports have been prepared for these sites. Item 14 however is considered

inconsistent and will require consultation with NSW Rural Fire Service before consistency may be determined.

## 6.2 Reserving Land for Public Purposes

Clause (4) requires the approval of the Secretary (delegate) to create, alter or reduce reservations of land for public purposes.

Item 3 proposes to reduce the current RE1 Public Recreation zone within the Billy's Lookout Residential Subdivision from 19.12 hectares to 18.85 hectares, reflecting road reserves and lot boundaries. This represents a loss of 1.8% of public open space within the residential subdivision. This reduction is considered of minor significance and recommended for approval.

Items 6 to 13 involve removing a number of properties already acquired by Council or other Government agencies from the Land reservation acquisition map. This action is consistent with Objective 1(b) of the Direction.

## **4.4 State environmental planning policies (SEPPs)**

The proposal contains many minor corrections to matters that are inconsequential to the relevant SEPPs.

Item 1 includes properties that have been identified as containing potentially contaminated land. Stage 1 and 2 contamination reports have been undertaken for the subject lands which concluded that they presented a low level risk. The proposal is consistent with the requirements of SEPP 55.

## **5. SITE-SPECIFIC ASSESSMENT**

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### **5.1 Social**

There are minimal social impacts associated with this proposal. The addition of an additional heritage item and making changes to the heritage maps have a positive social impact.

### **5.2 Environmental**

The matters being addressed in this proposal are of minor nature and will have negligible environmental impacts. Item 2 is being zoned to E2 Environmental conservation, reflecting the dedication of a biodiversity offset lot.

### **5.3 Economic**

The errors identified in parts of this proposal pose potential blockages to development proceeding in an orderly and economic way, and this proposal seeks to alleviate these blockages.

### **5.4 Infrastructure**

Item 18 proposes to remove land that has made satisfactory arrangements to contribute to the provision of State public infrastructure from the urban release area map. The proposal was referred to the Departments Planning Agreements team who recommended against this action. As such, it is recommended as a condition of Gateway that this item is removed from the planning proposal.

## **6. CONSULTATION**

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### **6.1 Community**

Council propose a 28 day public consultation period. As this proposal involves Council land it is not considered minor, and hence a 28 day is appropriate.

## **6.2 Agencies**

Council proposes agency consultation with:

- Subsidence Advisory NSW to address potential inconsistency with Section 9.1 Direction 4.2 – Mine Subsidence and Unstable Land; and
- NSW Rural Fire Service to address potential inconsistency with Section 9.1 Direction 4.4 Planning for Bushfire Protection, for item 14 (Grant Road, Coal Point).

No other agencies are required to be consulted for this proposal.

## **7. TIME FRAME**

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Council propose to complete the proposal in nine months, which is considered appropriate as the matters included in this proposal are administrative.

## **8. LOCAL PLAN-MAKING AUTHORITY**

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Council has not requested to be the local plan-making authority as the proposal included Council owned land and this is supported.

## **9. CONCLUSION**

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The proposal includes correcting identified administrative errors and addressing minor matters, and while these are not high priority matters, the proposal has merit and is supported to proceed with appropriate conditions.

## **10. RECOMMENDATION**

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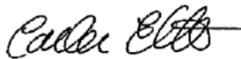
It is recommended that the Director, as delegate of the Secretary:

1. agree that any inconsistencies with the following section 9.1 Directions are minor or justified.
  - 1.1 Business and Industrial Zones (Item 5);
  - 4.4 Planning for Bushfire Protection (Items 1, 2, 3 and 5); and
  - 6.2 Reserving Land for Public Purposes (Item 3).
2. note that the consistency with the following section 9.1 Directions are unresolved and will require justification.
  - 4.2 Mine Subsidence and Unstable Land (Items 3, 4, 5, 14 and 17); and.
  - 4.4 Planning for Bushfire Protection (Item 14).

It is recommended that the Director, as delegate of the Minister for Planning and Public Spaces determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be updated:
  - (a) prior to public agency consultation to ensure that all maps include information to enable easy identification of the location and context, in particular for Item 14; and
  - (b) to remove Item 18 (Fairfax Road, Warners Bay) from the proposal as this is not supported by the Department.

2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. Consultation is required with the following public authorities:
  - Subsidence Advisory NSW; and
  - NSW Rural Fire Service.
4. The time frame for completing the LEP is to be 9 months from the date of the Gateway determination.
5. Given the nature of the planning proposal which includes Council owned land, Council should not be authorised to be the local plan-making authority to make this plan.



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