
10.3 REQUEST FOR GATEWAY DETERMINATION - RECLASSIFICATION OF LAND AT EAST MAITLAND AND THORNTON

FILE NO:	RZ1/2022
ATTACHMENTS:	1. Draft Planning Proposal (under seperate cover) 2. Classification & Reclassification of Council Owned Land
RESPONSIBLE OFFICER:	Matthew Prendergast - Group Manager Planning & Environment Andrew Neil - Manager Strategic Planning Adam Ovenden - Coordinator City Planning
AUTHOR:	Gary Hamer - Senior Strategic Planner
APPLICANT:	Maitland City Council
OWNER:	Maitland City Council
PROPOSAL:	Request for Gateway Determination - Reclassification of Land at East Maitland and Thornton
LOCATION:	Lot 21 of DP 541629 High Street, East Maitland (Council owned carpark) 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
ZONE:	From Community to Operational

EXECUTIVE SUMMARY

Council has received two development applications that require the reclassification of land by way of an amendment to the Maitland Local Environmental Plan 2011 (MLEP 2011) in order to enable legal and practical access to each of the relevant sites. Council has prepared a draft Planning Proposal seeking to enable the reclassification of two sites through the LEP process.

Two items are to be considered, the first is land known as Lot 21 of DP 541629 (Council owned carpark) whilst the second site known as Lot 848 DP 703278, Part Lot 1538 of 832922 and Part Lot 8884 of 786883 forms part of an access handle connecting Thomas Coke Drive to A & D Lawrence Fields, Thornton.

The procedures under the Environmental Planning & Assessment Act (EP&A Act) will apply to the making of the LEP. In addition, a public hearing under Section 57 of the EP&A Act must be held under s.29 of the Local Government Act.

The Planning Proposal to reclassify two items from community to operational by way of an amendment to the LEP is provided as Attachment 2 to this report for Council's consideration.

OFFICER'S RECOMMENDATION

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THAT

- 1. Pursuant to Section 3.34(1) of the *Environmental Planning and Assessment Act 1979*, Council prepare and submit the planning proposal, to the Department of Planning, Industry and Environment seeking a Gateway determination to reclassify Lot 21 of DP 541629, Lot 848 DP 703278, Part Lot 1538 DP832922 and Part Lot 8884 DP 786883 from community to operational land.**
- 2. Following issue of a Gateway determination, Council undertake consultation with the community and relevant government agencies in accordance with Section 3.34 and Schedule 1 of the *Environmental Planning and Assessment Act 1979* and the conditions of the Gateway determination.**
- 3. Pursuant to section 29 of the *Local Government Act 1993*, Council will undertake a public hearing as part of the community consultation process.**
- 4. A further report be presented to Council following the public exhibition period, to demonstrate compliance with the Gateway determination and provide details of any submissions received and outcomes of the public hearing throughout that process.**

REPORT

The purpose of this report is to:

- 1. Seek endorsement to reclassify Lot 21 of DP 541629 (Council Car Park), Lot 848 of DP 703278, Part Lot 1538 of DP832922 and Part Lot 8884 of DP 786883 from community to operational land under s.33 and s.34 of the *Local Government Act 1993* (LG Act).**
- 2. Provide a summary of the planning proposal for the site for submission to the NSW Department of Planning, Industry and Environment for Gateway assessment, seeking a Gateway determination.**

Legislative Framework

When reclassifying any land from community land to operational land, Council is required to reclassify the land under the correct Part within Schedule 4 of *MLEP 2011*. Part 1 comprises land classified, or reclassified, as operational land—no interests changed and Part 2 comprises land classified, or reclassified, as operational land—interests changed. An ‘interest’ in land refers to trusts, estates, dedications, conditions, restrictions and covenants affecting the land. The LEP Practice Note PN 16-001 ‘*Classification and reclassification of public land through a local environmental plan*’ states that it is critical that all interests are identified upfront as part of any planning proposal. ([*Attachment 1*](#)).

For the Planning Proposal Item 1 seeks to amend Schedule 4 of the *Maitland LEP 2011* Part 1 as there are no interests changed, however Item 2 will require an amendment to Part 2

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of Schedule 4 as there are interest changes as the subject site is within an existing Generic Sportsground Plan of Management (POM) as part of the Allan & Don Lawrence Oval.

BACKGROUND

Item 1 Council Car Park, East Maitland

The purpose of the reclassification via an LEP Amendment is to correct an anomaly that exists with a small parcel of land that forms part of Council owned car park adjoining and to rear of commercial properties that are fronting both High and George St, East Maitland. The subject parcel is 215 sqm and is zoned B2 Local Centre under *MLEP 2011*.

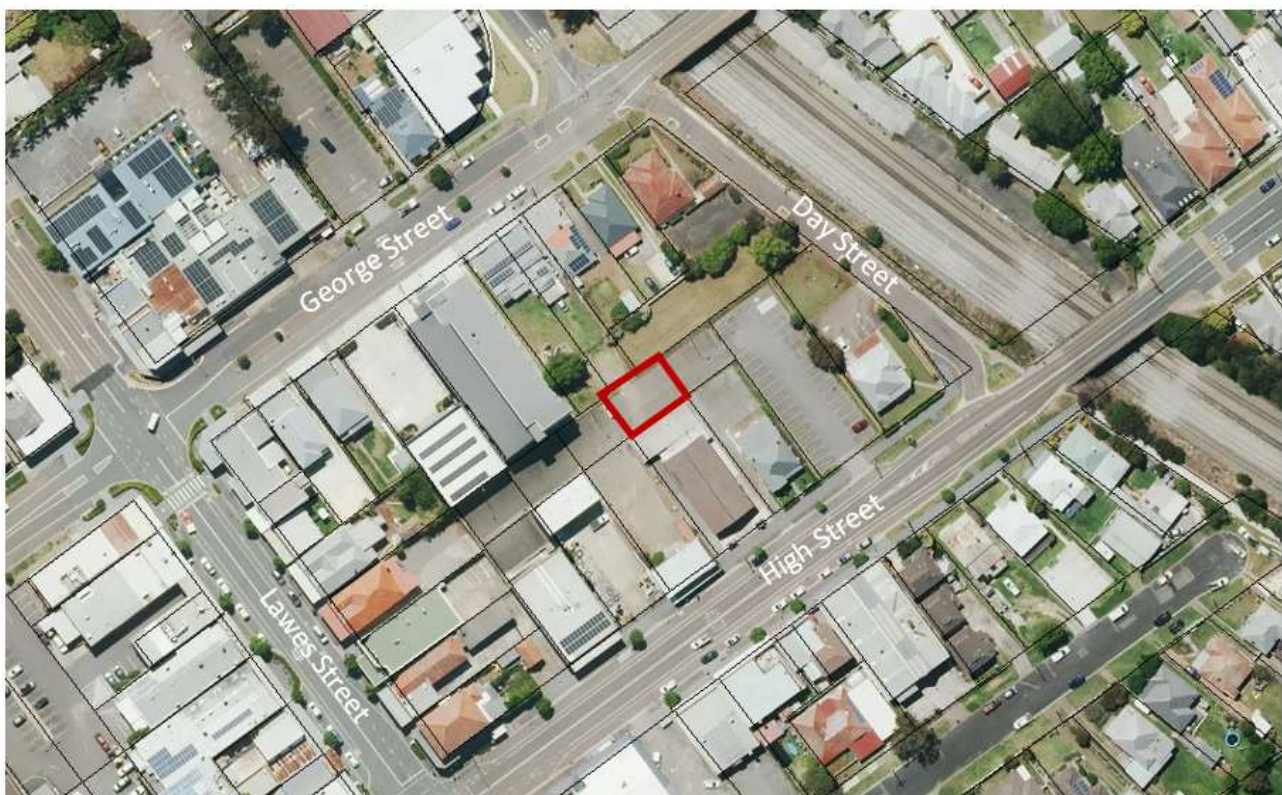


Figure 1: Subject Site, East Maitland

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.

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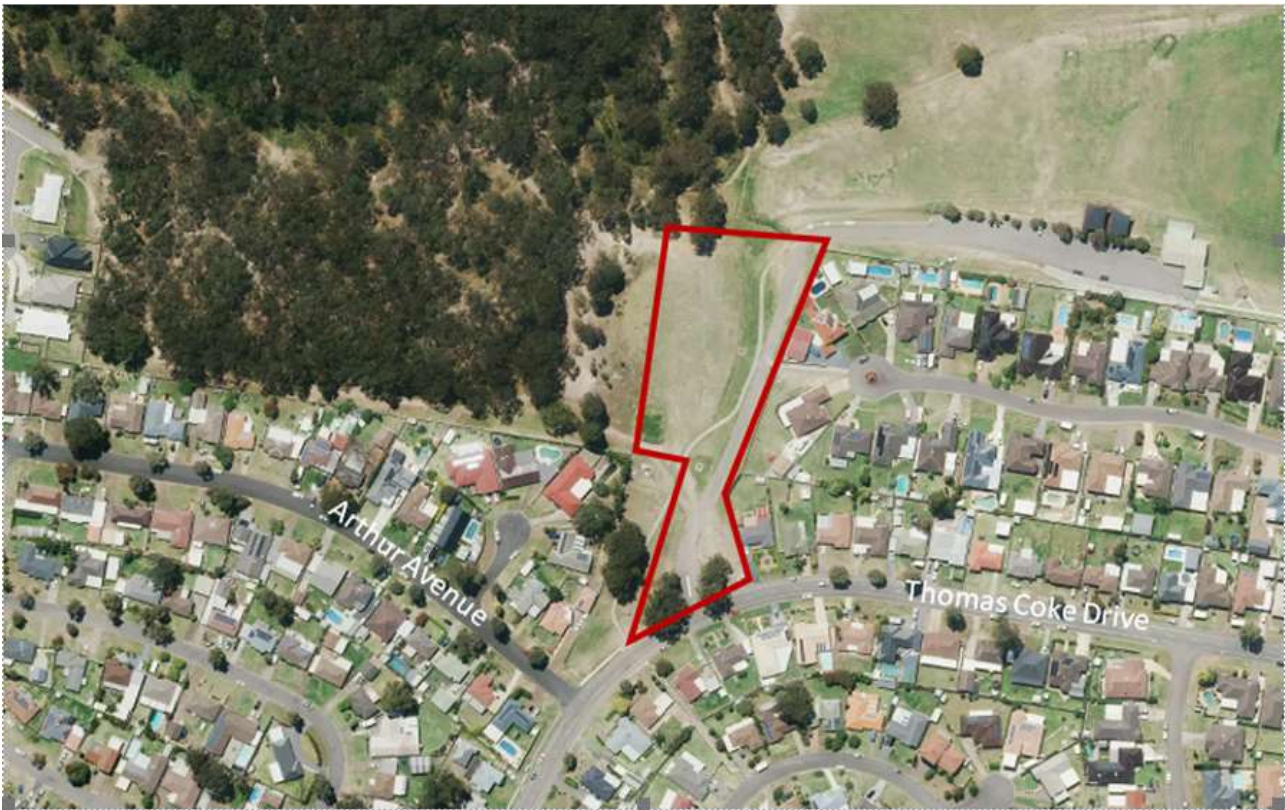


Figure 3: Subject Site, Thornton.

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.

STRATEGIC AND SITE-SPECIFIC MERIT

Strategic Intent

The intent of the planning proposal is to reclassify two sites to ensure the most appropriate and legal use of the land. The most efficient way to achieve this is through an

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amendment to the *MLEP 2011* to amend Schedule 4 – Classification and Reclassification of Public Land.

Item 1

The site is located within East Maitland. East Maitland is a priority area for infill housing and commercial development for the Maitland LGA as identified in the Hunter Regional Plan 2036. The reclassification is a matter to correct a classification anomaly and to be consistent with the objectives of the existing B2 – Local Centre zone within the *MLEP 2011*.

Item 2

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.

Policy Context

As part of Strategic Planning forward work program, a review will be undertaken in relation to existing laneways and car parks to identify any possible anomalies which may exist where parcels of land are classified as community but should be classified as operational in line with the overall strategic intent and zoning objectives. In this first instance these two items are to address immediate matters to ensure legal and practical access to the relevant sites.

PLANNING PROPOSAL

A summary of the planning proposal is provided below:

	Item 1 – East Maitland Car Park	Item 2 – Thornton URA
Applicable Land	Lot 21 DP 541629	Lot 848 DP 703278, Part Lot 1538 DP 832922 and Part Lot 8884 DP 786883
Landowner	Maitland City Council	Maitland City Council
Land Size	215sqm	Approx. 7,000sqm
Current Land Classification	Community	Community
Proposed Land Classification	Operational	Operational
Map amendments		Land Reclassification

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		(Part Lots) Map
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CONCLUSION

There is sufficient strategic and site-specific merit for the proposal to be finalised and to proceed to Gateway assessment. There is an immediate need to address these two matters to facilitate development and resolve an anomaly in classification.

Item 1

- The adjoining lots that form part of the car park and access handle are all classified as operational.
- The reclassification of operational land is consistent with the zoning objectives of B2 Local Centre Under the *MLEP 2011*.
- The matter of legal access will be resolved by way of the reclassification by way of an LEP amendment.

Item 2

- In order to facilitate the residential subdivision a practical and legal access handle is required, and the process of the reclassification will facilitate this matter.
- The existing development application for a residential subdivision is part of the Thornton North Urban Release Area that is one of the most important land release area for the Hunter Region.
- The facilitation of the access handle will help to unlock the development site and add to the growing demand for housing supply within the LGA.

FINANCIAL IMPLICATIONS

This matter has no direct financial impact upon Council's adopted budget or forward estimates.

POLICY IMPLICATIONS

This matter has no specific policy implications for Council.

STATUTORY IMPLICATIONS

This report has regard to the provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.