

16 REPORTS TO COUNCIL FOR DETERMINATION**16.1 LAND AND HOUSING CORPORATION PROPOSED LAND EXCHANGE****RESOLUTION 2023/43**

Moved: Cr Andrew Banfield

Seconded: Cr Jason Shepherd

That Council Move into Committee of the Whole.

Council moved into Committee of the whole at 6:27pm.

CARRIED

RESOLUTION 2023/44

Moved: Cr Bob Kirk

Seconded: Cr Carol James

That Council Move into Committee of the Whole.

Council moved into open Council at 6:50pm.

CARRIED

RESOLUTION 2023/45

Moved: Cr Daniel Strickland

Seconded: Cr Bob Kirk

That:

1. The joint report from the Director Planning & Environment, Business Manager Strategic Planning and Business Manager Property & Community Services be received.
2. Council provides in-principle agreement to the proposed exchange of 36 Howard Boulevard, Goulburn (Lot 164 DP250803, Corner Gibson Street) for 29 Gibson Street, Goulburn (Lot 257 DP749419) subject to:
 - a) 36 Howard Boulevard being reclassified from "Community Land" to "Operational Land" under the *Local Government Act 1993*.
 - b) Costs of holding a public hearing, excluding staff administrative and management costs, and advertising costs, be met by NSW Land and Housing Corporation.
 - c) Additional costs relating to the land exchange (e.g., professional legal fees and disbursements) be met by NSW Land and Housing Corporation.
 - d) Council and NSW Land and Housing Corporation sharing costs equally for valuation certificates to be provided for each property.
3. Subject to 36 Howard Boulevard being reclassified to Operational Land, Council commences preparing a Planning Proposal to rezone the land from RE1 Public Recreation to R1 General Residential.
4. Council will not charge a fee for the planning proposal however should any technical studies be required for this proposal, these studies will be at the expense of NSW Land and Housing Corporation.

CARRIED

16 REPORTS TO COUNCIL FOR DETERMINATION

16.1 LAND AND HOUSING CORPORATION PROPOSED LAND EXCHANGE

Authors: Director Planning & Environment
 Business Manager Strategic Planning
 Director Planning & Environment
 Business Manager Property & Community Services
 Director Corporate & Community Services

Authoriser: Aaron Johansson, Chief Executive Officer

Attachments: 1. Letter to Goulburn Mulwaree Council- proposed land swap [↓](#) 
 2. Gibson Park Observation Study Results [↓](#) 

Link to Community Strategic Plan:	11. Our Community CO1 Facilitate and encourage equitable access to community infrastructure and services, such as health care, education and transport.
Cost to Council:	Costs mainly relate to Council staff time allocated to this project. A minor allocation for a valuation will also be incurred. A new project expense account number will be created and reported in an updated quarterly budget report. Payment of external components will be attributed to Land and Housing Corporation.
Use of Reserve Funds:	No or minor use of Reserve funds is identified at this stage in relation to the valuations.

RECOMMENDATION

That:

1. The joint report from the Director Planning & Environment, Business Manager Strategic Planning and Business Manager Property & Community Services be received.
2. Council provides in-principle agreement to the proposed exchange of 36 Howard Boulevard, Goulburn (Lot 164 DP250803, Corner Gibson Street) for 29 Gibson Street, Goulburn (Lot 257 DP749419) subject to:
 - a) 36 Howard Boulevard being reclassified from “Community Land” to “Operational Land” under the *Local Government At 1993*.
 - b) Costs of holding a public hearing, excluding staff administrative and management costs, and advertising costs, be met by NSW Land and Housing Corporation.
 - c) Additional costs relating to the land exchange (e.g., professional legal fees and disbursements) be met by NSW Land and Housing Corporation.
 - d) Council and NSW Land and Housing Corporation sharing costs equally for valuation certificates to be provided for each property.
3. Subject to 36 Howard Boulevard being reclassified to Operational Land, Council commences preparing a Planning Proposal to rezone the land from RE1 Public Recreation to R1 General Residential.
4. Council will not charge a fee for the planning proposal however should any technical studies be required for this proposal, these studies will be at the expense of NSW Land and Housing

Corporation.

BACKGROUND

In November 2022, Council was briefed by representatives of the NSW Land and Housing Corporation (LAHC) in relation to a proposed Collaboration Agreement. The proposed Collaboration agreement identified common aspirations held by both LAHC and Council for improved access to social housing opportunities within the Goulburn Mulwaree LGA. For Council, the agreement specifically reflected several strategic actions relating to social and affordable housing as previously adopted within the *Social Sustainability Strategy and Action Plan (2020)*, *Urban and Fringe Housing Strategy (2020)*, and the *Local Strategic Planning Statement (2020)*.

At its meeting held 20 December 2022, Council resolved to formally enter into the agreement. The agreement was executed on 9 January 2023, and upon signing the agreement, Council became only the 4th Local Government Area in NSW to enter such a partnership.

LAHC has now formally written to Council requesting to enter a land swap. The land swap would see LAHC take possession of 36 Howard Boulevard (Cnr Gibson Street) which would enable development for social housing. The land is currently underutilised, and well suited to such a development, however a recategorization to “operational” land is required to allow its transfer to LAHC, and rezoning will be required to proceed with any development. A copy of the letter to Council is provided in **Attachment 1**.

REPORT

Following the execution of the Collaboration Agreement with LAHC, Council has received a formal request from LAHC that proposes an exchange of lands. The lands subject to an exchange would be 36 Howard Boulevard (Lot 164 DP250803, Cnr Gibson Street) and 29 Gibson Street (Lot 257 DP749419). Council currently owns 36 Howard Boulevard, which is underutilised and not currently part of any forward works plans or strategies. Whilst the land is zoned RE1 Public Recreation, it is typically not used for such purposes, primarily due to the proximity of Leggett Park and the Wollondilly Walking Track. 29 Gibson Street is owned by LAHC, although given its location has historically been managed and maintained by Council.



Figure 1: Locality Plan

LAHC's intentions are to utilise 36 Howard Boulevard for the development of new fit-for-purpose social housing stock that meets the needs of the current social housing demographic. This is a similar approach employed by LAHC as part of their recent redevelopment on the corner of Hume and Mary Streets, as well as projects currently underway on the corner of Combermere and Rhoda Streets and Albert Street.

Site Synopses

36 Howard Boulevard ("Gibson Park"):

- 3,219m²
- Elevated position and well-serviced, with great development potential.
- Zoned RE1 Public Recreation, however poorly utilised (see further comments below).
- Past attempts at site improvements have been met with vandalism and have been unsuccessful.

29 Gibson Street:

- 12,900m²
- Extremely flood liable and therefore minimal future development potential.
- Contiguous with existing Council owned and managed recreation space and assets.

- Opportunities to enhance landscape between residential development and the Wollondilly River.

Howard Boulevard (Gibson Park) Usage

“Gibson Park” at the corner of Howard Boulevard and Gibson Street was assessed over a two-week period (20 January – 3 February) for usage levels. The two-week period incorporated the end of the school holiday period and the beginning of Term 1 and included no days of extreme heat or cold. The survey was undertaken at three different times during the day with a 3-hour interval where possible. Essentially the survey found that the usage of the park is minimal. The main activity being to use the park as a pedestrian short cut to the adjoining houses, which are also owned and managed by LAHC. **Attachment 2** provides a high level summary of usage and a log of the survey period.

Land Classification

36 Howard Boulevard is classified as “public land” under Sections 25 and 26 of the *Local Government Act 1993* (the LG Act). In accordance with Section 45 of the Act, Council has no power to sell, exchange or otherwise dispose of Community land. To do so, it must reclassify the land to Operational Land”.

The reclassification of land can be attained by Council, provided a specified process is followed. This process is defined under both the *LG Act 1993* and the *Environmental Planning and Assessment Act 1979* (the EP&A Act). This primarily involves the need for Council to resolve to hold a public hearing and consider any matters that may be raised by the community. Public hearings must be chaired by an independent person and currently cost \$4,500 - \$5,000. There are also staff administrative and management costs as well as advertising costs. It is intended that these costs will be absorbed within existing operational budgets.

Council may recall that a similar process was required to develop land previously owned by Council at 49-61 Hovell Street, Goulburn.

Should Council agree to LAHC’s proposed land exchange, this process must occur and be finalised prior to any land transfers taking place.

Land Zoning

Both parcels of land subject to the proposal are currently zoned RE1 Public Recreation. Given the objectives of LAHC, the land at 36 Howard Boulevard would require rezoning to an appropriate residential zone to facilitate any kind of housing development. It is noted that the LAHC request letter does not request a particular residential zone but seeks generally a residential zone which will maximise social housing on the site (**Attachment 1**).



Figure 1: Land Zoning of 36 Howard Boulevard and surrounds

The land surrounding 36 Howard Boulevard is zoned R2 Low Density Residential. Rezoning the subject land to an R2 zoning would be consistent and therefore relatively straight forward. However, upon review of the Land Use Tables within the Goulburn Mulwaree Local Environmental Plan (LEP) 2009, it is considered appropriate to also consider the merits of the R1 General Residential zone as an alternative.

At present there are only minor differences between the R1 and R2 zones in terms of residential permissibility. Generally, this equates to *hostels* and *residential flat buildings* being permissible in the R1 zone and prohibited in the R2 zone, whilst multi dwelling housing is permitted in both zones. In this instance, the following land use definitions are relevant:

- **hostel** means *premises that are generally staffed by social workers or support providers and at which—*
 - (a) *residential accommodation is provided in dormitories, or on a single or shared basis, or by a combination of them, and*
 - (b) *cooking, dining, laundering, cleaning, and other facilities are provided on a shared basis.*
- **multi dwelling housing** means *3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building*
- **residential flat building** means *a building containing 3 or more dwellings, but does not include an attached dwelling, co-living housing or multi dwelling housing.*

It is noted that an outcome of the *Urban and Fringe Housing Strategy* is to provide greater distinction between the 2 zones, which may result in changes to each zone's Land Use Table, and as a result some land uses may lose permissibility.

Therefore, the adoption of an R1 zone for this site may provide greater long-term flexibility and development potential for the purposes of social housing.

For example, LAHC's redevelopment of the Hume/Mary Street site would be considered *multi dwelling housing*, and therefore consistent with LAHC's objectives for this site. However, the ability to utilise *residential flat building* controls for the construction of manor houses, which could be an appropriate form of construction for the site, may require the ability to leverage both the *State Environmental Planning Policy (SEPP) (Housing) 2021* and the *State Environmental Planning Policy (SEPP) (Exempt and Complying Development Codes) 2008*, to facilitate the strategic and community objectives of both Council and LAHC.

The ability to leverage both SEPPs is also the reason why the preference would be to zone the land as R1, as opposed to applying an R2 zone with an additional permitted use (for residential flat buildings) under Schedule 1 of the LEP. This is because the required development controls rely upon the underlying zone as a trigger, as opposed to specific permissible uses.

Regardless of the above, the site has minimal constraints given its existing access to established roads and utilities and proximity to recreation spaces and assets. It is highly disturbed and lacks any significant vegetation and is not encumbered by heritage (Indigenous or European). It is therefore envisaged that minimal work and expense would be required to facilitate a rezoning to the appropriate residential zone.

Cost to Council

The following costs are identified in relation to this project in relation to Council and NSW LAHC:

Item	Actioned by:	Approximate Cost	Cost attributed to NSW/LAHC or Council
Valuation Certificates for both properties	Council	\$3,300	NSW LAHC
Public Hearing – engagement of an external independent chair (consultant).	Council	\$5,000 (approx.)	NSW LAHC
Legal Fees	Council and NSW LAHC	\$1500 (approx..)	NSW LAHC
Land Transfer Fees	Council and NSW LAHC	\$1500 (approx..)	Council and NSW LAHC (equally)
Stamp Duty	Council and NSW LAHC	\$0 for Council as the land swap is a non-trading undertaking	No cost to Council.
Planning Proposal (PP)	Council	\$ 8,112 for Council fees which equates to 54 hours of staff time.	Council will waive the fees for a PP as a part of its contribution to the project. Staff time covered in operational budget.
Technical Studies to support a planning proposal (PP) – if	NSW LAHC	TBA – may not be required in this	NSW LAHC.

required.		instance.	
-----------	--	-----------	--

Note: Council is proposing to waive its fees for the planning proposal (rezoning) as a part of its contribution to the project which will roughly equate to the costs incurred by NSW Land and Housing Corporation. Council will also absorb the cost of managing the overall reclassification process and land transfer within staff costs.

Conclusion

The proposal from LAHC to exchange 36 Howard Boulevard (Lot 164 DP250803, Cnr Gibson Street) for 29 Gibson Street (Lot 257 DP749419) is consistent with the recently executed Collaboration Agreement between Council and LAHC. The proposal would also facilitate the actioning of several key community strategic objectives for Council, including actions from within the *Social Sustainability Strategy and Action Plan*, *Urban and Fringe Housing Strategy*, and the *Local Strategic Planning Statement*.

The proposal would enable LAHC, as the core provider of social housing in Goulburn, to invest in new and fit for purpose social housing stock in Goulburn. It would not only shore up social housing availability but would also provide for more diverse and efficient distribution of social housing opportunities and provide for a more sustainable place of residence for tenants with reduced operating costs.

It is therefore recommended that Council provides in-principle agreement to the proposed exchange of land at 36 Howard Boulevard, Goulburn (Lot 164 DP250803, Cnr Gibson Street) for land a 29 Gibson Street, Goulburn (Lot 257 DP749419) subject to:

1. 36 Howard Boulevard being reclassified from "Community Land" to "Operational Land" under the *Local Government At 1993*.
2. Costs of holding a public hearing, excluding staff administrative and management costs, and advertising costs, be met by NSW Land and Housing Corporation.
3. Additional costs relating to the land exchange (e.g., professional legal fees and disbursements) be met by NSW Land and Housing Corporation.
4. Council and NSW Land and Housing Corporation sharing costs equally for valuation certificates to be provided for each property.

Finally, it is considered reasonable for Council to resolve to commence a Planning Proposal that seeks to rezone 36 Howard Boulevard from RE1 Public Recreation to R1 General Residential in the event of the land being reclassified to Operational Land.



Department of Planning and Environment

Mr Scott Martin
Director Planning and Environment
Goulburn Mulwaree Council
184 Bourke St,
Goulburn, NSW, 2580

Our ref: SUB23/12312

By email: Scott.Martin@goulburn.nsw.gov.au

13 February 2023

Proposed land swap/exchange with Goulburn Mulwaree Council: Lot 164 Howard Boulevard (Cnr Gibson Street) for 29 Gibson Street, Goulburn

Dear Sir,

Firstly, the NSW Land and Housing Corporation (LAHC) would like to thank Goulburn Mulwaree Council (Council) for executing the GMC/LAHC Collaboration Agreement. We are excited for the future opportunities this now brings us to work together on to realise our long-term plan to embellish and improve LAHC-owned social housing across the Goulburn Mulwaree LGA.

With the Collaboration Agreement in place, we would now like to initiate a proposed land swap/exchange with Council, being Lot 164 Howard Boulevard (Cnr Gibson Street) for 29 Gibson Street. More specific details of each land parcel are attached.

From our past discussions on this proposal, Council's land will require reclassification in order to permit Council to dispose of it (the land is currently classified as "community land" under the Local Government Act and requires reclassification to "operational land"), as well as a rezoning (the land is currently zoned RE1 Public Recreation and will require rezoning to a residential zone). LAHC asks for Council's consideration of a suitable zoning that would maximise social housing on the site. Further, we suggest that Council and LAHC arrange an agreed valuation firm and provide a joint instruction to assess current market value of each property and in the case of Lot 164, they assume a residential zoning for the land will transfer to LAHC.

Assuming there may be a difference in value of each lot, there will need to be an adjustment prior to final transfer to reconcile any such difference. We note LAHC is required to follow internal approval procedures prior to finalising any land swap/exchange, as we assume does Council.

LAHC agrees with your proposal that Council be responsible for all rezoning fees and advise that LAHC will cover the cost of the independent public hearing required to facilitate the re-classification of the land from "community land" to "operational land" under the Local Government Act.

The cost of preparing draft contracts for each party will be met by LAHC and we further suggest each party be responsible for its own costs and disbursements associated with negotiation, finalisation and completion of the contracts.

Land and Housing Corporation

4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150 | Locked Bag 5022, Parramatta NSW 2124 | dpie.nsw.gov.au

**Department of Planning and Environment**

Please advise if these arrangements are satisfactory and we look forward to Council's favourable response to this proposal.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Craig Smith".

Craig Smith

Delivery Director, Southern NSW

NSW Land and Housing Corporation

Attachment 1: LAHC and Goulburn Council - Proposed Land Swap

Attachment 2: DP 749419

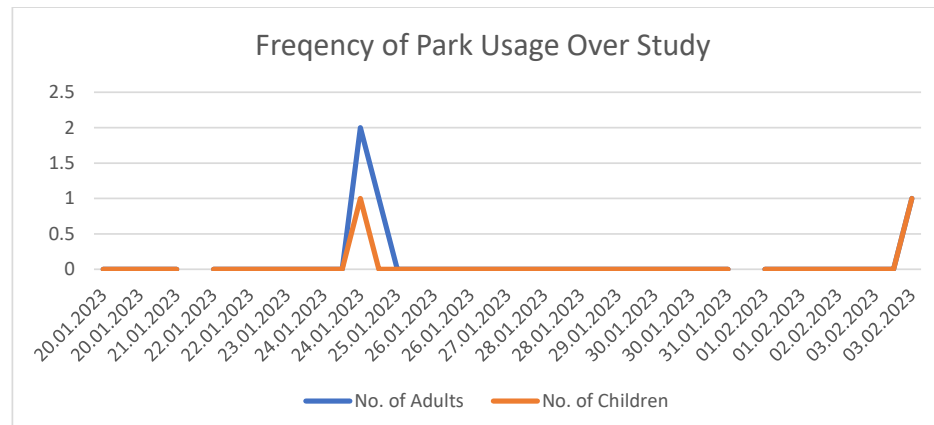
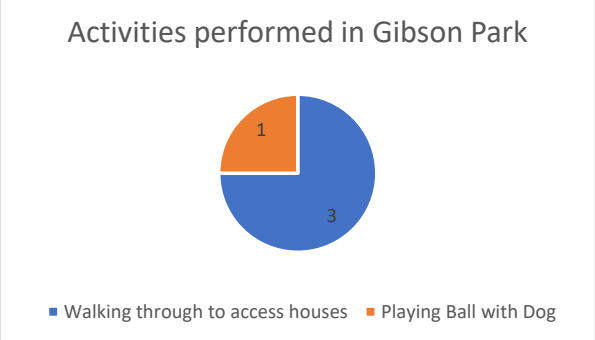
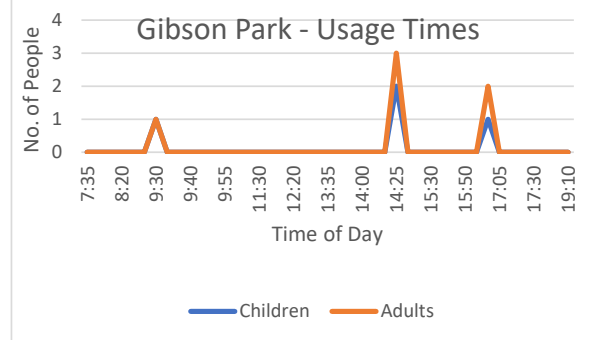
Land and Housing Corporation

4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150 | Locked Bag 5022, Parramatta NSW 2124 | dpie.nsw.gov.au | 2

Gibson Park – Observation Study Results

The Gibson Park observation study was conducted over two weeks from Friday 20th January 2023 to Friday 3rd February 2023. This timeframe covered both the school holiday period and the non-school holiday period. Over this period, there were four adults and two children who were observed in the park. 75% of the activities undertaken were walking or transiting through the park to access nearby houses. The remaining park use consisted of ball activities with pets. The most frequent time of the day the park was used was 2:25pm, followed by 4:20pm.

Overview of time and day park was used	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Morning			1				
Midday		3					
Afternoon					2		



14 Day Park Usage Observation

Total number of adults: 4

Total number of children: 2

Date	Time	No. of Adults	Activity	No. of Children	Activity	Weather	Temp (Degrees Celsius)
20.01.2023	9:25	0	N/A	0	N/A	Overcast	13
20.01.2023	13:45	0	N/A	0	N/A	Overcast	17
20.01.2023	18:35	0	N/A	0	N/A	Sunny	17
21.01.2023	9:35	0	N/A	0	N/A	Sunny with cloud Cover	16
21.01.2023	13:55	0	N/A	0	N/A	Sunny with Cloud Cover	20
21.01.2023	No data collected – time frame was missed						
22.01.2023	11:10	0	N/A	0	N/A	Overcast	17
22.01.2023	14:30	0	N/A	0	N/A	Overcast	18
22.01.2023	17:50	0	N/A	0	N/A	Overcast	14
23.01.2023	8:15	0	N/A	0	N/A	Partly Cloudy	14
23.01.2023	12:20	0	N/A	0	N/A	Partly Cloudy	21
23.01.2023	16:10	0	N/A	0	N/A	Partly Cloudy	21
24.01.2023	8:20	0	N/A	0	N/A	Foggy	16
24.01.2023	11:30	0	N/A	0	N/A	Sunny	25
24.01.2023	14:25	2	Walking through park to accesses houses	1	Walking through park to accesses houses	Sunny	27
25.01.2023	9:30	1	Playing Ball with Dog	0	N/A	Sunny	17
25.01.2023	14:00	0	N/A	0	N/A	Sunny	28
25.01.2023	17:10	0	N/A	0	N/A	Sunny	28
26.01.2023	9:55	0	N/A	0	N/A	Sunny	23
26.01.2023	12:20	0	N/A	0	N/A	Sunny	29
26.01.2023	17:10	0	N/A	0	N/A	Light Rain	27
27.01.2023	8:10	0	N/A	0	N/A	Light Rain	17
27.01.2023	11:30	0	N/A	0	N/A	Overcast	19
27.01.2023	15:30	0	N/A	0	N/A	Partly Sunny	24
28.01.2023	8:50	0	N/A	0	N/A	Sunny	22
28.01.2023	14:00	0	N/A	0	N/A	Sunny	32
28.01.2023	19:10	0	N/A	0	N/A	Sunny	31
29.01.2023	7:35	0	N/A	0	N/A	Partly Cloudy	21
29.01.2023	13:35	0	N/A	0	N/A	Cloudy	24
29.01.2023	17:05	0	N/A	0	N/A	Light Rain	23
30.01.2023	9:40	0	N/A	0	N/A	Overcast	20
30.01.2023	14:25	0	N/A	0	N/A	Overcast	21
30.01.2023	17:30	0	N/A	0	N/A	Rain	18
31.01.2023	9:30	0	N/A	0	N/A	Overcast	19
31.01.2023	15:30	0	N/A	0	N/A	Sunny	26
31.01.2023	No data collected – time frame was missed						
01.02.2023	9:45	0	N/A	0	N/A	Sunny	20
01.02.2023	13:10	0	N/A	0	N/A	Sunny	26
01.02.2023	15:40	0	N/A	0	N/A	Sunny	30
02.02.2023	9:50	0	N/A	0	N/A	Sunny	24
02.02.2023	13:00	0	N/A	0	N/A	Sunny	26
02.02.2023	15:50	0	N/A	0	N/A	Sunny	27
03.02.2023	9:55	0	N/A	0	N/A	Sunny	15
03.02.2023	14:10	0	N/A	0	N/A	Windy	18
03.02.2023	16:20	1	Walking through to access houses	1	Walking through to access houses	Sunny	19
Total		4		2			