

12.0 PLANNING AND PLACE DIVISION REPORTS

ITEM 12.1 PLANNING PROPOSAL FOR LOT 2 DP 1174201 WINBOURNE ROAD, BROOKVALE (PEX2024/0003)

PURPOSE

The purpose of this report is to seek endorsement to submit a Planning Proposal for land at Winbourne Road, Brookvale (Lot 2 DP1174201) to the Department of Planning, Housing and Infrastructure for a Gateway Determination.

EXECUTIVE SUMMARY

- Council has received a Planning Proposal request to amend Warringah Local Environmental Plan 2011 (WLEP 2011) to rezone Lot 2 DP1174201 at Winbourne Road, Brookvale from RE1 Public Recreation to E4 General Industrial, and to reclassify the land from *Community* to *Operational*.
- The site is a small Council-owned drainage reserve that is no longer required for drainage.
- The Planning Proposal was initiated by the owners of adjoining industrial properties who are seeking to purchase the site from Council, after it is rezoned and reclassified, and then to consolidate and develop the site for purposes consistent with the E4 General Industrial Zone.
- The current RE1 Public Recreation zoning and Community classification are an anomaly as the site has never been used for recreation and is not accessible by the public.
- Council has specifically indicated its intention to rezone the site to E4 General Industrial in the recommendations of the Brookvale Structure Plan, which was endorsed in 2023.
- Feedback from all relevant internal units of Council is supportive of the proposal.
- No submissions were received through the 14 day non-statutory public exhibition period.
- For probity reasons, an independent planning consultant DFP Planning (DFP) was engaged to assess the Proposal, and DFP's assessment has recommended that Council support the progression of the Proposal for a Gateway determination.

RECOMMENDATION

That Council forward the Planning Proposal for Lot 2 DP 1174201 at Winbourne Road, Brookvale to the Minister for Planning and Public Spaces for a Gateway Determination.

BACKGROUND

The subject site is a narrow Council-owned strip of land that was dedicated as a drainage reserve when the area was subdivided in the early 1900s. The original drainage reserve extended south through to Chard Road. However, the southern half of the reserve was reclassified in 2008, subdivided, and sold to the owner of adjoining land in or around 2011, and later developed.

The Planning Proposal has been initiated by a proponent on behalf of the owners of the adjoining industrial properties who ultimately aim to purchase the land from Council to amalgamate with adjoining properties to achieve a larger development site. No development is proposed at this stage. Any development would be subject to a future application for development consent under the site’s new zoning if the Planning Proposal is progressed.

Pre-lodgement discussions were held in 2023 and technical advice was sought internally from the relevant teams within Council and externally from the NSW Environment & Heritage Group (EHG).

Council gave owner’s consent for the application to be lodged.

SITE DESCRIPTION

The site is located on Winbourne Road in the eastern industrial precinct of Brookvale. It has an area of 92sqm, being approximately 1.83m wide and 50.28m (see Figures 1, 2 and 3 below).

Its surface is largely concrete hardstand and has been partly encroached on by structures and storage associated with the adjoining industrial activities which are primarily automotive servicing and repairs.

The site’s current RE1 Public Recreation zoning and Community classification are anomalies as it has never been used for recreation and is not accessible to the public. It is too small and narrow to be of value as open space, and as the reserve no longer connects through to Chard Road, it is of no utility as a pathway.

The site does not serve any drainage function and is not required for this purpose. An existing underground stormwater pipe runs diagonally across the tip of the site’s north-west corner, and on through adjoining land.

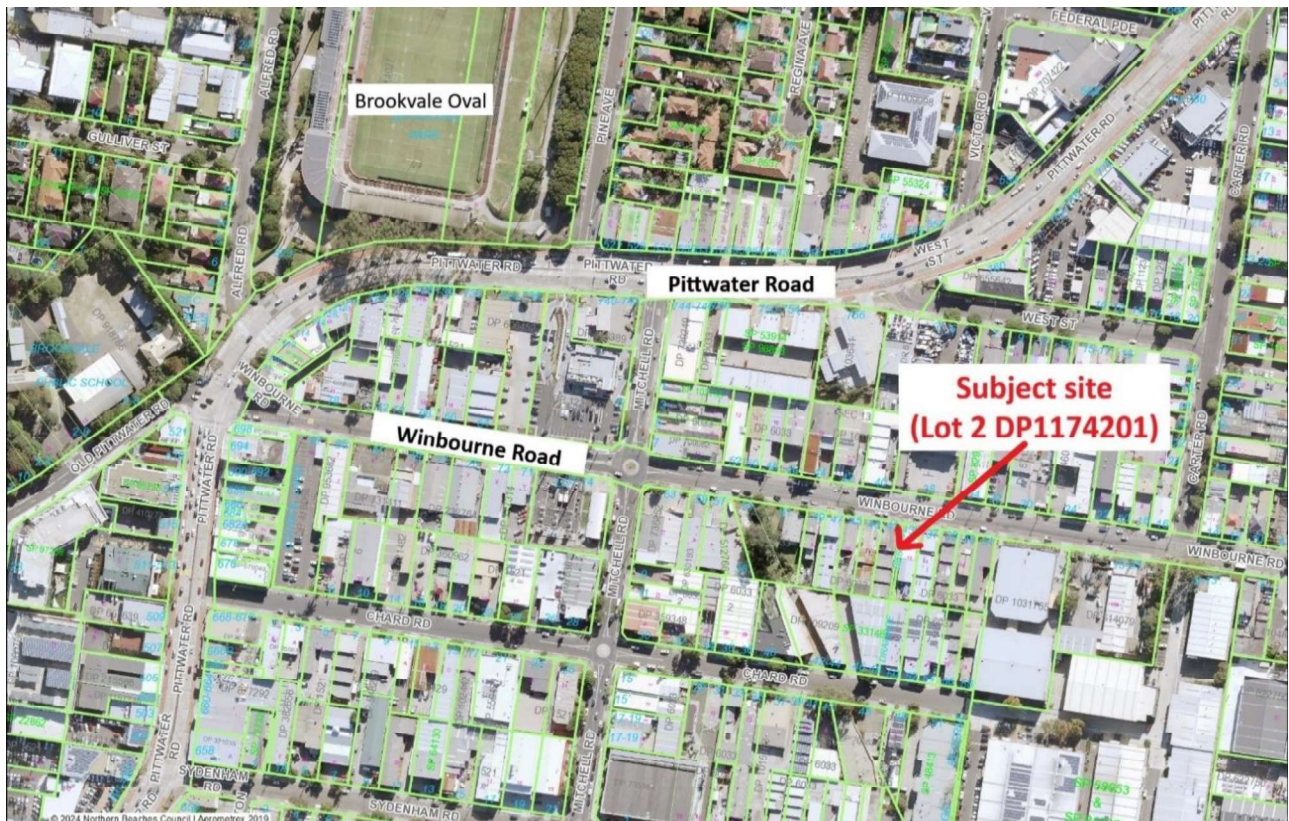


Figure 1 Location



Figure 2 Subject Site (outlined in red)



Figure 3 Streetview (subject site runs between the two buildings pictured)

PROPOSAL

The Planning Proposal has been initiated by the owners of adjoining land to each side, who seek to purchase the land from Council, consolidate it with the adjoining properties, and ultimately develop it as part of a larger development site. No development is proposed at this stage.

The Planning Proposal seeks to amend WLEP 2011 by:

- rezoning the land from RE1 Public Recreation to E4 General Industrial;
- applying a maximum building height of 11m on the Height of Buildings Map;
- applying a minimum lot size of 4,000sqm on the Lot Size Map; and
- listing the land in Part 2 of Schedule 4 to reclassify the land as Operational.

The first three amendments would bring the site under the same statutory planning controls as the adjoining properties and the broader industrial area in Brookvale. The reclassification would allow the site to be leased or sold.

Summary details of the Proposal and supporting information are as follows:

Proposed WLEP 2011 Amendments		
	Current	Proposed
Zoning	RE1 Public Recreation	E4 General Industrial
Height of Buildings	nil	11m maximum
Lot Size	nil	4,000sqm minimum
Classification	Community	Operational

Technical Studies and Supporting Information		
Title	Author	Date
Planning Proposal document	Planning Direction Pty Ltd	May 2024
Flood Impact and Risk Review	Costin Roe Consulting Pty Ltd	25 March 2024
Preliminary Contamination Assessment	Alliance Geotechnical Pty Ltd	2 May 2024
Civil Sketch - Service Overlay Co14488.00-SKC01 (v2)	Costin Roe Consulting Pty Ltd	25 March 2024
Site Survey - Detail and Levels Drawing: 693detail 1 Rev b	Waterview Surveying Services	11 March 2024

An updated Planning Proposal document (Attachment 1) based on the document submitted by the proponent, has been prepared for Council who, as the Planning Proposal Authority, is responsible for submitting it for Gateway determination.

The updated Planning Proposal document includes the existing and proposed WLEP 2011 mapping and the proposed wording for a listing in Part 2 of Schedule 4 of WLEP 2011 to effect the reclassification.

Extracts of the existing and proposed zoning maps are provided in Figures 4 and 5 below.

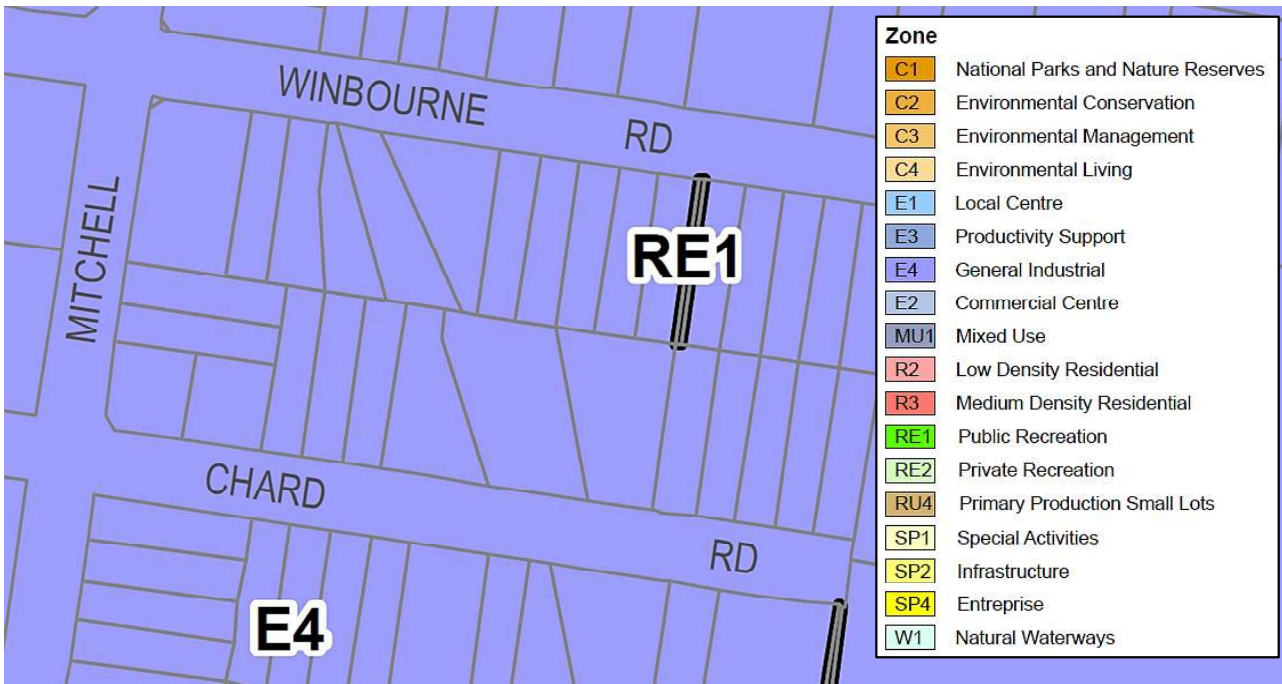


Figure 4 Existing Land Zoning Map – Sheet LZN_010A (extract)

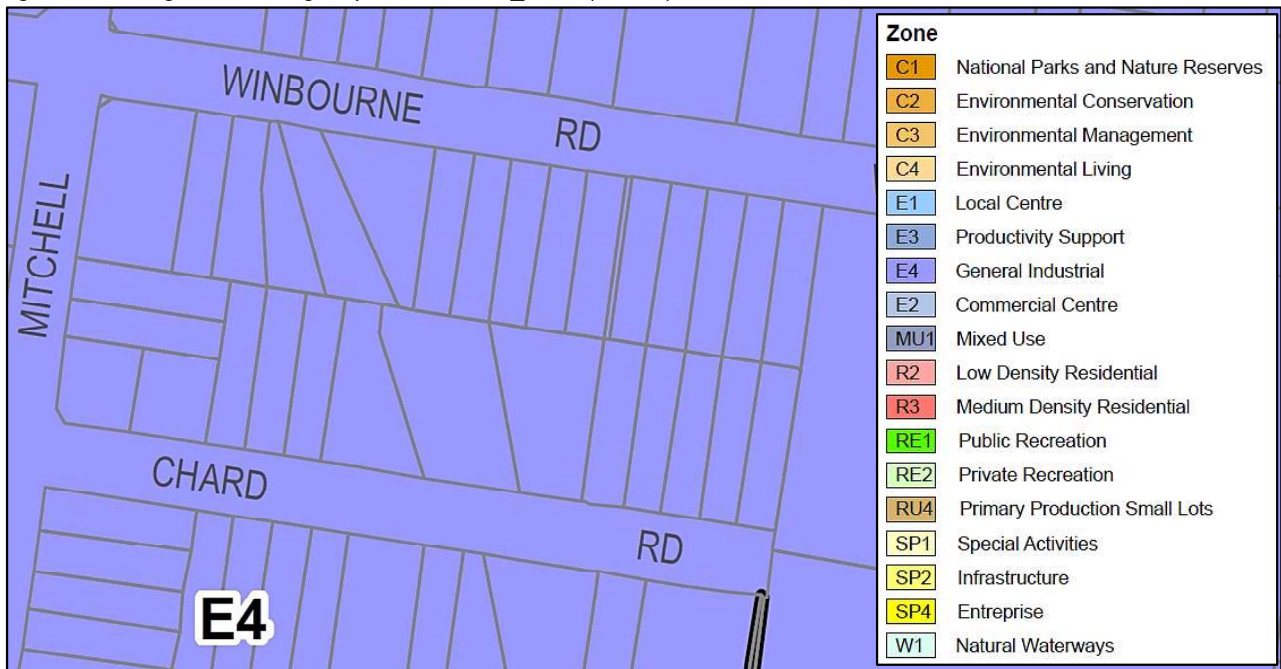


Figure 5 Proposed Land Zoning Map – Sheet LZN_010A (extract)

DISCUSSION

Internal Referrals

The Planning Proposal has been referred to Council’s Property, Floodplain Planning, Stormwater Operations, Environmental Health, Transport Network, and Development Advisory Service teams.

Feedback from these teams did not raise any objection to the proposal.

Council’s Environment and Climate Change unit as the ‘asset owner’ provided owner’s consent to the Planning Proposal request being made.

Independent Assessment

The independent planning assessment by DFP (Attachment 2) considers the advice received from Council's specialist teams, as well as advice received at pre-lodgement from the relevant NSW State Government agency regarding flooding aspects.

DFP undertook an assessment of the Proposal in accordance with the NSW Government's Local Environmental Plan Making Guideline (August 2023) and has recommended:

'That Council support the progression of the Proposal for a Gateway determination from DPHI under section 3.34(1) of the EP&A Act'.

DFP's assessment provides a sound justification for the Planning Proposal in terms of site and strategic merit. Of note, the Planning Proposal will:

- rectify a zoning and land classification anomaly
- provide additional E4 zoned land within an important industrial precinct
- enable consolidation of industrial properties to allow surrounding industrial businesses to expand, or new businesses to establish
- increase development options and enable more efficient utilisation of industrial land
- give effect to the objectives and actions of the Sydney Region Plan and North District Plan
- align with key a planning priority to retain and manage industrial land and encourage employment opportunities and economic growth, as envisaged by both the Northern Beaches Local Strategic Planning Statement (LSPS) and Brookvale Structure Plan (BSP)
- expedite the implementation of a key action of the BSP which specifically nominates the site for rezoning to E4 Industrial
- align with all applicable State strategies, SEPPs, and Ministerial Directions.

KEY ISSUES

Flooding

Council's Flood Hazard Mapping shows Low and Medium Risk precincts affecting the site. The proponent obtained a Flood Information Report from Council and provided a Flood Impact and Risk report which has been reviewed by Council's Floodplain Planning team.

In relation to Ministerial Direction 4.1 - Flooding, Council's Floodplain Planning team advised that the proposed rezoning is of minor significance in terms of flood risk having regard to the site's size and shape, the zoning of adjacent land, the layout of existing infrastructure, practical constraints on the construction of flood mitigation infrastructure, and the ability to achieve compliance with WLEP 2011 and DCP controls.

While Direction 4.1 states that a planning proposal must not rezone land in the flood planning area from a Recreation zone to an Industrial zone, it also provides that a planning proposal may be inconsistent with Direction 4.1 if the proposal is supported by a flood and risk assessment accepted by and consistent with the requirements of the planning authority. As the proponent's flood impact and risk assessment satisfies Council's requirements, the proposal is deemed to comply with the Direction.

Detailed investigation of stormwater management and flood impact would be required at DA stage for any future development.

Contamination

A Preliminary Contamination Assessment (Phase 1 Site Investigation) undertaken by Alliance Geotechnical and Environmental Services was submitted in support of the proposal, with the following conclusions:

- The potential for land contamination to be present at the site because of current and previous land use activities is considered to be low to moderate;
- If there is land contamination on the site, and that land contamination presented an unacceptable human health or ecological exposure risk, there are readily available and proven technologies available to manage and/or remediate the contaminants of potential concern identified for the site;
- The site would be suitable for the proposed rezoning to E4 General Industrial, in the context of land contamination.

Council's Environmental Health team advised that it concurs with the conclusions of the Preliminary Contamination Assessment and the land is suitable for the proposed rezoning. This is sufficient to satisfy Ministerial Direction 4.4 - Remediation of Contaminated Land. More detailed investigation of contamination would be required at DA stage for any future development.

Reclassification and Rezoning of Public Land

The site is no longer required for drainage purposes, has never been used for public recreation, and is not useful for any other public purpose such as open space or pathways.

The existing RE1 Public Recreation zoning and Community classification do not reflect the site's physical characteristics or the nature of its use and are out of character with the area.

Council has specifically indicated its intention to rezone the site, in the recommendations of the Brookvale Structure Plan, which was endorsed in 2023.

An E4 General Industrial zoning consistent with the surrounding area would optimise its utilisation for the broader community benefit in terms of employment and economic growth.

Reclassification to Operational would allow Council to sell the site and it potentially be consolidated with properties adjoining to each side, achieving a larger development site with greater flexibility for utilisation for purposes consistent with the E4 General Industrial zone.

To do nothing would result in an unusable parcel of land remaining inappropriately identified for public recreational use and would not be consistent with the Brookvale Structure Plan.

There is no public benefit in maintaining the site's Community land classification and RE1 Public Recreation zoning. Greater public benefit will be derived from allowing the land to be amalgamated with adjoining land to increase the options for development for industrial purposes which will support employment opportunities and economic growth on the Northern Beaches.

Northern Beaches Local Planning Panel

Ministerial Directions from 2018 requires the referral of all Planning Proposal to Local Planning Panels for advice prior to Council's consideration of referral to Gateway determination.

The Northern Beaches Local Planning Panel considered this matter at its meeting on 17 July 2024 (Item 4.1) and the minutes (Attachment 3) provide the following advice:

That Northern Beaches Local Planning Panel recommends that Council endorse the Planning Proposal for Lot 2 Winbourne Road, Brookvale to be forwarded to the Department of Planning, Housing, and Infrastructure for a Gateway Determination.

CONSULTATION

The Planning Proposal as lodged was placed on non-statutory public exhibition for 14 days for the period 3 - 16 June 2024. No submissions were received, apart from one online submission which was later withdrawn as the submitter mistook the site for a different location.

A period of statutory public exhibition would be required post Gateway determination, should the Planning Proposal proceed. As the proposal involves reclassification of public land, the legislation also requires a public hearing to be held after the post-Gateway exhibition.

The public hearing would be an opportunity for community members to express and have their views considered by an independent chairperson who will report back to Council.

Any sale of the land would be managed by Council’s Property Team in a separate transparent process at a later stage, after the Planning Proposal is finalised.

TIMING

The 90 days deadline that applies to this Planning Proposal is 14 August 2024. This deadline is for Council to indicate its support or otherwise and is met upon a recommendation from the LPP. The 90-day deadline has been satisfied.

An indicative timing of the various stages of progressing the Planning Proposal is shown below.

Stage	Timeframe
Consideration by Local Planning Panel	July 2024
Consideration by Council	June-August 2024
Council Decision	August 2024
Gateway Determination	September 2024
Public exhibition and consideration of submissions	September 2024
Public hearing and reporting	October 2024
Post-exhibition review and additional studies	October 2024
Submission to the Department for finalisation	November 2024
Gazettal of LEP amendment	December 2024

FINANCIAL CONSIDERATIONS

The recommendations of this report pose no financial impact on Council. If Council resolves to progress the Planning Proposal, costs associated with the ongoing assessment and processing and holding a public hearing for reclassification will be covered by the application fees paid by the proponent.

If the Planning Proposal is progressed and finalised, potential sale of the land would provide revenue for Council. Any future sale of the land will be a separate transparent process managed by Council’s Property team.

GOVERNANCE AND RISK CONSIDERATIONS

For probity reasons, given the land is owned by Council, an independent planning consultant was engaged to assess the proposal. A separate independent person will be engaged to chair the public hearing and report back to Council. The hearing will take place after Gateway determination.

ENVIRONMENTAL CONSIDERATIONS

Environmental considerations formed part of the planning assessment.

Given the site’s small area and isolated location in an established industrial precinct, any remaining vegetation is unlikely to be of value in terms of biodiversity or habitat. Information submitted by the proponent in relation to flooding and contamination has been reviewed by Council’s Floodplain Planning, Stormwater Operations, Environmental Health, Development Advisory Services, and

Traffic teams. Feedback provided by these teams indicates that the site is considered suitable for the proposed rezoning and reclassification.

No development is proposed at this stage. Detailed assessment would be required at the DA stage as part of any future proposal for development of the site.

SOCIAL CONSIDERATIONS

The recommendations in this report will have a positive social outcome.

The site no longer serves a drainage purpose. It is not suitable for use as open space, recreation, pathway or for any other public purpose. The site currently provides no benefit to the community, and it’s current zoning and classification do not reflect its physical characteristics, the nature of its use or the character of the surrounding area.

The Planning Proposal will result in a positive economic outcome for the community through the provision of additional industrial zoned land. Social benefit will be derived from allowing the land to be divested by Council and amalgamated with adjoining land to increase the development options for industrial purposes which will further support employment opportunities and economic growth.

LINK TO STRATEGY

This report relates to the Brookvale Structure Plan, endorsed by Council in 2023, which specifically identifies the site as one of two Council-owned drainage reserves to be rezoned from RE1 Public Recreation to E4 General Industrial.

This report relates to the Community Strategic Plan Outcomes and Goals:

- Protection of the environment - Goal 1 Our bushland, coast and waterways are protected for their intrinsic value.
- Housing, places and spaces - Goal 12 Our community has access to spaces that enable healthy and active living and allow for a broad range of creative, sporting and recreational opportunities to be enjoyed.
- Vibrant local economy - Goal 13 Our businesses are resilient, well-connected and thrive in an environment that supports innovation, entrepreneurialism and economic growth.
- Good governance - Goal 19 Our Council is transparent and trusted to make decisions that reflect the values of the community.
- Partnership and participation - Goal 21 Our community is engaged in decision making processes.

Reporting team	Strategic & Place Planning
TRIM file ref	2024/455169
Attachments	<ul style="list-style-type: none"> ⇒1 Planning Proposal (Included In Attachments Booklet) ⇒2 Independent Planning Review by DFP Planning (Included In Attachments Booklet) ⇒3 Minutes of Northern Beaches Local Planning Panel (Included In Attachments Booklet)