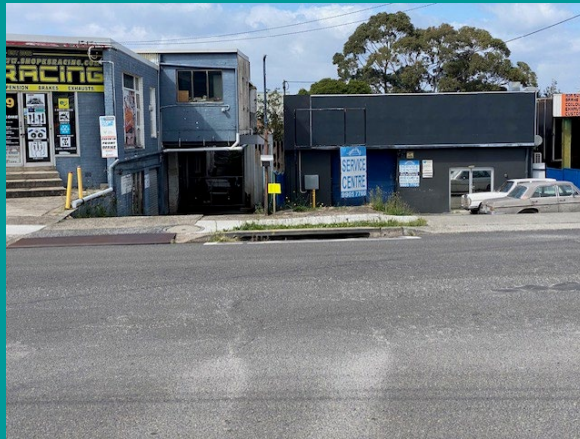


Public Hearing Report

Northern Beaches Council

RECLASSIFICATION FROM 'COMMUNITY' LAND TO 'OPERATIONAL' LAND



Lot 2 DP1174201
Winbourne Road, Brookvale



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Report on Public Hearing

Reclassification of Community Land to Operational Land

Lot 2 DP1174201

1 Introduction and background

MBWA Consulting was commissioned by Northern Beaches Council (Council) to independently chair a public hearing and prepare a public hearing report into the reclassification of a parcel of Council owned land (Lot 2 DP1174201) from 'community' land to 'operational' land at Winbourne Road, Brookvale.

The reclassification is part of a planning proposal (PEX2024/0003) that aims to amend Warringah Local Environmental Plan 2011 (Warringah LEP 2011).

The planning proposal was publicly exhibited from 27 September– 25 October 2024 (inclusive). At the end of the exhibition 3 responses were received. 2 community submissions (1 was later withdrawn) and a referral response from Ausgrid.

The public hearing was conducted on 18 November 2024 and this public hearing report has been prepared in accordance with Section 29 of the *Local Government Act 1993*.

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 Section 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*.

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 or sold.

Classification or reclassification of public land may be undertaken pursuant to Section 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 Section 27(2) of the *Local Government Act 1993* via a resolution of council.

Should council resolve to reclassify community land to operational land via an LEP, a council is required by Section 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 planning proposal.

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* and the *Environmental Planning and Assessment Act 1979*, Monique Darcy has not been an employee of Northern Beaches Council within the last 5 years. Further, Monique Darcy has never been a Councillor at Northern Beaches Council.

3 The site and surrounding development

3.1 The site and locality

The subject site, Lot 2 DP 1174201, is generally rectangular in shape and comprises a narrow strip of land located between 39 and 41 Winbourne Road, Brookvale. Given the size of the subject site, it does not have its own unique street address.

Located within the Brookvale industrial area, the site is bound by Winbourne Road to the north and industrial land uses to the east, south and west.

The site is largely vacant with a small amount of vegetation to the south and drainage infrastructure on a very small portion of the north-west corner. The site falls from north to south.

The site is approximately 92m² – 1.8m wide and 50.3m long.

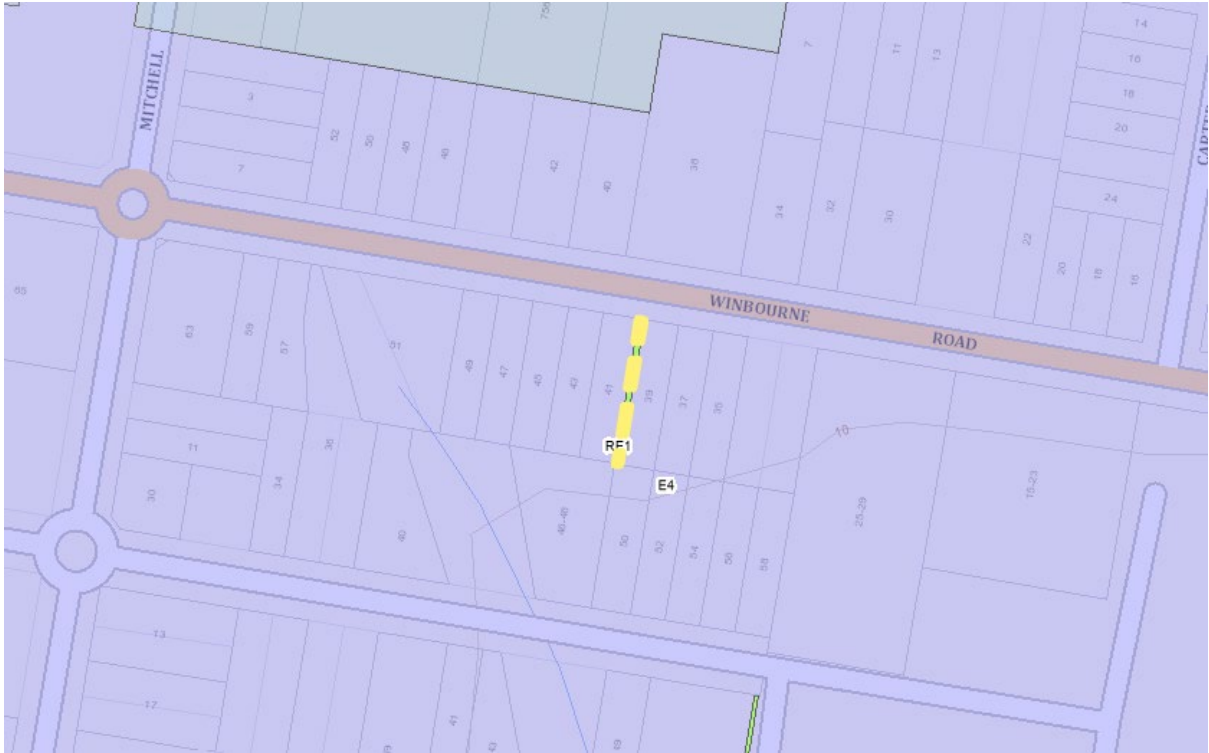


Figure 1: Locality and site surrounds (Source: NSW spatial viewer)



Figure 2: Locality Plan (Source: Six Maps)

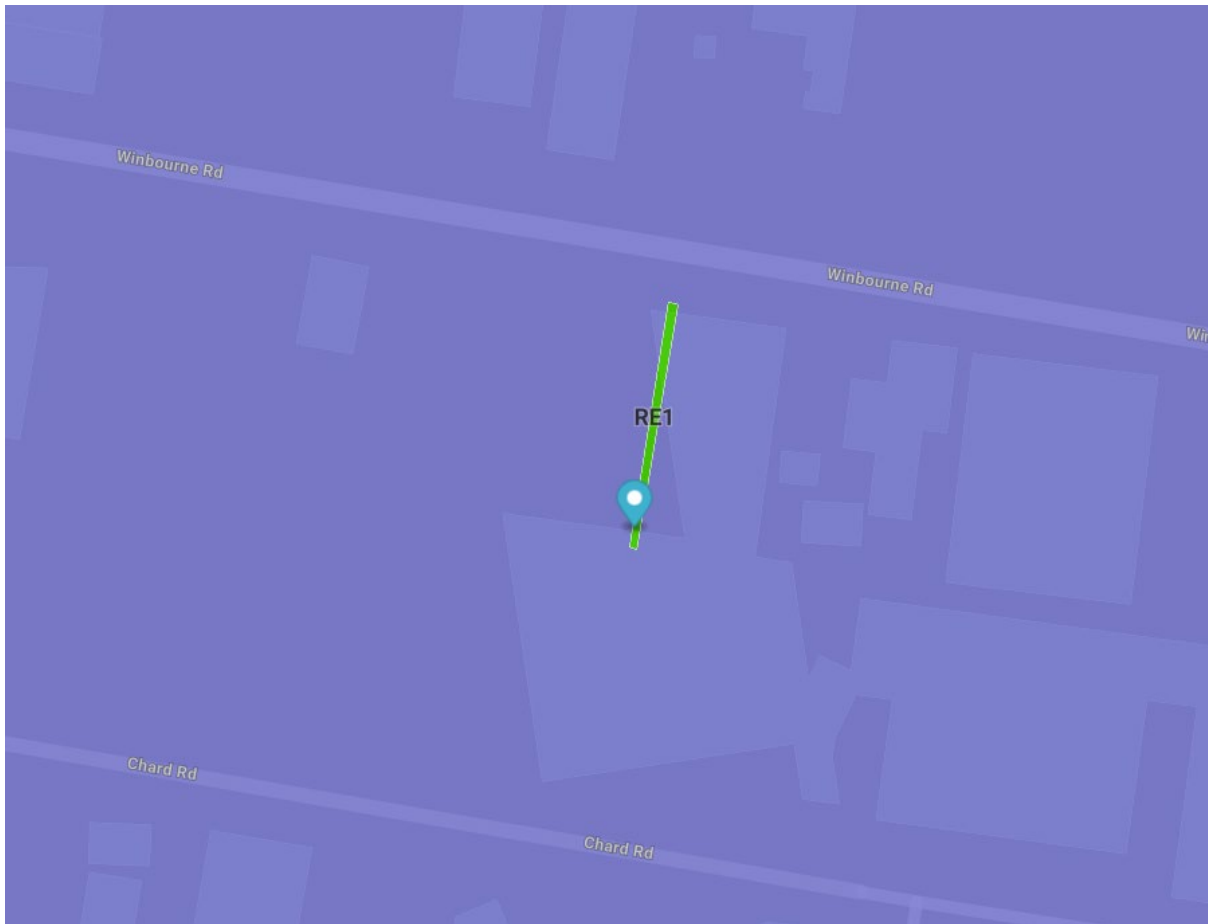


Figure 3: Zoning (Source: Mecone Mosaic)

A site visit of the surrounds was conducted on 1 October and 20 October 2024. Photos taken on the site visits are tabled below.



Photo 1 – Subject site – between 39 and 41 Winbourne Road, Brookvale



Photo 2 – Subject site – displays Council's yellow statutory notification sign in situ.

4 Ownership

The site is owned by Council. The planning proposal details the land use history.

The site is owned by Council, having been dedicated to Council as a drainage reserve in the early 1900s when the area was subdivided. The original drainage reserve extended through to Chard Road to the south. However, the southern half of the reserve was rezoned, reclassified, and sold to the owner of adjoining land in or around 2011, and has since been developed.

(Planning Proposal PP-2024-928 – Final planning proposal)

5 The broader planning proposal

The planning proposal aims to reclassify the subject site from ‘community’ land to ‘operational’ land and discharge the drainage reserve status applying to the site.

The planning proposal seeks to amend Warringah LEP 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 planning proposal amendments are consistent with adjoining properties and the broader Brookvale industrial precinct locality.

Council commissioned an independent planning assessment by DFP Planning (DFP). DFP assessed the planning proposal and concluded:

Upon review and assessment of the information presented with the Proposal, it is recommended that Council support the progression of the Planning Proposal for a Gateway Determination from the Department of Planning, Housing and Industry (DPHI) under section 3.34(1) of the EP&A Act 1979.

The planning proposal states that Council will consider land divestment at a future time, to enable its future amalgamation and development for industrial purposes consistent with the character of development in the surrounding area.

Gateway determination was issued 30 August 2024. Gateway conditions included:

1. *Prior to public exhibition, the planning proposal is to be updated to:*
 - *Provide details of the height of the electrical line which traverses the site.*
 - *Provide an updated timeframe in alignment with the finalisation date recommended by the Department.*

2. Consultation is required with the following public authorities:

- Ausgrid

The Gateway determination also required a public hearing to be held.

6 Public exhibition and public hearing

6.1 Public exhibition

The planning proposal to reclassify and rezone the subject site was publicly exhibited from 27 September 2024 – 25 October 2024 (inclusive). I have been advised that advertising and notification of the proposal was undertaken by Council in accordance with the relevant legislative requirements and Gateway determination.

Interested parties were notified of the exhibition via:

- A notice posted on Council’s website.
- In writing to surrounding owners and occupiers.
- A sign erected on the subject site.
- In a weekly email (EDM) of Council projects sent to registered interested parties.

Note: The Gateway Determination issued 30 August 2024 required consultation with Ausgrid.

Ausgrid Submission

The Ausgrid submission dated 7 November 2024, is summarised below

Submission details	Response
Due consideration be given to the compatibility of the proposal with existing Ausgrid infrastructure, including: <ul style="list-style-type: none">· electrocution,· fire,· Electric & Magnetic Fields (EMFs),· noise,· visual amenity, and· other matters that may impact Ausgrid or the proposal.	The planning proposal aims to reclassify the subject site from ‘community’ to ‘operational’ and rezone from RE1 Public Recreation to E4 General Industrial with associated changes to height and lots sizes. There is no development associated with the planning proposal. These issues will be a consideration for any future development application.
Other matters listed in the submission relate directly to any future development, including: design of future development on the site, the environmental considerations, compatibility with the surrounding land uses and conditions of approval.	Noted These issues will be a consideration for any future development application.

Community Submissions

At the end of the exhibition 2 written submissions were received from the community.

Submission 1 - was received but later withdrawn due to confusion over the location of the subject site.

Submission 2 - requested further details on the planning proposal. Council replied via email to the submitter providing a comprehensive response. A Council officer followed up via a telephone call and relayed that the submitter was happy with the details provided, has no specific issues or concerns with the proposal rather, wants to ensure the community is fully aware of what is proposed.

The issues raised in Submission 2 is detailed below.

Submission	Response
<p>Would you be so kind as to provide an explanation for the aforementioned details?</p>	<p>Council officers replied with an email covering the history of the site and a comprehensive explanation of the planning proposal.</p> <p>The submitter was referred to the independent consultant report on the assessment of the planning proposal on Council’s website.</p>
<p>Does Council have any intention to develop this land and subsequently sell it?</p>	<p>Council responded by saying:</p> <p><i>The Planning Proposal was initiated by the owner of adjacent properties who wishes to purchase the land to amalgamate with its land and create a larger, more useable industrial site.</i></p> <p><i>Sale of the land would provide revenue to Council to invest in community infrastructure and services elsewhere on the Northern Beaches. Any future sale of the land would be a separate transparent process after the rezoning and reclassification, and would be managed by Council’s Property Team.</i></p>

I am satisfied that Council provided ample opportunity for members of the community to provide input in relation to the planning proposal.

6.2 Public hearing

Council arranged a public hearing for the proposed reclassification of the site on 18 November 2024 6pm at the Curl Curl Sports Centre, Abbott Road.

Council confirmed the following methods were employed to broadcast the public hearing:

- a notice was placed on Council's YourSay webpage on 25 October 2024. A copy of the webpage notice is detailed over.
- a sign containing details of the public hearing was placed on the subject site.
- Community engagement email.
- In a weekly email (EDM) of Council projects sent to registered interested parties.

The public hearing was chaired by Monique Darcy of MBWA Consulting.

Council staff were present at the public hearing. The following Council staff from the Strategic and Place Planning section attended:

- Paula Moretti
- Phil Jemison

No members of the community attended the public hearing.

The public hearing was conducted in accordance with Clause 29 of the *Local Government Act 1993* and the *Environmental Planning and Assessment Act 1979*.

The public hearing concluded at 7pm.

Notification of Public Hearing

Monday 18 November 2024

Reclassification of Land

We will be holding a public hearing for the Planning Proposal to reclassify Lot 2 DP 1174201 Winbourne Road, Brookvale from Community Land to Operational Land, in accordance with the Environmental Planning & Assessment Act 1979 and the Local Government Act 1993.

An independent consultant will chair the hearing and provide a public report which we must consider before making any decision about the proposal.

Anyone interested in the planning proposal is invited to register to attend the public hearing.

Save the date



Monday 18 November 2024 06:00 pm to 07:30 pm

Public hearing - Curl Curl Sports Centre, Main Hall

240 Abbott Road, North Curl Curl (next to John Fisher Park Netball Courts)

[Register here](#)

Public hearing location



Why are Council reclassifying this land?

Lot 2 is a small Council-owned drainage reserve that is no longer required for drainage. Lot 2 is not accessible to the public and is unsuitable for use as open space or any other community purpose. Reclassification will enable potential future sale of the land by Council and more efficient utilisation of the land consistent with the surrounding industrial and employment area.

Background

The hearing follows statutory public exhibition of the Planning Proposal from 27 September 2024 to 25 October 2024 (inclusive) in accordance with the Gateway Determination issued by the NSW Department of Planning, Housing and Infrastructure.

Details of the Planning Proposal can be found at [Application number PEX 2024/0003](#).

The land proposed for reclassification: Lot 2 DP 1174201 is located between 39 and 41 Winbourne Road, Brookvale as shown below.

View the location of the land for reclassification



Figure 4 – Copy of website notice

7 Planning discussion on the reclassification

The subject site is owned by Council and located on the southern side of Winbourne Road between 39 and 41. The subject site does not have its own street address. The site is approximately 92m² in size and generally a rectangular shape.

The site was dedicated to Council as a drainage reserve in the early 1900s, with the original drainage reserve extending south through to Chard Road. The southern half of the drainage reserve was rezoned and reclassified in 2011 and has since been incorporated into a larger development.

The reclassification at its core, must determine whether the site reflects the importance of the land to the community because of its use or special features¹. The site offers no recreational function for the community. Further, the site is not used or needed as a drainage reserve. The site does not provide an access route through to Chard Road given the previous redevelopment of the southern arm of the drainage reserve.

In conclusion, I have carefully considered the issues surrounding the reclassification of the subject site and following a detailed analysis of issues I am satisfied that having regard to the circumstances and merits of the case as well as the broader public benefit, the proposed reclassification of Lot 2 DP1174201 is appropriate.

8 Recommendation

I am satisfied as the independent chairperson of the public hearing that Council provided an ample opportunity for members of the community to provide input in relation to the proposed reclassification.

Having regard to the planning proposal and the outcome of the public hearing, I raise no objection to the reclassification of the subject site (Lot 2 DP1174201) from 'community' to 'operational' land.

This public hearing report is submitted to Council for consideration as one resource to assist in Council's broader decision-making process for the planning proposal.

I further recommend that:

- a) This report be received and noted.
- b) Council progresses the planning proposal including meeting all statutory provisions and the requirements of relevant legislation.
- c) A copy of this report be made available to the public within four (4) business days in accordance with Section 47(G)(3) of the *Local Government Act 1993*.

¹ Practice Note 1 May 2000 *Public Land Management* Department of Local Government page 2