

# Notes of Pre-lodgement Meeting

## Planning Proposal



northern  
beaches  
council

<b>Application No:</b>	PLM2023/0003
<b>Meeting date:</b>	23/02/2023
<b>Property address:</b>	Lot 2, 39-41 Winbourne Road Brookvale
<b>Attendees for Council:</b>	Phil Jemison, Manager Strategic & Place Planning Felicity Shonk, Planner, Strategic & Place Planning Paula Moretti, Principal Planner, Strategic & Place Planning Valerie Tulk, Stormwater, Floodplain Engineering Dominic Varde, Property Commercial & Tourist Assets
<b>Attendees for Applicant:</b>	Nigel White, Planning Direction Mark Wilson, Costin Roe Ashley Raso, Project Manager

## Contents

1.	Introduction .....	3
2.	Proposal .....	3
3.	Site .....	4
4.	Planning context.....	5
4.1	Warringah Local Environmental Plan 2011 .....	5
4.2	Strategic planning context.....	8
4.2.1	Greater Sydney Region Plan .....	8
4.2.2	North District Plan.....	8
4.2.3	Local Strategic Planning Statement .....	8
4.2.4	Brookvale Structure Plan & Employment Zone Reforms .....	9
4.2.5	Northern Beaches Local Environmental Plan and Development Control Plan.....	9
4.2.6	Justification for planning proposal.....	11
4.3	Infrastructure needs .....	12
4.4	Ministerial Directions & SEPPs .....	12
4.5	Reclassification of public land .....	13
4.6	Key matters raised in referrals. ....	13
4.6.1	Flooding & Stormwater .....	13
4.6.2	Property – Commercial and Tourist Assets .....	15
4.6.3	Transport Network .....	15
4.6.4	Development Advisory Services .....	16
5.	Conclusion .....	17
5.1	Summary of referral comments & Discussion.....	17
5.2	Recommended investigations and studies .....	18
5.3	Strategic and site-specific merit .....	18
5.4	Other matters.....	19
5.5	Logistics.....	19
5.5.1	Nomination of Planning Proposal category .....	19
5.5.2	Council assessment fees .....	19
5.5.3	Consultation requirements .....	20
5.5.4	Expected timeframes .....	20
6.	Appendix.....	21

## 1. Introduction

These notes are based on submitted documentation and discussions in the pre-lodgement meeting held on 23/02/2023. The comments provided are intended as a guide should the applicant decide to proceed with lodgement of a planning proposal request.

## 2. Proposal

A meeting was held to discuss the preparation of a planning proposal to rezone and reclassify a strip of Council-owned land (drainage reserve), to enable future sale and development of the land.

The proposal is put forward by the owner of adjoining properties, with a view to purchasing the land from Council and developing it as part of a broader redevelopment concept involving four adjoining lots. This pre-lodgement advice relates only to the proposed rezoning and reclassification of the Council-owned drainage reserve, being Lot 2 DP 1174201, hereafter referred to as the site.

The proposed amendments to statutory and non-statutory planning controls include:

- Warringah Local Environment Plan 2011:
  - Amend site on Warringah Land Zoning Map from RE1 Public Recreation to IN1 General Industrial (Soon to be E4 General Industrial)
  - Add site to Warringah Height of Buildings Map (11m)
  - Add site to Warringah Lot Size Map (4000m<sup>2</sup>)
  - Add site to Schedule 4 Classification and reclassification of public land
- Warringah DCP 2011 Maps:
  - Add site to IN1 zoned land
  - Add site to DCP Setbacks Front (D4.5m)
  - Add site to DCP Setbacks Side (N Merit Assessment)
  - Add site to DCP Setbacks (N Merit Assessment)
  - Remove adjoining sites from Land Adjoining Public Open Space

Note that the IN1 General Industrial zone in Brookvale is soon to become E4 General Industrial under the new employment zone framework.

The site no longer serves any drainage function. Reclassification would be necessary for Council to divest the site. If the proponent were to purchase the site, it would facilitate amalgamation with land either side for a larger scale industrial development to occur. Diversion of the existing stormwater infrastructure forms part of the proponent's broader redevelopment concept. This pre-lodgement advice addresses the proposed stormwater diversion, but does not assess any layout, design or other details related to the broader development concept, which would be subject to a future development application.

Documentation submitted consisted of a pre-lodgement scoping report, concept plan, sewer service diagram, Sydney Water Service Diagram, telecommunication cabling plan and preliminary traffic plan.



Figure 1 Subject Site (red hatch) located between 39 and 41 Winbourne Road with Stormwater Infrastructure (thick red lines), and land included in broader redevelopment concept (blue outline)

### 3. Site

- a) The site is described as Lot 2 DP 1174201 and has a width of approximately 1.82m and a depth of 50.25m. The total area of the subject site is 92sqm.
- b) The site has frontage to Winbourne Road to the North and is located between Number 39 and 41 Winbourne Road, Brookvale. The strip of land does not have a street number but is known as Lot 2/ Winbourne Road, Brookvale NSW 2100.
- c) The site has previously been used for stormwater infrastructure purposes and is zoned RE1 Public Recreation.
- d) The site is classified Community land under Part 2 Chapter 6 of the Local Government Act 1993.
- e) Adjoining properties including 39 and 41 Winbourne Road Brookvale are zoned IN1 General Industrial.

## 4. Planning context

### 4.1 Warringah Local Environmental Plan 2011

- (a) The site is zoned RE1 Public Recreation (Figure 2). The site is not identified on the Additional Permitted Uses Map.

The site is not identified on the Warringah Height of Buildings Map (Figure 3) or the Warringah Lot Size Map (Figure 4).

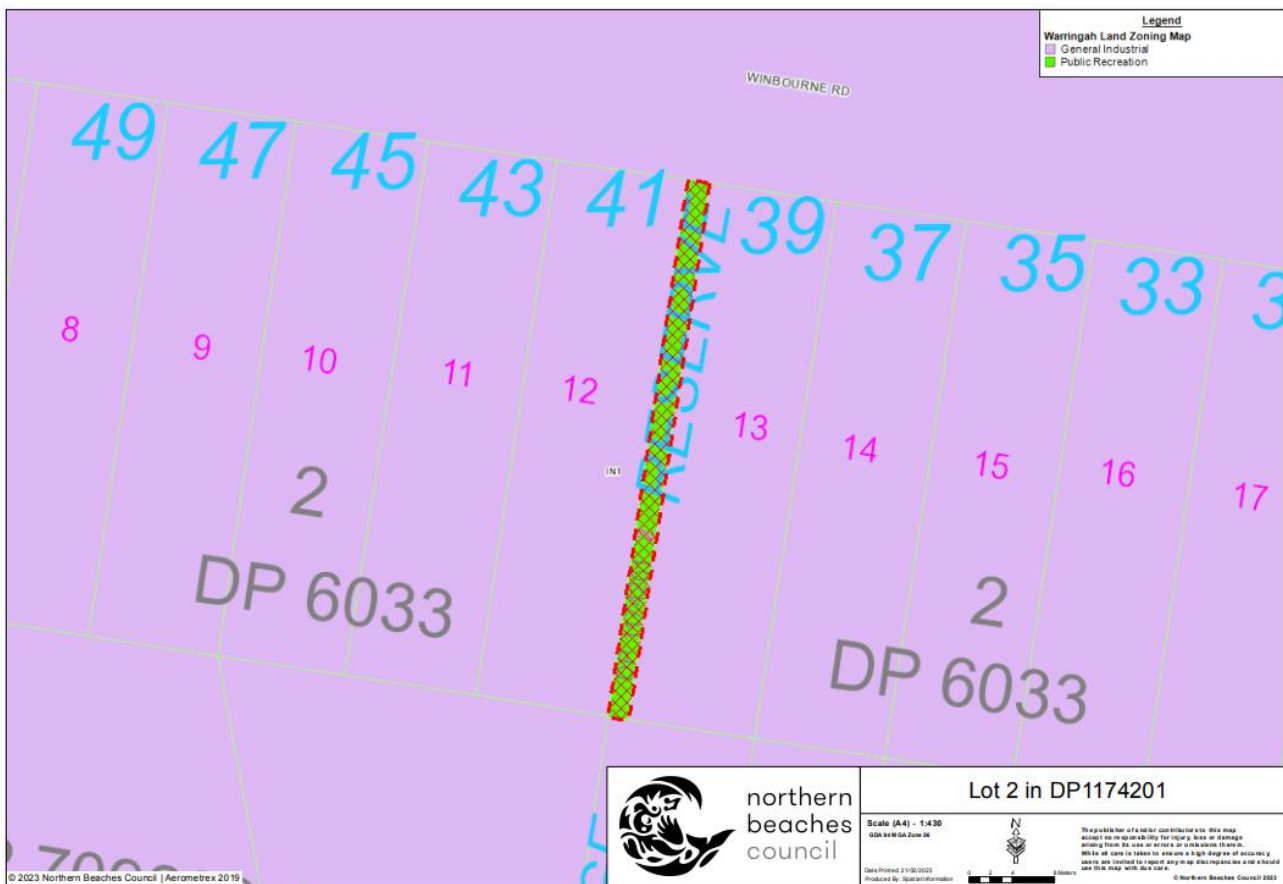


Figure 2 Subject Site with Warringah Land Zoning Map

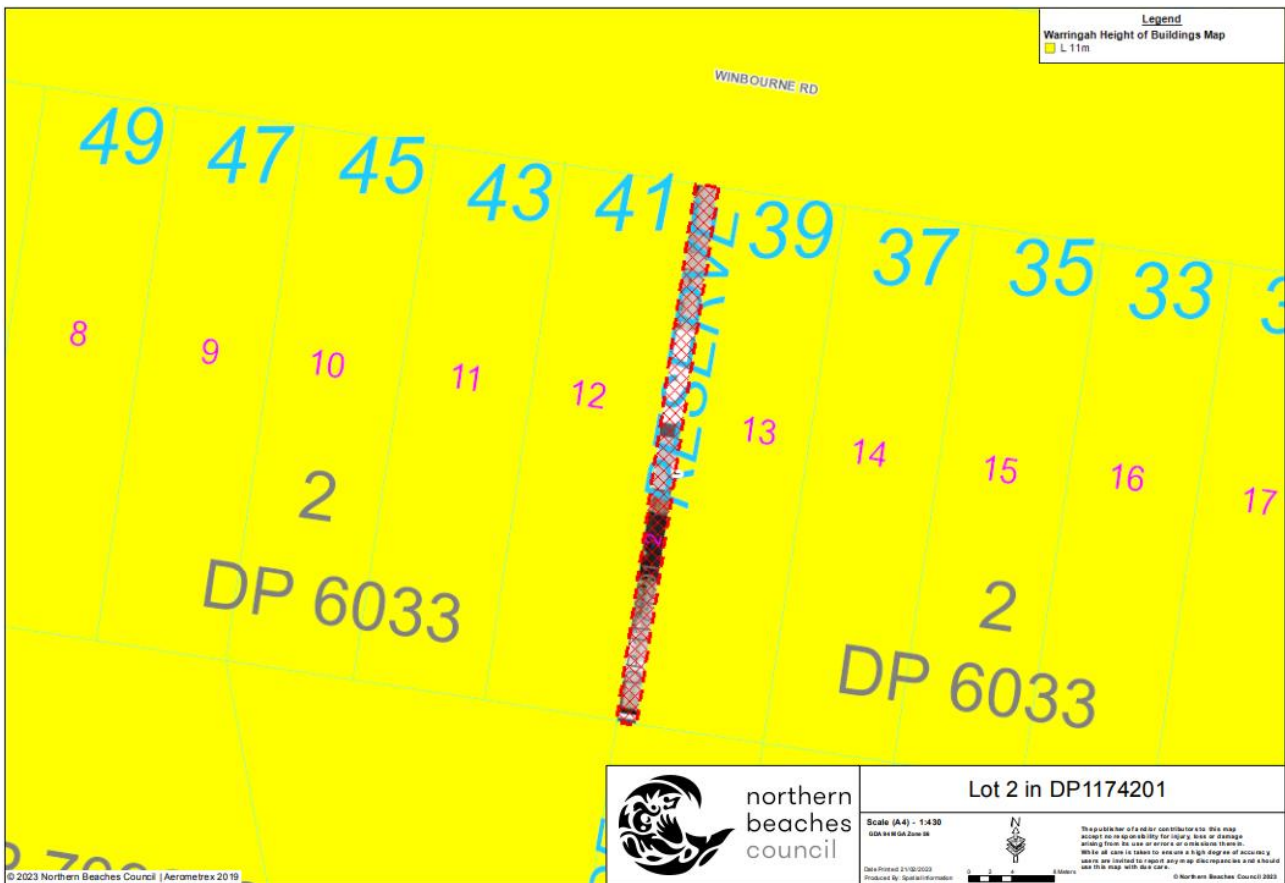


Figure 3 Subject Site with Warringah Height of Buildings Map

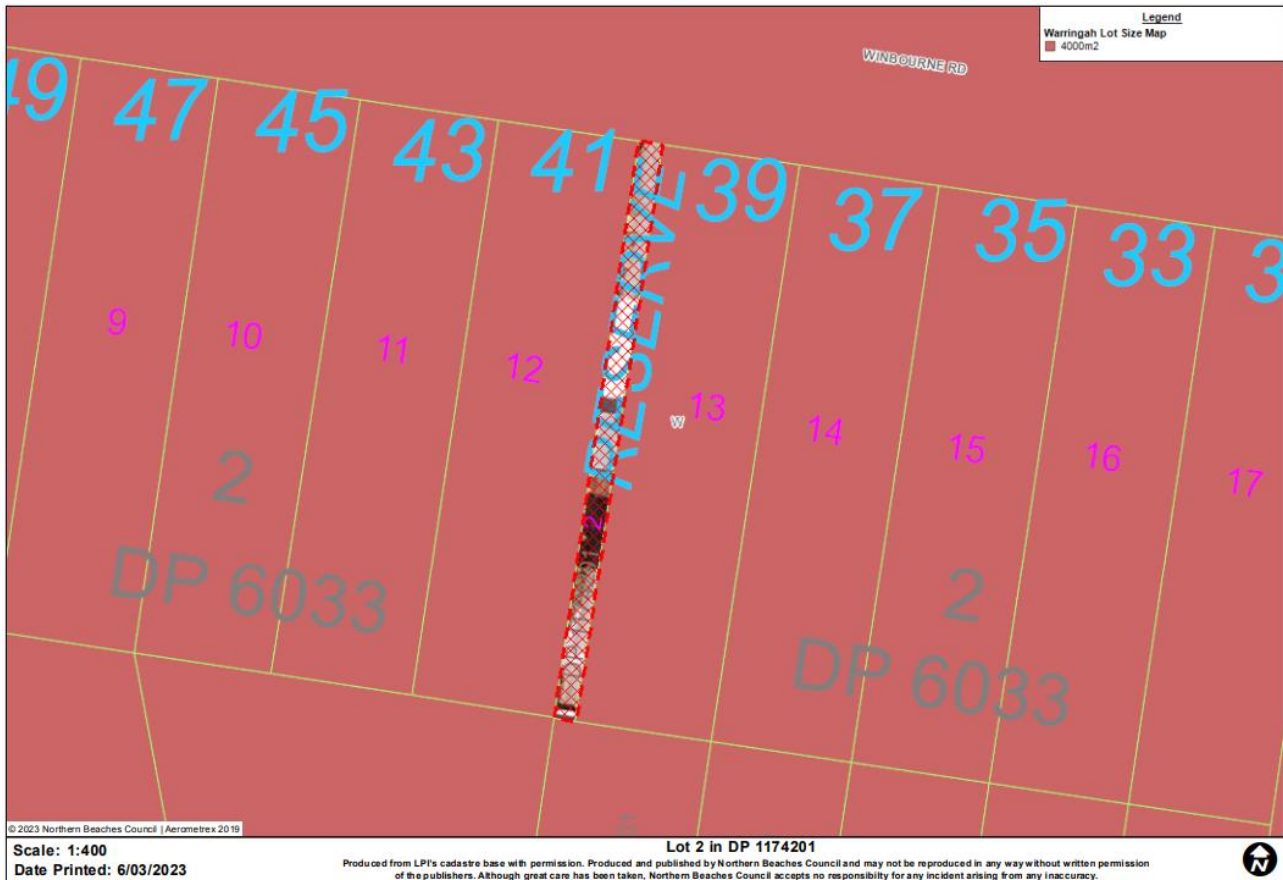


Figure 4 Subject Site with Warringah Lot Size Map

(b) The objectives and land use permissibility associated with the RE1 Public Recreation zoning are:

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- To protect, manage and restore public land that is of ecological, scientific, cultural or aesthetic value.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.

The objectives and land use permissibility associated with the site's proposed IN1 General Industrial Zone are:

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- To support and protect industrial land for industrial uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To enable a range of compatible community and leisure uses.
- To maintain the industrial character of the land in landscaped settings.

- (c) Other local planning/development controls of note that currently apply to the site include:
- i. Northern Beaches Section 7.12 Contributions Plan 2022
  - ii. Warringah LEP 2011 – LEP Flood Planning Level
  - iii. Warringah LEP 2011 – Land Slip Risk Map - Area A
  - iv. DCP - Medium Risk Flood Planning Precinct
  - v. Plan of Management Category – General Community Use
  - vi. Brookvale Structure Plan Area of Influence (1.5km)
- (d) A range of State Government planning policies and guidelines are also applicable. These have not been listed in this pre-lodgement advice but would need to be considered as part of any future planning proposal.

## 4.2 Strategic planning context

### 4.2.1 Greater Sydney Region Plan

The Greater Sydney Commission (now Greater Cities Commission) released the Greater Sydney Region Plan (A Metropolis of Three Cities) in March 2018. The proposal contributes towards the following directions and objectives, namely:

- Objective 22 – Investment and business activity in centres
- Objective 23 – Industrial and urban services land is planned, retained, and managed.

### 4.2.2 North District Plan

The Greater Sydney Commission (now Greater Cities Commission) released the North District Plan in March 2018. The proposal contributes towards several Planning Priorities including:

- Planning Priority N10 – Growing investment, business opportunities and jobs in strategic centres
- Planning Priority N11 – Retaining and managing industrial and urban services land

### 4.2.3 Local Strategic Planning Statement

The Towards 2040 Local Strategic Planning Statement for Northern Beaches (LSPS) came into effect on 26 March 2020. Page 192 of the LSPS notes that 'planning proposals must include an assessment of whether they will give effect to Towards 2040. In making this assessment, the priorities and related principles must be considered together. It is not appropriate to justify a planning proposal based on a single element of Towards 2040'.

For spot rezonings, refer to page 32 of the LSPS, 'managing growth and change' - In relation to managing growth and change, the LSPS requires that planning proposals seeking changes to the planning controls for additional development capacity through spot rezoning must have strategic merit and site-specific merit. Broader public benefit and high-quality planning and urban design outcomes can assist in demonstrating strategic merit. Consideration should be given to the strategic principles set out on pages 32-33 of the LSPS.

A Planning Proposal for an industrial development on the subject site should consider and demonstrate how the proposed development will give effect to the following priorities:



- Priority 7 – A low-carbon community with high energy, water and waste efficiency
- Priority 8 – Adapted to the impacts of natural and urban hazards and climate change
- Priority 22 – Jobs that match the skills and needs of the community.
- Priority 24 – Brookvale as an employment and innovation centre
- Priority 28 – Safeguarded employment lands

#### **4.2.4 Brookvale Structure Plan & Employment Zone Reforms**

With regards to employment zones and LEP permissibility, changes are being implemented in the coming months by the NSW Department of Planning and Environment through its Employment Zones Reforms. The E4 General Industrial Zone is proposed to replace Brookvale's IN1 General Industrial Zone. You can see more details about permissible uses proposed under the E4 zone on the Department's website: <https://www.planning.nsw.gov.au/employment-zones-reform>

##### **Draft Brookvale Structure Plan.**

The draft plan proposes to retain and manage industrial land in line with strategic planning priorities identified in the Greater Sydney Region Plan, North District Plan and Northern Beaches Local Strategic Planning Statement. The draft plan proposes an increase to building heights in the industrial zone of Brookvale from 11m to 18m to provide greater flexibility to grow employment floorspace, support higher intensity / more efficient use of industrial land and to support the transition to high technology industry and automated industry by encouraging renewal to deliver more modern industrial floorspace to meet the needs of industrial businesses. Priority is given to industrial activities that are unable to locate in other zones.

The Draft Structure Plan also seeks to explore opportunities to enhance urban tree canopy coverage within the Industrial East precinct to support urban cooling, while maintaining suitable access for vehicles. It also signals further work to develop DCP controls to achieve more resource efficient built form.

#### **4.2.5 Northern Beaches Local Environmental Plan and Development Control Plan**

Preparation of a single, consolidated Local Environmental Plan (LEP) and Development Control Plan (DCP) for the Northern Beaches is currently underway. The new LEP and DCP will be informed by the recommendations from various technical studies that are being finalised.

The technical studies will be released throughout 2022 and can be found here: <https://yoursay.northernbeaches.nsw.gov.au/planning-our-sustainable-future>

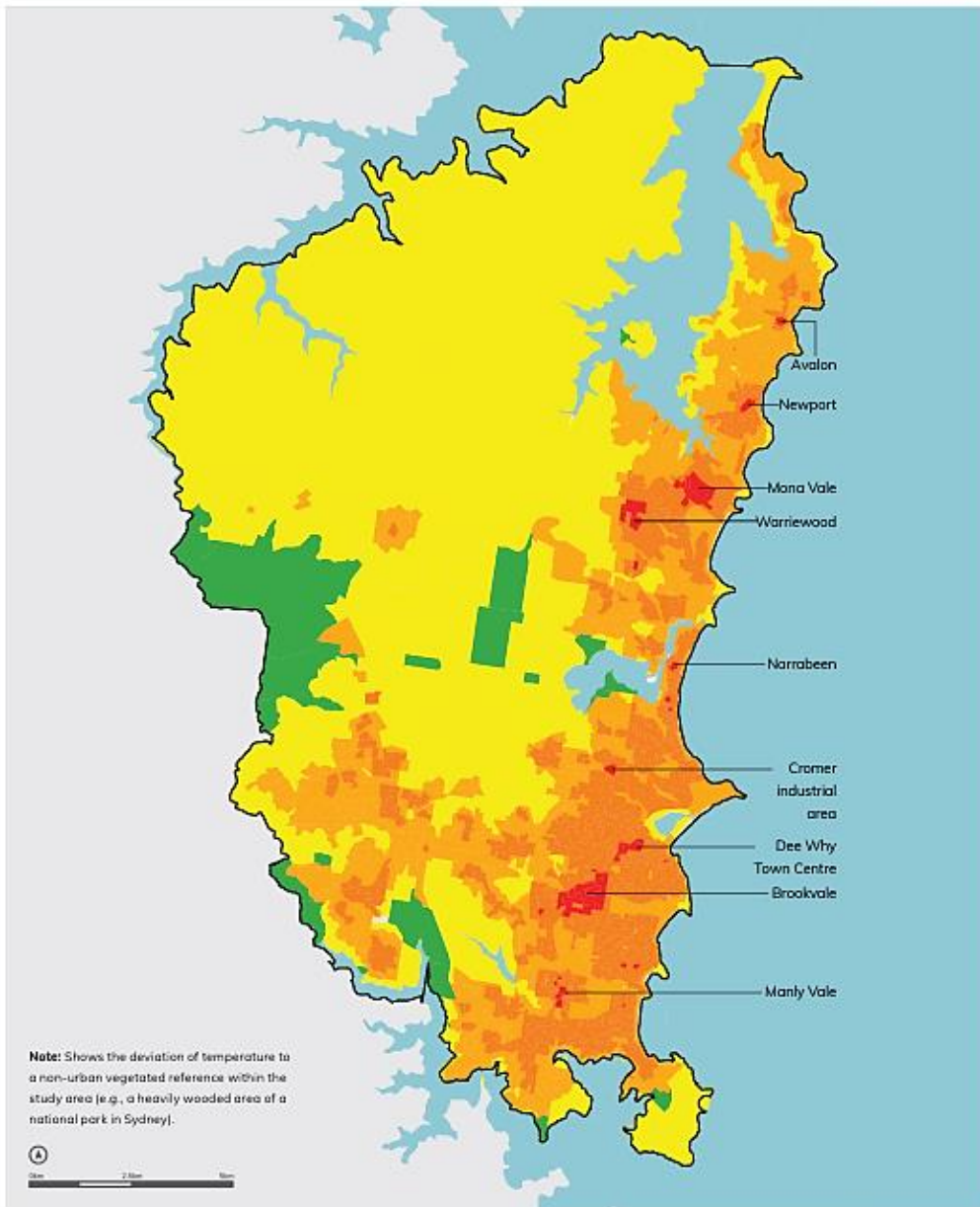
While the Employment Zone Reforms are consolidating and harmonising land use permissibility across the Northern Beaches, several other controls across the broader LEP and DCP may apply to the site. A Discussion Paper was released on 25 June 2021 for feedback on identified issues, opportunities and potential approaches, including the following sustainability priorities:

##### **Priority 5 – Greener Urban Environments**

We may include a tree canopy and urban heat map in the new LEP. Supporting provisions would recognise the need to maintain areas of existing high tree canopy coverage and improve areas with low canopy cover. If tree canopy is not feasible due to infrastructure, measures to address urban heat would be prioritised. Urban heat could be addressed by requirements for roof colours, cool pavements, wind circulation, green roofs, green walls and water sensitive urban design.

Map 9 shows Brookvale has the lowest tree canopy coverage in the LGA with 19-20% coverage and Map 10 shows Brookvale as one of the hottest areas in the LGA at warmer than 9 degrees urban heat island in 2016.

**Map 10**  
Urban heat island effect Towards 2040



Urban Heat Island 2016	
Deviation from reference	
<span style="color: green;">■</span> Cooler than reference	<span style="color: orange;">■</span> 6 - 9 degrees warmer
<span style="color: yellow;">■</span> 0 - 3 degrees warmer	<span style="color: red;">■</span> Warmer than 9 degrees
<span style="color: orange;">■</span> 3 - 6 degrees warmer	

### **Priority 7 – A low-carbon community, with high energy, water and waste efficiency**

Northern Beaches Council 'Protect. Create. Live.' Strategy aspires for all new buildings to be net zero emissions by 2030 along with various local, state, national and international climate targets. Council has been working with the City of Sydney to develop performance standards for net zero energy buildings with industry and government. We may adopt these standards for new specified developments which will ideally be referenced within the LEP to carry statutory weight.

For smaller developments we are investigating LEP and DCP provisions that will enforce standards over and above state provisions such as BASIX, NatHers and NabERs and/or include requirements for independent sustainability certification such as Green Star, LEED, BREEAM and WELL.

### **Priority 8 – Adapted to the impacts of natural and urban hazards of climate change.**

Parts of the Northern Beaches are highly prone to flooding and properties have been developed in flood prone areas. Climate change will worsen flooding by increasing the intensity of rainfall and through sea level rise. All three LEP's have a uniform flood prone land clause.

#### **4.2.6 Justification for planning proposal**

This proposal to rezone the site from RE1 to IN1 and to reclassify it from Community land to Operational land has strategic and site-specific merit. The 1.82m wide strip of land was historically retained by Council to accommodate stormwater infrastructure. This function is no longer required.

The site does not support any public recreation, public open space, ecological, scientific, cultural or aesthetic values. The site is not obvious to passing observers as public land due to its 1.82m width with industrial buildings at Nil setback on either side. It does not provide a public pathway. The site does not support natural environment values as it is hard surfaced. The current and historic use of the site is inconsistent with the RE1 zone objectives and the application of the RE1 zone likely occurred as a result of the translation from Warringah LEP 2000 to Warringah LEP 2011.

The proposed IN1 General Industrial zone is consistent with adjoining sites and their current land uses, and the wider surrounding area. Application of the IN1 zone would support consolidation of lots to achieve more efficient use of land to support and protect industrial land for industrial uses, encourage employment opportunities and maintain the industrial character of the land in landscaped settings. The Draft Brookvale Structure Plan proposes to increase building heights in the industrial zone, reflecting the need for more efficient use of limited industrial land and the need to encourage renewal of industrial floorspace to better meet the emerging needs of modern industrial businesses.

Reclassifying the land to Operational is consistent with its historic use for stormwater infrastructure and would appropriately reflect its status as an asset held to facilitate the functions of Council and not intended to be open to the general public. An Operational classification would enable sale of the land, as it is no longer needed for the drainage function.



Figure 5 Google Maps image between 39 and 41 Winbourne Road. Open Space strip is hard surfaced and sits between the above sites

### 4.3 Infrastructure needs

The proponent will need to demonstrate that there is sufficient infrastructure to support the proposal. Information submitted with a planning proposal should include details of the additional demands for public services and facilities likely to be generated and how they could be met, having regard to relevant Council policies and plans applicable at the time.

It may be helpful to highlight that the Draft Brookvale Structure Plan proposes intensification of industrial land use in the precinct and that the small size of this land will have negligible impact on infrastructure demand.

### 4.4 Ministerial Directions & SEPPs

Ministerial Directions that will need to be addressed in a future Planning Proposal:

- **4.1 Flooding** – As per Flood Planning team’s referral advice in section 4.6.1.
- **4.4 Remediation of Land** – Consider this ministerial direction and consider if it applies. For a future DA you will need to consider what uses you propose on the site and whether these uses would trigger the need for a contamination assessment.

- **4.5 Acid Sulfate Soils** – site is not included in the WLEP Acid Sulfate Soils map
- **5.1 Integrating Land use and Transport** – Consistency can be justified. Proposed change of use supports clustering of activity (minimising number of trips) in the largest industrial precinct in North District. Brookvale is the most well connected area by public transport on the Northern Beaches and site is within 900m of the B-line.
- **5.2 Reserving Land for public purposes** – Approval from the Planning Secretary or an officer of the Department nominated by the Secretary can potentially be sought through the Gateway determination process. Governor’s approval may be required in line with practice Note PN16-001.
- **7.1 Employment Zones** – Proposal appears to be consistent with the objectives and directions. Proposal supports expanded total floorspace for industrial uses and is consistent with objectives of draft Brookvale Structure Plan to support employment growth and to retain and manage industrial land.

A number of SEPPs will apply at the Development Application stage.

#### **4.5 Reclassification of public land**

Practice Note PN 16-001 ‘Classification and reclassification of public land through a local environmental plan’ provides further details on the reclassification process. It can be found on the NSW Department of Planning website under the ‘LEP practice notes’ dropdown.

<https://www.planning.nsw.gov.au/Plans-for-your-area/Local-Planning-and-Zoning/Strategic-Planning-Toolkit>

The reclassification of public land can occur as part of a Planning Proposal, however it adds additional requirements for a public hearing, Governor’s approval and the Department of Planning will need to arrange legal drafting to legally make changes to the LEP. Where the Governor’s approval is required, the Council’s report accompanying the final planning proposal must address a list of specific criteria which are outlined in the Practice Note and its checklist.

#### **4.6 Key matters raised in referrals.**

The proposal was referred internally to Council’s specialists and externally to the State Government’s flooding team.

##### **4.6.1 Flooding & Stormwater**

##### **NSW Department of Planning and Environment - Biodiversity & Conservation (flooding)**

Note this is a summary of key points, the full referral is provided at the bottom of this report.

Winbourne Road is highly flood affected and so the Planning Proposal should be accompanied by a Flood Impact and Risk Assessment (FIRA). This should address inconsistencies with Local Planning Direction 4.1 – Flooding. Ensure overland flow path provided by the lots is maintained or an alternative measure proposed to avoid any adverse impacts of flood behavior.

Provided these issues are managed, EHG would not object to this proposal.

##### **Council Floodplain Planning Unit (Valerie Tulk)**

Rezoning and reclassification: acceptable provided Flood Management Report is submitted with modelling to demonstrate new pipe has greater capacity than existing and no adverse impacts on road or surrounding properties up to PMF.

For the future Development Application, the Flood Management Report would need to demonstrate compliance with Clause 5.21 of the Warringah LEP and Section E11 of the Warringah DCP (2011). As a minimum, please note the following:

- There are to be no adverse flood impacts on the road or surrounding properties in any flood event up to the PMF.
- There is to be no net loss of available flood storage.
- The minimum floor level is to be set at or above the FPL, which varies between the different lots.
- Consideration may be given to a floor level below the FPL within the first 5 metres from the street front under certain circumstances.
- Any enclosed car park entry ramp is to be set at or above the FPL.
- There is to be an appropriate shelter-in-place refuge above the PMF level which is readily accessible for the whole site.
- Hazardous or potentially polluting materials are not to be stored below the FPL unless adequately protected from floodwaters in accordance with industry standards.

Flood levels can be sourced from Council by submitting a [Flood Information Report application](#). Please note that Council's current flood information for this area will soon be superseded when the Draft Greendale Creek Flood Study goes on public exhibition (refer to Council [webpage](#) for updates).. Any DA submitted after the commencement of the public exhibition will be assessed against the results from the Draft Greendale Creek Flood Study.

### **Stormwater Operations (Kevin Fernando)**

Stormwater Assets team has no objections to rezoning proposal.

As previously agreed by the former Manager – Stormwater and Floodplain Engineering (2019/739923), the drainage reserve at the site is not required due to the proposed relocation of the stormwater pipeline along the northern and western boundary of the development site.

Based on the Stormwater Pipeline Relocation plans prepared by Costin Roe, the proposal to relocate the stormwater pipeline to the proposed alignment would in theory be supported by Council, however it is not the preferred stormwater solution due to the multiple 90-degree bends proposed within the system.

The preferred option would be to reconstruct the stormwater pipeline along Winbourne Road opposite the frontages of 41-51 Winbourne Road. This will minimize the number of 90-degree bends and improve the hydraulics of the stormwater system.

This option will also unburden the subject property from Council's pipelines and drainage easements which has benefits to the applicant.

In any case, the proposed stormwater system will need to be designed in accordance with Council Water Management for Development Policy and Council's AUS-SPEC #1.

Additionally, the existing Council pipeline through the site will need to be decommissioned and removed as part any stormwater relocation works.

All structures are to be located clear of any Council pipeline, pit or easement and comply with minimum vertical and horizontal clearances.

Hydraulic design plans and an accompanying report detailing the drainage system upgrade is to be prepared by a Civil Engineer registered on the NER demonstrating compliance with Council's Policy.

**Development Engineering and Certification** – Confirmed Stormwater operations and Floodplain planning advice is sufficient.

#### **4.6.2 Property – Commercial and Tourist Assets**

Referral comments provided by Dominic Varde

Council's Property Team has no issues with the proposal.

The comments provided to the PLM2018/0133 meeting on 3 July 2018 (see 2018/456032 related) are all still valid.

Council's Planning staff can advise if a DA can be lodged over Council's land before it is reclassified/rezoned. Council's Environment & Climate Change Group can provide any owner's consent for lodgement of a DA or for a Planning Proposal over Council's land to reclassify/rezone.

Any historic information on Council's land can be found on the previous reclassification/rezoning for the land on the southern side of the subject land which was also reclassified and rezoned and subsequently sold by Council in 2011.

Council's Environment and Climate Change Group can answer most questions on the current use of the Council land. There are no current tenure agreements over the land to the Property Team's knowledge.

Details of any allocation of any potential sale proceeds are subject to formal Council resolution. Council's adopted Property Framework outlines general requirements for allocation of sale proceeds from the sale of reclassified Community Land.

#### **4.6.3 Transport Network**

Referral Comments provided by James Brocklebank

I have had a look at the PLM material and don't have any strong objection in principle to the proposed rezoning and reclassification of the drainage reserve on traffic grounds. As a result I won't attend the PLM but make the following comments on the proposal:

- The rezoning of the drainage reserve and related consolidation of the lots would enable a larger development to occur on the land that is better able to accommodate the parking requirements generated by the development on site and better able to cater for turning movements and traffic circulation to allow forwards ingress and egress from the site for all vehicles required to access the site.
- It is noted that the concept plan shows that forwards ingress of a Medium Rigid Truck is feasible. It is likely that a development of this scale would require servicing by a vehicle of that size, so this is appropriate.
- It is unclear at this stage, what type of development is proposed however it is expected that the proposed development should cater for the DCP parking requirements of the development off street.
- If the lots are to be consolidated, redevelopment of the land to accommodate a single development is anticipated and the development should feasibly be able to be accessed by a

single driveway. Clause C2 of the Warringah DCP seeks to minimise the number of vehicle crossings in a street as well as the loss of on-street parking. It is therefore our strong preference that only one point of vehicular access to the consolidated lot be provided rather than the two shown on the concept plan.

- It would be helpful to have a little more detail on the type of development proposed to support the rezoning and reclassification planning proposal with details of the driveway/property access widths and locations however a detailed traffic impact report would only be required to support the development application.

#### **4.6.4 Development Advisory Services**

Referral comments provided by Dan Milliken

Development Assessment has reviewed the planning proposal and the documents referenced above submitted the proposal. As stated in the Scoping Report prepared by Planning Direction, the subject site is located between No. 39 and No. 41 Winbourne Road and is currently zoned RE1 Public Recreation with the adjacent sites zoned IN1 General Industrial under the WLEP 2011.

The site is described as Lot 2 DP 117420, measures 1.82m wide and 50.25m in length and is identified as a drainage easement. It is proposed to rezone the land to IN1 General Industrial to allow for the redevelopment of the adjoining properties at 39 & 41 Winbourne Road. Given the narrow width of the subject site, Planning does not raise any concerns with the rezoning of the site provided a stormwater/drainage diversion can be incorporated within the adjoining properties at 39 & 41 Winbourne Road.

Currently, the subject lot does not achieve the objectives of the RE1 Public Recreation Zone and provides very little opportunity to achieve the objectives given the limited size and location within an IN1 General Industrial zone which is the predominant zone within the immediate area.

From a planning perspective, re-zoning the subject site would result in a better planning outcome for the subject site and would result in the land being better utilised to accommodate the prominent use of the adjacent buildings. It is anticipated any future development could be supported subject to compliance with the relevant controls and strategies in place for the site and surrounds.



## 5. Conclusion

### 5.1 Summary of referral comments & Discussion.

- Planning proposal should be accompanied by a Flood Impact and Risk Assessment (FIRA). This should address inconsistencies with local planning direction 4.1 – Flooding. Ensure overland flow path provided by the lots is maintained or an alternative measure proposed to avoid any adverse impacts of flood behaviour.
- Rezoning and reclassification is acceptable from a floodplain planning perspective provided Flood Management Report is submitted with modelling to demonstrate that the new pipe has greater capacity than the existing pipe and that there is no adverse impacts on the road or surrounding properties up to the PMF. Notes for a future DA application are included in the referral notes above.
  - Flood levels can be obtained from Council, noting that the new Flood Study will be on exhibition soon and will have the best information available. You can apply online for a comprehensive flood information report.
  - Could also do your own flood study to show if the new pipe capacity makes a difference to flood levels.  
Flood study will need to model pre and post development to show that the new building is not going to push water further up.  
Council can hire out TUFLOW model (approx. \$3,500 licencing fee)
- Stormwater Operations have no objections to the rezoning proposal. The drainage reserve at the subject site is not required due to the proposed relocation of the stormwater pipeline. Proposed relocation plans would in theory be supported however it's not the preferred solution due to multiple 90-degree bends. A preferred option would run along the road frontages of Winbourne Road to improve the hydraulics of the stormwater system.
  - Applicant can liaise directly with Kevin Fernando (stormwater operations and planning) on 02 8495 6650 or [Kevin.Fernando@northernbeaches.nsw.gov.au](mailto:Kevin.Fernando@northernbeaches.nsw.gov.au)
- Property have no concerns with the proposal and can provide owners consent for the rezoning and reclassification. A similar rezoning and reclassification was undertaken for the adjoining land to the south back in 2011.
  - Sale price will be based on an independent valuation –Council will get quotes from valuers – the applicant to pay costs.
  - Based on Council's policy, the sale price will reflect the new zoning - \$/sqm based on future zoning. If it adds value to the adjoining site the valuation will need to consider that – on its own the market value may be very little so a before and after value approach will be used.
  - Property recommends the applicant seek a letter from the adjoining owner at the rear to indicate they would support the sale. This would remove risk of issues at later stages of the process.
- Development advisory services have no objection provided the pipe diversion is incorporated within 39-31 Winbourne Road.

## 5.2 Recommended investigations and studies

See 'LEP Making Guideline Attachment C – Supporting Technical Information Guide  
<https://www.planning.nsw.gov.au/Plans-for-your-area/Local-Planning-and-Zoning/Making-and-Amending-LEPs>

- (a) Studies and supporting documents to accompany a Planning Proposal at lodgement include:
- i. **Planning Proposal** prepared in accordance with the Department of Planning and Environment's Local Environmental Plan Making Guideline.  
  
The planning proposal must include an assessment of whether the proposal will give effect to the North District Plan and Towards 2040 Local Strategic Planning Statement. A number of relevant priorities have been identified above in section 4.2. A number of ministerial directions identified in section 4.4 will need to be addressed in the planning proposal document.
  - ii. **Flood and Risk Assessment (FIRA)** – requirements outlined above in section 4.6.1 and in the attached referral.
  - iii. **Flood Management Report** with modelling to demonstrate new pipe has greater capacity than existing and no adverse impacts on road or surrounding properties up to PMF.

## 5.3 Strategic and site-specific merit

- (a) The current use of the site is inconsistent with the objectives of the RE1 Public Recreation zone as it provides no public open space, public recreation, natural environment, ecological, scientific, cultural or aesthetic value. The size of the parcel is insufficient to meaningfully contribute to delivering these values in the future. The site is currently paved and functions as an extension of the driveway at 39 Winbourne Rd.
- (b) The proposed IN1 General Industrial zoning (to become E4 General Industrial) is consistent with surrounding land uses. This change of zone would support more efficient use of neighbouring lots consistent with the objectives of the zone by supporting amalgamation of lots and a larger scale of redevelopment.
- (c) The proposal is consistent with the strategic planning context including the planning priorities and actions of the Greater Sydney Region Plan, North District Plan and Local Strategic Planning Statement, particularly with regards to promoting investment and business activity in centres and the retaining and managing of industrial land.
- (d) Demonstration of strategic merit will involve consideration of the proposal against:
  - i. Section 9.1 Local Planning (Ministerial) Directions
  - ii. Consistency with the Region and District Plans
  - iii. Consistency with Council's Community Strategic Plan, Local Strategic Planning Statement, Local Housing Strategy, and Affordable Housing Policy
  - iv. Consistency with all relevant State Environmental Planning Policies

## 5.4 Other matters

Other matters discussed at the pre-lodgement meeting.

- **Can a DA run concurrently with a Planning Proposal?**  
Council can't approve the DA prior to the transfer of ownership, or it may require a deferred commencement. It would be pre-empting the outcome of the reclassification process.
- **Sale Price**  
Council can't enter into any negotiation or contract until the land is reclassified. We can't pre-empt the outcome of the reclassification process.  
Given the site is not a marketable site on its own there is a low risk of another party being interested in purchasing it.  
The applicant could get a formal valuation sooner if they desire, however Council would still need an updated valuation at the time of the sale. Alternatively the applicant could do their own research to understand the value per m2 of existing IN1 zoned land and make an educated guess at its value.
- **Could this site be rezoned and reclassified as a housekeeping exercise or as part of the LEP review?**  
Yes this is a possibility and we provided encouragement to make a submission on the Brookvale Structure Plan ahead of exhibition closing on 28 Feb 2023.

The planning proposal and reclassification for this site on its own would be considered to be a fairly straightforward process, to correct a land use anomaly, and could be progressed as a standard planning proposal.

Timelines for Implementing LEP and DCP controls as part of the Brookvale Structure Plan would be longer than an independent planning proposal as it would be caught up with a more complex and potentially political strategic planning process. Other sites in Brookvale that Council may seek to reclassify as part of the same process may be more contentious and once the Draft plan is adopted we will be undertaking a range of studies to inform new LEP and DCP controls (including a sustainability strategy) for Brookvale, so it would be a more lengthy process.

It may also be worthwhile noting that the draft Brookvale Structure Plan proposes height increases in the industrial area,

## 5.5 Logistics

### 5.5.1 Nomination of Planning Proposal category

The proposal is considered a Standard Planning Proposal, as referenced under page 14 of the Local Environmental Plan Making Guideline.

### 5.5.2 Council assessment fees

The fees currently applicable to lodgement and processing of Planning proposals are set out in the Strategic & Place Planning section of Council's Fees and Charges:

<https://www.northernbeaches.nsw.gov.au/council/rates-and-council-fees/fees-and-charges>

The Fees and Charges are updated with CPI increases annually, usually at the end of financial year.

**Standard/Basic Planning Proposal/ Planning Proposal Application seeking amendment/s to an LEP involving sites less than 5,000 sqm in area**

*Comments: This fee applies to mapping changes, adding/removing a heritage item, changing the wording of a clause, adding/removing a use in a zoning table that does not require complex assessment or mapping changes. If the Planning Proposal does not progress past the Gateway Determination, a refund of up to 30% of the fee may apply upon request by the applicant (where no application is made for a Rezoning Review).*

Lodgement fee including advertising	per proposal	\$33,195.00	No
Pre-lodgement meeting and report	per meeting/ report	\$2,211.00	No

### 5.5.3 Consultation requirements

- (a) It is strongly recommended that the applicant consult with neighbours regarding this proposal before finalising a planning proposal submission to Council.
- (b) Consultation requirements are set out in Council's Community Participation Plan (Plan Making and Development Assessment): <https://www.northernbeaches.nsw.gov.au/planning-and-development/planning-future/community-participation-plan>
- (c) Following formal lodgement of a planning proposal, Council will undertake preliminary non-statutory notification for a minimum of 14 days and any submissions will be considered before the proposal is reported to the local planning panel followed by Council.
- (d) If the application is supported by Council, the planning proposal will be forwarded to the NSW Department of Planning and Environment for a Gateway determination. Consultation with public authorities and the community (statutory notification) will occur following a successful Gateway determination and in accordance with any conditions set out therein.
- (e) Council is obliged to make planning proposal applications and supporting documents available for public inspection. We do this via the Customer Service Centre and/or Council's website.
- (f) The **Reclassification Process** requires a public hearing be undertaken after the conclusion of the statutory exhibition (post gateway). 21 days notice must be provided after the conclusion of exhibition to provide time for all submissions to be considered.

PN 16-001 - <https://www.planning.nsw.gov.au/Plans-for-your-area/Local-Planning-and-Zoning/Strategic-Planning-Toolkit> (see under dropdown for 'LEP practice notes')

### 5.5.4 Expected timeframes

- (a) Benchmark timeframes are referenced under page 17 of the Local Environmental Plan Making Guideline.
- (b) For a Standard Planning Proposal, a benchmark timeframe of 95 working days is identified. This is measured from lodgement of the Planning Proposal with Council via the Planning Portal and a successful fee payment to a Council meeting for a decision on whether the proposal should proceed and be referred to the Department of Planning and Environment for a Gateway determination.



## 6. Appendix

### Department of Planning and Environment



DOC23/99753

Ms Felicity Shonk  
Northern Beaches Council  
725 Pittwater Road  
DEE WHY NSW 2099

10 February 2023

---

**Subject:** EHG comments on Pre-Lodgement Planning Proposal for Lot 2 in DP 117201 – located in between 39-41 Winbourne Road Brookvale - rezone Council strip of land from RE1 Public Recreation to IN1 General Industrial

Dear Ms Shonk

Thank you for your email of 20 January 2023 requesting advice on the pre-lodgement referral for this planning proposal. The Environment and Heritage Group (EHG) provides the following comments on this referral for Lot 2 in DP 117201, noted as being approximately 2m wide and fronting Winbourne Road in Brookvale. EHG notes that drainage has been discussed in the document titled "Preliminary Planning Commentary", however flood risk also needs to be managed.

The draft Greendale Creek Flood Study developed by Council has again confirmed that Winbourne Road is highly flood affected as identified in a previous study. The planning proposal should therefore be accompanied by a Flood Impact and Risk Assessment (FIRA). In particular, the FIRA should address inconsistencies with Local Planning Direction 4.1 – Flooding. This would include ensuring that the overland flow path provided by the lot is maintained or an alternative measure proposed to avoid any adverse impacts on flood behaviour. Adverse impacts would include those to neighbouring properties and the road itself.

Council may consider providing the draft flood study model to the proponent to allow an adequate assessment of the flood impacts. However, due to the narrow size of the lot, the model may need to be refined to ensure existing conditions are properly represented. This may include adjusting the grid size or another modelling technique.

Provided the above issues are managed, EHG would not object to this proposal.

If you have any queries regarding this matter, please do not hesitate to contact Janne Grose, Senior Conservation Planning Officer on 02 8837 6017 or at [janne.grose@environment.nsw.gov.au](mailto:janne.grose@environment.nsw.gov.au).

Yours sincerely,

Susan Harrison  
Senior Team Leader Planning  
Greater Sydney Branch  
Biodiversity and Conservation