

ITEM 9.5	PLANNING PROPOSAL LOT 21 DP 819277 (PART) WAKEHURST PARKWAY, OXFORD FALLS
REPORTING MANAGER	EXECUTIVE MANAGER STRATEGIC LAND-USE PLANNING
TRIM FILE REF	2017/066576
ATTACHMENTS	1 Planning Proposal - Lot 21 DP 819277 Wakehurst Parkway, Oxford Falls (Included In Attachments Booklet) 2 Planning Proposal Submission (Part) Lot 21 DP 819277, Wakehurst Parkway, Oxford Falls (Included In Attachments Booklet)

EXECUTIVE SUMMARY

PURPOSE

To seek Council approval to submit a Planning Proposal to reclassify land known as Lot 21 DP 819277 (Part), Wakehurst Parkway, Oxford Falls (the land) from “Community Land” to “Operational Land” to the NSW Department of Planning and Environment (the Department) for a Gateway determination.

SUMMARY

Council received a Planning Proposal on 14 February 2017 on behalf of Oxford Falls Grammar School (the School) to reclassify Lot 21 DP 819277 (Part) from Community to Operational land under the *Local Government Act 1993*. The land adjoins the western boundary of Oxford Falls Grammar School, at Oxford Falls and is currently zoned RE1 Public Recreation under Warringah Local Environmental Plan 2011 (WLEP2011).

The Planning Proposal seeks to create a pathway for the school to use the land in the future for purposes associated with the school.

The School has indicated its intention to seek to purchase the land from Council if the Planning Proposal is adopted. Council cannot sell or otherwise dispose of the land under its current classification under the Local Government Act. Once the outcome of this Planning Proposal is determined the matter of the sale of land is for future consideration by Council.

The Planning Proposal was publicly exhibited for 14 days. Ten submissions were received; 8 objecting to the proposal. The main issues raised included environmental and traffic concerns, selling of Council land, and provision for the future widening of Wakehurst Parkway.

No objections were raised to the Planning Proposal by Council’s Natural Environment and Climate Change Unit, Parks and Reserves Unit or Property Management Unit.

If supported, the Planning Proposal would be subject to a public hearing in accordance with the requirements of the Local Government Act 1993, in addition to any requirements of a Gateway determination issued by the Department.

It is considered appropriate to support the submission of the Planning Proposal to the Department for a Gateway determination.

RECOMMENDATION OF DEPUTY GENERAL MANAGER PLANNING & COMMUNITY

That:

- A. Council approves the submission of the Planning Proposal for Lot 21 DP 819277 (Part) Wakehurst Parkway, Oxford Falls to the Department of Planning and Environment for a Gateway determination.
 - B. Subject to the grant of a Gateway determination, Council publicly exhibits the Planning Proposal and undertakes a public hearing in accordance with the requirements of section 29 of the *Local Government Act 1993* and any requirements of the Gateway determination.
 - C. A report be provided to Council on the outcome of any public hearing and public exhibition of the Planning Proposal.
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REPORT

BACKGROUND

Council received a planning proposal application on behalf of the Oxford Falls Grammar School on 14 February 2017 to reclassify the northern part of Lot 21 DP 819277 from Community to Operational land. The land, known as Lot 21 DP 819277 (Part) is located between the Wakehurst Parkway and the western side of Oxford Falls Grammar School, Oxford Falls. The application is detailed in Attachment 1.

Oxford Falls is a predominantly semi-rural area characterised by important bushland corridors and significant biodiversity. Interspersed in the area are a number of institutional uses such as schools and churches. The land measures approximately 15 metres by 133 metres and is currently vacant with the exception of an on-site detention system which serves the school. The land is predominantly a mown grassed area with some limited tree cover and is currently used by the school as an extension of its outdoor recreation area. Middle Creek traverses the subject site.

Section 45 of the *Local Government Act 1993* prohibits Council from disposing of land classified as Community Land. The School has submitted the Planning Proposal with the expressed intention to offer to purchase the land from Council should the Planning Proposal be adopted and the land reclassified to Operational.

Historical Context of Land Classification

The 15m wide strip was dedicated to Council in 1992 for the purpose of a Public Reserve as a condition of development consent (DA1990/35) for the development of a new primary and infant's school. The land dedication was for the purpose of a buffer strip to Wakehurst Parkway, preventing access directly onto the road by the adjoining landowner.

The subject land was subsequently classified as "Community Land" under the *Local Government Act 1993* and zoned "Public Open Space" under Warringah Local Environmental Plan 2000 (WLEP2000). The land was to be managed in accordance with Council's General Community Use Plan of Management (GCU). The land was eventually rezoned RE1 Public Recreation, under WLEP2011.

In 2005 Council approved the reclassification of the southern part of Lot 21 DP 819277 (area encroached upon by the School oval) from Community to Operational land and lease to the School. The reclassification of that land was gazetted in 2008. The northern section of the lot remained classified as Community land.

Council at its meeting on 22 March 2016 approved the submission of an application by the School to subdivide Lot 21 DP 819277 into two lots and the sale of the southern portion (classified Operational) to Oxford Falls Grammar School. A condition of the proposed sale was to be that the new lot is consolidated with the adjoining land parcel (School) and an appropriate Restriction on Use being registered on the land prohibiting vehicular access to Wakehurst Parkway.

The subdivision of Lot 21 DP 819277 into two (2) lots was approved by Northern Beaches Council on 21 October 2016. The subdivision is presently subject to the registration process and a Contract of Sale has been prepared to allow Proposed Lot 1 (southern part of Lot 21 DP 819277) to be purchased by the School.

Current Planning Proposal

The current Planning Proposal seeks to mirror the outcome previously agreed by Council for the Southern part of Lot 21. The detailed assessment of the Planning Proposal is contained in Attachment 2. Figures 1 and 2 provide context of the land that is subject to this Planning Proposal.

It is recommended that Council proceed to seek a Gateway determination to allow exhibition and public hearing to be conducted regarding the proposal. Once these actions are completed the matter will be referred back to Council for a decision. With regard to the zoning of the land, the parcel is adjoining a larger area of “deferred lands” under Warringah Local Environmental Plan 2011, however it is zoned Public Recreation under WLEP 2011.

It is not considered that the zoning of Public Recreation needs to be altered at this time as the operations of the school (should this reclassification proceed) can be permitted by State Environmental Planning Policy – Infrastructure 2007. Once the deferred lands Planning Proposal (currently awaiting a Gateway Determination) is progressed the zoning of the land will be reviewed in light of the outcome of this Planning Proposal.

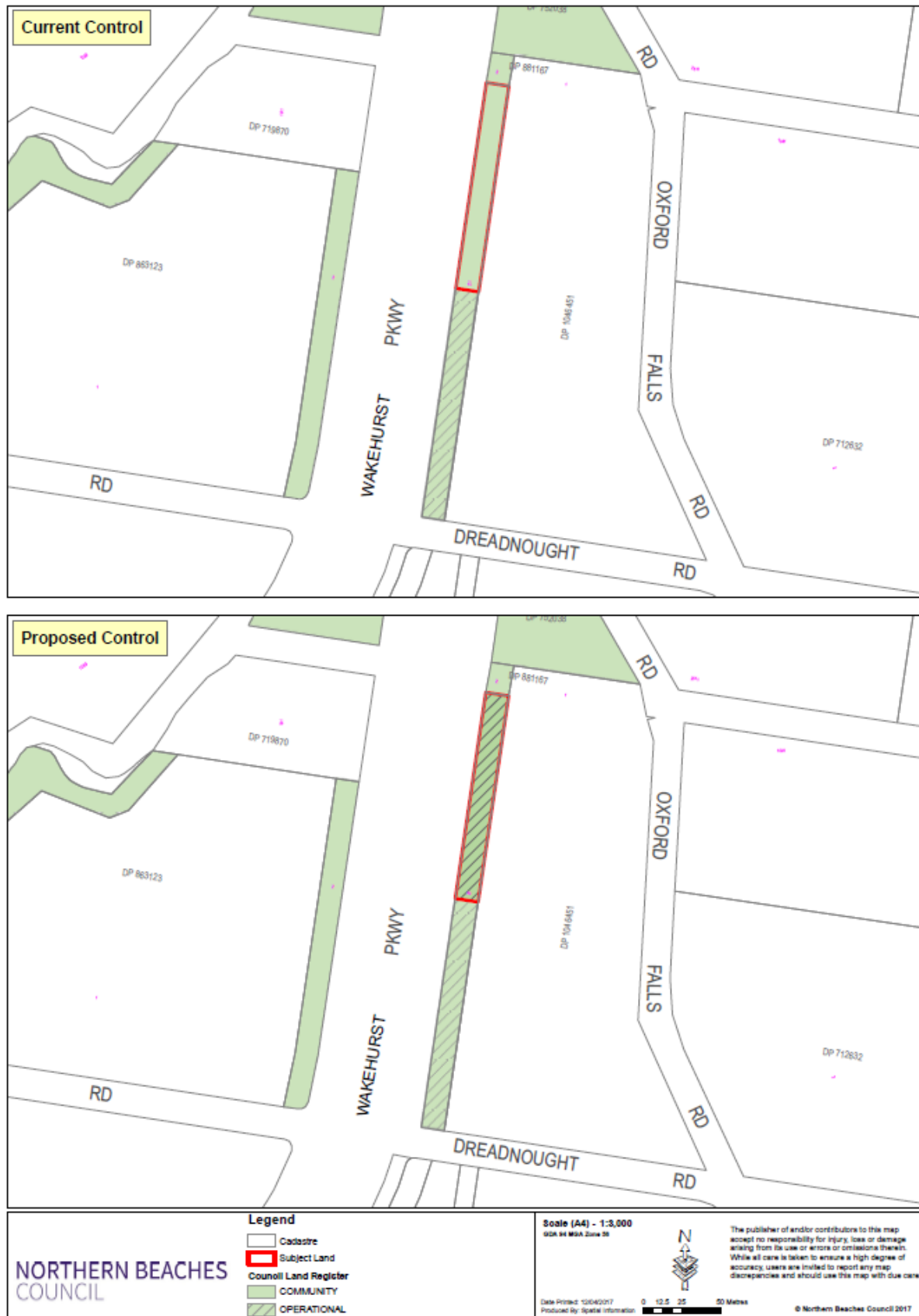


Figure 1 and 2 – Current and Proposed zoning and classification

CONSULTATION

The Planning Proposal was placed on public exhibition from Saturday 4 March 2017 to Saturday 18 March 2017. The exhibition included:

- Electronic copies of the exhibition material on Council's website.
- Email to registered community members who have listed their interest on Council's Community Engagement Register for the former Warringah local government area.
- Hard copy of the Planning Proposal being placed at Civic Centre, Northern Beaches Council Dee Why Office.

Council received 10 submissions, consisting of two (2) emails in support of the planning proposal and eight (8) that opposed the proposal. The key issues raised related to environmental and traffic concerns, selling of Council land, and the future widening of Wakehurst Parkway. A submission evaluation is provided below.

Submission evaluation

Note that x1 indicates that the theme has been raised 1 time.

Issue	Comments	Response
Rezoning	Council should rezone whole land, put apartments there, like restaurant or night club. (x1)	The proposal involves the reclassification of the land from Community to Operational. The zoning of the land will remain unchanged as RE1 Public Recreation. The land does not lend itself to use as restaurants, apartments or night clubs due to its size, shape, location and environmental constraints.
Environment	No to re-classification as the following points require further assessment: • Loss of fauna, vegetation and buffer from Wakehurst Parkway. • Protection of the watercourse and riparian land needs to be considered. Especially with the increase hard surfaces in the upper catchment due to the Warringah Road upgrades and the Frenchs Forest Hospital site. • Wakehurst Parkway flooding. • A generous width of public land is required for a vegetation and wildlife corridor. A waterway traverses the land and warrants protection as part of public open space. The environmental objectives of the standard zone W1 Natural Waterways are relevant and the W1 zone could be applied to better protect the waterway and riparian buffer. (x4)	Lot 21 DP819277 is identified as being located in a wildlife corridor and contains native vegetation, waterways and riparian land. Any future development will require further environmental investigations. The reclassification of the land is not expected to have a significant impact on biodiversity or the waterway and riparian land as the majority of the reserve is already cleared, turfed and landscaped. The land will also remain zoned RE1 Public Recreation, restricting the range of potential future uses. There is a buffer of 35 metres between the subject land and Wakehurst Parkway roadway. Any future development of this property is subject to flood-related development controls.
Future widening of Wakehurst Parkway, cycle ways and pedestrian access	The subject land should not be sold to allow for future widening of Wakehurst Parkway. (x5) The land should be used for a pedestrian/cycle way along Wakehurst Parkway. (x1)	Widening of Wakehurst Parkway is a Roads and Maritime Services (RMS) decision. Sufficient area is available within the Wakehurst Parkway road reserve to allow for any proposed road widening and cycleway.

		As Middle Creek traverses the road reserve and the subject site, further environmental investigation, agency consultation and approvals would be required for any future pedestrian/cycle ways to be placed on along Wakehurst Parkway.
Loss of community space/Public access and Use	Community land should not be sold to private interest. The land should be used for public use and access adjacent to the road reserve. If the land is sold to the school, a condition of sale should be that the schools oval is put on the list of grounds to be allocated to support local weekend sport. The proposal to reclassify community land to operational is no guarantee that the undeveloped land will remain as open space. The northern part of Lot 21 DP 819277 seems like a small parcel of land may be insignificant in size but sale of small parcels of Crown Land is significantly diminishing public ownership and access to green space.	Reclassification of the subject land does not automatically guarantee the land will be sold to the School. The subject land is not readily accessible for general community use. The use of school grounds on weekends for local sports is being negotiated by Council as part of the agreement for the sale of the southern part of Lot 21 to the School (see comments from Parks and Reserves below). The planning proposal does not include rezoning the subject site. The land is currently zoned RE1 Public Recreation. The only change will be to Schedule 4 of WLEP2011 - Classification and reclassification of public land.
Aesthetics	The vegetation provides a buffer between the school and the Wakehurst Parkway.	The road reserve currently provides a buffer to the Wakehurst Parkway. Any future development proposals for the land would be subject to consideration of biodiversity and landscape impacts (see comments Biodiversity and Catchments below), including whether a landscaped setback should be provided.
Support for the reclassification of land	Support the reclassification of (Part) Lot 21 DP 819277 from Community to Operational land.	Noted.
The process	There appears to be a pattern in the process on the school gaining approval in the various stages of the proposals. Lack of transparency on the sale price of the southern portion of Lot 21 DP 819277 operational land and no mention of the sale price for this (Part) Lot 21 DP 819277. Council should wait until the school has made a complete DA and rezoning proposal incorporating a request to reclassify the land. Only then will council know the consequences of its decision to sell this land.	The community land in question has been the subject of encroachments for a long period of time. The School approached Council to acquire the Operational land comprising the southern part of Lot 21 as a long-term solution to the current encroachment on the subject site. Reclassification of the subject land does not guarantee the land will be sold to the school. Any future sale would be subject to individual valuation and report to Council.

	The planning proposal is not relevant to the Draft North District Plan objective of driving economic and population growth as the school will not be increasing the number of students due to acquiring (Part) Lot 21.	The School is located close to the growth centre of the new Northern Beaches Hospital.
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Assessment of Planning Proposal

Natural Environment and Climate Change

Biodiversity and Catchments

The Biodiversity and Catchment team of Natural Environment and Climate Change have no objections to the reclassification of the land from Community to Operational land.

The Council Land (Lot 21 DP819277) is identified as being located in a wildlife corridor and contains native vegetation and waterways and riparian land. The reclassification is not expected to have a significant impact as the majority of the reserve is already cleared, turfed and landscaped, but due to its location future development should be subject to the following considerations:

- Development near parks, bushland and other public open spaces
- Retaining distinctive environmental features on site
- Protection of existing flora Protection of existing flora
- Protection of Waterways and Riparian Land Policy (2010).

Flooding

The Flood Team has no objections to the proposed reclassification.

The subject property is identified as being predicted to be flood affected in the 100 year (1% AEP) flood event. This is currently the best available information on flooding for the area and is taken from the Narrabeen Lagoon Flood Study, 2013.

Due to its location, future development of this property is subject to flood related development controls, as detailed in Part 6.3 Flood planning of the Warringah Local Environmental Plan (LEP) 2011.

Development Engineering

Development Engineering has no objections to the proposed reclassification.

The Council Land (Lot 21 DP819277) contains an onsite detention tank which was required to be installed as a condition of development consent, and is located fully or partly within the land. There is no record of any plans/survey on the location of this tank.

It is recommended that the School confirms the existence and location of the tank prior to the submission of any future development application for the land.

Property Management

The subject land was dedicated to Council as a condition of development consent when the School was significantly expanded. Background information is contained in Council report dated 22 March 2016.

The School currently uses the land as school yard. In its resolution dated 22 March 2016, Council authorised a lease of the land to the School subject to Council amending the relevant Plan of Management for the land.

Property Management has no specific issues regarding the request to reclassify the subject land to Community Land. The land has limited general community benefit as it can only be easily accessed through the school grounds.

The applicant should be made aware that any proposed reclassification of the subject land does not automatically guarantee the land will be sold to the School.

If the proposed reclassification is successful, the School will need to make a separate application to purchase the land (similar to its previous request to purchase the Operational Land component of Lot 21) which will be subject to the usual considerations (including the value of the land based on qualified independent valuation advice) before the matter is formally reported to Council (or Administrator) for consideration. Any sale will be subject to appropriate conditions in a Contract for Sale of Land.

If Council resolves to sell the subject land in the future, it will obtain proceeds from the sale of this land. Council's Allocation of Funds Obtained from the Sale of Council Real Property Policy requires funds raised to be used for the acquisition and management of other community land i.e. creation/improvement/embellishment of new or existing assets (land and buildings) in the same category as the original community land, or other community land acquisitions, embellishment or provision of community facilities and projects.

Parks and Reserves

Parks and Reserves has no concerns/issues with the proposed reclassification of land Lot 21 DP 819277 (Part) from Community to Operational.

This action is a result of the Council resolution 7.2 made on the 22 March 2016 in regards to Lot 21 DP819277 – Parcel of land adjacent to Oxford Falls Grammar school.

The land is currently inaccessible and provides no benefit to the community; the reclassification will not have any negative impacts on the community.

It should be noted that one of the other actions of the Council resolution on 22 March 2016 was that an agreement between Council and the School be formed to accommodate community use on the school sportsground when not being used by the school after school hours. This agreement is currently being developed, with formalisation to occur prior to the end of FY16/17.

CONCLUSION

An assessment of the strategic justification has been carried out. The proposal is considered to have merit and satisfies the pre-gateway requirements of the Department.

It is recommended that Council approves the submission of the Planning Proposal to the Department for a Gateway determination.

FINANCIAL IMPACT

The preparation of the Lot 21 DP 819277 (Part) Wakehurst Parkway, Oxford Falls Planning Proposal has been funded by the fees established in *Warringah Fees and Charges 2016-2017*.

SOCIAL IMPACT

Reclassification of (Part) Lot 21 DP 819277 from Community to Operational land will have no social impact as the land is not currently accessible to the general community.

POLICY IMPACT

The Lot 21 DP 819277 Wakehurst Parkway, Oxford Falls Planning Proposal seeks to reclassify Community land to Operational land. The land will remain zoned as RE1 Public Recreation so its use will be limited to the uses that are permitted in the zone under the Warringah LEP 2011 and other relevant Environmental Planning Instruments, including State Environmental Planning Policy (Infrastructure) 2007.

ENVIRONMENTAL IMPACT

The reclassification of the subject site will have no environmental impact as the majority of the reserve is already cleared, turfed and landscaped. Any future development will require further environmental and flooding investigations.

**9.5 PLANNING PROPOSAL LOT 21 DP 819277 (PART) WAKEHURST PARKWAY,
OXFORD FALLS**

001/17 **RESOLVED**

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