

(File Re: SU 261 Trim Record No 50757/09)

Proposed reclassification of other underutilized Land Parcels

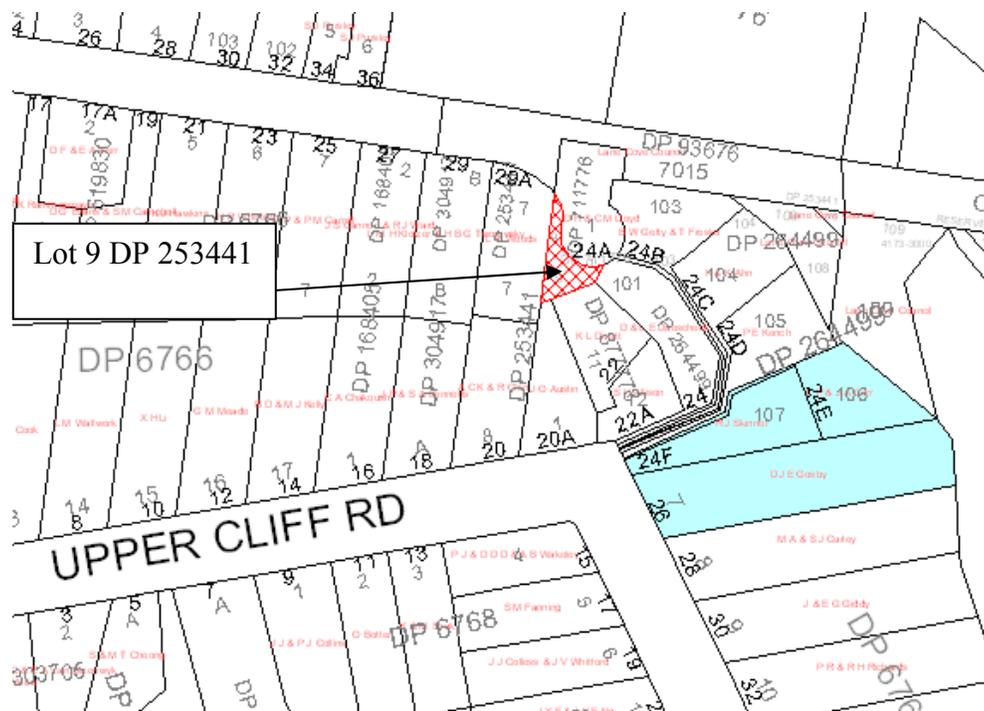
Introduction

There are two land parcels identified as underutilised and for which Council has received a number of enquiries. Generally the enquiries focused on the possible purchase of the Council land by the adjacent property owners.

The land parcels to which this report relates to are listed below:

1. Land Parcel adjacent to 18A, 20A, 22, 24 and 24A Upper Cliff Road, Northwood; and
2. Pathway between 28 and 30 Kullah Parade, Lane Cove West linking Kullah Parade to Mindarie Street, Lane Cove North.

1.0 Lot 9 DP 253441 Fleming Street and Adjacent to 18A,20A, 22, 24and 24A Upper Cliff Road , Northwood



The land stands adjacent to 18A Upper Cliff Road (also known as 29A Fleming Street) and at the rear of 20A, 22, 24 and 24A Upper Cliff Road. The land parcel is classified as **Community** land and identified in Council's Land Register as item 386A. The land is

approximately 185 square metres and zoned R2-Low Density Residential under the LEP 2009.

BACKGROUND

Council in 1982 approved the subdivision of 24 Upper Cliff Road and reached an agreement with the then owners of the property whereby a “key hole” allotment (Lot 1108 DP 43745) was exchanged for land now dedicated as public reserve adjoining Gore Creek and known as Lot 108 and Lot 109 DP 264499. The process involved the closure of Fleming Street east of No. 29 Fleming Street and the rezoning of the “key hole” allotment. The “key hole” allotment was created through a road closing process. The road closure was gazetted on the 21 October 1983 (Government Gazette number 144) creating Lot 108 DP 43745. The “key hole” allotment was rezoned to Residential 2 (A1) on the 28 October 1983 (Government Gazette number 147).

On 31 January 1984 through a plan of subdivision Lots 108 and Lot 109 DP 264499 were created in favour of Council and the “key hole” allotment transferred to the owners of 24 Upper Cliff Road. On 10 October 1984 Lot 1108 DP 43745 and Lot 102 were consolidated into Lot 1 DP 711776.

The transferral and consolidation of the “key hole” allotment (Lot 1 DP 711776) caused the Public Reserve (Lot 9 DP 253441) to be tucked away in between the rear of lots 18A, 20A, 22, 24 and 24A Upper Cliff Road. Access to the public reserve is by a small slither of land between 18A Upper Cliff Road (also known as 29A Fleming Street) and 24A Upper Cliff Road. The general public is probably not aware that the land parcel in question is indeed a public reserve. The agreement reached in 1982 also provided that the newly created lots would be prohibited to have vehicular access to Fleming Street. Relevant extracts from the Government Gazettes, road closure, subdivision, consolidation and rezoning plans are included in **Appendix 1**.



Image 1: View of Reserve looking south towards rear of 22 Upper Cliff Road



Image 2: View of Reserve looking north towards Fleming Street road closure

CONSTRAINTS

The constraints on the Public Reserve allotment are listed below.

- a) The Public Reserve is not landlocked however access to the reserve is difficult and not formalised. The reserve has approximately 1 metre wide frontage to the Fleming Street physical road closure east of 29 Fleming Street. The gazetted road closure relates to a “key hole” allotment now known as 24A Upper Cliff Road (Lot 1 DP 711776). This physical road closure section of Fleming Street is however Zoned Open Space Recreation-Bushland “B” under the LEP 1987 (as amended). Any vehicular access to the Public Reserve (Lot 9 DP 253441) would need to be formalised through a community land lease and conform to the plan of management for the land. Vehicular access however is against the agreement reached by Council in 1982;
- b) The Reserve is not readily identifiable from the Fleming Street side and not visible by the general public. Infact it is believed that the general public does not even know if the Public Reserve exists;
- c) The Reserve is unfenced on all sides and presents a 3-4 metre high drop on the eastern side and adjacent to 24A Upper Cliff Road. This presents an OH&S issue and a potential liability problem for Council should any child from adjacent properties fall and sustain injuries;
- d) The land area of 185 square metres is not sufficient for a stand alone building block and therefore it is only of value to the adjacent neighbouring properties. If the Public Reserve were to be combined and consolidated with the adjacent property titles the area may be sufficient to affect a land subdivision and thereby increase the value of the land.



Image 3: View of Reserve looking east showing the 3-4 m drop in level

CONCLUSION:

Given the current constraints, location and non existent use by the general public it is considered that the land would be better managed by rezoning and reclassifying the land in accordance with the provisions the LG Act 1993(as amended) and the EPAA Act 1979 (as amended) with a view to selling the reserve subject to a community consultation process and Council's decision.

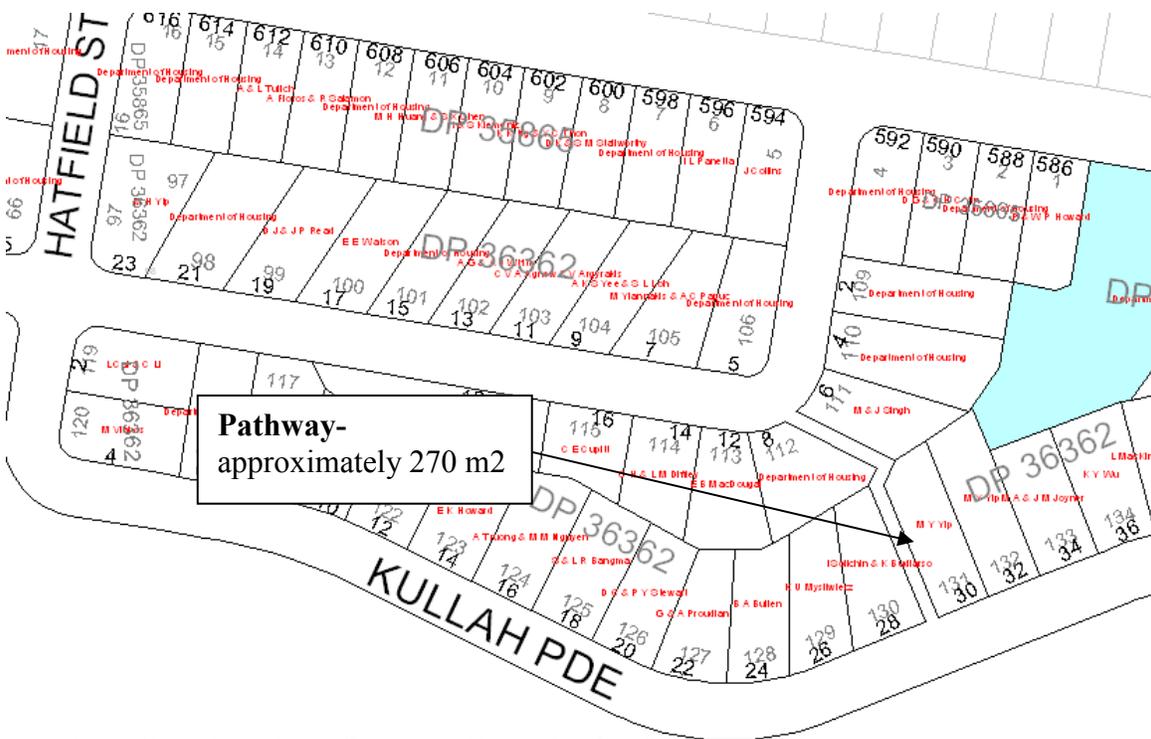
Council has recently received enquiries form adjacent property owners expressing a willingness to purchase the Public Reserve.

RECOMMENDATION:

That the land be reclassified with a view to sale.

2.0 Pathway between 28 and 30 Kullah Parade, Lane Cove West linking Kullah Parade to Mindarie Street, Lane Cove North.

The pathway measure 3.6 metres in width, is unpaved and stands between 28 and 30 Kullah Parade and links Kullah Parade to the south and Mindarie Street to the north. Street lighting is available within the pathway. The pathway or a number of years appears to be unused by pedestrians and is fenced off some 20 metres from the Kullah Parade building alignment. Under LEP 1987 the pathway was shown as road and hence the reason for the land not having been classified as at 30 June 1994. The land parcel is therefore not listed in Council's Land Register. The pathway is zoned R4-High Density Residential under LEP 2009.



The pathway has resulted from the subdivision of part of the land resumed by the Housing Commission in May 1946.

Early in 2009 and in 2010 a local resident indicated that Council since late 1970 had resolved to reconstruct the pathway but has not done so to date. It was also reported that the pathway had been unavailable to the public for almost 5 years. The pathway should be officially closed and classified **operational**. Council may however be precluded to receive the proceeds of the sale if the pathway were to be sold unless Council can prove that it has spent its funds over the years to maintain the pathway. There is nothing however to stop Council from leasing the land for up to 5 years inclusive of any options.



Image 4: View of pathway from Kullah Parade



Image 5: View of private fencing preventing public access to pathway at the Kullah Parade end

RECOMMENDATION:

That:

- Subject to further investigation the pathway be officially closed and classified as operational; and
- In the interim investigate opportunities to lease the pathway.

Appendix 1

Extracts Government Gazettes, subdivision and consolidation plans relating to Public Reserve-Upper Cliff Road, Northwood.

1. Road Closing Notification

21 October, 1983 NS W GOVERNMENT GAZETTE No.144 -4825

(1487) Sydney, 21st October, 1983.

NOTIFICATION OF CLOSING OF ROADS

IN pursuance of the provisions of the Public Roads Act, 1902, the roads hereunder specified are closed and the lands comprised therein are freed and discharged from any rights of the public or any person to the same as highways.

A. R. L. GORDON, Minister for Lands.

Descriptions

Land District—Metropolitan; Municipality—Lane Cove

The Council of the Municipality of Lane Cove. Lot 1108 in D.P. 43745. Parish Willoughby (Sheet 1), County Cumberland. MN82 H 1581.

2. Notification and Plan of Local Environmental Plan No. 5



[Published in Government Gazette No. 147 of 28th October, 1983.]

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

LANE COVE LOCAL ENVIRONMENTAL PLAN No. 5

I, the Minister for Planning and Environment, in pursuance of section 70 of the Environmental Planning and Assessment Act, 1979, make the local environmental plan set out hereunder. (79-11575)

ERIC BEDFORD,

Minister for Planning and Environment.

Sydney, 28th October, 1983.

LANE COVE LOCAL ENVIRONMENTAL PLAN No. 5

Citation

1. This plan may be cited as "Lane Cove Local Environmental Plan No. 5".

Aims, objectives, etc.

2. The aim of this plan is to rezone the land to which this plan applies Zone No. 2 (a1)—Residential and also to remove a reservation of part of the land for road purposes.

Land to which this plan applies

3. This plan applies to the land having frontage to Fleming Street, Northwood, known as lot 1108, Deposited Plan 43745, as shown coloured light scarlet on the map marked "Lane Cove Local Environmental Plan No. 5" deposited in the office of the Council of the Municipality of Lane Cove.

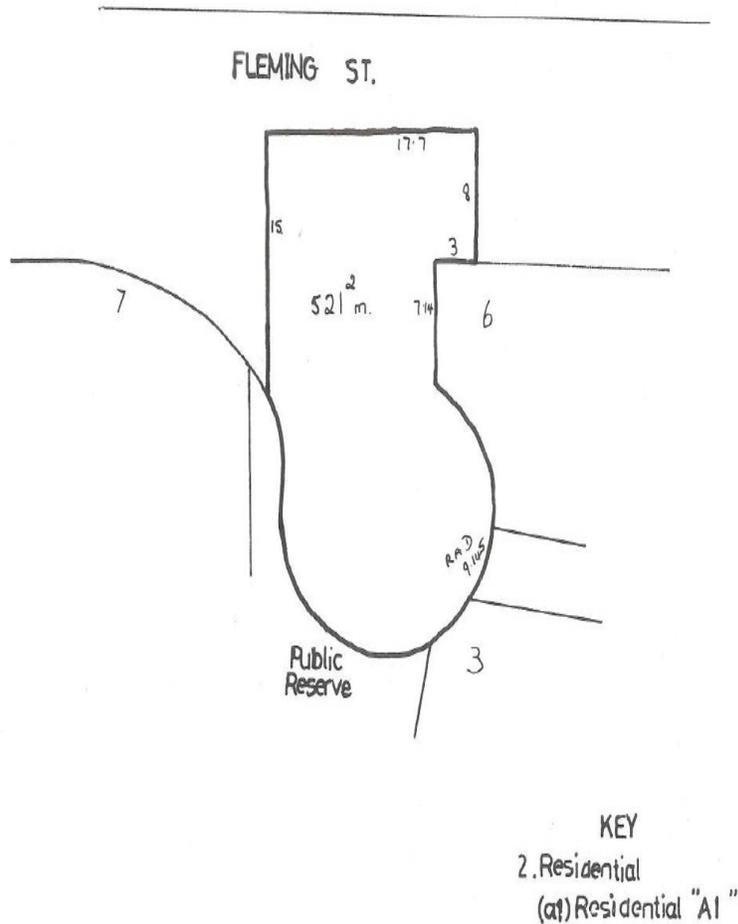
Relationship to other environmental planning instruments

4. This plan amends the Lane Cove Planning Scheme Ordinance in the manner set out in clause 5.

Amendment of Lane Cove Planning Scheme Ordinance

5. The Lane Cove Planning Scheme Ordinance is amended by inserting at the end of the definition of "Scheme map" in clause 4 (1) the following words:

Lane Cove Local Environmental Plan No. 5. (4659)



SCALE:— 1:400

LOCALITY NORTHWOOD

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

CITY MUNICIPALITY LANE COVE
SHIRE

LOCAL ENVIRONMENTAL PLAN No. 5

DRAWN BY Janet Frost	DATE 2.11.83	STATEMENT OF RELATIONSHIP WITH OTHER PLANS Amends Lane Cove Planning Scheme Ordinance
SUPERVISING DRAFTSMAN Janet Frost		
PLANNING OFFICER J. A. Hartman		
COUNCIL FILE NO. S08 2187		
DEPT. FILE NO. 79/11575		CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979, AND REGULATIONS. <i>Chw Byevely</i> TOWN/SHIRE CLERK DATE 27.10.83
GOVT. GAZETTE OF 28.10.83		

Appendix 2- Pathway subdivision plan-Kullah Parade

