

## 12.2 Planning Proposal to Reclassify a Portion of Council Owned Land to Provide an Access Road to the Southern Highlands Regional Art Gallery

**Reference:** PN1706883  
**Report Author:** Senior Strategic Land Use Planner  
**Authoriser:** Coordinator Strategic Land Use Planning  
**Link to Community Strategic Plan:** Support and promote the creative and cultural sector

### PURPOSE

The purpose of this report is to seek a resolution of Council to proceed with a Planning Proposal to reclassify a portion of Council owned land adjacent to the David Wood Playing Fields in East Bowral for the purpose of providing an access road to the Southern Highlands Regional Art Gallery.

### RECOMMENDATION

**THAT** a Planning Proposal be prepared to reclassify proposed Lot 3 being a portion of Lot 38 DP 882935, Rowland Road Bowral, from Community to Operational, for the purposes of constructing an access road to the Southern Highlands Regional Art Gallery as shown in Attachment 1.

### VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

### REPORT

#### BACKGROUND

As part of the progression of the development of the Southern Highlands Regional Art Gallery (SHRAG), to be located in the Old Dairy within the Retford Park Estate, the approximate route for a public access road has been identified. The land over which most of the road will pass is identified as Lot 38 DP 882935, Rowland Road Bowral, located to the east of the David Wood Playing Fields at East Bowral. **Figure 1** below indicates the approximate location of this road extending from the intersection of Jonathan Street and Rowland Road, across an area of Council owned land and into the Retford Park Estate.

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Wednesday 25 September 2019

### REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES

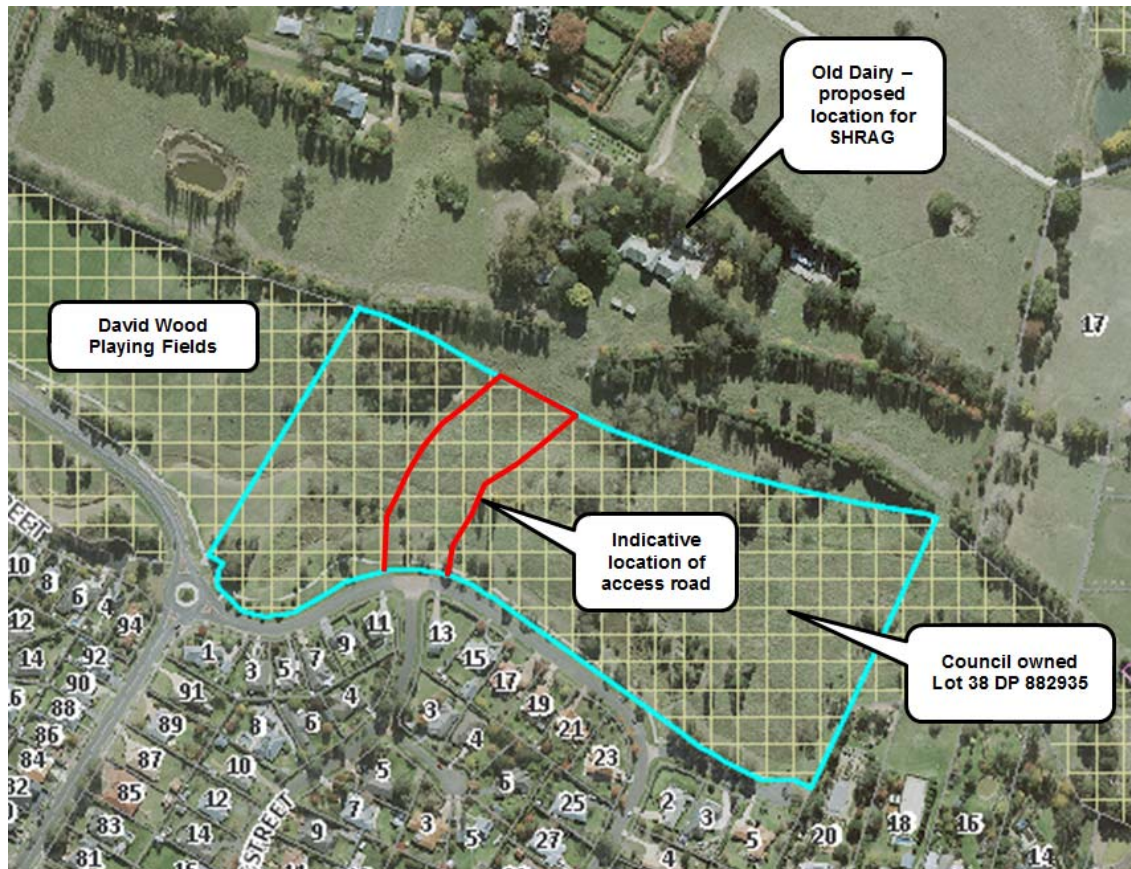


Figure 1 Indicative route of the access road

This land is Council owned and Council is required to classify all public land as either 'community' or 'operational' under the provisions of s25 and s26 of the *Local Government Act 1993*. Community land is land used for a public purpose. Operational land is land which facilitates the functions or 'operations' of Council.

The subject land is classified as 'community' and, because roads are not a permitted use for 'community' land unless directly benefiting a community on the community land its self, it is necessary to identify an access 'corridor' and reclassify it to 'operational'. This report outlines that process.

### REPORT

The subject land is currently zoned RE1 Public Recreation under WLEP 2010 as indicated in **Figure 2** below. No change of zoning is required, as roads are permissible with consent in the RE1 zone. However, as explained above, the section of land required for the access road will need to be reclassified from 'community' to 'operational'.

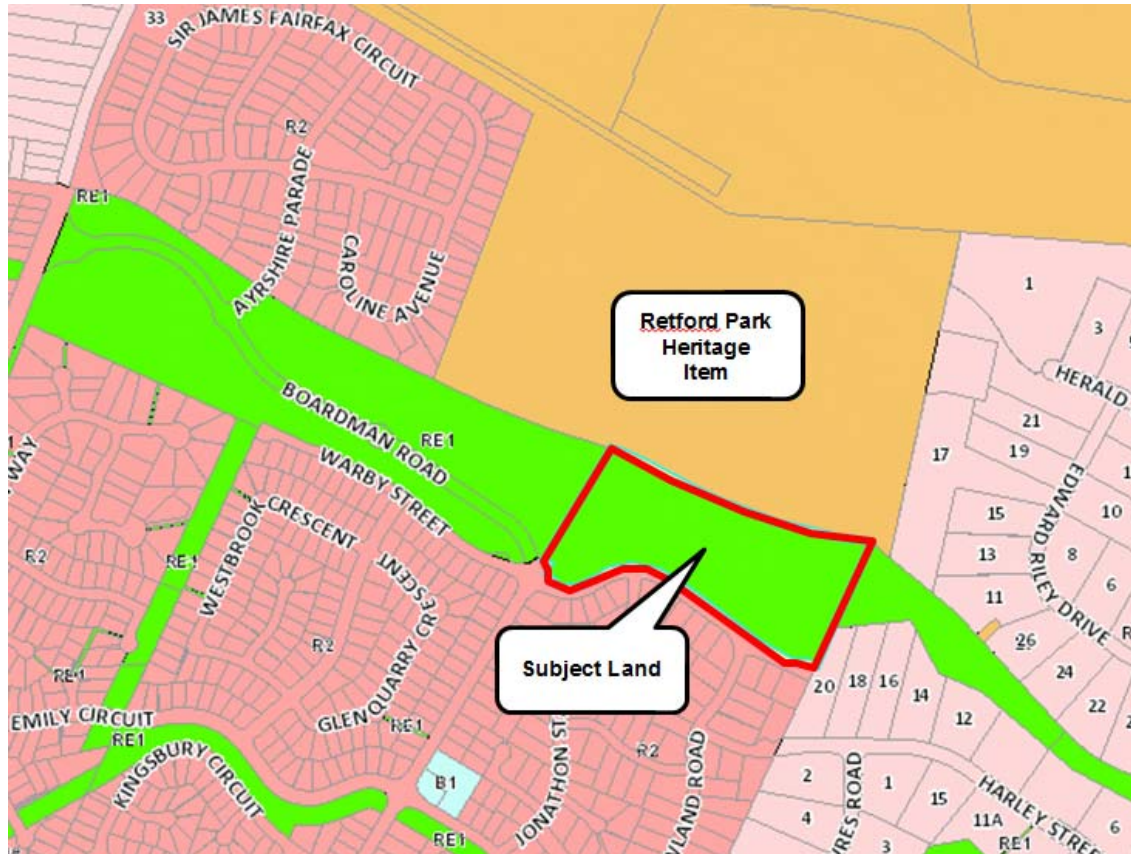


Figure 2 Location of Council Land over which access road will pass

To isolate the section of land required for the public road reserve it is intended to create a separate lot (Lot 3) as indicated in **Figure 3** below and a Development Application (DA 20/0272) has been lodged with Council to achieve this outcome. The remaining portions to either side of the road reserve will form Lot 1 and Lot 2 respectively. All three lots will remain zoned RE1 Public Recreation and Lot 1 and Lot 2 will remain classified as 'community' land.



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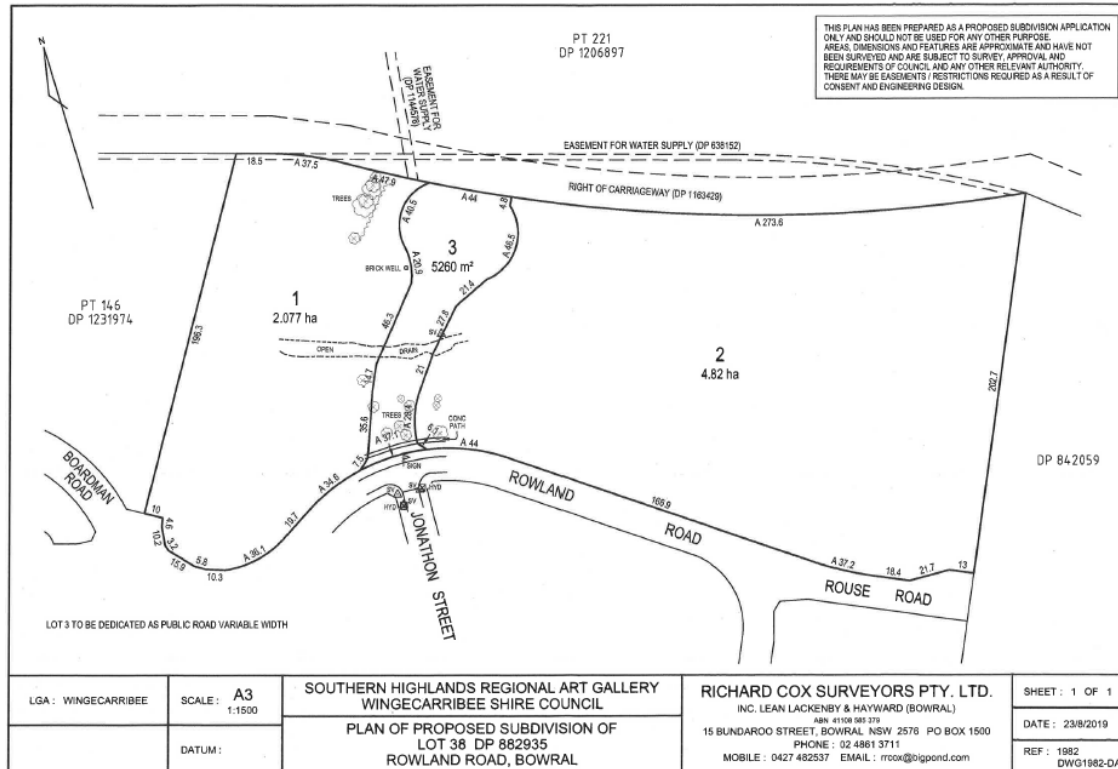


Figure 3 Plan of Proposed Subdivision (enlarged at Attachment 1)

It is intended that the access road would remain in Council ownership and, given the projected visitation of the proposed Gallery, it would be declared a public road up to the boundary of the National Trust owned Retford Park heritage listed property, at which time it would be a private road. As such, the road would need to be constructed to a public road standard in accordance with Council requirements.

The reclassification of public land through an amendment to Schedule 4 (Classification and reclassification of public land) of WLEP 2010 is subject to both the local plan-making process in the *Environmental Planning & Assessment Act 1979* and the public land management requirements of the *Local Government Act 1993*.

The process for achieving the reclassification of 'Lot 3' from 'community' to 'operational' is as follows:

- Council resolves to prepare a Planning Proposal under s3.33 of the *Environmental Planning & Assessment Act 1979*.
- The Planning Proposal is prepared and submitted to the Department of Planning, Industry and Environment (the Department) for a Gateway Determination to proceed.
- Agency referrals are completed as required under the Gateway Determination – always WaterNSW, generally NSW Rural Fire Service, and probably NSW Office of Environment & Heritage in this case. The Planning Proposal cannot proceed until any matters of concern raised by an agency are resolved.
- Community consultation is undertaken in accordance with the Gateway Determination - for a minimum period of 28 days.

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- A Public Hearing is arranged as required under *s57 of the Environmental Planning & Assessment Act 1979* and *s29 of the Local Government Act 1993* and held at least 21 days after completion of the public exhibition of the Planning Proposal. The Public Hearing is chaired by an independent facilitator who then submits a report to Council identifying issues raised.
- A report is prepared for Council addressing submissions received during the public exhibition and issues raised at the public hearing.
- Subject to Council Resolution, the Planning Proposal is forwarded to the Department for finalisation and amendment of WLEP 2010.

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## COMMUNICATION AND CONSULTATION

### Community Engagement

Community Engagement would occur through public exhibition of the Planning Proposal and the holding of an independently facilitated Public Hearing.

### Internal Communication and Consultation

Initial consultation has occurred with Council's Property staff and Transport and Traffic Strategic Planner.

### External Communication and Consultation

Agency consultation would occur as required under the Gateway Determination.

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## SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

There are no broader economic issues in relation to this report.

- **Culture**

The proposed road will enable appropriate public access to be provided to the Southern Highlands Regional Art Gallery.

- **Governance**

The Planning Proposal and Public Hearing would be undertaken in accordance with legislative requirements under the *Environmental Planning & Assessment Act 1979* and the *Local Government Act 1993*.

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#### COUNCIL BUDGET IMPLICATIONS

There are no budget implications resulting from this report.

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#### RELATED COUNCIL POLICY

There are no other Council policies associated with this report.

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#### OPTIONS

The options available to Council are:

##### **Option 1**

Support the recommendation to this report - That a Planning Proposal be prepared to reclassify proposed Lot 3, being a portion of Lot 38 DP 882935, Rowland Road Bowral, from 'community' to 'operational' for the purposes of constructing an access road to the Southern Highlands Regional Art Gallery as shown in Attachment 1.

##### **Option 2**

Resolve to not proceed with a Planning Proposal to reclassify proposed Lot 3, being a portion of Lot 38 DP 882935, Rowland Road Bowral, from 'community' to 'operational', for the purposes of constructing an access road to the Southern Highlands Regional Art Gallery, and inform the Southern Highlands Regional Art Gallery of Council's decision.

Option 1 is the recommended option to this report.

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#### CONCLUSION

In order to achieve the proposed access road to the Southern Highlands Regional Art Gallery, a Planning Proposal must be prepared to reclassify proposed Lot 3, being a portion of Lot 38 DP 882935, Rowland Road Bowral, from 'community' to 'operational' and submitted to the Department of Planning, Industry and Environment for a Gateway Determination. The processing of the Planning Proposal would then proceed as outlined in this report.

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#### ATTACHMENTS

1. Reproduction of Figure 3 - Plan of Proposed Subdivision