

MEETING NOTICE

The **Extraordinary Meeting** of
Bayside Council

will be held in the Rockdale Town Hall, Council Chambers,
Level 1, 448 Princes Highway, Rockdale
on **Wednesday 28 March 2018 at 7.00 pm**

AGENDA

1 ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

2 OPENING PRAYER

3 APOLOGIES

4 DISCLOSURES OF INTEREST

5 MAYORAL MINUTES

6 PUBLIC FORUM

Members of the public, who have applied to speak at the meeting, will be invited to address the meeting.

7 REPORTS

7.1 Classify Lot 105 and 111 in DP 1204999 (Car Park Lot) Operational
Land2

8 QUESTIONS WITH NOTICE

9 CALL FOR RESCISSION MOTIONS

The meeting will be video recorded and live streamed to the community via Council's Facebook page, in accordance with Council's Code of Meeting Practice.

Meredith Wallace
General Manager

Extraordinary Council Meeting

28/03/2018

Item No	7.1
Subject	Classify Lot 105 and 111 in DP 1204999 (Car Park Lot) Operational Land
Report by	Samantha Urquhart, Manager Property
File	F13/461

Summary

As part of a staged subdivision of the land at 20 Beauchamp Road Banksmeadow, the owner of the land Botany Bay GP Pty Limited entered into a planning agreement with Council, where the developer would construct a car park at the developers cost and transfer the land to council for the council to use as a public car park.

The car park works are now complete and the developer has met all its obligations under the planning agreement, including transfer of the land (car park) to council as shown in Attachment 1 site plan and Attachment 2 site photos.

In Accordance with Section 32 (2) of the Local Government Act, 1993 (The Act) Council has 3 months to classify land (including 28 days notification) that is transferred to Council or the land will be automatically classified as community land.

Within this report we propose to classify this land as operational.

Officer Recommendation

- 1 That Council classifies lot 14 in Deposited Plan 1227534 as Operational land in accordance with Section 31 of the Local Government Act 1993;
 - 2 That Council publicly notifies that "The Council has acquired land, known as Lot 14 in DP 1227534 and classify the acquired land, detailed herein as operational land in accordance with Section 31 of the Local Government Act 1993", as shown on the draft notice at Attachment 4;
 - 3 That Council notes that a further report, to inform the outcomes of the public notification and recommendation on the land classification, will follow the notification period.
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Background

On the 15 March 2017 Bayside Council and Botany Bay GP executed a planning agreement in response to a Development Consent for a staged subdivision of land, known as 20 Beauchamp Road, Banksmeadow that was granted under Section 34 of the Land and Environment Court 2012 on land known as Lot 105 and 111 in DP 1204999.

Orica (original owner) mutually agreed to the terms of the court decision, including provision of some land for public car parking. Orica has subsequently sold the land to Botany Bay GP Pty Limited who have upheld the commitment to transfer the public car park land as part of their subdivision of the land.

The public car park is 1001 square metres and is located on the corner of Corish Circuit and Denison Street, Eastgardens, as shown on the site plan at Attachment 1. The car park contains 27 public car spaces.

The subsequent owner/developer lodged a Section 96 application to the court and as part of the negotiations made an offer to enter into a Voluntary Planning Agreement (VPA) with council in relation to the proposed modification where the developer proposed:

- Construction of a car park upon proposed Lot 26 (now lot 14) by the developer for and on behalf the Council at the developers cost and in accordance with the approved plan depicting the car park and in accordance with the Development Consent conditions relating to the construction of the car park.
- Council agreed to accept the transfer of ownership and obligation to use the land as a public car park.
- The agreement is explicit in the construction and transfer of the land as a public car park, at no cost to council is a material and public benefit, which constitutes a public purpose.

Under the provisions of The Act, public land is classified as either operational land or community land. All community land is to be managed under a plan of management and the provisions of The Act, including categorisation of the land.

The use of community land is constrained and is not ideal for land being used as a public car park. The classification of public land as community land is generally not contemplated unless considered as an ancillary public purpose.

The more appropriate classification for this portion of land would be as operational land, providing a simpler framework to maintain and use the land as a public car park and not restrict public car parking operational models that council may consider.

This report recommends the proposed classification of Lot 14 in DP 1227534105 as operational land and it be publicly notified in accordance with the Local Government Act 1993. The proposed notice is shown at Attachment 4.

Relevant Legislation

1 The following sections of the Local Government Act 1993 are relevant:

- (a) section 25 requires all public land to be classified as either community or operational
- (b) section 31(2) permits Council to resolve to classify land prior to or within three months after its acquisition of the land;
- (c) section 34 requires public notice to be given of classification or reclassification by Council resolution; and
- (d) Section 34(3) requires the public notice to specify a period of not less than 28 days during which submissions may be made to the Council.

Critical Dates / Time Frames

Section 31 of the Local Government Act 1993 places a time restriction on the Council resolution to classify the land.

The Act requires Council to pass a resolution to classify a property within three months of acquisition (refer Annexure 3 – Lot and DP); otherwise the land automatically reverts to community classification.

Public Consultation

Public notice to be given of classification or reclassification by council resolution

- 1 A council must give public notice of a proposed resolution to classify or reclassify public land.
- 2 The public notice must include the terms of the proposed resolution and a description of the public land concerned.
- 3 The public notice must specify a period of not less than 28 days during which submissions may be made to the council.

Financial Implications

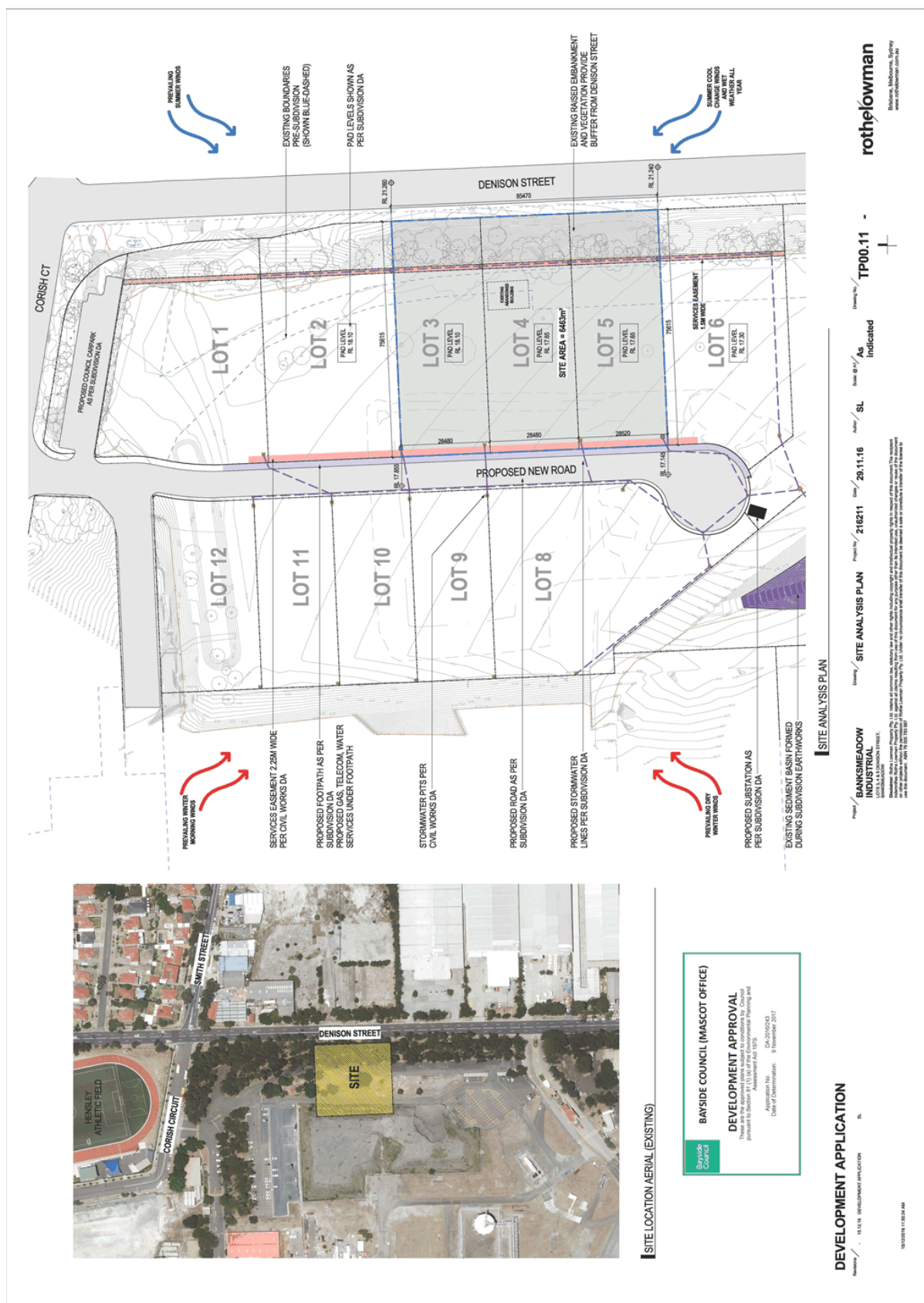
Not applicable	<input checked="" type="checkbox"/>
Included in existing approved budget	<input type="checkbox"/>
Additional funds required	<input type="checkbox"/>

Community Engagement

Public Notification under the Local Government Act

Attachments

- 1 Attachment 1 - Site Plan
- 2 Attachment 2 - Site Photos
- 3 Attachment 3 - Lot and DP
- 4 Attachment 4 - Draft Public Notice [↓↓↓↓](#)





DOA 2030
(AN88934)



NEW SOUTH WALES
CERTIFICATE OF TITLE
REAL PROPERTY ACT, 1900



TORRENS TITLE REFERENCE	
14/1227534	
EDITION	DATE OF ISSUE
2	16/2/2018
CERTIFICATE AUTHENTICATION CODE	
HK6M-DN-W9S5	

I certify that the person described in the First Schedule is the registered proprietor of an estate in fee simple (or such other estate or interest as is set forth in that Schedule) in the land within described subject to such exceptions, encumbrances, interests and entries as appear in the Second Schedule and to any additional entries in the Folio of the Register.

REGISTRAR GENERAL



LAND

LOT 14 IN DEPOSITED PLAN 1227534
AT BANKSMEADOW.
LOCAL GOVERNMENT AREA: BAYSIDE.
PARISH OF BOTANY COUNTY OF CUMBERLAND.
TITLE DIAGRAM: DP1227534

FIRST SCHEDULE

BAYSIDE COUNCIL

(T AN88933)

SECOND SCHEDULE

1. RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
2. DP1204999 RIGHT OF CARRIAGEWAY VARIABLE WIDTH AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
3. DP1204999 EASEMENT FOR DRAINAGE APPURTENANT TO THE LAND ABOVE DESCRIBED
4. DP1204999 EASEMENT TO DRAIN SEWAGE 3 METRE(S) WIDE APPURTENANT TO THE LAND ABOVE DESCRIBED
5. DP1227534 EASEMENT FOR SERVICES 2.25 METRE(S) WIDE AND VARIABLE AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
6. DP1227534 EASEMENT FOR SERVICES 2.25 METRE(S) WIDE AND VARIABLE APPURTENANT TO THE LAND ABOVE DESCRIBED
7. DP1227534 EASEMENT FOR SERVICES 5 METRE(S) WIDE AND VARIABLE AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
8. DP1227534 EASEMENT FOR ELECTRICITY 1, 2.25, 5 METRE(S) WIDE AND VARIABLE AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
9. DP1227534 EASEMENT FOR GAS MAIN 2.25, 5 METRE(S) WIDE AND VARIABLE

**** END OF CERTIFICATE ****

ANY ATTEMPT TO ALTER THIS CERTIFICATE COULD RESULT IN HEAVY FINES OR IMPRISONMENT (S.141 REAL PROPERTY ACT).

WARNING: BEFORE DEALING WITH THIS LAND. SEARCH THE CURRENT FOLIO OF THE REGISTER

7373151

Certificate of Title

Certificate of Title



PUBLIC NOTICE

Bayside Council gives this public notice of a proposed resolution to classify a portion of land situated on the south-western corner of Corish Circuit and Denison Street, Banksmeadow, being Lot 14 in DP1227534, which has been transferred to Bayside Council by Botany Bay GP Pty Limited as 'operational land' in accordance with Section 31 of the Local Government Act 1993.

The proposed resolution can be inspected at the Councils Customer Service Centre at 444 – 446 Princes Highway, Rockdale.

A statement regarding the proposal may be made in writing to Council within (28) days from the date hereof. Submissions should be addressed to the Manager Property at Bayside Council, 444-446 Princes Highway, Rockdale NSW 2216