

## **MEETING NOTICE**

A meeting of the  
**Bayside Local Planning Panel**  
will be held in the Committee Room, Botany Town Hall  
Corner of Edward Street and Botany Road, Botany  
on **Tuesday 19 March 2019 at 6.00 pm**

## **ON-SITE INSPECTIONS**

On-site inspection/s will precede the meeting.

## **AGENDA**

### **1 ACKNOWLEDGEMENT OF TRADITIONAL OWNERS**

Bayside Council respects the traditional custodians of the land, and elders past and present, on which this meeting takes place, and acknowledges the Gadigal and Bidjigal Clans of the Eora Nation.

### **2 APOLOGIES**

### **3 DISCLOSURES OF INTEREST**

### **4 MINUTES OF PREVIOUS MEETINGS**

Nil

### **5 REPORTS – PLANNING PROPOSALS**

5.1 Draft Planning Proposal - Reclassification of Public Land: Lot 3  
DP1247416, Arncliffe.....2

### **6 REPORTS – DEVELOPMENT APPLICATIONS**

Nil

Members of the public, who have requested to speak at the meeting, will be invited to address the Panel by the Chairperson.

The meeting will be video recorded and live streamed to the community via Council's Facebook page.

Meredith Wallace  
**General Manager**

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**Bayside Local Planning Panel**

**19/03/2019**

Item No	5.1
Subject	<b>Draft Planning Proposal - Reclassification of Public Land: Lot 3 DP1247416, Arncliffe</b>
Report by	Michael McCabe, Director City Futures
File	F19/171

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**Summary**

On 4 February 2015, Rockdale Council resolved to support and exhibit a Planning Proposal prepared by the owner of the Martin Avenue Site, which sought additional height and floor space ratio. A Voluntary Planning Agreement (VPA) was prepared concurrently, which provided for the dedication/embellishment of the Bonar Street Park Stage 2 and Central Square (combined area of 2,020m<sup>2</sup>), and a monetary contribution towards the embellishment of the Bonar Street Park Stage 1.

The VPA included the transfer of the land that is the subject of this Planning Proposal from the Council to the owner of the Martin Avenue Site. The transfer is critical to delivery of the Bonar Street Park Stage 2, as the land provides the predominant street frontage for the Martin Avenue Site. Provision of the Park and Central Square implements the Bonar Street Precinct Structure Plan, as now described in Part 7.2 Bonar Street Precinct of *the Rockdale Development Control Plan 2011*, and the *Bonar Street Public Domain Plan*.

Council resolved on 3 February 2016 to support a Planning Proposal and to enter into a Voluntary Planning Agreement (VPA) for land described herein as the "Martin Avenue Site". On 20 June 2016, Council and the owner of the Martin Avenue Site entered into a deed of agreement to transfer the land. The deed contained conditions to be fulfilled prior to transfer including subdivision of the Council owned lots to align the physical boundary with the zoning boundary (complete), the registration of a no floor space ratio covenant on the title (prepared/pending) and the removal of the Public Reserve notation from the title.

Reclassification of the land, as described, is now required to enable removal of the Public Reserve notation from the land.

The intent of the Planning Proposal is to reclassify the subject land from Community land to Operational in accordance with the relevant provisions of the *NSW Local Government Act 1993*, *Practice Note PN 16-001 Classification and Reclassification of Public Land through a Local Environmental Plan*, and the broader strategic planning framework.

The Planning Proposal will enable Council to transfer the land in accordance with the deed of agreement and VPA.

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**Officer Recommendation**

- 1 That the Bayside Local Planning Panel recommend to Council that pursuant to section 3.34 of the *Environmental Planning & Assessment Act 1979* (EP&A Act), the draft Planning Proposal for land known as Lot 3 DP1247416, Arncliffe be submitted to the Department of Planning & Environment (DPE) for a Gateway Determination.
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- 2 That the Bayside Local Planning Panel recommend to Council that, should a Gateway Determination be issued by DPE to permit exhibition of the Planning Proposal, a public hearing take place in accordance with the provisions of the *NSW Local Government Act 1993* and the DPE's *Practice Note PN 16-001 Classification and Reclassification of Public Land through a Local Environmental Plan*.
- 3 That the Bayside Local Planning Panel recommend to Council that, should a Gateway Determination be issued by DPE to permit exhibition of the Planning Proposal, a post-exhibition report be provided to the Bayside Local Planning Panel and Council, outlining any submissions received during the exhibition period, including any submissions made at the public hearing.

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## Background

The Draft Planning Proposal is being initiated by Council.

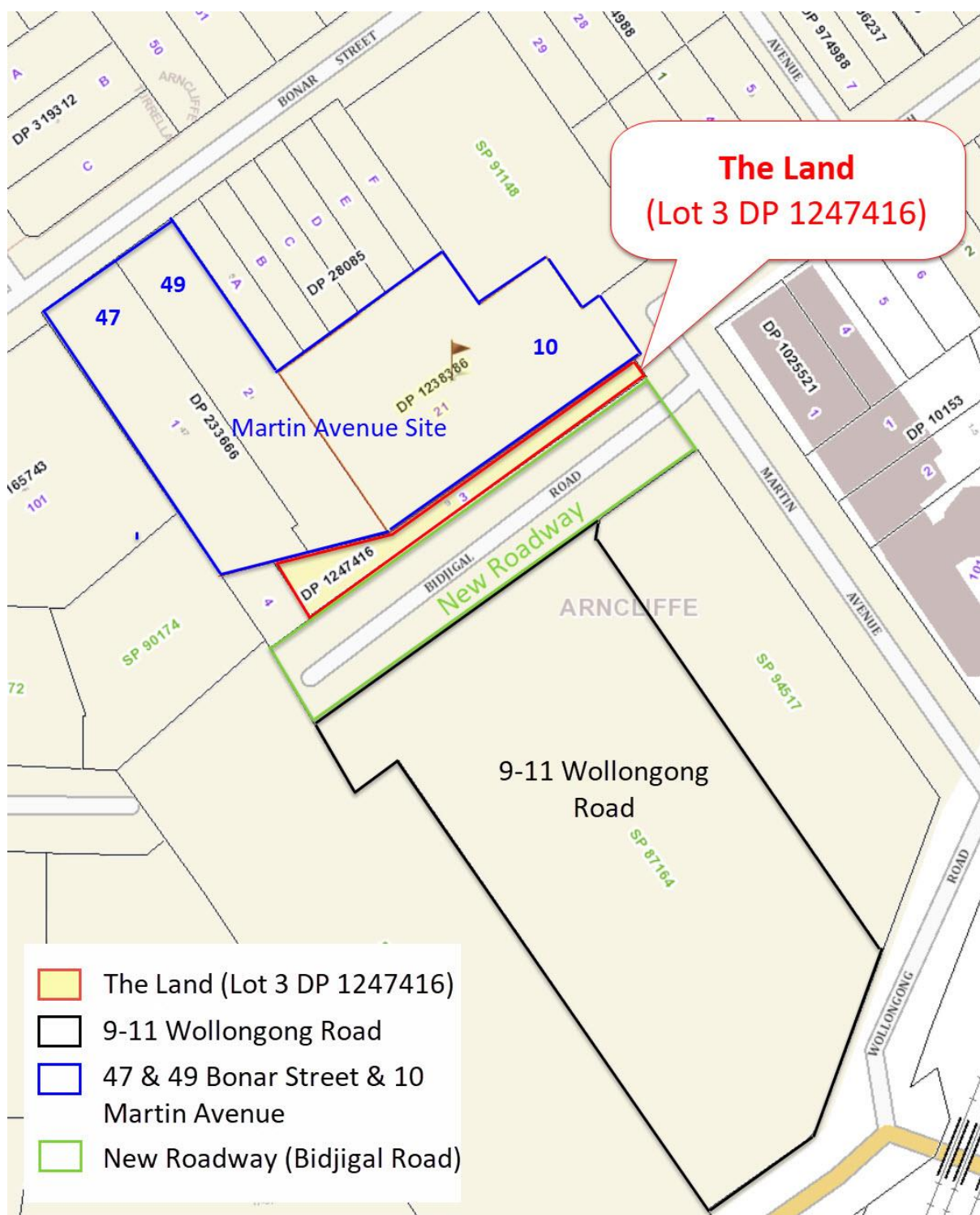
Council is the current owner of the subject land.

An aerial photo (Figure 1) and a site context map (Figure 2) are provided below, which identify the current site and locality context. The subject site is shown outlined in red, and shaded yellow.



**Figure 1: Aerial Map of subject site (Source: SixMaps)**





**Figure 2: Site Context Map (Source: SixMaps)**

### Site Description

The Martin Avenue Site (10 Martin Avenue, 47 Bonar Street and 49 Bonar Street) is to the north-west of the land subject to this Planning Proposal. The subject Planning Proposal relates to land identified as Lot 3 DP 1247416. The land has an irregular shape and an area of approximately 479.6m<sup>2</sup>. It has a frontage of approximately 84.17m to the newly created Bidjigal Road, and a narrow frontage of 5m to Martin Avenue.



The land is vacant, but currently forms part of the construction site to the north-west.

### ***Purpose of Planning Proposal***

The land is identified on the Certificate of Title as a 'Public Reserve', as defined in the *NSW Local Government Act 1993 (LG Act)* (see **Attachment 1** for further details). The land is owned by Bayside Council, and is classified as "Community Land" under the provisions of the *LG Act*. Section 45 of the *LG Act* prevents Council from selling, exchanging or otherwise disposing of community land. Accordingly, it is proposed to reclassify the land from Community land to Operational land, in accordance with Section 27 of the *LG Act*. The purpose of this Planning Proposal is to reclassify the land, in accordance with Section 27 of the *LG Act*, which states that classification or reclassification of public land may be made by a Local Environmental Plan.

### ***Site History***

The Martin Avenue Site (10 Martin Avenue, 47 Bonar Street and 49 Bonar Street) is to the north-west of the land (see **Figure 2** earlier in this report). Despite the subject site not yet been *registered* by NSW Local Land Services, it does form a separate allotment immediately south of the Martin Avenue Site (see **Figure 2**).

On 4 February 2015, Council resolved to support and exhibit a Planning Proposal prepared by the owner of the Martin Avenue Site, which sought additional height and floor space ratio. A Voluntary Planning Agreement (VPA) was prepared concurrently, which provided for the dedication/embellishment of the Bonar Street Park Stage 2 and Central Square (combined area of 2,020m<sup>2</sup>), and a monetary contribution towards the embellishment of the Bonar Street Park Stage 1.

The VPA included the transfer of the land that is the subject of this Planning Proposal from the Council to the owner of the Martin Avenue Site. This transfer is critical to delivery of the Bonar Street Park Stage 2, as the land provides the only street frontage for the Martin Avenue Site. Provision of the Park and Central Square implements the Bonar Street Precinct Structure Plan, as now described in Part 7.2 Bonar Street Precinct of *the Rockdale Development Control Plan 2011*, and the *Bonar Street Public Domain Plan*.

On 3 June 2015, Council resolved to endorse and exhibit the Martin Avenue Site VPA, with the Planning Proposal that was endorsed by Council for exhibition on 4 February 2015. On 24 July 2015, a delegate of the Minister for Planning issued a Gateway Determination approving exhibition of the Martin Avenue Site Planning Proposal.

Following completion of the required community and public authority consultation, on 3 February 2016 Rockdale Council resolved to adopt the Martin Avenue Site Planning Proposal, and to enter into the VPA.

On 20 June 2016, Council and the owner of the Martin Avenue Site entered into a deed of agreement to transfer the land. The deed contained conditions to be fulfilled prior to transfer including subdivision of the Council lots to align the physical boundary with the zoning boundary (complete), the registration of a no floor space ratio covenant on the title (prepared/pending as detailed above) and the removal of the Public Reserve notation from the title.

Reclassification of the land, as described herein, is required to enable removal of the Public Reserve notation.

**Planning Controls**

The Draft Planning Proposal does not propose any changes to current planning controls for the site. The Draft Planning Proposal is being initiated as it is the only means by which the classification of the land can be changed from “Community” to “Operational” within the meaning of the *LG Act*.

**Planning Proposal Assessment**

Robinson Urban Planning Pty Ltd has been engaged by Bayside Council to prepare a Planning Proposal to reclassify the land. The preparation of the Planning Proposal has been undertaken in accordance with the strategic planning framework outlined in the NSW Department of Planning & Environment’s *A Guide to Preparing Planning Proposals* (December 2018).

Given that the Planning Proposal involves the reclassification of public land, the Planning Proposal has also considered the *LG Act* and DPE’s *Practice Note PN 16-001 Classification and Reclassification of Public Land through a Local Environmental Plan*.

**Strategic Planning Framework****Environmental Planning & Assessment Act 1979 (EPAA)**

The NSW Department of Planning & Environment’s *A Guide to Preparing Planning Proposals* - issued under s3.3 (3) of the *Environmental Planning and Assessment Act 1979* - provides guidance and information on the process for preparing Planning Proposals. The preparation and assessment of the submitted Planning Proposal has been undertaken in accordance with the latest version of this *Guide* (dated December 2018).

**NSW Local Government Act 1993 (LG Act)**

The Planning Proposal has been considered against the relevant provisions of the Local Government Act 1993, particularly Chapter 6, Part 2, Division 1 of – titled *Classification and Reclassification of Public Land*. If the Planning Proposal was to be supported by Council and the DPE, a public hearing would be required in accordance with Clause 29 of the *LG Act*, and the relevant provisions of the EPAA and *Practice Note PN 16-001 Classification and Reclassification of Public Land through a Local Environmental Plan*.

**Section 9.1 Ministerial Directions**

Section 9.1 Ministerial directions (S 9.1 directions) set out what a Planning Proposal Authority (PPA) must do if a s.9.1 direction applies to a Planning Proposal, and provides details on how inconsistencies with the terms of a direction may be justified. An assessment of the Planning Proposal against the applicable s9.1 directions is provided in **Attachment 1**.

**State Environmental Planning Policies (SEPPs)**

An assessment of the Planning Proposal against the relevant SEPPs is provided in **Attachment 1**.

**Sydney Regional Environmental Plans (SREPs)**

There are no SREPs applicable to the Planning Proposal.

**Strategies & Plans**

Regional, Sub-Regional and District Plans and Strategies include outcomes and specific actions for a range of different matters including housing and employment targets, and identify regionally important natural resources, transport networks and social infrastructure. An assessment of the Planning Proposal’s consistency with the relevant strategic plans is provided in **Attachment 1**.

***A Guide to Preparing Planning Proposals (The Guide)***

*The Guide* outlines all necessary information to be considered when proponents are preparing a Planning Proposal, and identifies the need for proponents to consider all relevant statutory planning provisions applicable to a Planning Proposal.

***Practice Note PN 16-001 Classification and Reclassification of Public Land through a Local Environmental Plan (PN 16-001)***

The purpose of this Practice Note is to provide guidance on classifying and reclassifying public land through a Local Environmental Plan. *PN16-001* includes a comprehensive information checklist and clarifies issues arising for public reserves and interests in land.

PN-16001 states that the Practice Note should be read in conjunction with *A Guide to Preparing Planning Proposals*.

**Financial Implications**

There are no financial implications applicable to this report.

**Community Engagement**

Should the Planning Proposal proceed through Gateway, community consultation will be undertaken in accordance with:

- (i) section 3.34(2)(c) of the *Environmental Planning & Assessment Act 1979*; and
- (ii) the relevant provisions of the NSW Local Government Act 1993 that relate to public hearings involving the reclassification of public land.

The specific requirements for community consultation will be listed in the Gateway Determination, including any government agencies that are to be consulted, and the requirements for a public hearing.

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**Attachments**

Draft Planning Proposal [↓](#)



**Planning Proposal – Lot 3 DP 1247416  
Reclassification from ‘community land’ to  
‘operational land’**

**Rockdale Local Environmental Plan 2011  
[Amendment No. \_]**



12 March 2019

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

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### Reclassification of Public Land

## Attachments

**A** *NSW Department of Planning & Environment LEP Practice note (PN 16-001)*

**B** Deposited Plan (Lot 3 in DP 1247416)

**C** Certificate of title (Lot 3 in DP 1247416)

**D** Report titled *Land Dedication Arising from The Development of 9-11 Wollongong Road, Arncliffe* and resolution from Rockdale Council Meeting of 7 November 2012

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### Table of revisions

5 March 2019	Draft for Council review
11 March 2019	Draft for Council review
12 March 2019	Final for consideration by Bayside Local Planning Panel

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

## Definitions

NSW Department of Planning and Environment (DP&E) Practice Note PN09-003 Classification and reclassification of public land through a local environmental plan (see **Attachment A**) contains the following definitions for terms used in this Planning Proposal:

**Community land** – is land council makes available for use by the general public, for example, parks, reserves or sports grounds.

**Classification** of public land occurs when it is first acquired by a council and classified as either community or operational.

**Interests in land** refers to property ownership as well as rights and privileges affecting land, such as leasehold, easements, covenants and mortgages.

For the purpose of reclassification through an LEP,

‘interests’ means trusts, estates, dedications, conditions, restrictions and covenants affecting the land.

A legal owner of land may not be the only person with an interest in the land. For example, one person may have the benefit of an easement for services, such as water, electricity or sewerage over someone else’s land.

Certain interests are registered on title to ensure they are on record and cannot be disregarded if sold to a new owner. An electronic title search is generally conducted to determine the land owner, correct land description and the type of interests which may affect the land.

**Operational land** – is land which facilitates the functions of council, and may not be open to the general public, for example, a works depot or council garage.

**Public land** is defined in the LG Act as any land (including a public reserve) vested in, or under council control. Exceptions include a public road, land to which the Crown Lands Act 1989 applies, a common, land subject to the Trustees of Schools of Arts Enabling Act 1902 or a regional park under the National Parks and Wildlife Act 1974.

**Public reserve** is defined in the LG Act and includes a public park and land declared or dedicated as a public reserve.

Land can be dedicated as a public reserve by either:

- registering a deposited plan with a statement creating a lot(s) as ‘public reserve’, or
- publishing a notification in the Government Gazette for an existing parcel.

**Reclassification** of public land occurs when its classification is changed from community to operational, or from operational to community.



*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

## Preliminaries

This Planning Proposal explains the intended effect of, and justification, for a proposed amendment to *Rockdale Local Environmental Plan 2011 (Rockdale LEP 2011)*. It has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* and *A Guide to Preparing Planning Proposals* (DP&E, December 2019). Consideration has also been given to the requirements of the *NSW Department of Planning & Environment LEP Practice note (PN 16-001)* relating to the Classification and reclassification of public land through a local environmental plan (see **Attachment A**).

## Site description

This Planning Proposal relates to Lot 3 in DP 1247416 (**the land**)<sup>1</sup>. The land has an irregular shape and an area of 479.6m<sup>2</sup>. It has an 84.175m frontage to the newly created Bidjigal Road and a narrow frontage of 5m to Martin Avenue (see deposited plan, **Attachment B**).

The land is vacant, forming part of the construction site to the north-west (the **Martin Avenue** site), as detailed below.

The land is owned by Bayside Council (**Council**) and is classified as Community land. As shown on the certificate of title (**Attachment C**), the land is a 'public reserve' as defined in the *Local Government Act 1993 (LG Act)*.

## Background

Section 45 of the LG Act prevents Council from selling, exchanging or otherwise disposing of community land. Accordingly, it is proposed to reclassify the land from Community land to Operational land in accordance with Section 27 of the LG Act which states that classification or reclassification of public land may be made by a local environmental plan.

Robinson Urban Planning Pty Ltd (**RUP**) has been engaged by Bayside Council to prepare a planning proposal to reclassify the land.

## Relationship to adjoining developing sites

### 9-11 Wollongong Road, Arncliffe

The land was previously part of the site to the south at 9-11 Wollongong Road, Arncliffe which is to the south<sup>2</sup> (see **Figure 1**).

Most of the site at 9-11 Wollongong Road is in Zone R4 – High density residential with the northern portion reserved for a local road with an open space connection (the **Central Square**) to the future Bonar Street Park.

On 5 August 2009, Council granted development consent (DA-2006/453) for a residential development at 9-11 Wollongong Road, with a new roadway (Bidjigal Road) to be dedicated and constructed by the developer (in stratum).

Bidjigal Road was required to implement the Bonar Street Precinct Structure Plan as now described in Part 7.2 of Rockdale Development Control Plan 2011 (**Rockdale DCP 2011**) and the *Wolli Creek and Bonar Street Precinct Public Domain Plan* (May 2011) (the **Bonar Street PDP**).

Construction of the residential development at 9-11 Wollongong Road and Bidjigal Road is now complete.

The land the subject of this Planning Proposal is a residual parcel from the dedication/construction of Bidjigal Road.

<sup>1</sup> The land was formerly Lot 2309 in DP 1159612 and Lot 2310 in DP 1159612.

<sup>2</sup> 9-11 Wollongong Road now holds the address of 6 Bidjigal Road, Arncliffe.

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

Condition 68 of the consent for 9-11 Wollongong Road (DA-2006/453) relates to the land (referring to it as "the strip of land between the access road and adjoining properties the north-west"). It states:

*68. ....In accordance with the applicant's offer and in the public interest of promoting and coordinating the orderly and economic use and development of land within the Bonar Street Precinct, the strip of land located between the new access road and the adjoining properties to the north-west is to be dedicated to Council at no cost as a separate allotment for the purpose of allowing its future transfer at no cost and with no floor space ratio entitlements to the future developer of Development Site 7.*

In accordance with Condition 68:

- At its Meeting of 7 November 2012, the Council considered a report and established the following resolution to classify the land:
  - 1 That the report titled *Land Dedication Arising from The Development of 9-11 Wollongong Road, Arncliffe* be received and noted.
  - 2 That Council classify 8 Martin Avenue, Arncliffe (Lot 2309 in DP 1159612) and 9 Bidjigal Road, Arncliffe (Lot 2310 in DP 1159612) as operational land in accordance with Section 31 of the Local Government Act 1993.

(Copies of the report and Council resolution are attached (see **Attachment D**)).;

- The land was dedicated to Council by the owner of 9-11 Wollongong Road by way of registration of deposited plan numbered 1159612;
- The certificate of title for land holds a notation on the second schedule, being 'the land within described is public reserve';
- On 4 February 2015, Council resolved to transfer the land to the owner of 10 Martin Avenue, 47 Bonar Street and 49 Bonar Street, Arncliffe (the **Martin Avenue Site**); and
- Upon transfer, the land is to be burdened by a positive covenant that provides that the land has no floor space ratio (**FSR**) entitlement (see **Attachment E**). The positive covenant may only be released or varied by Council.

More details follow on the Martin Avenue Site.

#### Martin Avenue Site

The Martin Avenue Site (10 Martin Avenue, 47 Bonar Street and 49 Bonar Street) is to the north-west of the land (see **Figure 1**).

On 4 February 2015, Council resolved to support and exhibit a planning proposal prepared by the owner of the Martin Avenue Site which sought additional height and FSR. A concurrent Voluntary Planning Agreement (**VPA**) was prepared which provided for the dedication/embellishment of the Bonar Street Park Stage 2 and Central Square (combined area of 2,020m<sup>2</sup>) and a monetary contribution towards the embellishment of the Bonar Street Park Stage 1. The VPA included the transfer of the land the subject of this Planning Proposal from the Council to the owner of the Martin Avenue Site. This transfer is critical to delivery of the Bonar Street Park Stage 2 as the land provides the only street frontage for the Martin Avenue Site. Provision of the Park and Central Square implements the Bonar Street Precinct Structure Plan as now described in Part 7.2 Rockdale DCP 2011 and Bonar Street PDP.

On 3 June 2015, Council resolved to endorse and exhibit the Martin Avenue Site VPA, with the Planning Proposal that was endorsed by Council for exhibition on 4 February 2015.

On 24 July 2015, a delegate of the Minister for Planning issued a Gateway Determination approving exhibition of the Martin Avenue Site planning proposal.

Following completion of the required community and public authority consultation, Council on 3 February 2016 resolved to adopt the Martin Avenue Site planning proposal and to enter into the VPA.

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

On 20 June 2016, Council and the owner of the Martin Avenue Site entered into a deed of agreement to transfer the land. The deed contained conditions to be fulfilled prior to transfer including subdivision of the Council lots to align the physical boundary with the zoning boundary (complete), the registration of a no FSR covenant on the title (prepared/pending as detailed above) and the removal of the public reserve notation from the title.

Reclassification of the land, as described herein, is required to enable removal of the Public Reserve notation, in accordance with Section 30(1) of the LG Act.

The locations of the land, Bidjigal Road, 9-11 Wollongong Road and 47-49 Bonar Street and 10 Martin Avenue (the Martin Avenue Site) are shown by **Figures 1** and **2**. The location of the Bonar Street Community Park and Central Square as planned by the Bonar Street PDP are illustrated on **Figures 3** and **4**. **Figure 5** shows photographs of the land and its context.



Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'

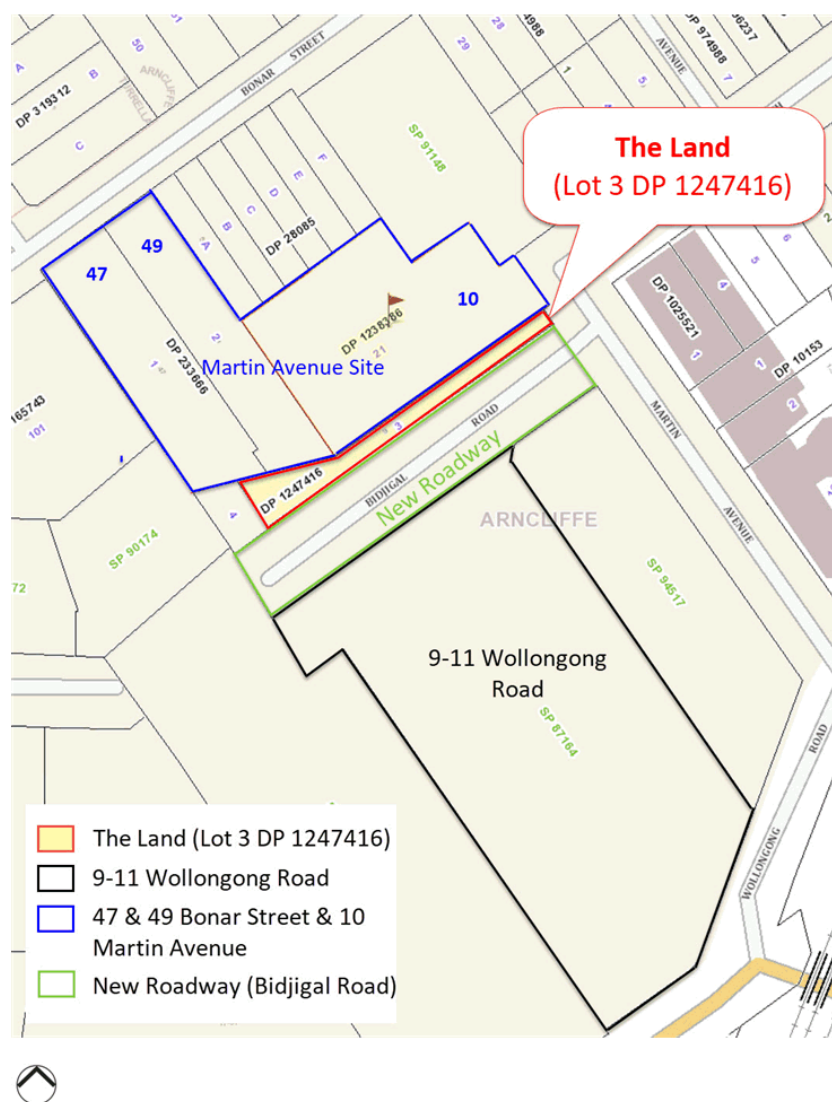
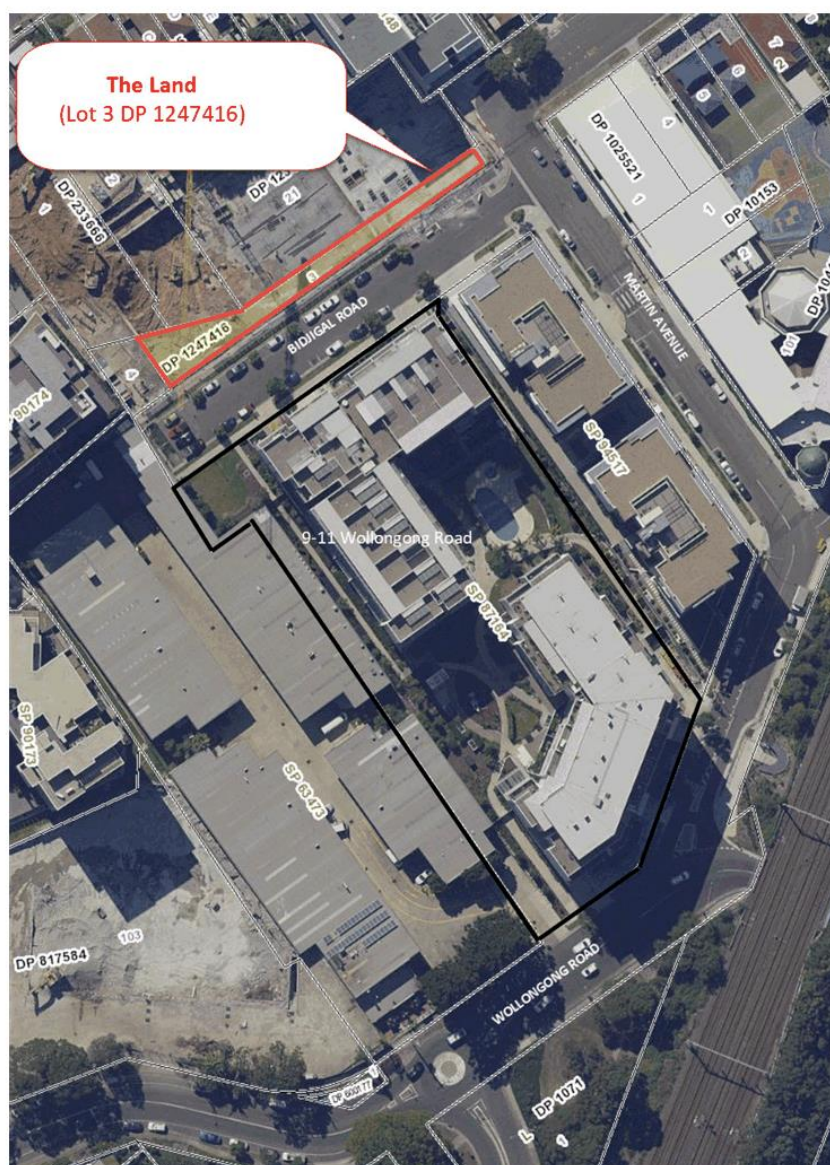


Figure 1 – Site location plan (Source: SixMaps)

Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'



**Figure 2** – Aerial photograph (Source: SixMaps)

Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'

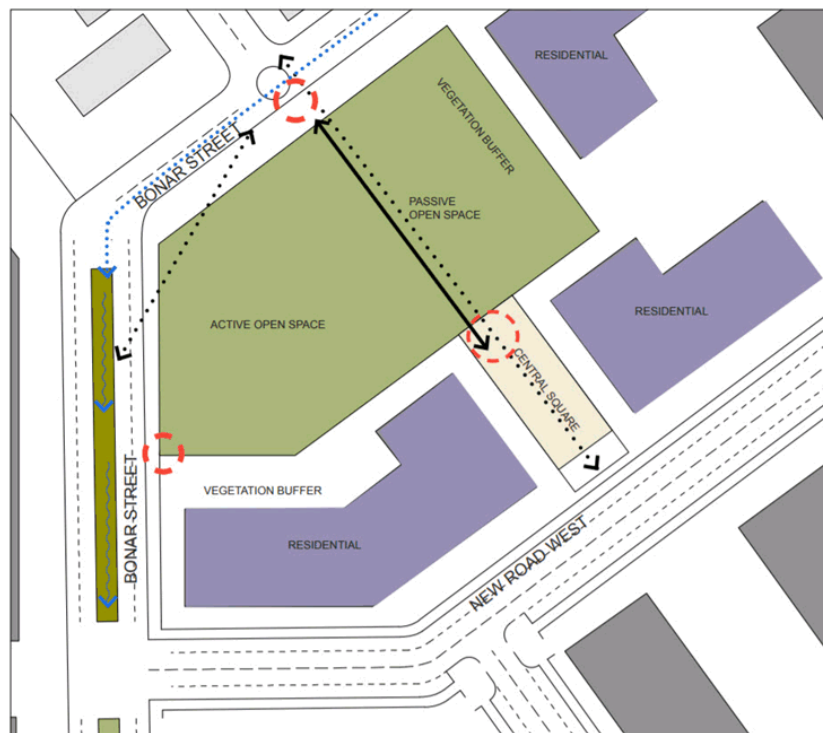


FIGURE 2.13



SCALE 1:1000



Figure 3 – Bonar Street Park (Source: Bonar Street PDP, Figure 2.13)



Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'



Figure 4 – Bonar Street Park (Source: Bonar Street PDP, Figure 2.14)

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*



Bidjigal Road



Residential development on the Martin Avenue Site (under construction)



The land facing looking north-east from the footpath to Bidjigal Road



Completed residential development at 9-11 Wollongong Road



Bonar Street Park – Stage 1



View to Bonar Street Park – Stage 2 (under construction)

**Figure 5** – Photographs of the land and its context (28 February 2019)

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

### **Existing Planning Controls**

The existing zoning, controls and development standards contained within Rockdale LEP 2011 that apply to the land are listed below (see Rockdale LEP 2011 Maps showing the location of the land at **Attachment F**):

- Land zoning: Zone R4 – High Density Residential
- Minimum lot size: N/A
- Height of buildings: 31m
- Floor space ratio: 2:1
- Land reservation: Part of the land is reserved as a Local Road (R2)
- Acid Sulfate soils: Class 5
- Heritage: N/A
- Active Street frontages: N/A
- Terrestrial biodiversity: N/A
- Design excellence: N/A
- Foreshore building line: N/A
- Flood planning land: N/A
- Environmentally sensitive land: N/A
- Wetlands: N/A

There are no draft planning controls that apply to the land.

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

### **Part 1 - Objectives or Intended Outcomes**

The intended outcome of the Planning Proposal is to remove the Public Reserve notation from the title for the land via the making of a local environment plan to reclassify the land from Community land to Operational land (as the land is a residual lot from the Bidjigal Road roadway dedication/construction).

The Planning Proposal will allow Council to sell, exchange, or otherwise divest of or deal with the land.

Relevantly, reclassification to Operational land will enable the land to be transferred to the owner of the adjoining Martin Avenue Site (see **Figure 1**) to provide a street frontage for the high density residential development which is currently under construction. As noted above, the developer of the Martin Avenue Site has entered into a VPA to dedicate land for and embellish the Bonar Street Community Park Stage 2 and Central Square (2,020m<sup>2</sup>) and paid a monetary contribution towards the embellishment of Bonar Street Community Park Stage 1.

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

## Part 2 - Explanation of Provisions

This Planning Proposal seeks to amend to Rockdale LEP 2011, Schedule 4 - Classification and reclassification of public land by inserting the following at the end of Part 2 - Land classified, or reclassified, as operational land – interests changed of that Schedule:

### **Part 2 Land classified, or reclassified, as operational land—interests changed**

<b>Under Column 1</b>	<b>Under Columns 2</b>	<b>Under Column 3</b>
<b>Locality</b>	<b>Description</b>	<b>Any trusts etc not discharged</b>
9 Bidjigal Road, Arncliffe	Lot 3 in DP 1247416	Nil

The reclassification proposed by the Planning Proposal will not result in the loss of open space.

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

### Part 3 – Justification

This part of the Planning Proposal describes and justifies the amendment described in Part 2.

The following questions have been extracted from the document titled *A guide to preparing planning proposals*, by DP&E (December 2018). The questions address the need for the Planning Proposal, its strategic planning context, the environmental, social and economic impacts and the implications for State and Commonwealth government agencies.

#### A Need for the Planning Proposal

##### Q1 Is the Planning Proposal a result of any strategic study or report?

Yes.

The Planning Proposal is the result of the following Council resolution and development control plan/public domain plan:

- Council resolved at its Meeting of 7 November 2012 to classify the land Operational land (**Attachment D**); and
- Bonar Street Precinct Structure Plan now described in Rockdale DCP 2011 (Part 7.2) and Bonar Street PDP (see **Figures 3 and 4**) which illustrate an indicative concept plan for the Bonar Street Park and Central Square.

##### Q2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes

The land holds a notation on its title that it is a Public Reserve. Section 31(1) of the LG Act provides that a local environmental plan that reclassifies Community land to Operational land may make provision to the effect that, on commencement of the plan, the land, if it is a public reserve, ceases to be a public reserve. Therefore, Council is not able to develop, sell, exchange, or dispose of the land under the provisions of the LG Act. Amending Rockdale LEP 2011 is the only means of achieving the objectives of the Planning Proposal. A Planning Proposal for the land is therefore considered appropriate.

#### B Relationship to strategic planning framework

##### Q3 Is the Planning Proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

Yes.

The Planning Proposal is consistent with applicable regional and district plan as detailed below.

##### **NSW State Plan**

NSW 2021 is a 10-year plan based on strategies to rebuild the economy, return quality services, renovate infrastructure, strengthen local government and communities and restore accountability to government. The plan sets a number of goals, targets and actions to achieve the NSW 2021. Premier Berejiklian has identified 12 Premier's Priorities. The Planning Proposal is consistent with the *Delivering infrastructure* priority as the land is a residual lot from construction of the Bidjigal Road dedication/construction and its transfer was part of the VPA negotiated with the owner of the Martin Avenue Site which will deliver the Bonar Street Park Stage 2 and Central Square plus a monetary contribution towards embellishment of Bonar Street Park Stage 1.



Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'

**The Greater Sydney Region Plan - A Metropolis of Three Cities (March 2018)**

The GREATER SYDNEY REGION PLAN A Metropolis of Three Cities is a vision to create three, integrated and connected cities that will rebalance Greater Sydney; placing housing, jobs, infrastructure and services within easier reach of more residents, no matter where they live. The GREATER SYDNEY REGION PLAN sets ten directions for the three cities being Western Parkland City, Central River City and the Eastern Harbor City (which includes the Bayside Local Government Area (LGA)).

The following directions and objectives are particularly relevant to this Planning Proposal:

▪ **Infrastructure and collaboration**

*Direction 1: A city supported by infrastructure*

*Objective 2: Infrastructure aligns with forecast growth – growth infrastructure compact*

*Objective 3: Infrastructure adapts to meet future needs*

Comment: Bidjigal Road and the Bonar Street Park/Central Square will service the needs of the growing population in the Bonar Street Precinct. They have been designed and constructed in accordance with the Bonar Street Precinct Structure Plan in Rockdale DCP 2011 and the Bonar Street PDP.

Given this, the new roadway/park aligns growth with the provision of local infrastructure. The land is residual to the Bidjigal roadway dedication/construction. The Planning Proposal will enable Council to transfer the land to the owner of the Martin Avenue Site, as detailed in the Preliminary sections of this Planning Proposal. This type of "asset recycling" is promoted by the GREATER SYDNEY REGION PLAN (p.37).

▪ **Liveability**

*Direction 5: A city of great places*

*Objective 12: Great places that bring people together*

Comment: The Planning Proposal would facilitate transfer of the land to the Martin Avenue Site, as detailed in the Preliminary sections of this Planning Proposal. The related construction/embellishment of Bidjigal Road and the Bonar Street Park/Central Square will improve the neighbourhood character and livability of the Bonar Street Precinct.

▪ **Sustainability**

*Direction 8: A city in its landscape - Valuing green spaces and landscape*

*Objective 30: Urban tree canopy cover is increased*

*Objective 31: Public open space is accessible, protected and enhanced*

Comment: The Planning Proposal is part of the innovative arrangements put in place by Council to deliver the planned Bonar Street Park/Central Square (as described in the preliminary sections of this Planning Proposal) which is consistent with the following GREATER SYDNEY REGION PLAN A Metropolis of Three Cities statements which encourage innovative solutions to establish new open spaces (p. 166):

*Access to high quality open space is becoming increasingly important as higher housing densities, more compact housing and changing work environments develop. Where land for additional open space is difficult to provide, innovative solutions will be needed, as well as a strong focus on achieving the right quality and diversity of open space....*

*Urban renewal needs to begin with a plan to deliver new, improved and accessible open spaces that will meet the needs of the growing community, particularly where density increases. High density development (over 60 dwellings per hectare) should be located within 200 metres of quality open space, and all dwellings should be within 400 metres of open space.*

The Bonar Street Park/Central Square will also provide an opportunity for increased landscaping and tree cover in a high density residential precinct providing shade, which reduces ambient

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temperatures and mitigates the heat island effect consistent with the *GREATER SYDNEY REGION PLAN* (p. 164) which states that “*Urban tree canopy along streets and in the public domain contributes to the Greater Sydney Green Grid and makes walking and cycling more appealing*”.

**Eastern City District Plan (March 2018)**

The Eastern City District covers the Bayside, Burwood, City of Canada Bay, City of Sydney, Inner West Randwick, Strathfield, Waverley and Woollahra LGAs. The Eastern City District Plan is a 20-year plan to manage growth in the context of economic, social and environmental matters to achieve the 40-year vision of Greater Sydney. It is a guide for implementing the *GREATER SYDNEY REGION PLAN, A Metropolis of Three Cities*, at a district level and is a bridge between regional and local planning.

Interestingly, the five year (2016-2021) housing target for Bayside LGA is set at 10,500 making it the highest target in the district.

The Planning Proposal is consistent with the following Eastern City District Planning Priorities:

▪ **Planning Priority E1: Planning for a city supported by infrastructure**

Comment: As noted above, the construction of Bidjigal Road and Bonar Street Park/Central Square aligns housing growth with the provision of local infrastructure.

▪ **Planning Priority E17: Increasing urban tree canopy cover and delivering Green Grid connections**

Comment: The District Plan notes that the Eastern City is one of the most urbanised districts in Greater Sydney, with some suburbs having high proportions of hard surface areas and correspondingly low levels of tree canopy cover. Transfer of the land to the Martin Avenue Site, giving it a street frontage, is key to delivery of the Bonar Street Park/Central Square which is to include canopy trees in an urban setting.

▪ **Planning Priority E18. Delivering high quality open space**

- Comment: Transfer of the land to the Martin Avenue Site, giving it a street frontage, is key to delivery of the Bonar Street Park/Central Square. The new open space will support healthy and active lifestyles. Consistent with the District Plan, it collocates high density development and open space, providing a place for people to relax, meet and socialise.

**Q4 Is the Planning Proposal consistent with Council's local strategy or other local strategic plan?**

Yes

**Table 1** below identifies how the Planning Proposal is consistent with the community outcomes set out in the Bayside Community Strategic Plan 2030.

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**Table 1 – Consistency with the Bayside Community Strategic Plan 2030**

<b>Theme One – Bayside will be a vibrant place</b>	<b>How We Will Get There</b>	<b>Consistency</b>
<b>Strategic Direction –</b> Our places are people-focussed	Local areas are activated with cafes, restaurants and cultural events	N/A
	Places have their own village atmosphere and sense of identity	The Planning Proposal will facilitate transfer of the land to the Martin Avenue Site, giving it a street frontage. This is key to delivery of the Bonar Street Park/Central Square. The new open space will support healthy and active lifestyles, providing a place for people to relax, meet and socialise.
	My community and council work in partnership to deliver better local outcomes	
	The public spaces I use are innovative and put people first	
	There is an appropriate and community-owned response to threats	
<b>Strategic Direction –</b> Our places connect people	Walking and cycling is easy in the City and is located in open space where possible	See above
	We are one community with shared objectives and desires	N/A
	Our heritage and history is valued and respected	
<b>Strategic Direction –</b> Our places are acceptable to all	Open space is accessible and provides a range of active and passive recreation opportunities to match our growing community	See above.
	SMART Cities – making life better through smart use of technologies	N/A
	Assets meet community expectations	The land comprises residual land from the dedication/construction of Bidjigal Road. The innovative arrangements put in place by Council facilitate delivery of the planned Bonar Street Park/Central Square.
	Bayside provides safe and engaging spaces, places and interactions	
	People who need can access affordable housing	N/A
	We welcome visitors and tourists to our City	N/A
<b>Strategic Direction –</b> My place will be special to me	Local developments reflect innovative, good design and incorporate open space and consider vertical families	See above
	Bayside will be a 30 minute City – residents work locally or work off-site – no-one has to travel for more than 30 minutes to work	The newly created Bidjigal Road and open space link between Bidjigal Road and Bonar Street increases pedestrian and cyclist connectivity.
	Traffic and parking issues are a thing of the past	

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**Table 1 – Consistency with the Bayside Community Strategic Plan 2030**

	Road, rates and rubbish are not forgotten	
	Gateway sites are welcoming and attractive	
<b>Theme Two – In 2030 our people will be connected in a smart City</b>	<b>How We Will Get There</b>	<b>Consistency</b>
<b>Strategic Direction –</b> We benefit from technology	Council engages with us and decision making is transparent and data driven	The Planning Proposal will be notified/exhibited and available on Council's website.
	We can access information and services online and through social media	
	We are a digital community	
	Technological change has been harnessed and we are sharing the benefits	
<b>Strategic Direction –</b> We are unified and excited about our future	Community leadership is developed and supported	N/A
	We are all included and have a part to play in the City	N/A
	The City is run by, with and for the people	N/A
	We are proud of where we live	Transfer of the land to the Martin Avenue Site (which is to be facilitated by the Planning Proposal) is key to delivery of the Bonar Street Park/Central Square.
<b>Strategic Direction –</b> The community is valued	Aboriginal culture and history is recognised and celebrated	N/A
	We are a healthy community with access to active recreation and health education	N/A
	All segments of our community are catered for – children, families, young people and seniors	N/A
	Opportunities for passive and active activities are available to community members, including people with pets	Transfer of the land to the Martin Avenue Site (which is to be facilitated by the Planning Proposal) is key to delivery of the Bonar Street Park/Central Square. The new park will provide an area for play with pets.
	The value of pets in the community is recognised and they are welcomed across the city	
<b>Strategic Direction –</b> We treat each other with dignity and respect	We can participate in cultural and arts events which reflect and involve the community	N/A
	Flexible care/support arrangements for seniors,	N/A

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**Table 1 – Consistency with the Bayside Community Strategic Plan 2030**

	children and people with disabilities are available across the LGA	
	Cultural diversity is reflected and celebrated in the City's activities	N/A
	Our public buildings are important community hubs and are well maintained and accessible	N/A
<b>Theme Three – In 2030 bayside will be green, leafy and sustainable</b>	<b>How We Will Get There</b>	<b>Consistency</b>
<b>Strategic Direction –</b> Our waste is well managed	I can reduce my waste through recycling and community education	N/A
	Illegal dumping is a thing of the past	N/A
<b>Strategic Direction –</b> We are prepared for climate change	We understand climate change and are prepared for the impacts	Transfer of the land to the Martin Avenue Site (which is to be facilitated by the Planning Proposal) is key to delivery of the Bonar Street Park/Central Square. The new park provides an opportunity for increased landscaping and canopy trees.
	Our City is prepared for/able to cope with severe weather events	
	Our streetscapes are green and welcoming	
<b>Strategic Direction –</b> We increase our use of renewable energy	Our City promotes the use of renewable energy through community education	N/A
	Our City models use of renewable energy and reports gains benefits to the community	N/A
<b>Strategic Direction –</b> Waterways and green corridors are regenerated and preserved	Water is recycled and re-used	N/A
	The community is involved in the preservation of our natural areas	N/A
	We have an enhanced green grid/tree canopy	See above
<b>Theme Four – In 2030 we will be a prosperous community</b>	<b>How We Will Get There</b>	<b>Consistency</b>
<b>Strategic Direction –</b> Opportunities for economic development are recognised	Major employers support/partner with local small business	N/A
	We are an international hub for transport and logistics-related business	N/A
	Industrial lands and employment lands are preserved – partnering with major employers to support local jobs	N/A
<b>Strategic Direction –</b> Local housing, employment and	Bayside will be a 30 minute City – residents work local or work off-	The newly created Bidjigal Road and open space link between Bidjigal

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**Table 1 – Consistency with the Bayside Community Strategic Plan 2030**

business opportunities area generated	site – no-one has to travel for more than 30 minutes to work	Road and Bonar Street increases pedestrian and cyclist connectivity.
	Council is a major employer, supports local apprenticeships and cadetships	N/A
	People who need to can access affordable housing	N/A
<b>Strategic Direction –</b> The transport system works	We can easily travel around the LGA – traffic problems/gridlock are a thing of the past	See above
	We can easily travel to work by accessible, reliable public transport	
<b>Strategic Direction –</b> We are prepared for a sharing economy	Innovative businesses are supported to locate in Bayside	N/A
	Local Plans and regulations have kept pace with the sharing economy	N/A



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**Q5 Is the Planning Proposal consistent with applicable State Environmental Planning Policies (SEPPs)?**

Yes.

The consistency of the Planning Proposal with the State Environmental Planning Policies is provided in **Table 2** below (noting which Policies are not applicable or not relevant to the Planning Proposal).

**Table 3** below reviews the consistency of the Planning Proposal with the formerly named State Regional Environmental Plans, now identified as deemed SEPPs.

**Table 2 - Consistency with State Environmental Planning Policies**

No.	Title	Consistency with Planning Proposal
1	Development Standards	(Repealed by RLEP 2011)
19	Bushland in Urban Areas	N/A
21	Caravan Parks	N/A
30	Intensive Aquaculture	N/A
32	Urban Consolidation (Redevelopment of Urban Land)	Repealed
33	Hazardous and Offensive Development	N/A
36	Manufactured Home Estates	N/A
44	Koala Habitat Protection	N/A
47	Moore Park Showground	N/A
50	Canal Estate Development	N/A
52	Farm Dams and Other Works in Land and Water Management Plan Areas	N/A
55	Remediation of Land	Not relevant to Planning Proposal. The Planning Proposal does not change the zoning or development standards for the land. Any land contamination matters were addressed as part of the development assessment process.
62	Sustainable Aquaculture	N/A
64	Advertising and Signage	N/A
65	Design Quality of Residential Apartment Development	Not relevant to Planning Proposal. SEPP 65 was addressed as part of the development assessment process.
70	Affordable Housing (Revised Schemes)	N/A
	(Affordable Rental Housing) 2009	N/A
	(Building Sustainability Index: BASIX) 2004	Not relevant to Planning Proposal. BASIX was addressed as part of the development assessment process.
	(Coastal Management) 2018	N/A
	(Educational Establishments and Child Care Facilities) 2017	N/A
	(Exempt and Complying Development Codes) 2008	N/A
	(Housing for Seniors or People with a Disability) 2004	N/A
	(Infrastructure) 2007	N/A
	(Kosciuszko National Park – Alpine Resorts) 2007	N/A
	(Kurnell Peninsula) 1989	N/A
	(Mining, Petroleum Production and Extractive Industries) 2007	N/A
	(Miscellaneous Consent Provisions) 2007	N/A
	(Penrith Lakes Scheme) 1989	N/A
	(Rural Lands) 2008	N/A
	(State and Regional Development) 2011	Not relevant to Planning Proposal.

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**Table 2** - Consistency with State Environmental Planning Policies

(State Significant Precincts) 2005	N/A
(Sydney Drinking Water Catchment) 2011	N/A
(Sydney Region Growth Centres) 2006	N/A
(Three Ports) 2013	N/A
(Urban Renewal) 2010	N/A
(Vegetation in Non-Rural Areas) 2017	N/A
(Western Sydney Employment Area) 2009	N/A
(Western Sydney Parklands) 2009	N/A
Draft Environment SEPP	Not relevant to Planning Proposal. May be relevant to future DAs.
Draft Remediation of Land SEPP	See above response to SEPP 55

**Table 3** - Consistency with deemed State Environmental Planning Policies

No.	Title	Consistency with Planning Proposal
8	(Central Coast Plateau Areas)	N/A
9	Extractive Industry (No.2 – 1995)	N/A
16	Walsh Bay	N/A
20	Hawkesbury-Nepean River (No.2 – 1997)	N/A
24	Homebush Bay Area	N/A
26	City West	N/A
30	St Marys	N/A
33	Cooks Cove	N/A
	(Sydney Harbour Catchment) 2005	N/A
	Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment	Not relevant to Planning Proposal. Drainage and stormwater issues arising from development were addressed as part of the development assessment process.

**Q6 Is the Planning Proposal consistent with applicable Ministerial Directions (s.117 directions)?**

Yes

**Table 4** below assesses the consistency of the Planning Proposal with the Ministerial Directions for LEPs under section 9.1 (formerly section 117) of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**).

**Table 4** - Consistency with applicable Ministerial Directions

**1. Employment and Resources**

No.	Title	Consistency with Planning Proposal
1.1	Business and Industrial Zones	N/A
1.2	Rural Zones	N/A
1.3	Mining, Petroleum Production & Extractive Industries	N/A
1.4	Oyster Aquaculture	N/A
1.5	Rural Lands	N/A

**2. Environment and Heritage**

No.	Title	Consistency with Planning Proposal
2.1	Environmental Protection Zones	N/A
2.2	Coastal Protection	N/A
2.3	Heritage Conservation	N/A
2.4	Recreation Vehicle Areas	N/A
2.5	Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	N/A

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### 3. Housing, Infrastructure and Urban Development

No.	Title	Consistency with Planning Proposal
3.1	Residential Zones	Consistent. The Planning Proposal does not alter the existing zoning of the land (Zone R4).
3.2	Caravan Parks and Manufactured Home Estates	N/A
3.3	Home Occupations	N/A
3.4	Integrating Land Use and Transport	Consistent. The Planning Proposal does not alter the existing zoning of the land (Zone R4).
3.5	Development near Regulated Airports and Defence Airfields	N/A
3.6	Shooting Ranges	N/A
3.7	Reduction in non-hosted shore term rental accommodation period	N/A

### 4. Hazard and Risk

No.	Title	Consistency with Planning Proposal
4.1	Acid Sulfate Soils	Consistent. The land contains Class 5 Acid Sulfate Soils. The Planning Proposal does not change this classification.
4.2	Mine Subsidence and Unstable Land	N/A
4.3	Flood Prone Land	N/A
4.4	Planning for Bushfire Protection	N/A

### 5. Regional Planning

No.	Title	Consistency with Planning Proposal
5.1	Implementation of Regional Strategies	Revoked 17 October 2017
5.2	Sydney Drinking Water Catchments	N/A
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	N/A
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	N/A
5.5	Development in the vicinity of Ellalong, Paxton and Millfield	Revoked 18 June 2010
5.6	Sydney to Canberra Corridor	Revoked 10 July 2008
5.7	Central Coast	Revoked 10 July 2008
5.8	Second Sydney Airport: Badgerys Creek	N/A
5.9	North West Rail Link Corridor Strategy	N/A
5.10	Implementation of Regional Plans	N/A
5.11	Development of Aboriginal Land Council land	N/A

### 6. Local Plan Making

No.	Title	Consistency with Planning Proposal
6.1	Approval and Referral Requirements	Consistent. The Planning Proposal does not include any concurrence, consultation or referral provisions.
6.2	Reserving Land for Public Purposes	Consistent. The Planning Proposal does not alter any existing land reservations. A future planning proposal may be prepared to extinguish the now redundant road reservation applying to the land.
6.3	Site Specific Provisions	Consistent. The Planning Proposal includes site specific provisions to facilitate reclassification of the land but no other site specific provisions.

### 7. Metropolitan Planning

No.	Title	Consistency with Planning Proposal
7.1	Implementation of A Plan for Growing Sydney	Consistent. The Planning Proposal is consistent with <i>The Greater Sydney Region Plan - A Metropolis of</i>

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		Three Cities (see Q3 above).
7.2	Implementation of Greater Macarthur Land Release Investigation	N/A
7.3	Parramatta Road Corridor Urban Transformation Strategy	N/A
7.4	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	N/A
7.5	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	N/A
7.6	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	N/A
7.7	Implementation of Glenfield to Macarthur Urban Renewal Corridor	N/A
7.8	Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan	N/A
7.9	Implementation of Bayside West Precincts 2036 Plan	Consistent. The land is within an area nominated for future investigation on Figure 2 of the Bayside West Precincts 2036.
7.10	Implementation of Planning Principles for the Cooks Cove Precinct	N/A

### C Environmental, social and economic impact

#### Q7 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No

The land does not contain any critical habitat or threatened species, populations or ecological communities or their habitats.

#### Q8 Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

No

Rockdale LEP 2011 contains heritage, biodiversity, foreshore, flood, wetland and riparian lands overlays (see planning maps at **Attachment F**). The land is not identified as being subject to any environmental or other constraints and the Planning Proposal will not result in any additional environmental effects. Any relevant environmental issues were addressed during the development assessment process.

#### Q9 Has the Planning Proposal adequately addressed any social and economic effects?

Yes

Reclassification of the land will facilitate its transfer to the owner of the Martin Avenue Site, giving the Martin Avenue Site a street frontage. This is key to delivery of the Bonar Street Park/Central Square, implementing the Bonar Street Precinct Structure Plan as set out in Part 7.2 of Rockdale DCP 2011 and Bonar Street PDP. The public interest is best served by the orderly and economic use of land for permissible purposes in accordance with the adopted Structure Plan.

In relation to the economic impacts, the Planning Proposal is part of the innovative arrangements put in place by Council to deliver the planned Bonar Street Park/Central Square.

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#### **D State and Commonwealth interests**

##### **Q10 Is there adequate public infrastructure for the Planning Proposal?**

The land is in an existing high density residential area where utility services are available. Notwithstanding, the Planning Proposal proposes a reclassification of land only and is unlikely to increase demand for infrastructure. Consultation with State and Commonwealth agencies will be undertaken in accordance with Section 5 of this Planning Proposal.

##### **Q11 What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?**

Consultation with State and Commonwealth agencies will be undertaken in accordance with Section 5 of this Planning Proposal. Consultation with the following agencies may be appropriate:

- Transport for NSW
- Transport for NSW - Roads and Maritime Services
- Energy Australia (Integral Energy)
- Sydney Water
- NSW Office of Strategic Lands.

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#### **Part 4 – Mapping**

In accordance with Part 12.11 Land Reclassification (Part Lots) (RPL) of the *Standard Technical Requirements for Spatial Datasets and Maps V1.0* published by the NSW DP&E, no map is required where an entire lot is being reclassified, which is the circumstance in this case.

A site location map and aerial photograph were provided at **Figures 1 and 2**.

Existing maps to Rockdale LEP 2011 are attached (**Attachment F**). No changes are proposed to the existing LEP maps.



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## Part 5 - Community Consultation

Community consultation on the Planning Proposal will be undertaken by Bayside Council (subject to receiving a determination to proceed at Gateway) in accordance with the publication *A Guide to Preparing Local Environmental Plans*, published by the NSW DP&E. Community consultation will not be commenced prior to obtaining approval from the Minister or Director-General. The notification and consultation process will be initiated after the issue of a gateway determination.

Council's consultation methodology will include, but not be limited to, the following:

- Forwarding a copy of the Planning Proposal, the gateway determination and any relevant supporting studies or additional information to State and Commonwealth Public Authorities identified in the gateway determination;
- Undertaking consultation if required in accordance with requirements of a Ministerial Direction under section 9.1 (formerly section 117) of the EP&A Act that is required because, in the opinion of the Minister (or delegate), a State or Commonwealth public authority will be or may be adversely affected by the proposed amendments to the Rochdale LEP 2011;
- Giving notice of the public exhibition in the main local newspaper (the Leader);
- Exhibiting the Planning Proposal in accordance with the gateway determination for at least 28 days;
- Exhibiting the Planning Proposal pursuant to Section 57 of the EP&A Act and all supporting documentation at Council's Administration Centre and on Council's website;
- Notifying the Planning Proposal's exhibition on Council's website, including providing copies of the Planning Proposal, all supporting studies and additional information and the gateway determination;
- Notifying affected landowners and adjoining land owners where relevant;
- Holding a Public Hearing under Section 29 of the LG Act (required for all planning proposal that reclassify public land from 'community' to 'operational'); and
- Any other consultation methods deemed appropriate for the Planning Proposal.

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## Reclassification of Public Land

### Secretary's requirements

Pursuant to Section 55(3) of the EP&A Act, the Director-General may issue requirements with respect to the preparation of a Planning Proposal. In this regard, the NSW DP&E 'A Guide to Preparing Local Environmental Plans' establishes the Director-General's requirements regarding matters that must be addressed in the justification of planning proposals for the reclassification of public land. These requirements are addressed below.

#### a) Is the planning proposal the result of a strategic study or report?

Yes.

As outlined in the Preliminaries to this Planning Proposal, the Planning Proposal is the result of the following Council resolution and development control plan/public domain plan:

- Council resolved at its Meeting of 7 November 2012 to classify the land Operational land (**Attachment D**); and
- Bonar Street Precinct Structure Plan now described in Rockdale DCP 2011 (Part 7.2) and Bonar Street PDP (see **Figures 3 and 4**) which illustrate an indicative concept plan for the Bonar Street Park and Central Square.

#### b) Is the planning proposal consistent with the local council's community plan, or other local strategic plan?

Yes.

As outlined at Q4, the Planning Proposal is consistent with the Bayside Community Strategic Plan 2030. It is also consistent with the Bonar Street Precinct Structure Plan now described in Rockdale DCP 2011 (Part 7.2) and Bonar Street PDP.

#### c) If the provisions of the planning proposal include the extinguishment of any interests in the land, an explanation of the reasons why the interests are proposed to be extinguished should be provided

The certificate of title (see **Attachment C**) notes that the land is a 'public reserve'. The planning proposal would enable extinguishment of this interest to enable transfer of the land to the owner of the Martin Avenue Site. As explained in the Preliminary sections of this Planning Proposal, this transfer is critical to delivery of the Bonar Street Park Stage 2 as the land provides the only street frontage for the Martin Avenue Site.

#### d) The concurrence of the landowner, where the land is not owned by the relevant planning.

Bayside Council, the landowner, resolved on 7 November 2012 to classify the land as Operational land.

### Practice Note

**Table 5** considers the matters that must be addressed by planning proposals that classify or reclassify public land, as listed in the Attachment 1 - Checklist to the *Department of Planning & Environment LEP Practice note (PN 16-001)* (see **Attachment A**).

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**Table 5** – Department of Planning & Environment LEP Practice note (PN 16-001): CHECKLIST

Matters to be addressed	Response
<ul style="list-style-type: none"> <li>the current and proposed classification of the land;</li> </ul>	Current classification: Community Proposed classification: Operational
<ul style="list-style-type: none"> <li>whether the land is a 'public reserve' (defined in the LG Act);</li> </ul>	The land is a public reserve.
<ul style="list-style-type: none"> <li>the strategic and site specific merits of the reclassification and evidence to support this;</li> </ul>	The reclassification will enable the land to be transferred to the owner of the adjoining Martin Avenue Site to provide a street frontage for the high density residential development which is currently under construction. As noted above, the developer of the Martin Avenue Site has entered into a VPA to dedicate land for and embellish the Bonar Street Park Stage 2 and Central Square (2,020m <sup>2</sup> ) and paid a monetary contribution towards the embellishment of Bonar Street Park Stage 1. Provision of the Park and Central Square implements the Bonar Street Precinct Structure Plan as now described in Part 7.2 Rockdale DCP 2011 and Bonar Street PDP.
<ul style="list-style-type: none"> <li>whether the planning proposal is the result of a strategic study or report</li> </ul>	The Planning Proposal is the result of the following Council resolution and development control plan/public domain plan: <ul style="list-style-type: none"> <li>Council resolved at its Meeting of 7 November 2012 to classify the land as Operational land (<b>Attachment D</b>); and</li> <li>Bonar Street Precinct Structure Plan now described in Rockdale DCP 2011 (Part 7.2) and Bonar Street PDP (see <b>Figures 3 and 4</b>) which illustrate an indicative concept plan for the Bonar Street Park and Central Square.</li> </ul>
<ul style="list-style-type: none"> <li>whether the planning proposal is consistent with council's community plan or other local strategic plan</li> </ul>	Yes, see <b>Table 1</b> above.
<ul style="list-style-type: none"> <li>a summary of council's interests in the land, including:               <ul style="list-style-type: none"> <li>how and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution)</li> <li>if council does not own the land, the land owner's consent;</li> <li>the nature of any trusts, dedications etc;</li> </ul> </li> </ul>	The land was transferred to Council by the owner of 9-11 Wollongong Road on 13 August 2012. The land is a residual parcel from the dedication/construction of Bidjigal Road.  Council is the landowner.  There are no trusts or dedications.
<ul style="list-style-type: none"> <li>whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why;</li> </ul>	The Public Reserve notation is to be discharged to enable transfer of the land to the owner of the Martin Avenue Site. There are no other interests in the land to be discharged.
<ul style="list-style-type: none"> <li>the effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will</li> </ul>	The reclassification will not result in the loss of public open space. Reclassification of the land enables its transfer to the Martin Avenue Site, giving that site a street frontage which is

Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'

**Table 5** – Department of Planning & Environment LEP Practice note (PN 16-001): CHECKLIST

be discharged);	key to delivery of the Bonar Street Park/Central Square.
<ul style="list-style-type: none"> <li>evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. electronic title searches, notice in a Government Gazette, trust documents);</li> </ul>	A copy of the certificate of title is attached ( <b>Attachment C</b> ) confirming the public reserve notation on the title.
<ul style="list-style-type: none"> <li>current use(s) of the land, and whether uses are authorised or unauthorised;</li> </ul>	The land forms part of the construction site for the Martin Avenue Site where an approved high density housing development is under construction.
<ul style="list-style-type: none"> <li>current or proposed lease or agreements applying to the land, together with their duration, terms and controls;</li> </ul>	On 20 June 2016, Council and the owner of the Martin Avenue Site entered into a deed of agreement to transfer the land. The deed contained conditions to be fulfilled prior to transfer including subdivision of the Council lots to align the physical boundary with the zoning boundary (complete), the registration of a no FSR covenant on the title (prepared/pending) and the removal of the Public Reserve notation from the title. Reclassification of the land, as described herein, is required to enable removal of the Public Reserve notation.
<ul style="list-style-type: none"> <li>current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time);</li> </ul>	As detailed in the Preliminaries, the Council has entered into a VPA with the owner of the Martin Avenue Site to transfer the land the owner of the Martin Avenue Site. The transfer would occur after reclassification of the land.
<ul style="list-style-type: none"> <li>any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy);</li> </ul>	N/A There is no rezoning associated with the reclassification.
<ul style="list-style-type: none"> <li>how council may or will benefit financially, and how these funds will be used;</li> </ul>	There is no direct financial benefit for Council, but transfer of the land to the owner of the Martin Avenue Site is key to delivery of the Bonar Street Park/Central Square.
<ul style="list-style-type: none"> <li>how council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal;</li> </ul>	See above.
<ul style="list-style-type: none"> <li>a Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot; and</li> </ul>	N/A The reclassification applies to the whole lot, therefore a Land Reclassification (part lots) Map is not required.
<ul style="list-style-type: none"> <li>preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable.</li> </ul>	N/A The land was not dedicated to Council by a government agency.

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

## Part 6 – Project Timeline

**Table 6** provides a proposed timeframe for the Planning Proposal.

**Table 6** – Approximate Project Timeline

Task	Timing
Consideration of the Planning Proposal by the Bayside Local Planning Panel	19 March 2019
Consideration of the Planning Proposal by Council	27 March 2019
Anticipated commencement date (date of Gateway determination)	3 May 2019
Anticipated timeframe for the completion of required technical information	3 May 2019
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	7 June 2019
Commencement and completion dates for public exhibition period	15 May to 14 June 2019
Dates for public hearing	9 July 2019  (Factored in 21 days public notice after the exhibition period has ended)
Timeframe for consideration of submissions	16 July 2019
Timeframe for the consideration of a Planning Proposal post-exhibition	23 July 2019 (BLPP) 14 August 2019 (Council)
Date of submission to the Department to finalise the LEP	16 August 2019
Anticipated date Planning Proposal Authority (PPA) will make the plan (if delegated)	6 September 2019
Anticipated date RPA will forward to the Department for notification	6 September 2019

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

**Attachment A**

*Department of Planning & Environment LEP Practice note (PN 16-001)*





## LEP practice note

### LOCAL PLANNING

<b>Ref No.</b>	PN 16-001
<b>Issued</b>	5 October 2016
<b>Related</b>	Supersedes PN 09-003

## Classification and reclassification of public land through a local environmental plan

The purpose of this practice note is to update guidance on classifying and reclassifying public land through a local environmental plan (LEP). This practice note emphasises the need for councils to demonstrate strategic and site specific merit, includes a comprehensive information checklist and clarifies issues arising for public reserves and interests in land. It should be read in conjunction with *A guide to preparing local environmental plans* and *A guide to preparing planning proposals*.

### Classification of public land

Public land is managed under the *Local Government Act 1993* (LG Act) based on its classification. All public land must be classified as either community land or operational land (LG Act ss.25, 26).

- **Community land** – is land council makes available for use by the general public, for example, parks, reserves or sports grounds.
- **Operational land** – is land which facilitates the functions of council, and may not be open to the general public, for example, a works depot or council garage.

#### What is public land?

*Public land* is defined in the LG Act as any land (including a *public reserve*) vested in, or under council control. Exceptions include a public road, land to which the *Crown Lands Act 1989* applies, a common, land subject to the *Trustees of Schools of Arts Enabling Act 1902* or a regional park under the *National Parks and Wildlife Act 1974*.

#### Why classify public land?

The purpose of classification is to identify clearly that land made available for use by the general public (community) and that land which need not (operational). How public land is classified determines the ease or difficulty a council can have dealings in public land, including its sale, leasing or licensing. It also provides for transparency in council's strategic asset management or disposal of public land.

Community land must not be sold, exchanged or otherwise disposed of by a council. It can be leased,

but there are restrictions on the grant of leases and licences, and also on the way community land can be used. A plan of management (PoM), adopted by council, is required for all community land, and details the specific uses and management of the land.

There are no special restrictions on council powers to manage, develop, dispose, or change the nature and use of operational land.

#### How is public land classified or reclassified?

Depending on circumstances, this is undertaken by either:

- council resolution under ss.31, 32, or 33 (through LG Act s.27(2)), or
- an LEP under the *Environmental Planning and Assessment Act* (through LG Act s.27(1)).

Councils are encouraged to classify or reclassify land by council resolution where suitable.

**Classification** of public land occurs when it is first acquired by a council and classified as either community or operational.

**Reclassification** of public land occurs when its classification is changed from community to operational, or from operational to community.

### Reclassification through an LEP

Classification and reclassification of public land through an LEP is subject to both the local plan-making process in the EP&A Act and the public land management requirements of the LG Act.

A planning proposal to classify or reclassify public land, will need to be prepared in accordance with this practice note and the additional matters specified in Attachment 1 to this practice note.

Reclassification through an LEP is the mechanism with which council can remove any public reserve status applying to land, as well as any interests affecting all or part of public land (LG Act s.30).

It is critical that all interests are identified upfront as part of any planning proposal. If public land is reclassified from community to operational, without relevant interests being identified and discharged, then the land will need to be reclassified back to community (usually by council resolution under LG Act s.33<sup>1</sup>) before being reclassified in a new planning proposal to operational, to explicitly discharge any interests.

While a reclassification proposal to remove the public reserve status of land and/or discharge interests may not necessarily result in the immediate sale or disposal of the land, the community should be aware the public land in question is no longer protected under the LG Act from potential future sale once it has been reclassified to operational.

Councils should obtain their own advice when proposing to discharge any interests and be aware that this may attract a claim for compensation under the *Land Acquisition (Just Terms Compensation) Act 1991*.

Where land has been dedicated to council by a State agency for a particular purpose and a trust exists, it is advisable for council to seek the views of that agency prior to council commencing any planning proposal affecting the land.

**Public reserve** is defined in the LG Act and includes a public park and land declared or dedicated as a public reserve.

Land can be dedicated as a public reserve by either:

- registering a deposited plan with a statement creating a lot(s) as 'public reserve', or
- publishing a notification in the Government Gazette for an existing parcel.

**Interests in land** refers to property ownership as well as rights and privileges affecting land, such as leasehold, easements, covenants and mortgages.

For the purpose of reclassification through an LEP, 'interests' means trusts, estates, dedications, conditions, restrictions and covenants affecting the land.

A legal owner of land may not be the only person with an interest in the land. For example, one person may have the benefit of an easement for services, such as water, electricity or sewerage over someone else's land.

Certain interests are registered on title to ensure they are on record and cannot be disregarded if sold to a new owner. An electronic title search is generally conducted to determine the land owner, correct land description and the type of interests which may affect the land.

### Standard Instrument LEP requirements

Clause 5.2—Classification and reclassification of public land in Standard Instrument LEPs enables councils to classify or reclassify public land as operational land or community land in accordance with the LG Act. The land to be reclassified or classified is described in Schedule 4 of the LEP.

Schedule 4 is not to refer to any land already classified or reclassified.

Where there is no public land to be classified, or reclassified, through a principal LEP (i.e. the LEP applies to the whole of a local government area), Schedule 4 will appear blank.

Note: At a later stage council may lodge a planning proposal to remove previous listings in Schedule 4. This will not affect the classification status of these parcels of land.

### Department assessment

A proposal to classify or reclassify public land through an LEP must have planning merit. The Department will undertake an assessment to determine whether the proposal demonstrates strategic and site specific merit.

### Community consultation

Planning proposals to reclassify public land are to be publicly exhibited for at least 28 days.

A copy of this practice note is to be included in the public exhibition materials.

<sup>1</sup> Note: Council is required to give public notice of the proposed resolution and provide a period of at least 28 days during which submissions may be made (LG Act s.34).

### Public hearings

Councils must hold a public hearing when reclassifying public land from community to operational (EP&A Act s.57 & LG Act s.29). This gives the community an opportunity to expand on written submissions and discuss issues with an independent person in a public forum.

After the exhibition period has ended, at least 21 days public notice is to be given before the hearing. This allows the person chairing the hearing sufficient time to consider written submissions and all issues raised.

There are specific requirements for the independence of the person chairing the hearing, their preparation of a public hearing report and council making the report publicly available (LG Act s.47G).

### Governor's approval

The Governor's approval is required when a reclassification proposal seeks to remove any public reserve status and/or discharge any interests affecting public land (s.30).

When a council reports back to the Department on the community consultation undertaken and requests the Department make the LEP, the Department will arrange legal drafting of the LEP, including recommending the Governor approve the provisions before the LEP can be legally made.

Where the Governor's approval is required, the council's report accompanying the final planning proposal must address:

- council's interests in the land;
- whether the land is a 'public reserve';
- the effect of the reclassification, including loss of open space, any discharge of interests, and/or removal of public reserve status;
- the strategic and site specific merits of the reclassification and evidence to support this;
- any current use of the land, and whether uses are authorised or unauthorised;
- how funds obtained from any future sale of the land will be used;
- the dates the planning proposal was publicly exhibited and when the public hearing was held;
- issues raised in any relevant submissions made by public authorities and the community;
- an explanation of how written and verbal submissions were addressed or resolved; and
- the public hearing report and council resolution.

### Authorisation of delegation

Local plan making functions are now largely delegated to councils.

A Written Authorisation to Exercise Delegation is issued to a council as part of the Gateway determination. However, where an LEP requires the Governor's approval, this council delegation cannot be issued. In this instance, the council must request the Department make the LEP.

A decision to classify or reclassify public land cannot be sub-delegated by council to the general manager or any other person or body (LG Act s.377(1)(l)).

### Background

On July 1, 1993 when the LG Act commenced, the following land under council ownership or control, was automatically classified as *community* land:

- land comprising a public reserve,
- land subject to a trust for a public purpose,
- land dedicated as a condition of consent under s.94 of the EP&A Act,
- land reserved, zoned or otherwise designated for use under an environmental planning instrument as open space,
- land controlled by council and vested in Corporation Sole - Minister administering the EP&A Act.

Councils must keep a register of land under their ownership or control (LG Act s.53) and anybody can apply to a council to obtain a certificate of classification (LG Act s.54).

### Further information

A copy of this practice note, *A guide to preparing planning proposals* and *A guide to preparing local environmental plans* is available at: <http://www.planning.nsw.gov.au>

For further information, please contact the Department of Planning and Environment's Information Centre by one of the following:

Post: GPO Box 39, Sydney NSW 2001.

Tel: 1300 305 695

Email: [information@planning.nsw.gov.au](mailto:information@planning.nsw.gov.au)

**Authorised by:**  
**Carolyn McNally**  
**Secretary**

**Important note:** This practice note does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this practice note.

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[www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)

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## ATTACHMENT 1 – INFORMATION CHECKLIST FOR PROPOSALS TO CLASSIFY OR RECLASSIFY PUBLIC LAND THROUGH AN LEP

The process for plan-making under the EP&A Act is detailed in *A guide to preparing planning proposals* and *A guide to preparing local environmental plans*.

Importantly, *A guide to preparing local environmental plans* contains the Secretary's requirements for matters that must be addressed in the justification of all planning proposals to reclassify public land. Councils must ensure the Secretary's requirements are addressed.

Councils must also comply with any obligations under the LG Act when classifying or reclassifying public land. More information on this can be found in *Practice Note No. 1 - Public Land Management* (Department of Local Government, 2000).

All planning proposals classifying or reclassifying public land must address the following matters for Gateway consideration. These are in addition to the requirements for all planning proposals under section 55(a) – (e) of the EP&A Act (and further explained in *A guide to preparing planning proposals* and *A guide to preparing local environmental plans*).

- ☐ the current and proposed classification of the land;
- ☐ whether the land is a 'public reserve' (defined in the LG Act);
- ☐ the strategic and site specific merits of the reclassification and evidence to support this;
- ☐ whether the planning proposal is the result of a strategic study or report;
- ☐ whether the planning proposal is consistent with council's community plan or other local strategic plan;
- ☐ a summary of council's interests in the land, including:
  - how and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution)
  - if council does not own the land, the land owner's consent;
  - the nature of any trusts, dedications etc;
- ☐ whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why;
- ☐ the effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will be discharged);
- ☐ evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. electronic title searches, notice in a Government Gazette, trust documents);
- ☐ current use(s) of the land, and whether uses are authorised or unauthorised;
- ☐ current or proposed lease or agreements applying to the land, together with their duration, terms and controls;
- ☐ current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time);
- ☐ any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy);
- ☐ how council may or will benefit financially, and how these funds will be used;
- ☐ how council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal;
- ☐ a Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot; and
- ☐ preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable.

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

## **Attachment B**

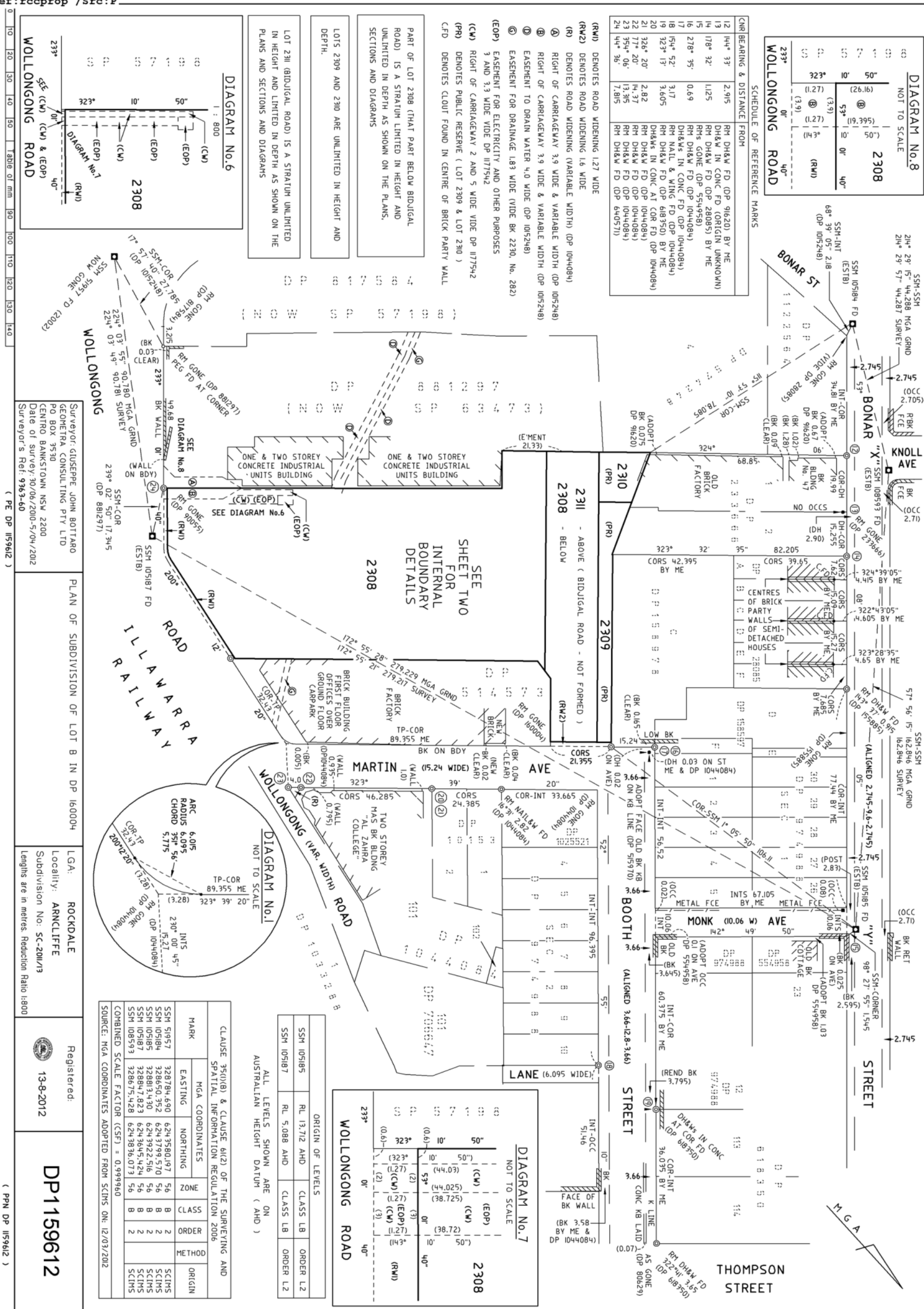
Deposited Plan (Lot 3 in DP 1247416)

PLAN FORM 2 (A2)

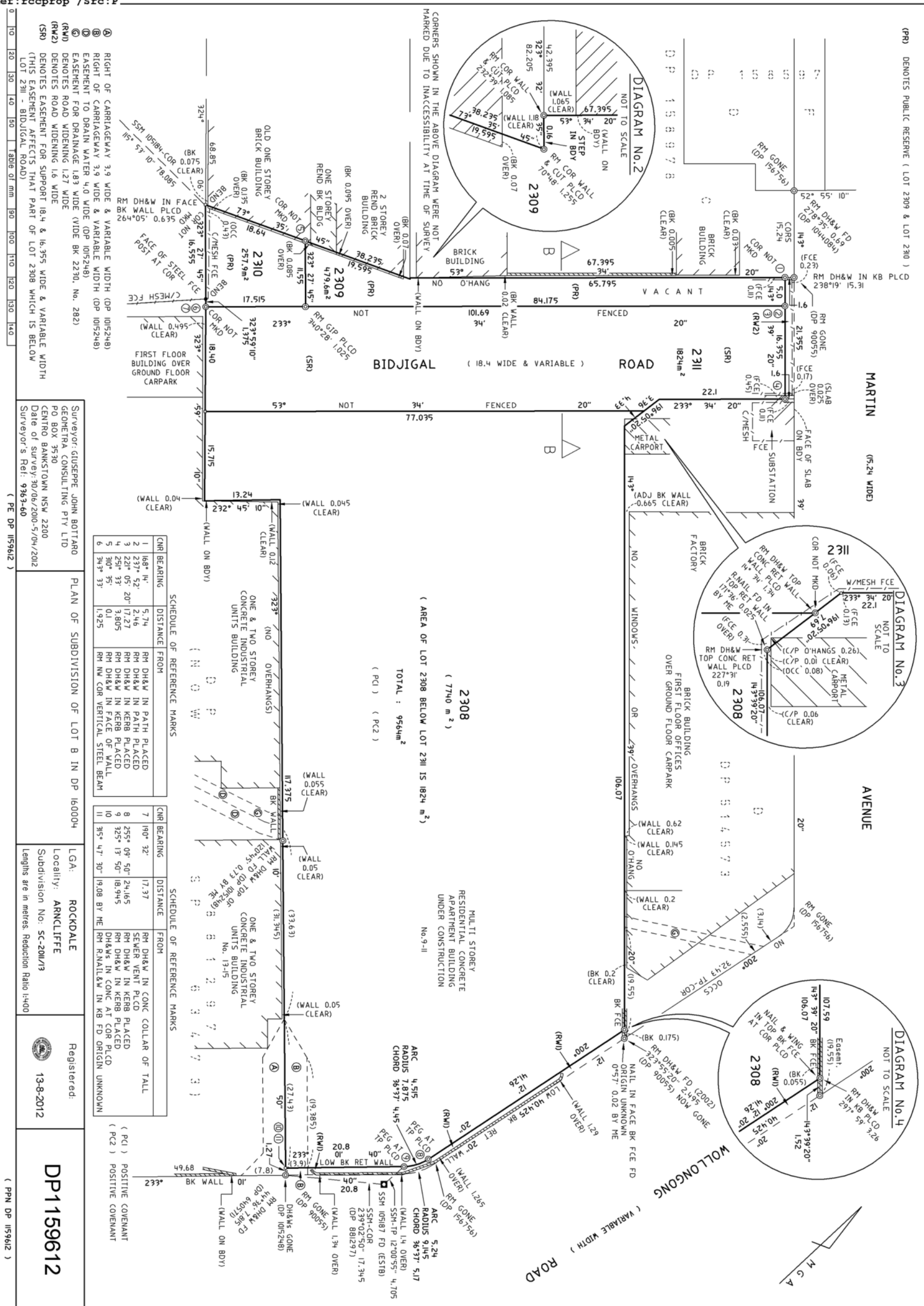
DP115961;

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

Plan Sheet 1 of 4 sheets

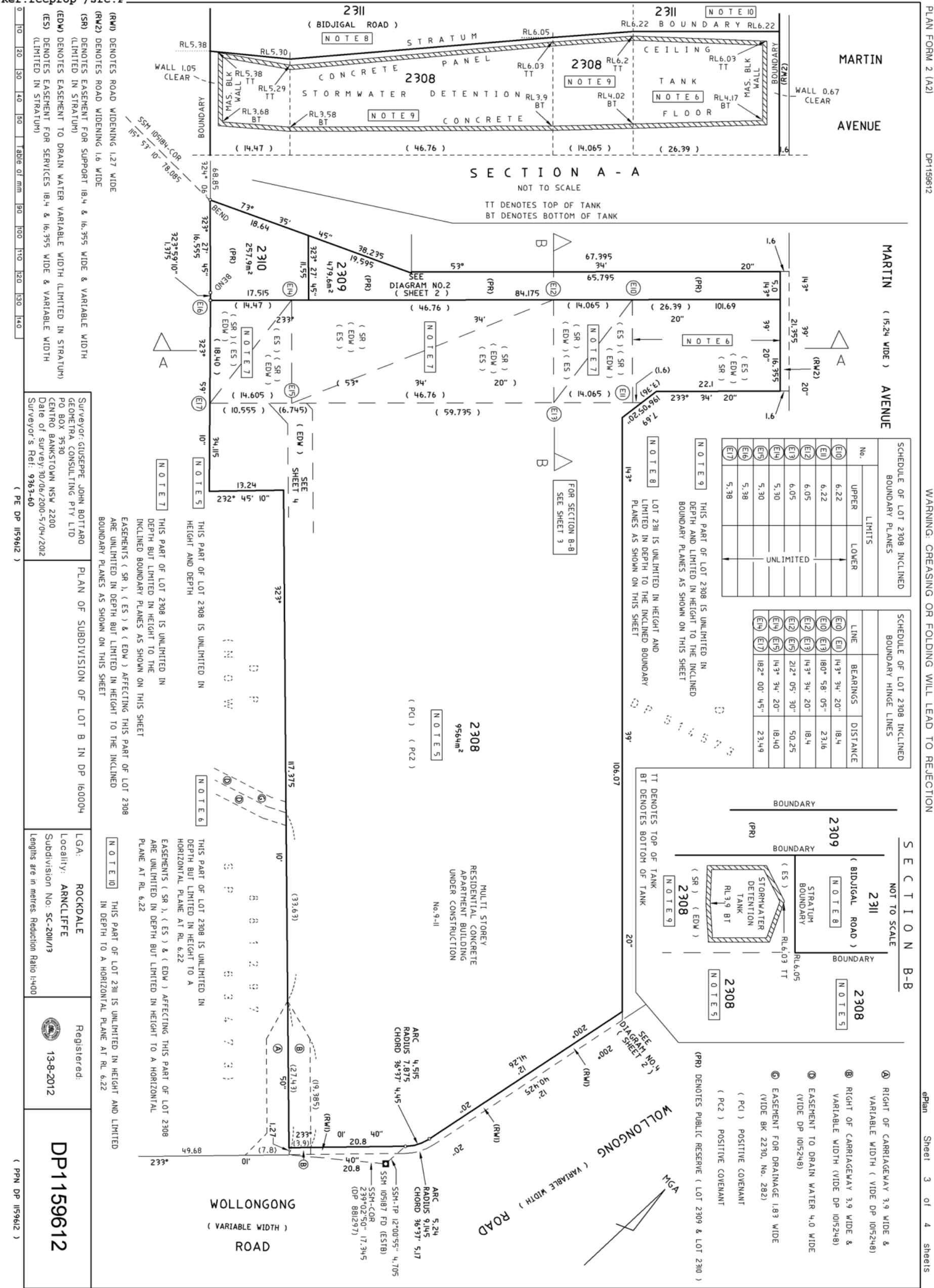




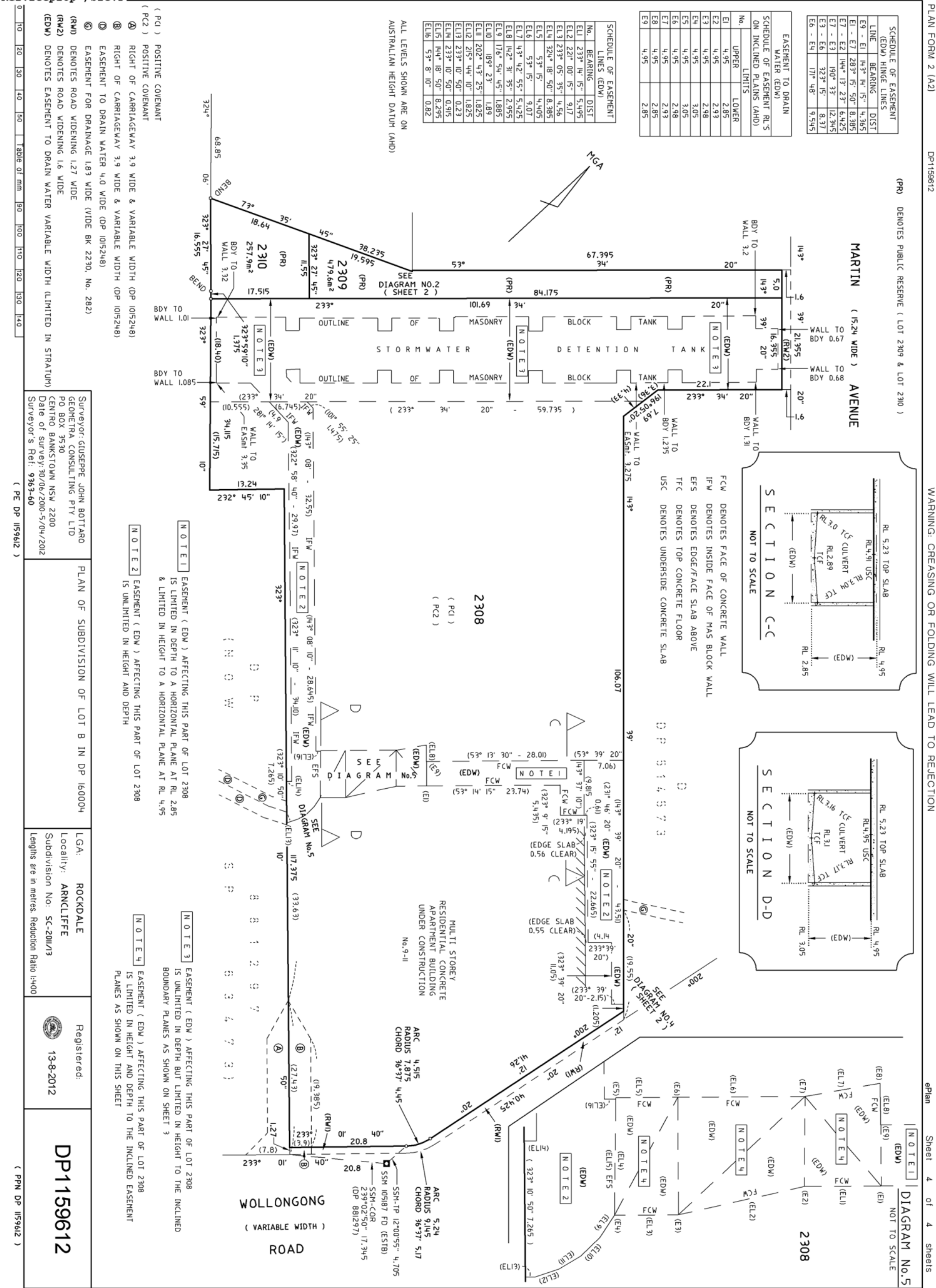




Req:R998705 /Doc:DP 1159612 P /Rev:13-Aug-2012 /Sts:SC.OK /Pgs:ALL /Prt:22-Feb-2019 12:45 /Seq:3 of 7  
Ref:rcocprop /Src:P



Reg:R998705 /Doc:DP 1159612 P /Rev:13-Aug-2012 /Sts:SC.OK /Pgs:ALL /Prt:22-Feb-2019 12:45 /Seq:4 of 7  
Ref:rcpprop /Src:P



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 Ref:rcoprop /Src:P DP1159612

PLAN FORM 6

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ePlan


DEPOSITED PLAN ADMINISTRATION SHEET		Sheet 1 of 3 sheet(s)																					
<p>SIGNATURES, SEALS AND STATEMENTS of intention to dedicate public roads, public reserves and drainage reserves or create easements, restrictions on the use of land and positive covenants</p> <p style="text-align: center;">SEE SHEET TWO</p>	<p style="text-align: center; font-size: 24pt; font-weight: bold;">DP1159612</p>																						
<p>If space is insufficient use PLAN FORM 6A annexure sheet</p> <p><b>Crown Lands NSW/Western Lands Office Approval</b></p> <p>I, .....in approving this plan certify          (Authorised Officer)          that all necessary approvals in regard to the allocation of the land shown herein have been given</p> <p>Signature: .....          Date: .....          File Number: .....          Office: .....</p>	<p>Registered:  13-8-2012          Title System: TORRENS          Purpose: SUBDIVISION</p> <p><b>PLAN OF SUBDIVISION OF LOT B IN DP 160004</b></p> <p>LGA: ROCKDALE          Locality: ARNCLIFFE          Parish: ST GEORGE          County: CUMBERLAND</p>																						
<p><b>Subdivision Certificate</b></p> <p>I certify that the provisions of s.109J of the Environmental Planning and Assessment Act 1979 have been satisfied in relation to:          the proposed <u>SUBDIVISION</u> set out herein          (insert 'subdivision' or 'new road')</p> <p style="text-align: center;"><i>L. Melin</i>          * Authorised Person/General Manager/Accredited Certifier</p> <p>Consent Authority: <u>ROCKDALE CITY COUNCIL</u>          Date of Endorsement: <u>11.7.2012</u>          Accreditation no: .....          Subdivision Certificate no: <u>SC-2011/13</u>          File no: <u>DA-2006/453</u></p> <p>* Strike through inapplicable parts.</p>	<p style="text-align: center;"><b>Survey Certificate</b></p> <p>I  <b>GUISEPPE JOHN BOTTARO</b>          Of  <b>GEOMETRA CONSULTING PTY LTD</b>  <b>PO BOX 3530 CENTRO BANKSTOWN NSW 2200</b>          a surveyor registered under the Surveying and Spatial Information Act, 2002, certify that the survey represented in this plan is accurate, has been made in accordance with the Surveying and Spatial Information Regulation, 2006 and was completed on: 5 APRIL 2012</p> <p>The survey relates to LOTS 2308, 2309, 2310 &amp; 2311</p> <p>(specify the land actually surveyed or specify any land shown in the plan that is not the subject of the survey)</p> <p>Signature: <i>[Signature]</i> Dated: <u>28/6/2012</u>          Surveyor registered under the Surveying and Spatial Information Act, 2002</p> <p>Datum Line: 'X' - 'Y'          Type: Urban/<del>Rural</del></p> <p style="text-align: center;"><b>Plans used in the preparation of survey/compilation</b></p> <table style="width: 100%;"> <tr> <td>DP 28085</td> <td>DP 233666</td> <td>SP 63473</td> </tr> <tr> <td>DP 90055</td> <td>DP 514573</td> <td></td> </tr> <tr> <td>DP 155885</td> <td>DP 554958</td> <td></td> </tr> <tr> <td>DP 156756</td> <td>DP 881297</td> <td></td> </tr> <tr> <td>DP 158597</td> <td>DP 974988</td> <td></td> </tr> <tr> <td>DP 158978</td> <td>DP 1015248</td> <td></td> </tr> <tr> <td>DP 160004</td> <td>DP 1044084</td> <td></td> </tr> </table> <p style="text-align: center;">If space is insufficient use PLAN FORM 6A annexure sheet</p> <p>Surveyor's Reference: 9363-60 (PPN DP 1159612)</p>		DP 28085	DP 233666	SP 63473	DP 90055	DP 514573		DP 155885	DP 554958		DP 156756	DP 881297		DP 158597	DP 974988		DP 158978	DP 1015248		DP 160004	DP 1044084	
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DP 155885	DP 554958																						
DP 156756	DP 881297																						
DP 158597	DP 974988																						
DP 158978	DP 1015248																						
DP 160004	DP 1044084																						

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 Ref:rcoprop /Src:P DP1159612

PLAN FORM 6A

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DEPOSITED PLAN ADMINISTRATION SHEET		Sheet 2 of 3 sheet(s)
PLAN OF SUBDIVISION OF LOT B IN DP 160004	Office Use Only <b>DP1159612</b>	
	Office Use Only Registered:  13-8-2012	
Subdivision Certificate No.: SC-2011/13		Date of Endorsement: 6.8.2012
<p>IT IS INTENDED TO DEDICATE THE LAND MARKED " ROAD WIDENING ( RW1 ) &amp; ( RW2 ) " TO THE PUBLIC AS ROAD.</p> <p>IT IS INTENDED TO DEDICATE LOT 2311 ( BIDJIGAL ROAD ) TO THE PUBLIC AS ROAD</p> <p>IT IS INTENDED TO DEDICATE LOTS 2309 &amp; 2310 AS PUBLIC RESERVES.</p> <p>PUBLIC RESERVES ARE TO BE DEDICATED TO ROCKDALE CITY COUNCIL.</p> <p><i>LM</i></p> <p><b>PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919, IT IS INTENDED TO CREATE:</b></p> <ol style="list-style-type: none"> <li>1. POSITIVE COVENANT ( PC1 )</li> <li>2. POSITIVE COVENANT ( PC2 )</li> <li>3. EASEMENT TO DRAIN WATER (VAR.WIDTH) LIMITED IN STRATUM SHOWN AS ( EDW )</li> <li>4. EASEMENT FOR SUPPORT (18.4 &amp; 16.355 WIDE &amp; VARIABLE WIDTH) SHOWN AS ( SR )</li> <li>5. EASEMENT FOR SERVICES (18.4 &amp; 16.355 WIDE &amp; VARIABLE WIDTH) SHOWN AS ( ES )</li> </ol> <p><b>IT IS INTENDED TO RELEASE:</b></p> <ol style="list-style-type: none"> <li>1. EASEMENT FOR DRAINAGE 1.83 WIDE (VIDE BK 2230 No.282)</li> </ol> <p>DIAGRAMS N° 7 &amp; 8 ON SURVEY PLAN          REF: 9363-60, DATED 5/4/2012, SHEET N° 1          HAS BEEN ACKNOWLEDGED &amp; ACCEPTED          BY ROCKDALE CITY COUNCIL.</p>		
Surveyor's Reference: 9363-60		

**PLAN FORM 6A**

ePlan

Sheet 3 of 3 sheet(s)

Office Use Only

Registered:  13-8-2012

Office Use Only

Date of Endorsement: 11.7.2012

**MOHAMED MOUSSLIMANI**  
REGISTERED PROPRIETOR

(Signature)

JON ROBERT LEWIS  
DIRECTOR

Surveyor's Reference: 9363-60

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

### **Attachment C**

Certificate of title (Lot 3 in DP 1247416)

22/02/2019

Order — Property Information



## NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 3/1247416

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SEARCH DATE	TIME	EDITION NO	DATE
22/2/2019	4:04 PM	1	8/11/2018

## LAND

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LOT 3 IN DEPOSITED PLAN 1247416  
AT ARNCLIFFE  
LOCAL GOVERNMENT AREA BAYSIDE  
PARISH OF ST GEORGE COUNTY OF CUMBERLAND  
TITLE DIAGRAM DP1247416

## FIRST SCHEDULE

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BAYSIDE COUNCIL

## SECOND SCHEDULE (4 NOTIFICATIONS)

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- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 THE LAND WITHIN DESCRIBED IS PUBLIC RESERVE
- 3 DP1015248 RIGHT OF CARRIAGEWAY 3.9 METRE(S) WIDE AND VARIABLE APPURTENANT TO THE LAND ABOVE DESCRIBED
- 4 AK703146 PLANNING AGREEMENT PURSUANT TO SECTION 7.6 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

## NOTATIONS

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UNREGISTERED DEALINGS: PP DP1223657 PP SP94064.

\*\*\* END OF SEARCH \*\*\*

rccprop

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\* Any entries preceded by an asterisk do not appear on the current edition of the Certificate of Title. Warning: the information appearing under notations has not been formally recorded in the Register.

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*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

## **Attachment D**

Report titled *Land Dedication Arising from The Development of 9-11 Wollongong Road, Arncliffe* and resolution from Rockdale Council Meeting of 7 November 2012

2/27/2019

Business Paper authored by Property Manager (Benjamin Heraud) on 11/09/2012



## Council Meeting

[Back](#)[Print](#)

### General Report - Meeting Date: 11/07/2012

Public -

Item Number: ORD13

Subject: LAND DEDICATION ARISING FROM THE DEVELOPMENT OF 9-11 WOLLONGONG ROAD ARNCLIFFE

File Number: F08/386

Report by: Property Manager (Benjamin Heraud)

Community Engagement: No

Financial Implications: No

### Precis

Council at their meeting of 5 August 2009 approved a development application permitting the construction two multi-storey residential towers at 9-11 Wollongong Road, Arncliffe, as well as public domain works creating a new roadway now known as Bidjigal Road. Arising from the creation of the roadway three parcels of land were dedicated to Council, one dedicated via the Roads Act 1993 that comprised the road and the two other lots adjoining the road that were dedicated to Council via the Local Government Act 1993.

Under the Local Government Act the two lots not comprising the road need to be classified as either community or operational within three months of acquisition. In order to facilitate the intentions of the Bonar Street Masterplan, this report recommends the lands dedicated to Council under the Local Government Act be classified as operational.

### Council Resolution

NOTE:

Councillor Nagi had previously declared a significant non-pecuniary interest in this item and left the Chamber for discussion and voting.

RESOLVED on the motion of Councillors Awada and Bezic

1 That the report titled Land Dedication Arising From The Development of 9-11 Wollongong Road, Arncliffe be received and noted.

2 That Council classify 8 Martin Avenue, Arncliffe (Lot 2309 in DP 1159612) and 9 Bidjigal Road, Arncliffe (Lot 2310 in DP 1159612) as operational land in accordance with Section 31 of the Local Government Act 1993.

### Officer Recommendation

1 That the report titled Land Dedication Arising From The Development of 9-11 Wollongong Road, Arncliffe be received and noted.

2 That Council classify 8 Martin Avenue, Arncliffe (Lot 2309 in DP 1159612) and 9 Bidjigal Road, Arncliffe (Lot 2310 in DP 1159612) as operational land in accordance with Section 31 of the Local Government Act 1993.

### Report Background

Council at their meeting of 5 August 2009 approved a development application permitting the construction two multi-storey residential towers at 9-11 Wollongong Road, Arncliffe (refer to Annexure 1 - Location Map). As part of the development, public domain works were undertaken that aligned with the principles contained within Council's Bonar Street Precinct DCP Landscape

[https://rccnet.rockdale.nsw.gov.au/RBP/CBP.nsf/\(vwUnid\)/AC235D83AE756C7ECA257AB100121F04?OpenDocument](https://rccnet.rockdale.nsw.gov.au/RBP/CBP.nsf/(vwUnid)/AC235D83AE756C7ECA257AB100121F04?OpenDocument)

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2/27/2019

Business Paper authored by Property Manager (Benjamin Heraud) on 11/09/2012

Masterplan ("Bonar Street Masterplan"). Specifically, the subject development delivered the construction of a section of new roadway, now known as Bidjigal Road, and two parcels of land adjoining the road (refer to Annexure 2 - Bonar Street Masterplan and Annexure 3 - Parcels Created).

A sub-division plan was registered with Land and Property Information (LPI) on 13 August 2012 dedicating to Council:

- The new roadway via Section 9 of the *Roads Act 1993* ("the Road"); and
- Two ancillary parcels, 8 Martin Avenue and 9 Bidjigal Road ("the Lots"), via Section 49 of the *Local Government Act 1993*.

The Lots were, at the request of Council, noted as public reserve on the associated deposited plan, which meant that under Section 49 of the *Local Government Act* the land vested automatically with Council upon registration. This was done for the purpose of ensuring that the developer divested the Lots to Council upon registration in order to facilitate the Bonar Street Masterplan.

Division 1 of Part 2 of *The Local Government Act* requires all Council land to be classified as either community or operational land within three months of acquisition. No such requirement exists within the *Roads Act* to classify the Road itself and therefore this is not the subject of this report.

The dedication of the Lots to Council facilitates the delivery of additional principles within the Bonar Street Masterplan, being:

1. The creation of a linear street frontages for future developments associated with 10 Martin Avenue, 47 Bonar Street and 49 Bonar Street; and
2. The partial delivery of land for the creation of a central square.

The creation of linear street frontages associated with point 1 above will involve disposing the Lots to the adjoining landowners at the point these sites develop. Under the *Local Government Act*, Council can only dispose of land that is classified as operational. To this end, classifying the Lots as community land would hinder future disposal, which would impede the intentions of the Bonar Street Masterplan. To this end, it is recommended that the Lots be classified as operational land in order to facilitate Council's stated intentions with the Lots in the future.

### Financial Implications

There are no financial implications applicable to this report.

### Community Engagement

The issues raised in this report concern matters that do not require community consultation under Council's Community Engagement Policy

### Community Strategy

The proposal is consistent with Council's Community Outcome "Appropriate Infrastructure" and Community Outcome objective:

- The City of Rockdale has well connected and integrated systems and networks that support the Rockdale community.

and is also consistent with the (or is a nominated) strategy in the Community Strategic Plan being:

- Roads, Drainage and other like infrastructure - Ensure that Roads, Drainage and other like infrastructure are designed, delivered and maintained in a manner which provides network integration and sustainability to meet the current and future transport and

[Annexure 1 - Location Map.pdf](#)[Annexure 2 - Bonar Street Masterplan.pdf](#)[Annexure 3 - Parcels Created.pdf](#)

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

## **Attachment E**

Terms of positive covenant

"A"

#### Terms of Positive Covenant

##### 1. Definitions

"**Consent Authority**" means any authority empowered to approve any development of Lot 3 in Deposited Plan 1247416.

"**Council**" means Bayside Council and its successors

"**FSR**" means floor space ratio and has the same meaning as used in the Rockdale Local Environmental Plan 2011 and includes any local environmental plan that amends or supersedes the Rockdale Local Environmental Plan 2011 applying to the Land.

"**Land**" means Lot 21 in Deposited Plan 1238386, Lot 1 in Deposited Plan 233666, Lot 2 in Deposited Plan 233666 and Lot 3 in Deposited Plan 1247416.

"**Registered Proprietor**" means the registered proprietor of Lot 3 in Deposited Plan 1247416 from time to time.

2. The Registered Proprietor irrevocably and unconditionally covenants that no FSR entitlements are to be considered, given or allowed by the Council or any other Consent Authority in relation to any development of Lot 3 in Deposited Plan 1247416.
3. The Registered Proprietor must pay all legal costs and out of pocket disbursements incurred by the Council in relation to preparation, execution and registration of this Positive Covenant.
4. This Positive Covenant may only be released or varied by the Council in writing.

#### Execution by the Prescribed Authority

I certify that I am an eligible witness and that the authorised officer of the prescribed authority signed this application in my presence.

\_\_\_\_\_  
Signature of witness:

\_\_\_\_\_  
Signature of an authorised officer:

\_\_\_\_\_  
Name of witness:

\_\_\_\_\_  
Name of authorised officer:

\_\_\_\_\_  
Address of witness:

\_\_\_\_\_  
Position of authorised officer:

**Execution by the Registered Proprietor**

I certify that I am an eligible witness and that the authorised officer of the prescribed authority signed this application in my presence.

**Executed by Martin Land Pty Limited**  
**ACN 617 410 054** in accordance with  
section 127 of the *Corporations Act 2001* (Cth)  
by:

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Signature of Director

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Signature of Director

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Full name (print)

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Full name (print)

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

## **Attachment F**

Rockdale LEP 2011 Maps



