



northern
beaches
council

PUBLIC HEARING FOR PROPOSED CATEGORISATION OF COMMUNITY LAND AT BOONDAH ROAD SPORTS COURTS

BACKGROUND INFORMATION

JULY 2018



NORTHERN BEACHES COUNCIL

**PUBLIC HEARING FOR PROPOSED
CATEGORISATION OF COMMUNITY LAND
AT BOONDAH ROAD SPORTS COURTS**

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1 INTRODUCTION

1.1 Background

Northern Beaches Council has prepared a Draft Plan of Management for Boondah Road Sports Courts, which proposes to categorise community land comprising the Boondah Road Sports Courts.

This background information document sets out the legal requirements for categorisation of Council-owned community land at Boondah Road Sports Courts, which is subject to the *Local Government Act 1993*.

In particular, this document deals with the preparation of Plans of Management for land classified as community land, categorisation of community land, and public hearings regarding the categorisation of community land.

1.2 About the public hearing

Council must hold a public hearing, chaired by an independent facilitator, regarding the proposed categorisation of Boondah Road Sports Courts in the Draft Plan of Management.

Council notified the community of the public exhibition of the Draft Plan of Management and the public hearing via its website, social media, and public notices in the *Manly Daily*.

The Draft Boondah Road Sports Courts Plan of Management is on public exhibition from Saturday 30 June until Sunday 12 August 2018.

The Draft Plan of Management can be viewed and downloaded online at <https://yoursay.northernbeaches.nsw.gov.au/sportscourts1>

The community is invited to attend a public hearing about the proposed categorisation of community land in Boondah Road Sports Courts to be held:

Wednesday 25 July 2018
7:00pm to 8:00pm

Banksia Room
Nelson Heather Centre
Corner Jackson and Pittwater Roads
Warriewood

Written comments regarding the proposed categorisation can be submitted until **5:00pm on Sunday 12 August** by:

- Online:** <https://yoursay.northernbeaches.nsw.gov.au/sportscourts1>
- Mail:** Northern Beaches Council, PO Box 82, Manly NSW 1655

1.3 Land to which the public hearing applies

The public hearing applies to the Boondah Road Sports Courts at 3 Boondah Road, Warriewood, as shown in Figure 1.

The proposed development of the site for sports courts and carpark is shown in Figure 2.

Figure 1 3 Boondah Road, Warriewood

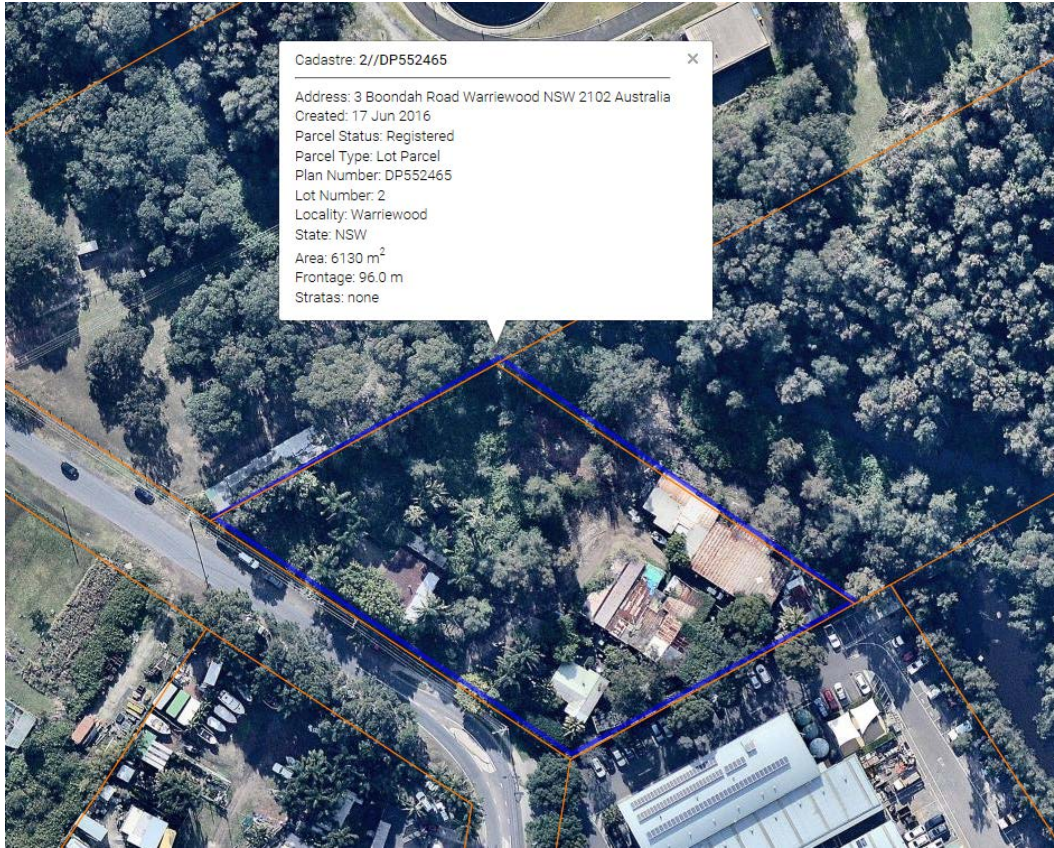


Figure 2 Proposed Boondah Road Sports Courts



2 COMMUNITY LAND

2.1 What is community land?

The *Local Government Act 1993* sets out a range of requirements that Northern Beaches Council is legally bound to adhere to. These requirements include the management of public land.

The Local Government Act requires that all public land owned by Council must be classified as "community" or "operational" land (Section 26). Northern Beaches Council owns and manages the land comprising Boondah Road Sports Courts, which is classified as community land.

Community land is intended to be managed for use by the community for purposes including environmental protection, recreational, cultural, social and educational activities. Community land may only be leased or licensed for up to 21 years without the Minister's consent or up to 30 years with the Minister's consent, it cannot be sold, and its use is restricted to the above purposes.

Operational land is land that can be used for any purposes deemed fit by Council, may be closed to the public, may be used for commercial purposes, be leased for a longer period, and can be sold.

Figure 3 Classification and categorisation of community land



Note: Public hearings regarding categorisation or re-categorisation of community land are not related to reclassification. Reclassification is when community land is re-classified as operational land that can then be managed differently and has the ability to be sold by Council. Community land is protected under the Local Government Act and cannot be sold.

2.2 Categorisation of community land

2.2.1 What are the categories of community land?

The *Local Government Act 1993* requires that all land owned by the Council which is classified as community land be categorised.

Guidelines for categorising community land as a particular category are in Clauses 102 to 111 of the *Local Government (General) Regulation 2005*.

Community land may be categorised under Section 36(4) of the Act as one or more of:

- natural area.
- sportsground.
- park.
- area of cultural significance.
- general community use.

Land that is categorised as a natural area is to be further categorised as one or more of the following under Section 36(5) of the Act:

- bushland.
- wetland.
- escarpment.
- watercourse.
- foreshore.
- a category prescribed by the regulations.

2.2.2 Guidelines for categorisation of community land

The Department of Local Government's revised Practice Note on Public Land Management (Department of Local Government, 2000) made general recommendations on the guidelines for categorising community land. The Practice Note states:

"Council must have regard to the guidelines in determining a category (cl.9) but are not required to adopt any category merely because the land fits the description in the guidelines. Council should look at all the circumstances of the land in making a decision as to categorisation. For example, a piece of land may seem to satisfy the guidelines for more than one category. Council has a discretion in this case to look at the land in context, taking into account all relevant material before determining a category. It is important that Council be able to justify a decision."

Also, Council may have a piece of community land, parts of which may be best managed as different categories, for example a piece of land with remnant bushland in one part and children's play equipment in another. Council is able to categorise land as part 'Natural Area – Bushland' and part 'Park'. It is strongly recommended that the land in each category not overlap. Overlapping categories may cause conflict in management objectives and will create confusion in the minds of Council staff and the community."

2.3 Core objectives for managing community land

Each category and sub-category of community land has core objectives that apply to it under the Local Government Act. The core objectives outline the approach to management of the land covered by the particular category.

The core objectives for each category of community land are set out in Sections 36E to 36N of the *Local Government Act 1993*. Core objectives for each category and sub-category of community land applying to Boondah Road Sports Courts are in Table 1.

Table 1 Guidelines and core objectives for Natural Area–Bushland, Sportsground, General Community Use categories of community land

| Category | Guidelines | Core objectives |
|--|--|---|
| Sports-ground | If the land is used or proposed to be used primarily for active recreation involving organised sports or the playing of outdoor games. | <ul style="list-style-type: none"> - encourage, promote and facilitate recreational pursuits in the community involving active recreation involving organised sports and informal sporting activities and games, and - ensure that such activities are managed having regard to any adverse impact on nearby residences. |
| General Community Use | Land that may be made available for use for any purpose for which community land may be used, whether by the public at large or by specific sections of the public. | <ul style="list-style-type: none"> - promote, encourage and provide for the use of the land, and to provide facilities on the land, to meet the current and future needs of the local community and of the wider public in relation to: <ul style="list-style-type: none"> - public recreation and the physical, cultural, social and intellectual welfare or development of individual members of the public. - purposes for which a lease, licence or other estate may be granted in respect of the land (other than the provision of public utilities and works associated with or ancillary to public utilities). |
| Natural Area | If the land, whether or not in an undisturbed state, possesses a significant geological feature, geomorphological feature, landform, representative system or other natural feature or attribute that would be sufficient to further categorise the land as bushland, wetland, escarpment, watercourse or foreshore under section 36(5) of the Act. | <ul style="list-style-type: none"> - conserve biodiversity and maintain ecosystem function in respect of the land, or the feature or habitat in respect of which the land is categorised as a natural area. - maintain the land, or that feature or habitat, in its natural state and setting. - provide for the restoration and regeneration of the land. - provide for community use of and access to the land in such a manner as will minimise and mitigate any disturbance caused by human intrusion. - to assist in and facilitate the implementation of any provisions restricting the use and management of the land that are set out in a recovery plan or threat abatement plan prepared under the <i>Threatened Species Conservation Act 1995</i> or the <i>Fisheries Management Act 1994</i>. |
| Under Section 36(5) of the Act, Natural Areas are further categorised as bushland, wetland, escarpment, watercourse or foreshore based on the dominant character of the natural area. | | |
| Natural Area – Bushland | Land that is categorised as a natural area should be further categorised as bushland if the land contains primarily native vegetation and that vegetation: <p>(a) is the natural vegetation or a remainder of the natural vegetation of the land, or</p> <p>(b) although not the natural vegetation of the land, is still representative of the structure or floristics, or structure and floristics, of the natural vegetation in the locality.</p> | <ul style="list-style-type: none"> - ensure the ongoing ecological viability of the land by protecting the ecological biodiversity and habitat values of the land, the flora and fauna (including invertebrates, fungi and micro-organisms) of the land and other ecological values of the land. - protect the aesthetic, heritage, recreational, educational and scientific values of the land. - promote the management of the land in a manner that protects and enhances the values and quality of the land and facilitates public enjoyment of the land, and to implement measures directed to minimising or mitigating any disturbance caused by human intrusion. - restore degraded bushland. - protect existing landforms such drainage lines, watercourses and foreshores. - retain bushland in parcels of a size and configuration that will enable the existing plant and animal communities to survive in the long term. - protect bushland as a natural stabiliser of the soil surface. |

2.4 Proposed categorisation of Boondah Road Sports Courts

In 1998 the former Pittwater Council first identified 3 Boondah Road in Warriewood for development of sporting facilities to meet an identified need for active open space for residents and workers in the area (Pittwater Council, 1998). The Warriewood Valley Strategic Review Addendum Report (Pittwater Council 2014, amended December 2017) designated 3 Boondah Road for Active Recreation.

Northern Beaches Council purchased 3 Boondah Road in Warriewood using Section 94 contributions in December 2017. Upon its acquisition the land was classified as community land consistent with the *Local Government Act 1993*.

The concept plan for the site shows:

- four lit multi-use hard court netball courts
- half basketball/multi-use court, lit
- 57 space car park
- public amenities building
- retention of significant trees
- revegetation with endemic vegetation throughout the natural area
- a habitat corridor link at the rear of the site.

To enable the site to be developed with the proposed sporting facilities, Council proposes to categorise the Boondah Road Sports Courts as Sportsground (outdoor sports courts), General Community Use (carpark), and Natural Area-Bushland (part of wildlife corridor, and vegetated buffer), consistent with the guidelines for categorisation in Table 1 and shown in Figure 4 below.

Figure 4 Proposed categorisation of Boondah Road Sports Courts



2.5 Plans of Management for community land

Council must prepare a Plan of Management for community land (Section 36(1)). Community land is required to be used and managed according to a Plan of Management applying to the land (Section 35).

Requirements of the Local Government Act for the contents of a Plan of Management include, among other information:

- categorisation of community land
- core objectives for management of the land according to the categorisation.

2.6 Public hearings for categorisation of community land

2.6.1 Why hold a public hearing to categorise community land?

A public hearing is required under Section 40A of the *Local Government Act 1993* if the proposed Plan of Management is either categorising (that is, the Plan has not been previously been prepared and adopted by Council, or has not categorised community land), or re-categorising (changing the adopted category) the land covered by the Plan of Management.

Note: Public hearings regarding categorisation or re-categorisation of community land are not related to reclassification. Reclassification is when community land is re-classified as operational land that can then be managed differently and has the ability to be sold by Council. Community land is protected under the Local Government Act and cannot be sold.

2.6.2 Who conducts a public hearing?

An independent chairperson will conduct the public hearing, and provide a report to Council with recommendations on the proposed categorisation of Boondah Road Sports Courts.

Under Section 47G of the Act, the person presiding at a public hearing must not be:

- a) A Councillor or employee of the Council holding the public hearing.
- b) A person who has been a Councillor or employee of that Council at any time during the 5 years before the date of his or her appointment.

2.6.3 What happens after the public hearing?

Council must make a copy of the report regarding the outcomes of the public hearing available for inspection by the public at a location within the area of Council no later than 4 days after it has received the final report from the person presiding at the public hearing.

The public hearing report will be presented to Council for their information when it considers categorising Boondah Road Sports Courts as part of adopting the Boondah Road Sports Courts Plan of Management.

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REFERENCES

Pittwater Council (1998) *Warriewood Valley Section 94 Contributions Plan*.

Pittwater Council (2018) *Warriewood Valley Strategic Review Addendum Report*. Amended 19 December 2017.

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