

## 11.0 PLANNING PLACE AND COMMUNITY DIVISION REPORTS

<b>ITEM 11.1</b>	<b>PLANNING PROPOSAL FOR FRESHWATER VILLAGE CARPARK</b>
<b>REPORTING MANAGER</b>	<b>EXECUTIVE MANAGER STRATEGIC AND PLACE PLANNING</b>
<b>TRIM FILE REF</b>	<b>2018/610242</b>
<b>ATTACHMENTS</b>	<b>1 <a href="#">Planning Proposal - Freshwater Village Reclassification and Rezoning (Included In Attachment Booklet 6)</a></b> <b>2 <a href="#">Submissions Report (Included In Attachment Booklet 6)</a></b> <b>3 <a href="#">Proposed Reclassification (Included In Attachment Booklet 6)</a></b> <b>4 <a href="#">Minutes of the Local Planning Panel (Included In Attachment Booklet 6)</a></b>

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### EXECUTIVE SUMMARY

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#### PURPOSE

To seek Council's approval to submit a Planning Proposal to the Department of Planning to reclassify Oliver Street Carpark and Lawrence Street Carpark, Freshwater, from "Community" to "Operational" land and rezone the carparks from RE1 – Public Recreation to SP2 – Infrastructure (carpark).

#### SUMMARY

The Council owned Oliver Street and Lawrence Street carparks in Freshwater Village provide car parking for local residents visiting the center.

The current classification of these carparks under the *Local Government Act, 1993* as "Community" land prevents Council from granting a lease or a licence to Lawrence Street land owners for vehicular access to the rear of their properties via the carpark.

As a consequence, Lawrence Street land owners are either obtaining vehicular access from these carparks without authorisation or are obtaining vehicular access to their properties directly from Lawrence Street via a number of driveway crossings.

The reclassification of the carparks from "Community" to "Operational" land would:

- permit owners of shops fronting Lawrence Street to obtain legal access to their land from Council's carparks for unloading and parking etc.
- enable the gradual removal of driveway crossings on Lawrence Street as the shops are redeveloped with vehicular access from the carparks, improving pedestrian safety and amenity on Lawrence Street.

The carparks are currently zoned for RE1 - Public Recreation. The carparks have no current recreational or open space value. Re-zoning to SP2 – Infrastructure (carpark) would better reflect the current use and purpose for which the space is used and restrict the development of the site for other purposes.

Council has previously resolved to prepare a report to consult with the community regarding the proposed reclassification of Oliver Street carpark and Lawrence Street carpark in Freshwater Village from Community Land to Operational Land under the Local Government Act 1993 and to rezone the carparks from RE1 – Public Recreation so the land reflects the surrounding land use.

A report to consult with the community and frequently asked questions were exhibited from 28 July 2018 until 26 August 2018.

It is noted that the surrounding land is zoned B2 – Local Centre however, in order to accurately reflect the intended use and to remove any doubts regarding future use, the SP2 – Infrastructure (carpark) zone is recommended.

Thirteen (13) individual letters and eighty-six (86) pro-forma letters were received in support of the proposal and eight (8) submissions were received opposing the proposal. Issues raised include concerns for pedestrian and children safety in the carpark and the potential sale of the carparks by Council in the future. The submissions are addressed at Attachment 2.

It is recommended that Council submit a Planning Proposal to the Department of Planning and Environment to reclassify and rezone the carparks as outlined in the report.

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#### **RECOMMENDATION OF GENERAL MANAGER PLANNING PLACE AND COMMUNITY**

That:

- A. Council submit a Planning Proposal to the Department of Planning and Environment for a Gateway determination to reclassify of Oliver Street carpark and Lawrence Street carpark in Freshwater Village from *Community Land* to *Operational Land* under the Local Government Act 1993, to rezone the carparks from RE1 – Public Recreation to SP2 – Infrastructure (carpark), and to adopt a 3 metre maximum building height control for the land.
  - B. Council continues to utilise the land as a carpark in its present form.
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## REPORT

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### BACKGROUND

With the commencement of the Local Government Act, 1993, Councils had 12 months to classify public land as either “Community” or “Operational” land. Council owned land not classified within 12 months of the implementation of the Local Government Act was automatically classified Community Land. A number of carparks, including Oliver Street and Lawrence Street carparks, were classified Community Land. A series of resolutions about the carparks by the former Warringah Council followed:

- 24 May 1994 - Council resolved to give public notice of its intention to reclassify both Oliver Street and Lawrence Street carparks to Operational Land. Proposed reclassification was exhibited for 28 days.
- 28 June 1994 - Council considered a report on the public exhibition and resolved to classify parcels of Council owned land, including Oliver Street and Lawrence Street Carparks, as Operational.
- 9 December 1997 - a report to Council after advice was received from the Department of Local Government questioning the validity of the process of land classification undertaken by Council in 1994. Council resolved to undertake consultation as part of the reclassification process.
- 22 February 2000 – a report to Council recommended reclassification of land to Operational in accordance with a report prepared by an external consultant. Council resolved not to pursue due to community concerns expressed at the time about the potential sale of a community asset.
- 14 July 2009 - a report to Council seeking to reclassification and rezoning of the Oliver Street Carpark. Council resolved to undertake community consultation, including a resident information session.
- 24 November 2009 - Council resolved to establish a Freshwater Village Working Party (FVWP) to consider issues relating to planning and reclassification of the carparks. The FVWP would report back to Council to make recommendations. The first meeting of FVWP was held in February 2010.
- 27 April 2010 – Report to Council recommending reclassification of carparks. A Notice of Motion was carried requiring further consultation with FVWP before rezoning and reclassification considered.
- 22 June 2010 – Council resolved to engage independent consultants to prepare a site specific DCP for Freshwater Village.
- 22 February 2011 – Council resolved to defer work on the DCP until a decision from Land and Environment Court was handed down regarding a development application for 91 units over 8 lots in the Village.
- 26 July 2011 – Council considered a request from FVWP to fund feasibility assessment of a new road from Oliver Street to Moore Road through the Oliver Street Carpark and 7 private properties. No resolution was made on the matter.
- 14 February 2012 - Council resolved to place the Freshwater Village DCP on public exhibition.
- 22 May 2012 - Council resolved to adopt the Freshwater Village DCP.

- 25 March 2014 - Council resolved to rezone a number of carparks in the Council area from Public Recreation to business zones and prepare planning reports to consult with the community about potential reclassification of a number of carparks including the Oliver and Lawrence Street Carparks to Operational land and to rezone these carparks to reflect the surrounding land use.
- Council publicly exhibited a report and frequently asked questions regarding the reclassification of Oliver Street carpark and Lawrence Street carpark from Community Land to Operational Land under the Local Government Act 1993 and to rezone the carparks from RE1 – Public Recreation to B2 – Local Centre from 28 July until 26 August 2018.

## CONTEXT

Freshwater Village is a low scale retail and commercial shopping strip dissected by Lawrence Street. Limited on-street parking is available in Lawrence Street. Oliver Street carpark and Lawrence Street carpark provide additional parking for the village when street parking has reached capacity (figure 1).

The village is zoned B2 – Local Centre, with the exception of Oliver Street Carpark and Lawrence Street Carpark which are zoned RE1 – Public Recreation under Warringah LEP 2011 (figure 2). The carparks are classified as Community Land under the Local Government Act 1993 (the Act).

Vehicular access from the carparks to land fronting Lawrence Street is generally not able to be granted via a licence due to the classification of the carparks as “Community” land under the Local Government Act. Such access is however preferred so as to reduce pedestrian / vehicular conflicts at driveway crossings in Lawrence Street.

Two recent development applications for the redevelopment of land at 15 Lawrence Street and 21 Lawrence Street were approved with vehicular crossings in Lawrence Street because Council could not grant approval to use the carparks for rear access.

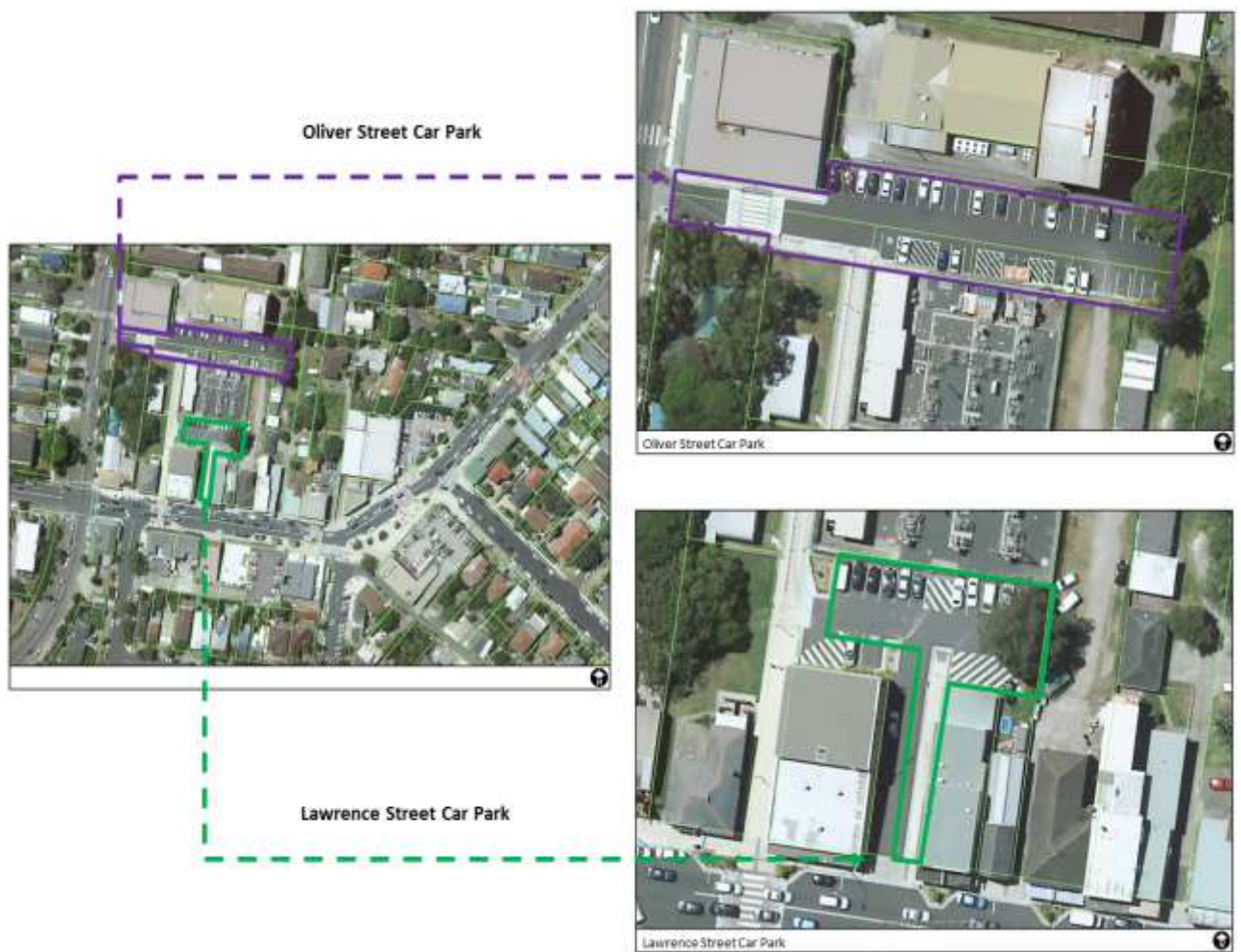


Figure 1: Location of Oliver Street and Lawrence Street carparks

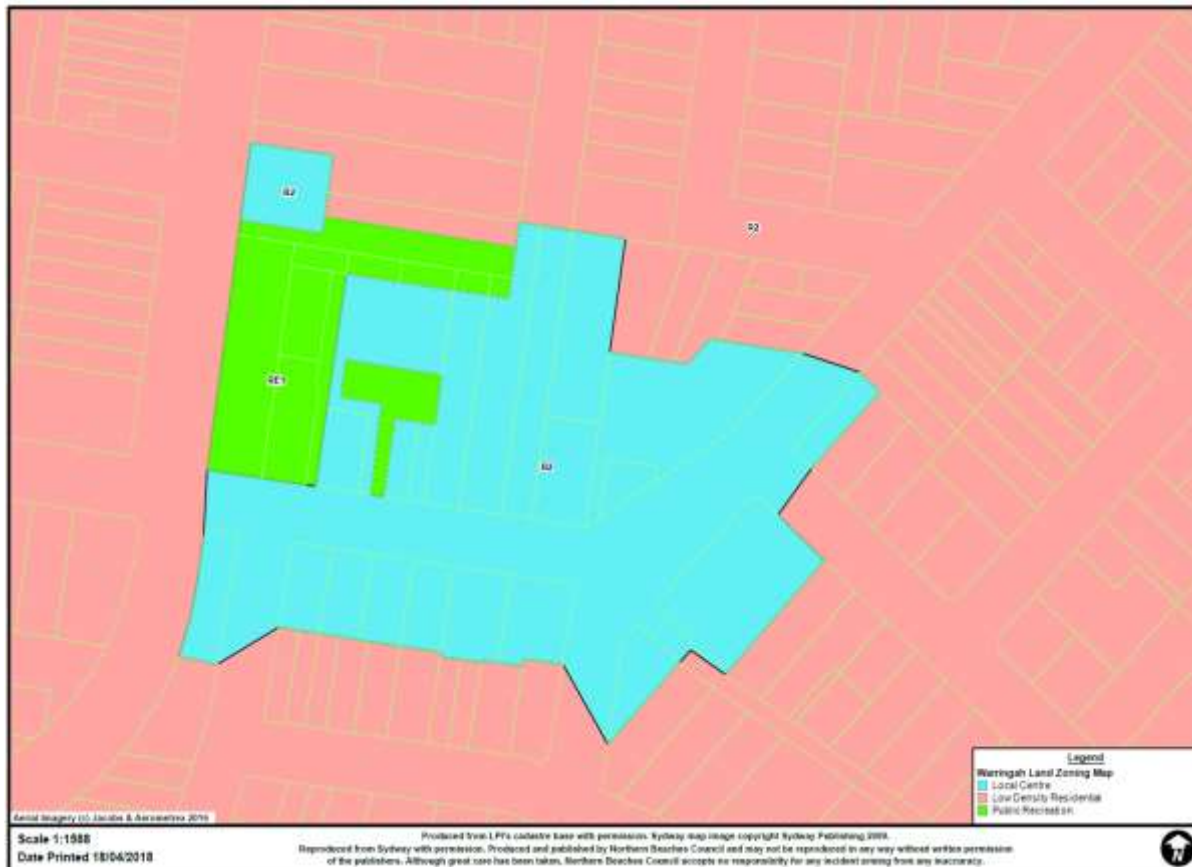


Figure 2: Current zoning of Freshwater under Warringah LEP 2011

## PLANNING PROPOSAL

The intended outcome of the Planning Proposal - Freshwater Village Reclassification and (Attachment 1) is to reclassify the carparks from Community Land to Operational Land under the Local Government Act 1993 and to rezone the carparks from RE1 – Public Recreation to SP2 – Infrastructure (carpark).

It is also proposed to adopt a 3 metre maximum building height control for the site. This will enable the installation of infrastructure and signage to support the functioning of the carpark. Currently the site has no building height control, as is the case for most Council-owned land that is zoned Public Recreation.

The Planning Proposal has been prepared in accordance with the Department of Planning’s “Guide to preparing Planning Proposals” and is consistent with relevant Ministerial Directions and State Environmental Planning Policies.

Council has reclassified and/or rezoned other carparks in the Council area in recent years, including the Starkey Street and Darley Street carpark in Forestville, the Collaroy Street carpark in Collaroy, and Lagoon Street carpark in Narrabeen.

The proposal to rezone the land to SP2 – Infrastructure (carpark) and to provide for a maximum 3 meter height limit will restrict the use of the site to a carpark and limit development potential.

## CONSULTATION

### Exhibition

A Report to consult with the community and Frequently Asked Questions were exhibited from 28 July 2018 until 26 August 2018. The exhibition material included:

- Manly Daily Ad
- Councils 'Your Say' page
- Email to registered community members who have registered their interest
- Hard copies were placed at Dee Why Library and Dee Why Civic Centre
- Approximately 300 letters sent to adjoining local residents and businesses.

### Submissions

Thirteen (13) individual letters and eighty-six (86) pro-forma letters were received in support of the proposal and eight (8) submissions were received opposing the proposal. Two (2) submissions did not clearly state support or opposition but raised issues for consideration.

Submissions in support of the proposal cited increased pedestrian safety and decreased traffic congestion in Lawrence Street and reducing the impact of trucks along Lawrence Street as reasons for support. Support was also given to the provision of more street parking.

Submissions opposed to the proposed reclassification and rezoning raised concerns that the carparks would be sold off and redeveloped and that an increase of traffic in the carpark would potentially impact the safety of children and pedestrians. A summary of submissions is provided (Attachment 2).

### Comment

The proposed reclassification (Attachment 3) of the carparks from "Community" to "Operational" land would:

- permit owners of shops fronting Lawrence Street to obtain legal access to their land from Council's carparks for unloading and parking etc
- enable the gradual removal of driveway crossings on Lawrence Street as the shops are redeveloped with vehicular access from the carparks, improving pedestrian safety and amenity on Lawrence Street
- support the objectives of the Development Control Plan for Freshwater.

Whilst the proposal could ultimately result in an increase in vehicular movements in the two carparks, the overall increase is likely to be small. The movement of vehicles in a carpark context is considered a better outcome than the retention or increase in driveway crossings in Lawrence Street. These driveway crossings have a detrimental impact on the amenity of the Lawrence Street retail precinct and compromise pedestrian safety by facilitating vehicular movements across the footpath at multiple locations along the street.

Following consideration of submissions, it is proposed to rezone the carpark to SP2 – Infrastructure (carpark) and to create a maximum height limit of 3 meters over the sites. Under the SP2 zone, only carparks, ancillary uses, roads and environmental protection works are permitted on the land. The 3 metre height limit will also ensure that development for the above purposes will not impact adjoining development. The rezoning of the land in this manner is consistent with the zoning of some other carparks in the Council area e.g. Avalon Parade carpark.

## **LOCAL PLANNING PANEL**

In accordance with new requirements for Planning Proposals introduced by the State government this year, a report and draft Planning Proposal was submitted to Council's Local Planning Panel meeting on 19 September 2018 for consideration and advice.

Four (4) members of the public spoke at the meeting, two in support and two expressed no preference but voiced concerns. The Local Planning Panel supported the progression of the Planning Proposal to a Gateway determination. The minutes of the Local Planning Panel are provided in (Attachment 4).

## **TIMING**

It is anticipated that the time of completion of the Planning Proposal is 6 – 12 months from the date of Council's approval to proceed. Following the issue of a Gateway determination Council will be required to formally exhibit the Planning Proposal for 28 days and undertake a public hearing following that exhibition, which is required when reclassifying land. The matter will be reported back to Council for final consideration following that exhibition and public hearing.

## **FINANCIAL CONSIDERATIONS**

The Planning Proposal process will be undertaken within the existing Strategic and Place Planning budget for 2018/19.

## **SOCIAL CONSIDERATIONS**

A reclassification will permit traffic to be redirected through the carparks and allow for safer pedestrian use of Lawrence Street and a decrease in traffic congestion.

## **ENVIRONMENTAL CONSIDERATIONS**

A reclassification will permit traffic to be redirected through the carparks and allow for safer pedestrian use of Lawrence Street and a decrease in traffic congestion.

## **GOVERNANCE AND RISK CONSIDERATIONS**

Regularising access to properties in Lawrence Street from Council's carparks will reduce potential risks to Council resulting from current unauthorised access.