

PUBLIC HEARING FOR PROPOSED CATEGORISATION OF COMMUNITY LAND AT WYATT AVENUE BIKE PARK LOT 102 DP1244381 AND LOT 2620 DP752038

BACKGROUND INFORMATION

15 NOVEMBER 2021



NORTHERN BEACHES COUNCIL

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CONTENTS

1	INTRODUCTION	1
1.1	Background	1
1.2	Public hearing and submissions.....	2
1.3	About this background information document	2
2	COMMUNITY LAND CATEGORISATION.....	3
2.1	Community land.....	3
2.2	Categorisation of community land.....	4
2.3	Plans of Management for community land	6
2.4	Public hearings for categorisation of community land	6
3	WYATT AVENUE BIKE PARK	9
3.1	Location and ownership of Wyatt Avenue Bike Park	9
3.2	Current and proposed categorisation of Wyatt Avenue Bike Park	10

Figures

Figure 1	Classification and categorisation of community land	3
Figure 2	Location of the subject lots	9
Figure 3	Ownership of Wyatt Avenue Bike Park	9
Figure 4	Site photos.....	10
Figure 5	Wyatt Avenue, Belrose: Concept Plan – Proposed Bike Skills Park	11
Figure 6	Proposed categorisation of Wyatt Avenue Bike Park	12

Tables

Table 1	Guidelines and core objectives for categories of community land considered for the Wyatt Avenue Bike Park.....	5
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1 INTRODUCTION

1.1 Background

The NSW Government sold several parcels of land on Wyatt Avenue, Belrose (previously owned by NSW TAFE) to Northern Beaches Council in March 2019 on the conditions that it be classified as community land under the *Local Government Act 1993* (NSW) (LG Act), and that Council develop an open space, public recreation facility on the site. These parcels of land (Lot 2 DP536909, Lot 102 DP1244381 and Lot 2620 DP752038 on Wyatt Avenue, Belrose) were classified as community land upon their transfer to Council.

Council wants to ensure that the subject lots are used and enjoyed by the local community. With the growth of cycling on the Northern Beaches, Council is seeking to provide opportunities for young local riders to develop their skills and confidence. Council developed a concept plan for a junior bike skills park on Lot 102 DP1244381 and Lot 2620 DP752038 directly adjacent to John Colet School. The concept plan includes a junior bike trail loop, an informal grassed open space for practicing bike skills (e.g. bunny hop), a seating/picnic area, an accessible entry path loop and other landscape elements. Community engagement about the concept plan undertaken between 9 October and 9 November 2020 showed community support for the proposed junior bike skills park.

Community land is required to be categorised under the LG Act. It is proposed to categorise the subject lots as Park, consistent with the guidelines for categorisation as Park in Clause 104 of the *Local Government (General) Regulation 2021*, and the core objectives for the Park category in Section 36G of the LG Act, in order to facilitate the use of the land for public recreation. Community land is also required to be subject to a Plan of Management prepared under the LG Act.

At its meeting on 15 December 2020, Council resolved to:

1. place on public exhibition for a period of 56 days a proposed amendment to the *Generic Parks Plan of Management – former Warringah* to incorporate Lot 2 DP536909, Lot 102 DP1244381 and Lot 2620 DP752038, known as 4-6 Wyatt Avenue, Belrose.
2. hold a public hearing in respect of the proposed amendment to the *Generic Parks Plan of Management – former Warringah*.

Council placed the proposed amendments to the *Generic Parks Plan of Management – former Warringah* including these parcels of land on public exhibition from Friday 22 January to Sunday 21 March 2021.

A public hearing is required under Section 40A of the *Local Government Act 1993* to receive community submissions about categorising community land. Under the Act the public hearing must be chaired by an independent facilitator. The public hearing was held on Thursday 18 February 2021. After considering the submissions on the proposed categorisation as Park to the public hearing and to the public exhibition of the *Generic Parks Plan of Management – former Warringah*, the recommendation to Council was to categorise the Wyatt Avenue Bike Park (Lot 102 DP1244381 and Lot 2620 DP752038) as Park (Parkland Planners, June 2021).

Subsequently, legal advice to Council suggested that a Plan of Management should be specifically prepared for the Wyatt Avenue Bike Park, and that another public hearing be held into its proposed categorisation as Park.

At its meeting on 26 October 2021, Council resolved by exception:

8. Council publicly exhibit the draft Wyatt Bike Park Plan of Management in relation to Lots 102 DP 1244381 and 2620 DP 752038, being 4-6 Wyatt Avenue Belrose, for 42 days.

9. Council hold a public hearing in respect of the proposed categorisation of Lots 102 DP 1244381 and 2620 DP 752038 as Park in the draft Wyatt Bike Park Plan of Management.
10. The outcomes of the public exhibition of the draft Wyatt Bike Park Plan of Management and the public hearing be reported to Council.

The Draft Plan of Management for Wyatt Avenue Bike Park is on public exhibition until 12 December 2021. The public hearing will be held on Thursday 2 December 2021.

1.2 Public hearing and submissions

The public hearing for the proposed categorisation of Wyatt Avenue Bike Park (Lot 102 DP1244381 and Lot 2620 DP752038) will be held on Thursday 2 December 2021 from 6:00pm to 7:30 pm.

The public hearing will be held via an online conference using Microsoft Teams due to COVID-19 public gathering restrictions.

Registration

Community members are able to join the public hearing online or call in by telephone.

Registrations are essential at <https://yoursay.northernbeaches.nsw.gov.au/wyatt-avenue-belrose-proposed-junior-bike-skills-area> **before 12 noon on Thursday 2 December 2021.**

Submissions

Submissions about the proposed categorisation of Wyatt Avenue Bike Park can be made:

- ☐ via the **online submission form** on Council's Your Say page: <https://yoursay.northernbeaches.nsw.gov.au/wyatt-avenue-belrose-proposed-junior-bike-skills-area> until **Sunday 12 December 2021**
- ☐ **verbally at the public hearing on Thursday 2 December 2021** by joining the hearing via Microsoft Teams, or by calling in by phone. Prior registration is required (see above)
- ☐ emailing **council@northernbeaches.nsw.gov.au**
- ☐ **in writing to Council** at 'Draft Wyatt Bike Park Plan of Management', Northern Beaches Council, PO Box 82, Manly NSW 1655 until **Sunday 12 December 2021**

The question to address in your submission is:

Do you agree or not with the proposal to categorise community land comprising the Wyatt Avenue Bike Park (Lot 102 DP 1244381 and Lot 2620 DP 752038) as Park? Why or why not?

1.3 About this background information document

This background information document sets out the legislative requirements for categorisation of community land in Section 2, particularly:

- ☐ categorisation of community land
- ☐ preparation of Plans of Management for land classified as community land
- ☐ public hearings regarding the categorisation of community land.

Section 3 explains the proposed categorisation of Wyatt Avenue Bike Park.

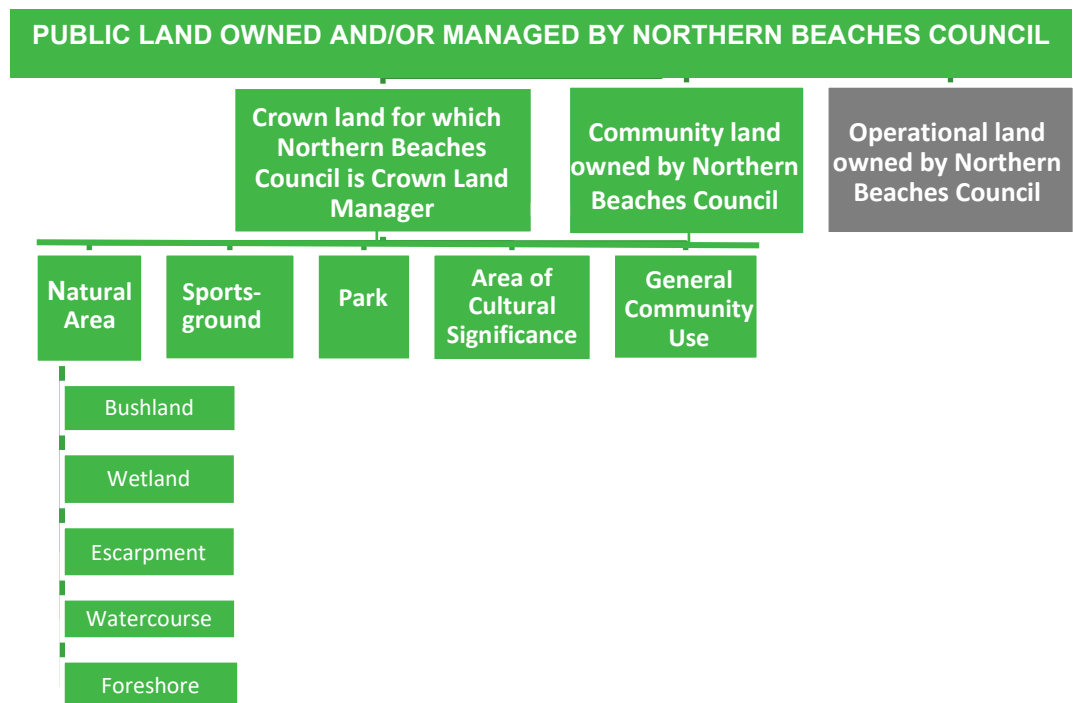
2 COMMUNITY LAND CATEGORISATION

2.1 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 community land owned by Northern Beaches Council.

The Wyatt Avenue Bike Park (Lot 102 DP1244381 and Lot 2620 DP752038) is owned by Northern Beaches Council, and is classified as community land under the *Local Government Act 1993*.

Figure 1 Classification and categorisation of community land



The Local Government Act requires that all land owned by Council must be classified as "community" or "operational" land (Section 26).

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.

Conversely, operational land is land that can be used for any purposes deemed fit by Council, may be used for commercial purposes, be leased for a longer period, and can be sold.

2.2 Categorisation of community land

2.2.1 What are the categories for community land?

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

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

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

Community 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 What are the guidelines for categorising community land?

Guidelines for categorising community land as a particular category are in Clauses 102 to 111 of the *Local Government (General) Regulation 2021*.

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 stated:

"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."

2.2.3 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*.

The guidelines and core objectives for the categories which were considered for the Wyatt Avenue Bike Park are in Table 1.

Table 1 Guidelines and core objectives for categories of community land considered for the Wyatt Avenue Bike Park

Category	Guidelines ¹	Core objectives ²
Park	Land that is, or is proposed to be, improved by landscaping, gardens or the provision of non-sporting equipment and facilities, for use mainly for passive or active recreational, social, educational and cultural pursuits that do not unduly intrude on the peaceful enjoyment of the land by others.	<ul style="list-style-type: none"> - encourage, promote and facilitate recreational, cultural, social and educational pastimes and activities, and - provide for passive recreational activities or pastimes and for the casual playing of games, and - improve the land in such a way as to promote and facilitate its use to achieve the other core objectives for its management.
Sportsground	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. - 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>.

Category	Guidelines ¹	Core objectives ²
Under Section 36(5) of the Act, Natural Areas are required to be further categorised as bushland, wetland, escarpment, watercourse or foreshore based on the dominant character of the natural area.		
Natural Area – Bushland	<p>Land that is categorised as a natural area should be further categorised as bushland under section 36(5) of the Act if the land contains primarily native vegetation and that vegetation:</p> <p>(a) is the natural vegetation or a remainder of the natural vegetation of the land, or</p> <p>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.
1	<i>Local Government (General) Regulation 2021</i>	
2	<i>Local Government Act 1993</i>	

2.3 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.

Requirements of the Local Government Act for the contents of a Plan of Management include categorisation of the land.

2.4 Public hearings for categorisation of community land

2.4.1 Why hold a public hearing to categorise community land?

A public hearing is required under Section 40A of the *Local Government Act 1993* if:

- ☐ a Plan of Management proposes to categorise (that is, the Plan has not been previously been prepared and adopted by Council, or has not categorised community land) the community land covered by the Plan of Management
- ☐ a Plan of Management proposes to re-categorise (changing the adopted category) the community 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.

2.4.2 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 community land.

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.

2.4.3 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 four 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 its information when it considers adopting the Wyatt Avenue Bike Park Plan of Management, and the proposed categorisation of Lot 102 DP1244381 and Lot 2620 DP752038 comprising the bike park.

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3 WYATT AVENUE BIKE PARK

3.1 Location and ownership of Wyatt Avenue Bike Park

The locational context of Wyatt Avenue Bike Park (Lot 102 DP1244381 and Lot 2620 DP752038) at Wyatt Avenue in Belrose is in Figure 2.

Figure 2 Location of the subject lots



The land comprising Wyatt Avenue Bike Park is owned by Northern Beaches Council as shown in Figure 3.

Figure 3 Ownership of Wyatt Avenue Bike Park



Photographs of the proposed bike park site are shown in Figure 4.

Figure 4 Site photos



3.2 Current and proposed categorisation of Wyatt Avenue Bike Park

Wyatt Avenue Bike Park (Lot 102 DP1244381 and Lot 2620 DP752038) have not yet been formally categorised.

Council proposes to categorise the subject lots as Park, consistent with the proposed development and use as a junior bike skills park as shown in Figure 5.

Figure 5 Wyatt Avenue, Belrose: Concept Plan – Proposed Bike Skills Park



Council believes the Park category best fits the proposed development and use of Lot 102 DP1244381 and Lot 2620 DP752038 as a junior bike skills park and for public recreation as shown on the concept plan, because the proposed uses are consistent with the guidelines and core objectives for categorisation of community land as Park (refer to Table 1).

The Park category as it is proposed to apply to the Wyatt Avenue Bike Park is shown in Figure 6.

Figure 6 Proposed categorisation of Wyatt Avenue Bike Park

