

ITEM 4

POST EXHIBITION - PLANNING PROPOSAL - RECLASSIFICATION 340 WEST DAPTO ROAD, STREAM HILL

On 31 July 2023, Council resolved to prepare and exhibit a Planning Proposal to reclassify 340 West Dapto Road, Stream Hill from Community Land to Operational Land.

The Planning Proposal was exhibited from 15 November 2023 to 13 December 2023 and four submissions were received from State Agencies raising no objection. No public submissions were received. A Public Hearing was held on 5 March 2024 which was attended by two (2) members of the public.

Consistent with the Gateway Determination and associated conditions dated 22 September 2023 Council may exercise local plan-making authority functions via delegation in relation to the Planning Proposal.

It is recommended that Council progress the Planning Proposal to reclassify the site.

RECOMMENDATION

Planning Proposal PP-2023/4 for Lot 1 DP 657171, 340 West Dapto Road, Stream Hill seeking the reclassification from Community Land to Operational Land be finalised by Council exercising its functions as local plan-making authority as delegated by the Gateway Determination for the Planning Proposal dated 22 September 2023.

REPORT AUTHORISATIONS

Report of: Chris Stewart, Manager City Strategy

Authorised by: Linda Davis, Director Planning + Environment - Future City + Neighbourhoods

ATTACHMENTS

- 1 Location Map
- 2 Zoning Map
- 3 Neighbourhood Plan
- 4 Public Hearing Report

BACKGROUND

340 West Dapto Road, Stream Hill (Lot 1 DP 657171) has an area of 43.03 hectares and is zoned E1 Local Centre, R3 Medium Density Residential, RE1 Public Recreation and C3 Environmental Management (Attachments 1 and 2). Council resolved to purchase the property in August 1998 with the formal transfer into Council ownership occurring on 5 February 1999. The acquisition of the property was for the purpose of development and resale.

The property currently contains a dwelling house and farm buildings and there are no restrictions or covenants applying to the land.

Under the *Local Government Act 1993* (LG Act) all Council owned land is required to be classified as either Community Land or Operational Land. Under the Act, as part of the acquisition resolution Council can resolve that the land be classified as Operational Land, or following acquisition Council has three months to resolve that an acquired property can be classified as Operational Land. In the absence of a resolution, the land is deemed to be Community Land.

Council's mapping system has erroneously shown the property as being classified as Operational Land. A 2022 review of the classification revealed that the 1998 resolution did not include a section requiring that the property be classified as Operational Land. Consequently, the property is deemed to be classified as Community Land which restricts commercial dealings and development proposals and also prevents the sale or long-term lease of the land.

Council's Development Control Plan 2009 includes an adopted Neighbourhood Plan for the site (Attachment 3) and is proposed to include the Darkes Road Town Centre, portions of the Darkes Road Recreation Area with Community Centre, a primary school, an estimated 350 future dwellings, and

environmental management areas. The Community Land classification prevents the progression of these outcomes for the West Dapto Urban Release Area.

On 31 July 2023, Council resolved to progress the reclassification of 340 West Dapto Road, Stream Hill from Community Land to Operational Land and seek Gateway Determination from the NSW Department of Planning, Housing and Infrastructure (DPHI) to proceed with public exhibition.

Gateway Determination was issued by DPHI on 22 September 2023 and the Planning Proposal was exhibited from 15 November 2023 to 13 December 2023 and four submissions were received from State Agencies raising no objection. No public submissions were received. A Public Hearing was then held on 5 March 2024 which was attended by two (2) members of the public.

PROPOSAL

The Planning Proposal seeks to reclassify 340 West Dapto Road, Stream Hill from Community Land to Operational Land. No other changes to planning controls are proposed under the *Environmental Planning & Assessment Act 1979*.

This report addresses the feedback received during the exhibition process. This report, and the reclassification process, does not seek to address any future development or sale options, which are separately managed by Council's Property Team, and will be subject to separate Council reports.

The Planning Proposal process has satisfied all public exhibition requirements, noted no outstanding written objections from public authorities, and satisfied conditions of the Gateway Determination dated 22 September 2023.

Consistent with the DPHI Gateway Determination and associated conditions dated 22 September 2023 Council may exercise local plan-making authority functions via delegation in relation to the Planning Proposal. Should Council resolve to finalise the Planning Proposal, drafting instructions will be sent to Parliamentary Counsel's Office (PCO) after which the LEP is made and DPHI arranges notification. The finalisation process is expected to take 2 months.

CONSULTATION AND COMMUNICATION

The Planning Proposal was exhibited from 15 November 2023 to 13 December 2023 and no public submissions were received. 79 people visited Council's Engagement webpage for the proposal with 31 downloading a supporting document and key date information.

Four Agency responses were received from NSW Rural Fire Service, Transport for NSW, NSW DPE - Biodiversity and Conservation Division, and Endeavour Energy all of which raised no objections to the Planning Proposal.

A mandatory Public Hearing was held on 5 March 2024 in accordance with the LG Act. Notification of the Public Hearing was conducted in accordance with relevant legislation which consisted of -

- Letters being sent to surrounding property owners consistent with the original exhibition.
- Community Update in the local newspaper (Illawarra Mercury).
- Notice on Council's Public Notice Webpage.
- Email notification to Neighbourhood Forum 8 and the Department of Education.

The Public Hearing was conducted by an Independent Chairperson and was attended by two (2) members of the public. A Public Hearing Report was submitted to Council and subsequently distributed to meeting attendees and placed on the exhibition page for the Planning Proposal. The Public Hearing Report (Attachment 4) outlines a variety of different matters raised at the meeting which are summarised below -

- General Issues.
- Reclassification Background.
- Rates.
- Future Development.

- Contamination.
- Substations.
- Communications.

While many of the issues raised at the Public Hearing were not directly related to the proposed reclassification of the land from Community to Operational, all matters were nevertheless captured and responses provided in the Public Hearing Report.

The Planning Proposal process has satisfied all public exhibition requirements, noted submissions from public authorities raising no objections, and satisfied conditions of the Gateway Determination dated 22 September 2023.

PLANNING AND POLICY IMPACT

This Planning Proposal is consistent with the delivery of Wollongong 2032 and Goal 1: We value and protect our environment. It specifically delivers on the following:

Community Strategic Plan	Delivery Program 2022-2026
Strategy	Service
1.6 West Dapto urban growth is effectively managed with facilities and spaces to support the future community.	Land Use Planning

The Planning Proposal will allow the progression of future urban growth in an appropriately managed way to support future community outcomes as envisaged in Council’s adopted Community Strategic Plan.

The next step, should the recommendation be supported by Council, is referral of the Planning Proposal to Parliamentary Counsel Office for drafting of the amendments to Schedule 4 of Wollongong Local Environmental Plan 2009 reclassifying Lot 1 DP 657171, 340 West Dapto Road, Stream Hill to Operational Land.

FINANCIAL IMPLICATIONS

The current Community Land classification of the property restricts any commercial dealings on the land. The reclassification of the lot to Operational Land will enable Council to consider commercial and development opportunities for the property in the future.

CONCLUSION

On 31 July 2023, Council resolved to progress reclassification of 340 West Dapto Road, Stream Hill from Community Land to Operational Land and seek Gateway Determination from the NSW Department of Planning, Housing and Infrastructure to proceed with public exhibition.


The Planning Proposal was exhibited from 15 November 2023 to 13 December 2023 and no public submissions were received. A mandatory Public Hearing, conducted by an Independent Chairperson, was then held on 5 March 2024 and was attended by two (2) members of the public. A Post Public Hearing Report was then provided to Council which has been reviewed and noted.


The Planning Proposal process has satisfied all public exhibition requirements, noted submissions from public authorities, and satisfied conditions of the Gateway Determination dated 22 September 2023.

It is recommended that Council resolve to finalise the Planning Proposal to reclassify 340 West Dapto Road, Steam Hill to Operational Land and refer the Planning Proposal to Parliamentary Counsel Office for drafting of the amendments to Schedule 4 of Wollongong Local Environmental Plan 2009.

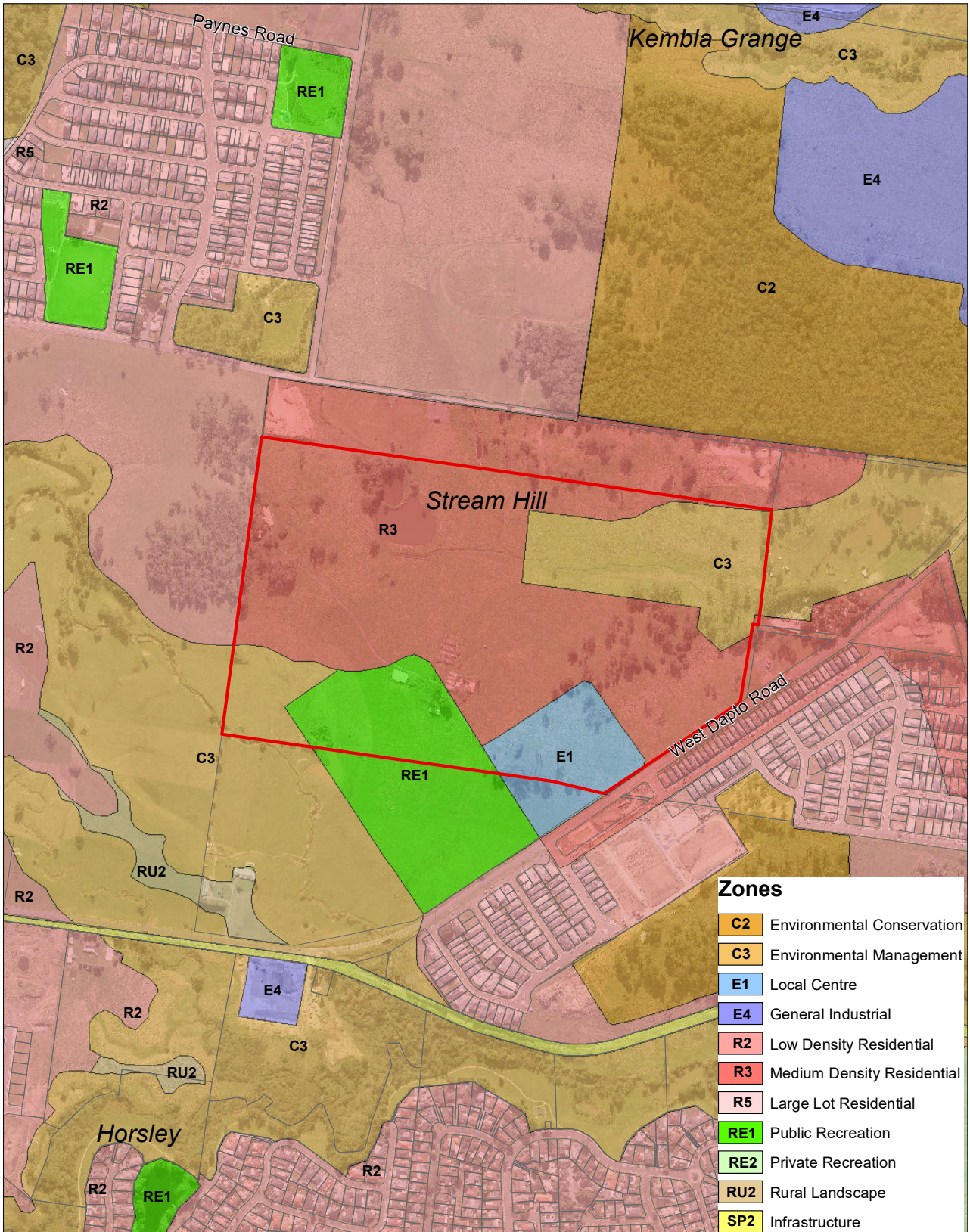


**340 West Dapto Road
Stream Hill
Location Plan**

 Subject Site

Drawn: J Lewis	
Date: 03.05.23	
GIS Ref: 340_WestDaptoRd_Location.mxd	
Date of Aerial Photography: 2022	





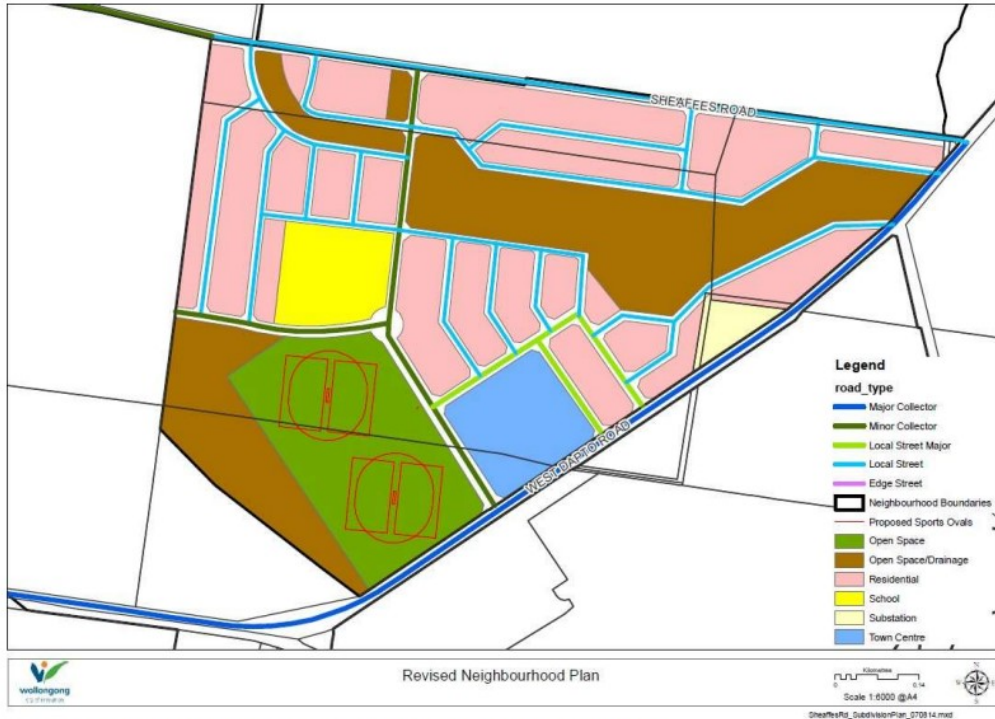


Figure 33. West Dapto Road / Sheaffes Road (south) Neighbourhood Plan

Public Hearing on the Reclassification of 340 West Dapto Rd. Lot 1 DP657171.

A Report for Wollongong City Council

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COLLABORATION

MARCH 2024

1 Documents Cited

The following documents were cited in preparing the hearing and subsequent report.

Council Minutes: July 31st 2023

Council Business Paper: 31st July 2023

Wollongong City Council Planning Proposal – Reclassification of 340 West Dapto Road, Stream Hill Lot 1 DP657171: April 2023.

NSW Department of Environment Gateway Determination Report PP 20023/1971: September 2023.

Wollongong City Council Community Consultation webpages <https://our.wollongong.nsw.gov.au/planning-proposal-reclassify-340-west-dapto-road-stream-hill-from-community-land-to-operational-land>.

2 Introduction

2.1 Background

On 17 August 1998 Council resolved to authorise the acquisition of 340 West Dapto Road, Kembla Grange (now Stream Hill) for the purpose of development and resale. The land was formally transferred into Council's ownership on 5 February 1999.

Under the Local Government Act 1993 all Council owned land is required to be classified as either Community Land or Operational Land. Under the Act, as part of the acquisition resolution, Council can resolve that the land be classified as Operational Land, or following acquisition Council has three months to resolve that an acquired property can be classified as Operational Land. In the absence of a resolution, the land is deemed to be Community Land.

For at least 20 years, Council's mapping system has shown the property as being classified as Operational Land. However, a recent review of the site conditions revealed that the site was not listed as operational land in Schedule 4 of the LEP. A subsequent review of the 1998 resolution to acquire the land revealed that the resolution did not determine that the property be classified as operational land, under the requirements of the Local Government Act 1993. Council Officers also searched meeting minutes for the three months after 5 February 1999, and did not find a subsequent resolution to classify the land as Operational Land.

As a consequence, it was determined that the property should be considered classified as Community Land.

At its meeting of July 31 2023 Council resolved unanimously to prepare a Planning Proposal to reclassify the land in question from Community Land to Operational Land, reflecting the established strategic intent of the site and as originally intended when Council purchased the land in 1998. Then to forward the Planning Proposal to the NSW Department of Planning and Environment for Gateway Determination.

Gateway approval was received on 22nd of September 2023 and the proposal was put on public exhibition from November 15th to December 13th 2023.

No submissions from the public were received during the Exhibition period.

3 The Public Hearing

3.1 Background

As per the Local Government Act 1993, any reclassification proposal requires that a Public Hearing be held, no sooner than 21 days after the close of the Public Exhibition period. The purpose of a Public Hearing is to ensure:

- Interested community members understand the proposal and its implications.
- Community members are able to ask questions and have their views heard and reported in a formal setting.
- Council Officers understand those concerns and ensure they are considered in the decision-making process.

Public Hearings are Chaired by an independent person, whose role is to:

- Create the agenda and run the meeting.
- Ensure proper process is followed.
- Ensure participants are able to have their say.
- Ensure Council staff hear and acknowledge any concerns and issues, answering questions where possible.
- Ensure minutes are taken

The Independent Chair then writes a report which goes to Council decision-makers for their deliberation.

Council engaged Stuart Waters of Twyford Consulting, in the role of Chair.

3.2 The Public Hearing

3.2.1 Notification

A public hearing was called for 5:30pm on Tuesday March 5th 2024. Public notice of the Hearing was provided 21 days prior to the date, in a number of ways:

- Letters were sent to surrounding property owners consistent with the original public exhibition of the Planning Proposal,
- Inclusion in Council's Community Update in the newspaper,
- Notice on Council's Public Notice Webpage and,
- Email notification to Neighbourhood Forum 8 and the Department of Education.

Interested parties were invited to register to speak at the hearing by contacting Council by COB Friday 1 March 2024. Nobody did so prior to the event.

3.2.2 Hearing Details

3.2.2.1 Agenda

The Chair developed the following agenda for the hearing:

Acknowledgment of Country

Welcome and Introductions of all present

Public Hearing process

Project overview

Questions and discussion

Close.

3.2.2.2 Attendees

Two local residents attended the hearing. Council personnel also attended.

Terry Webber	Local resident
Maureen Crago	Local resident
Linda Davis	WCC Director, Planning and Environment
David Green	WCC, Land Use Planning Manager
Kate Rintoul	WCC Coordinator, Strategic Planning
Andrew Kite	WCC Strategic Projects Officer

3.2.2.3 Presentation

The Chair gave a brief presentation on the public hearing process, followed by a presentation on the project background and status by Mr Andrew Kite.

See attached presentation for details..

4 Questions and Discussion

Participants raised a number of issues and asked a number of questions. Council officers responded where appropriate, providing answers where possible and taking questions on notice where necessary.

Question or Issue	Response or Action
<p>General issues</p> <p>Who is responsible for the park at Sanctuary Views Estate? There is a lot of rubbish on the fence line.</p> <p>Angry at the develop leaving lots of rubbish</p> <p>This isn't a firezone, though we were told it was</p>	<p>Council owns the northern part of the park bounded by Duffy Street and Captain Street. The southern part is still privately owned and has not yet been transferred to Council.</p> <p>Noted</p> <p>The northern end of Pastureland St is currently mapped as Bush Fire Prone Lands, due to the proximity of Integral Energy Park on the northern side of Darkes Rd.</p>
<p>Questions about the classification</p> <p>How recently was it discovered that the land wasn't classified as Operational?</p> <p>What classification did it have when you purchased the property?</p> <p>How was the problem picked up?</p> <p>What can be done on Community Land?</p>	<p>For the last 25 year the land has been shown in Council's systems as Operational Land</p> <p>Last year Council officers could not find a Council resolution from 1999 when the land was purchased, that Council had resolved to classify the land as Operational .</p> <p>To avoid doubt and mitigate risk, Council resolved to go through the reclassification process.</p> <p>Only Council-owned land is required to be classified in this way. When we purchased the block it should have been explicitly classified Operational land. But this step in the process was missed at the time. Without that, it is classified Community land by default.</p> <p>The Property Division went through the history of the acquisition in detail after advice was received. There had been no previous reason to check.</p> <p>Council staff described the restrictions and allowed activities.</p>

Question or Issue	Response or Action
<p>Rates</p> <p>Does Council pay rates on that land?</p> <p>Are rates different if Operational or Community classification?</p> <p>Is there a big rates bill now?</p>	<p>Question taken on notice.</p> <p>Council officers have subsequently advised that Council does not pay rates to itself on the land. A garbage charge is levied.</p>
<p>Questions about the future development</p> <p>What is going to go behind my fence?</p> <p>Where is the Town Centre going?</p> <p>When will the shopping centre go in?</p> <p>Will there be a lot of traffic behind my fence?</p> <p>The naming of the project is confusing – Darkes Road Town Centre?</p> <p>Why can't the fences be moved on the properties?</p>	<p>Council staff talked through the strategic plan for the area in some detail, with some discussion.</p> <p>Residents will be informed when something specific is happening on the land via the standard DA notification process. Timeframes are uncertain.</p>
<p>Contamination</p> <p>There was asbestos on the piggery site. Has that been handled properly? Worried that it hasn't been properly dealt with.</p> <p>I'm worried about potential asbestos contamination in the mulch on Council land.</p>	<p>The property is tagged as having potential contamination on it, due to previous land uses. Risk associated with potential contamination is recognised. It will be dealt with if and when it arises.</p>
<p>Substation</p> <p>Will the existing substation go?</p>	<p>Endeavour has another site closer to the existing transmission lines, further along West Dapto Rd.</p> <p>The future of the site is up to Endeavour – it is possible that they will sell the site when the new substation is developed.</p>

Question or Issue	Response or Action
Communication How did you advertise this? I didn't get an email or letter.	Mailouts are sent to the registered / preferred mailing address. We will update your contact details now we have them.

5 Wrap Up and Conclusion

5.1 Next steps

The Chair thanked everyone for their participation and discussion. He talked through the process from here, including the preparation of a report that would be made available to them. The report will be incorporated in Officers' report to Councillors for their decision on the reclassification.

5.2 Conclusion

In the opinion of this writer the Public Hearing process, including the lead up and the hearing itself, was conducted appropriately.

The meeting was constructive and participants engaged and appeared to raise their concerns and ask their questions. Council staff responded as they could.

Stuart Waters

Independent Chair

Twyford Consulting

8 March 2024