

11.1. Monford Street Road Closure and potential Sale – Outcome of investigations

AUTHOR: Risha Joseph, Senior Property Officer

ENDORSED BY: Duncan Mitchell, Director Engineering and Property Services

ATTACHMENTS:

1. Monford Place Cremorne - Proposed Road Closure and Potential Sale [11.1.1 - 12 pages]

PURPOSE:

The purpose of this report is to outline the outcome of the investigations undertaken to date by Council's Property Officer in relation to the closure and proposed acquisition of Monford Place, Cremorne.

EXECUTIVE SUMMARY:

On 24 May 2021, Council considered a report in relation to a request by SCECGS Redlands School to purchase the whole of Monford Place, Cremorne which comprises an area of 791.4m² of public road.

Council resolved to commence the investigation to close the road to enable the potential sale to the school.

This report outlines the details of the investigation undertaken to date, with particular reference to the services in the road and the need to preserve parking within Area 27 which will lose 18 x public car spaces if the road is permanently closed and sold.

The confidential report on this matter also contains a preliminary Valuation of the road to inform Council on what the potential value of the land is should it resolve to close the road and proceed with the sale of the land to SCECGS Redland School.

FINANCIAL IMPLICATIONS:

If Council resolves to proceed with the closure of the road and subsequent sale, then SCECGS Redlands will be responsible for all costs associated with the closure and sale.

Council has also undertaken a preliminary Land Valuation to determine the value of the land – Refer to the confidential report on this matter.

In accordance with the resolution of Council on 24 May 2021, Council received a bond from SCECGS Redlands School on 27 August 2021 enabling Council to commence with the

investigation of closing Monford Place. The expenditure to date on the investigations is outlined in the confidential report on this matter.

If Council resolves not to proceed any further with the sale of Monford Place to SCECGS Redland School, then the balance of the remaining bond will be returned to the school.

RECOMMENDATION:

- 1. THAT** Council determines whether it wishes to proceed with the closure of the road and sale of Montford Place to SCECGS Redlands School.
- 2. THAT** the report be treated as confidential and remain confidential until Council determines otherwise

LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

- 2. Our Built Infrastructure
 - 2.1 Infrastructure and assets meet community needs
 - 2.4 Improved traffic and parking management

BACKGROUND

On 24 May 2021 a report was brought to Council following a request from SCECGS Redlands School Senior Campus to purchase the whole of Monford Place, Cremorne, which is Council's public road. Refer to Figure 1 and 2.

SCECGS Redlands has developed a Master Plan for the future development and expansion of the Redlands Campus. Part of that Master Plan incorporates Monford Place and the properties located on either side of the road. To date the school has purchased all the properties on either side of Monford Place and its intention as per the Master Plan is to incorporate the road into the overall School title to be able to expand the school's campus.

Council considered the proposal at its meeting dated 24 May 2021 and resolved:

- 1. THAT Council approves the request to commence the investigation of the road closure and the potential sale process of Monford Place, Cremorne to SCECGS Redlands.*
- 2. THAT Council notes a further report will be brought to Council outlining the outcomes of the investigation and due diligence steps that are outlined in this report.*
- 3. THAT SCECGS Redlands School lodge a bond of \$50,000 with Council to commence the process of investigating the potential closure and sale of Monford Place, Cremorne.*

Figure 1 identifies the road (Monford Place) which will need to be formally closed if Council resolves to sell the road to the school.

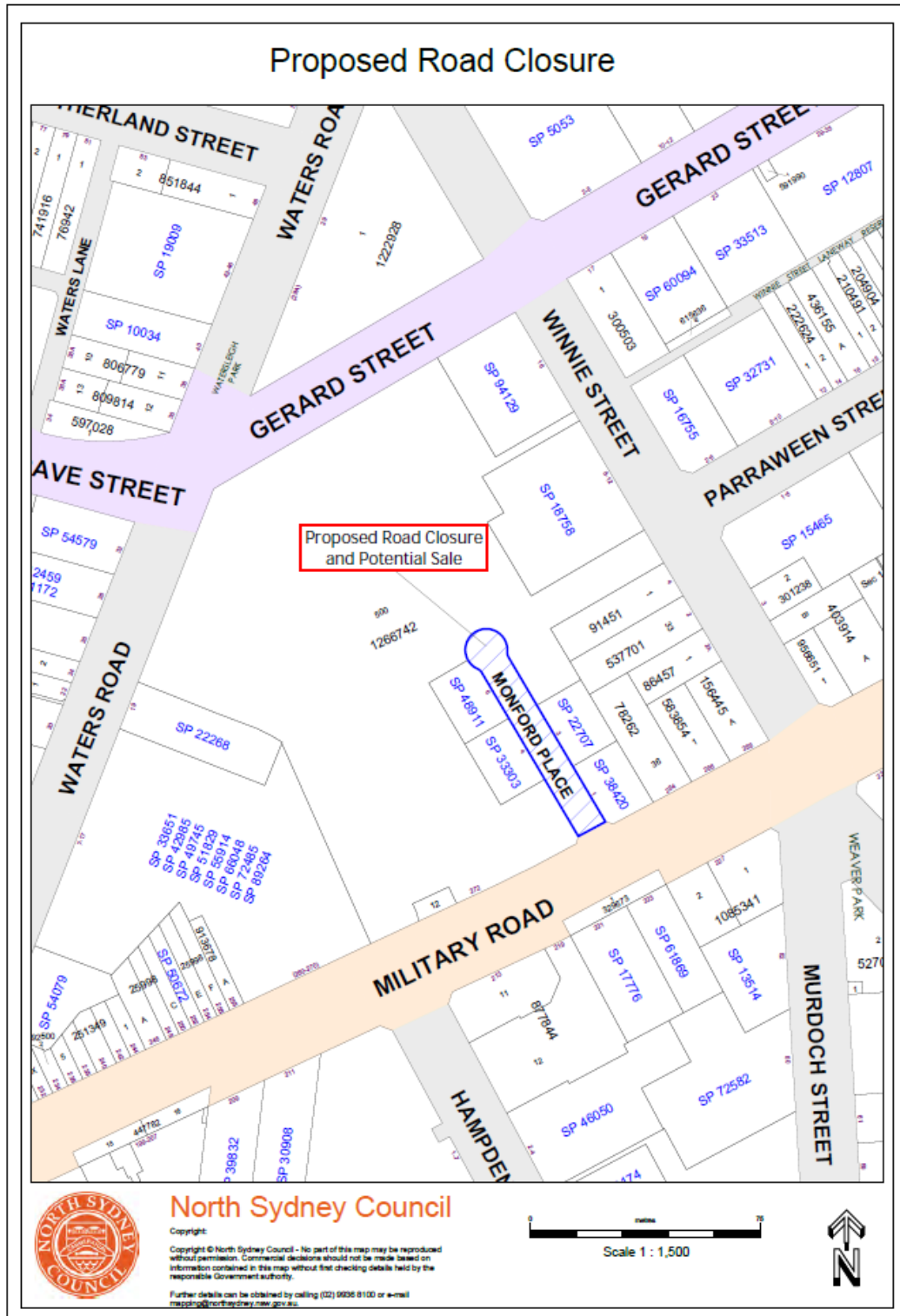


Figure 1: Proposed area of land to be sold to SCECGS Redlands School

CONSULTATION REQUIREMENTS

Community engagement will be undertaken in accordance with the Council’s Community Engagement Protocol.

DETAIL

Council received the bond on 27 August 2021 enabling Council to commence with the investigation of Monford Place.

Investigation

Preliminary Investigations

In the report to Council dated 24 May 2021, Council noted the following properties which the school had thus far acquired (Figure 2) (Properties are outlined in Red).

<i>Properties acquired after 25 November 2020.</i>	
2 Winnie Street, Cremorne	Lot 33 in DP 537701
4 Winnie Street, Cremorne	Lot 1 in DP 91451
284 Military Road, Cremorne	Lot 36 in DP 78262
286 Military Road, Cremorne	Lot 1 in DP 583854
1 Monford Place, Cremorne	SP 38420
3 Monford Place, Cremorne	SP 22707
4 Monford Place, Cremorne	SP 33303
6 Monford Place, Cremorne	SP 48911

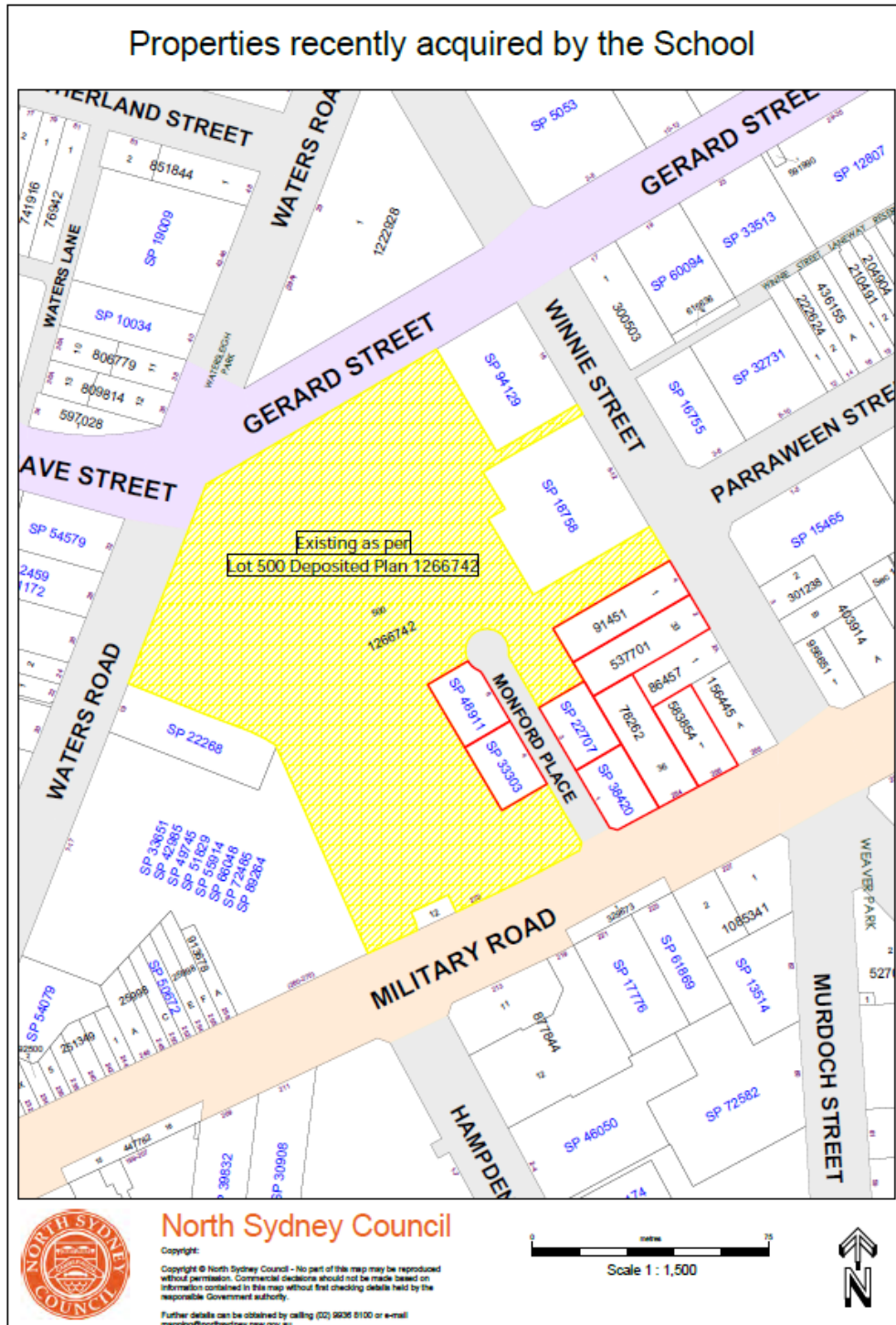


Figure 2: Properties acquired by the school are outlined in Red.

Outcome of Investigation

Status of the Road *The Site*

1. Area

The “area” of the site, proposed to be sold, is 791.4m².

2. Zoning

The site is zoned R4 – High Density Residential in accordance with North Sydney Local Environmental Plan 2013.

3. Dedication and Title Details

A historical search undertaken provided that Monford Place was dedicated as a public road upon approval of Deposited Plan 19282, circa 1940, pursuant to the Local Government Act 1919 and remains comprised in Certificate of Title Volume 5201 Folio 237.

4. Identification Survey

A Surveyor engaged by Council has now completed Stage 1 of the surveying process, which is the Identification Survey, and the following were established:

5. Services

Council has undertaken a services identification survey – Refer to Figure 3 which provides the location of all known utility services of the various prescribed authorities that have their services installed in the road. The services as outlined in the legend are Sydney Water, Jemena Gas, Telstra, Ausgrid and Council's stormwater line.

6. Public Consultation with prescribed authorities

It is unknown whether the services of the prescribed authorities are only for the exclusive benefit of the school. Nonetheless, the school would require these services to remain for their day-to-day operations. Therefore, the prescribed authorities may request easements to be created so that the services can be accessed and maintained. This information will be confirmed by the relevant service providers if Council resolves to proceed with the closure and sale of the land.

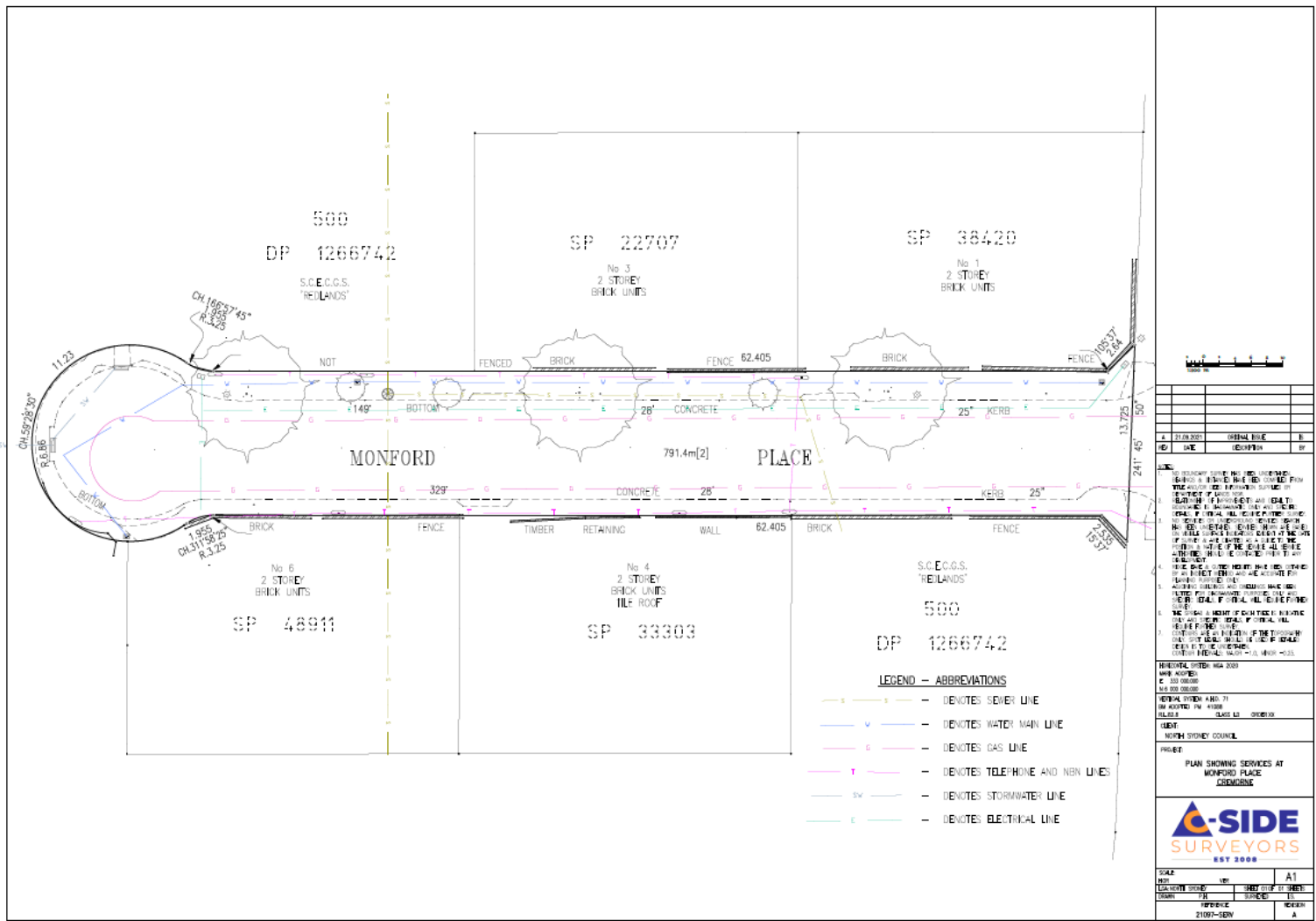


Figure 3: Existing Services in the Road - Sydney Water, Jemena Gas, Telstra, Ausgrid and Council's stormwater line.

spaces and 8 x un-metered, timed "1 Hour Parking 8.30am - 6pm Mon - Fri Permit Holders Excepted Area 27" spaces.

These spaces are well used by the community with an average occupancy of 88%. The loss of these public parking spaces is likely to increase demand for parking in surrounding streets in Parking Area 27 such as Winnie Street, Parraween Street, Murdoch Street, Hampden Avenue, and Waters Road."

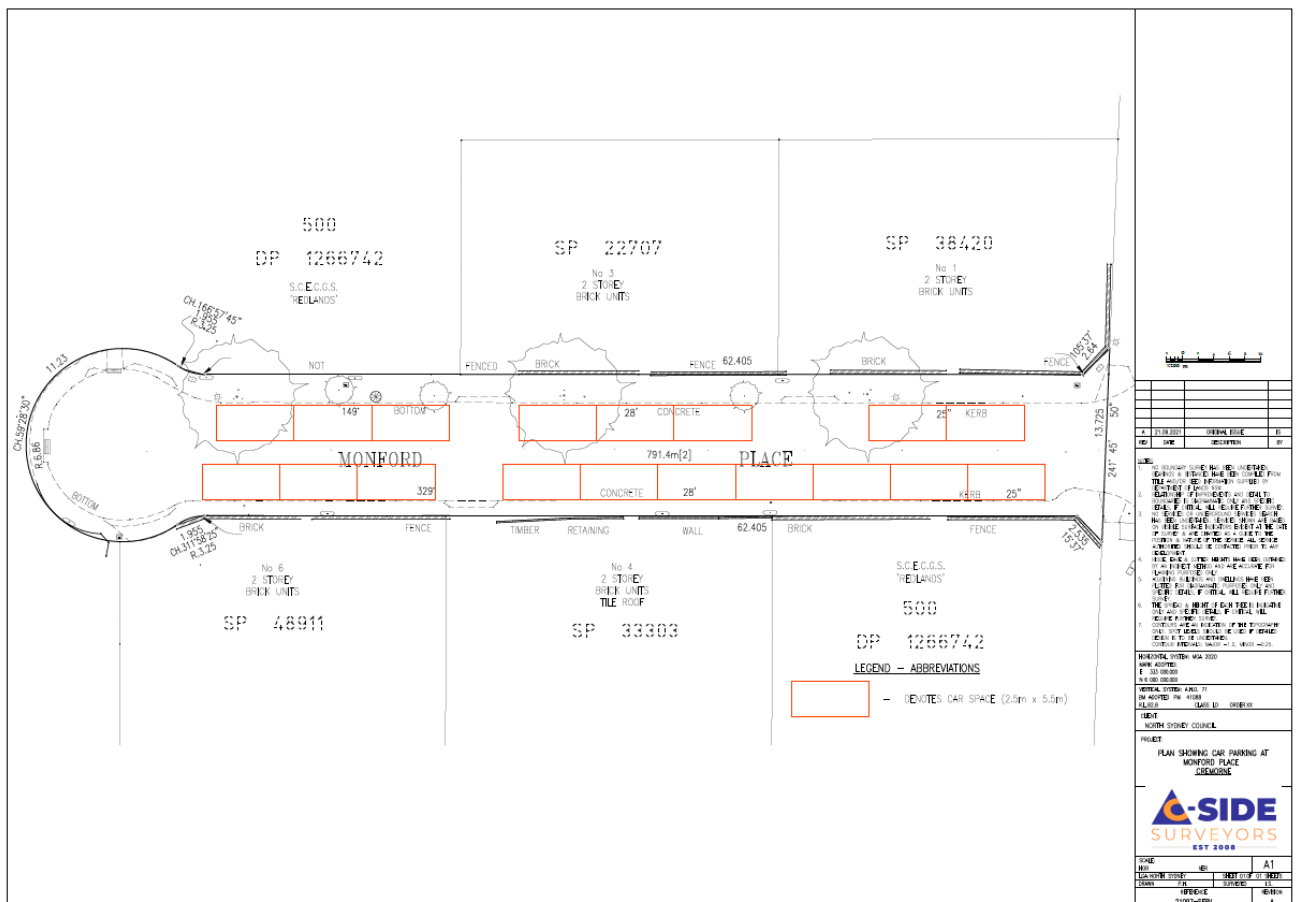


Figure 5: Denotes 18 x Parking spaces in Monford Place to be impacted by the potential closure of the road.

The identification survey in Figure 5 illustrates the 18 x parking spaces that would be lost if the road was closed and sold to the school. This loss of parking would have a significant impact on public parking availability in Area 27.

If Council considers proceeding with the sale of Monford Place, it would be in the public interest for Council to negotiate alternative parking possibilities to preserve public parking availability and capacity in Area 27.

9. Legal Implications

Sections 38A, 38B and 43 of the Roads Act 1993 gives Council the authority to close a public road and sell it if it chooses to do so, however, Section 38A is subject to the following restrictions:

“A council may propose the closure of a council public road for which it is the roads authority if:

- (a) the road is not reasonably required as a road for public use (whether for present or future needs); and
- (b) the road is not required to provide continuity for an existing road network, and
- (c) if the road provides a means of vehicular access to particular land, another public road provides lawful and reasonably practicable vehicular access to that land.”

Currently, Council’s right to close the road and sell the land to the school is inconsistent with Section 38A - sub section (a) of the Act, as the 18 x public parking spaces within Monford Place are reasonably required as a road for current and future public use which is currently public parking.

These spaces, as identified by the Councils Traffic and Parking Operations Manager are well used by the community with an average occupancy of 88%. The loss of these public parking spaces is likely to increase demand for parking in surrounding streets in Parking Area 27.

If Council resolved to close the road and sell the land to the school, it would have to demonstrate where the loss of Public Parking (Loss of Public use of the road) would be made up in Area 27. The School would need to demonstrate a reasonable alternative for Public Parking in Area 27 in consultation with Council.

10. Options for parking if Council resolves to close the road

The following options could be considered as an alternative to enable the school and Council to preserve parking in Area 27 and to meet its obligations under the Act (Section 38A – sub section (a)).

1. Easements for public parking, benefiting Council, be created at no cost to Council in Monford Place.
2. The school modify its Master Plan to incorporate a minimum of 18 x Public Parking Spaces that are available for the public to use at all times – as per the current parking conditions in Monford Place.

11. Valuation

Refer to the Confidential Report on this matter.

Conclusion

If Council resolves to proceed with the road closure and sale of Monford Place to SCECGS Redlands School, then a further report will be brought to Council on the outcome of the negotiations addressing the loss of public parking and the public consultation process. The public consultation will include communicating with all prescribed authorities, local residents and businesses impacted by the loss of public parking which is predominantly Area 27.

8.21. Monford Place, Cremorne - Proposed Road Closure and Potential Sale

AUTHOR: Risha Joseph, Property Officer

ENDORSED BY: Duncan Mitchell, Director Engineering and Property Services

ATTACHMENTS:

1. NSC Letter re Monford Road Closure request 06.05.2021 [**8.21.1** - 1 page]

PURPOSE:

The purpose of this report is to seek Council's approval to commence the process of closing the whole of Monford Place, Cremorne with the intention of ultimately selling the site to SCEGGS Redlands School Senior Campus to enable further expansion of the school in accordance with their Master Plan.

EXECUTIVE SUMMARY:

The report seeks Council's approval to commence the process of closing Monford Place, Cremorne, which is Council's public road, and to consider its potential sale following the request from SCEGGS Redlands School to acquire the subject site.

The report provides details of the adjoining properties recently acquired by the school and outlines the due diligence process required for Council to consider this request.

FINANCIAL IMPLICATIONS:

All associated costs in relation to this proposal will be borne by SCEGGS Redlands School. It is recommended that the school lodge a bond of \$50,000 to enable Council to commence with the investigation of the road closure and sale process and to avoid incurring any un-recoverable costs. Council would not commence any investigation works until the bond has been paid.

RECOMMENDATION:

- 1.THAT** Council approves the request to commence the investigation of the road closure and the potential sale process of Monford Place, Cremorne to SCEGGS Redlands.
- 2.THAT** Council notes a further report will be brought to Council outlining the outcomes of the investigation and due diligence steps that are outlined in this report.
- 3.THAT** SCEGGS Redlands School lodge a bond of \$50,000 with Council to commence the process of investigating the potential closure and sale of Monford Place, Cremorne.

LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

- 2. Our Built Infrastructure
 - 2.1 Infrastructure and assets meet community needs.

BACKGROUND

In February 2021, Council was approached by representatives from the SCEGGS Redlands School – Senior Campus who made enquiries about the potential purchase of Monford Place, which is Council’s public road. Councils Senior Planning Officers met with the representatives of the SCEGGS Redlands School who outlined that the school was in ownership of all properties on Monford Place which is a “No Through Road”. The SCEGGS representatives explained that the purchase of the road and its incorporation into the overall School title would enable increased flexibility in developing the Master Plan that the school has in place for the site.

SCEGGS Redlands Senior Campus is located at 272 Military Road, Cremorne and forms part of Lot 500 in Deposited Plan 1266742, which is the sites primary frontage. The site also has frontages to Gerard Street to the North, Waters Road to the Northwest and Monford Place and Winnie Street to the East. Lot 500 in Deposited Plan 1266742 is irregular in shape as it appears that the school has acquired several of the surrounding properties, the details of which are outlined within the report. Refer to Figure 1.

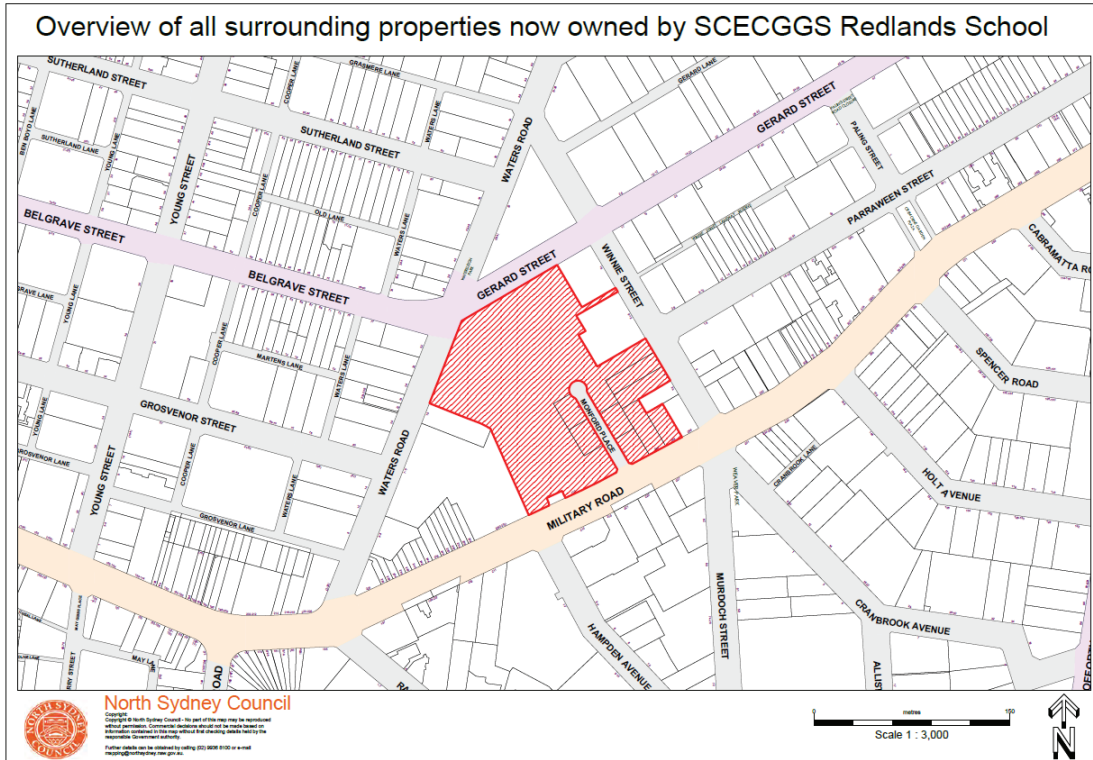


Figure 1. Map of the properties now owned by SCECGS Redlands School in and around Montford Place

CONSULTATION REQUIREMENTS

Community engagement will be undertaken in accordance with Council’s Community Engagement Protocol and also the statutory requirements under Part 4, Division 3 of the Roads Act 1993 – Section 38B.

DETAIL

In the attached letter to Council dated 6 May 2021, the school indicated their willingness to acquire Montford Place to facilitate the future expansion of their Senior School campus. The letter provides that the school recently acquired the two remaining apartment units and consequently now owns all the apartment units and blocks in Montford Place.

Preliminary Investigation

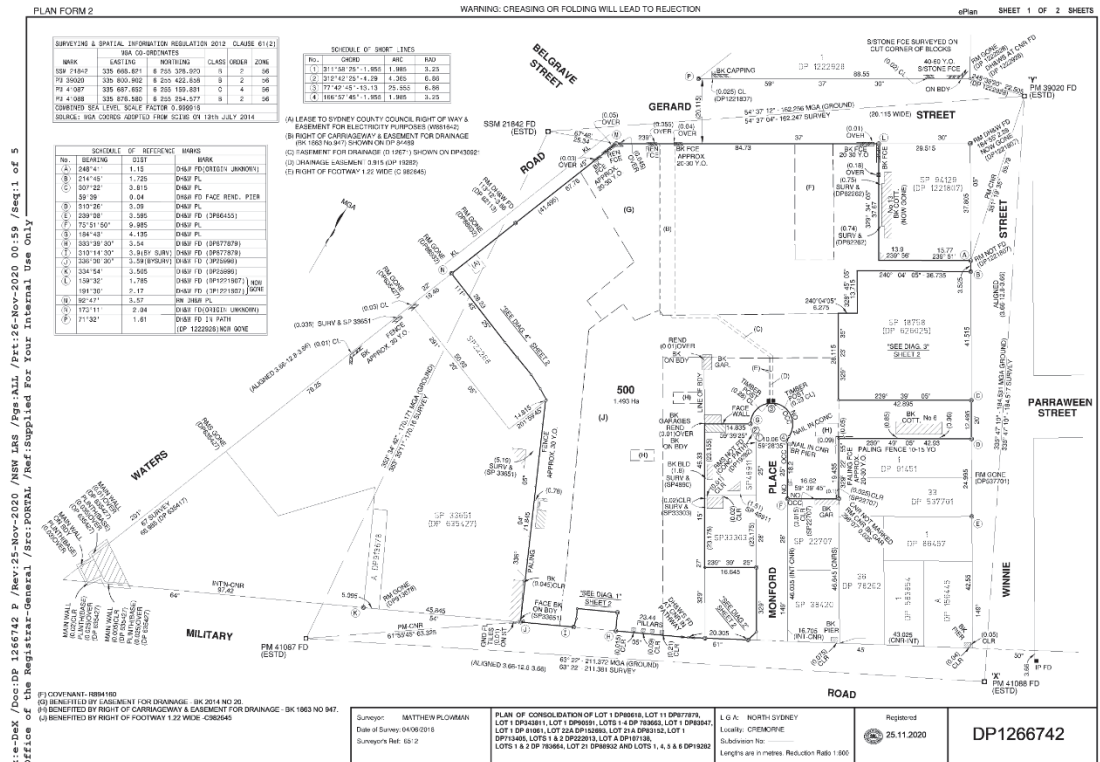


Figure 2: Lot 500 in Deposited Plan 1266742

In addition to the existing Subdivision Plan Lot 500 in Deposited Plan 1266742, registered on 25 November 2020, which comprises the consolidation of sites previously acquired by the school, a preliminary investigation found that a number of the recently acquired sites do not form part of the above Deposited Plan. These sites are outlined in Table 1 and are also illustrated in Figure 3.

Table 1. Properties acquired by SCEGGS Redlands after 25 November 2020

Properties acquired after 25 November 2020.	
2 Winnie Street, Cremorne	Lot 33 in DP 537701
4 Winnie Street, Cremorne	Lot 1 in DP 91451
284 Military Road, Cremorne	Lot 36 in DP 78262
286 Military Road, Cremorne	Lot 1 in DP 583854
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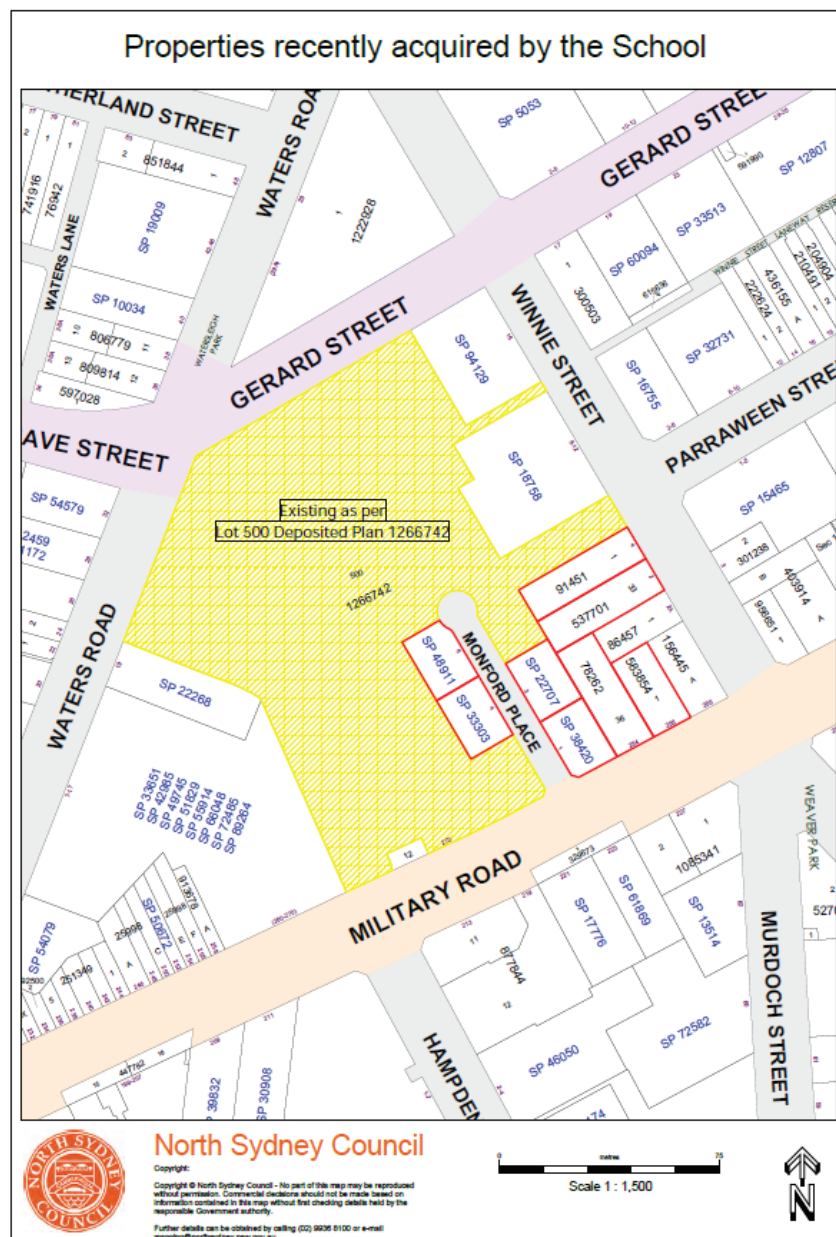


Figure 3. Properties recently acquired by the school are outlined in Red.
Proposed Road Closure and Potential Sale of Monford Place

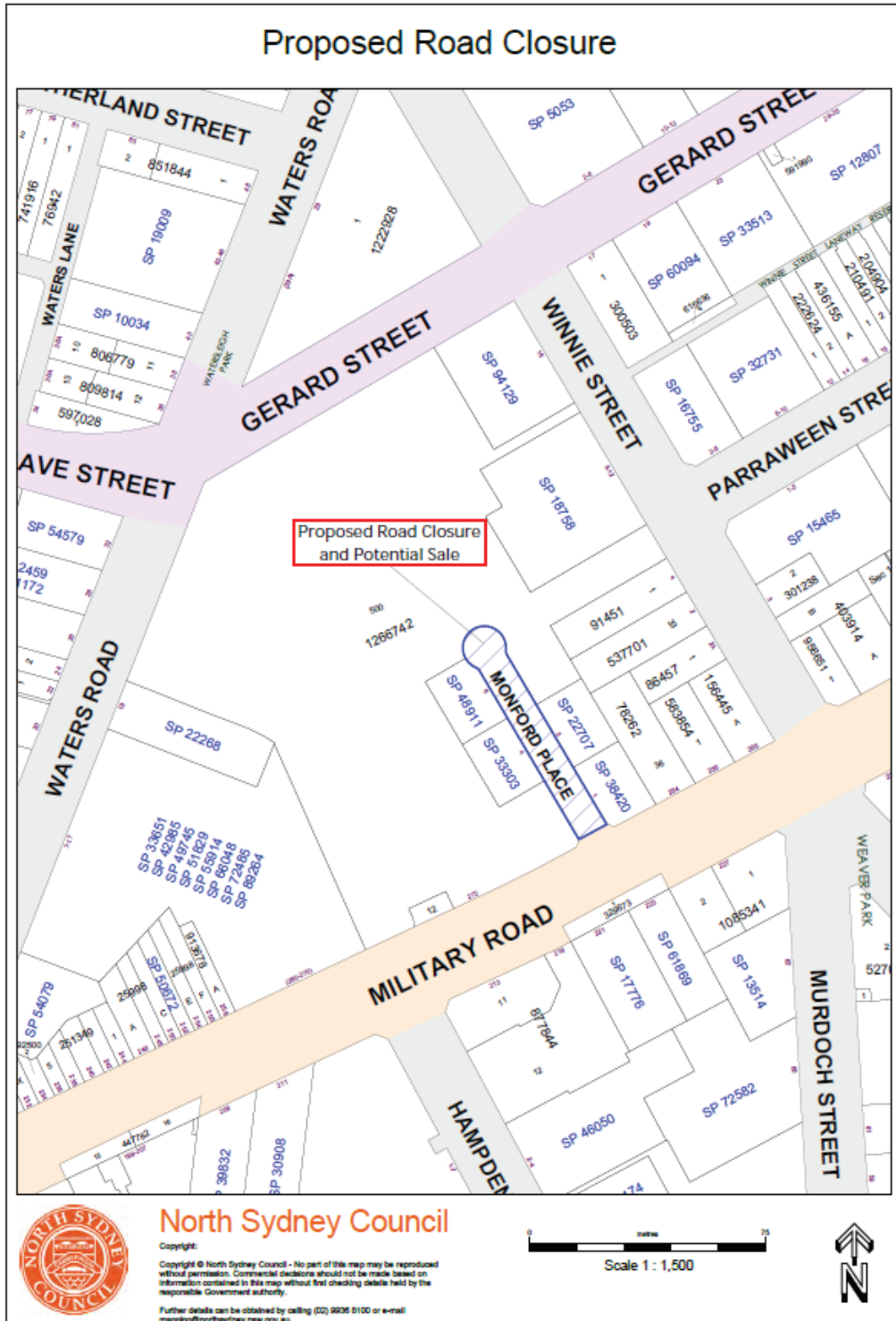


Figure 4. Outlines Monford Place which is the subject of the report (Proposed Road Closure)

Public Parking in Montford Place

As outlined in this report SCEGGS Redlands has acquired all the surrounding properties in Monford Place, however the Road does provide important public parking in the area. Councils Traffic and Parking Operations Manager has provided the following comments on the status of current parking in Monford Place.

“All properties adjoining Monford Place are owned by the school, and the road does not provide through public access to other sites for either pedestrians or vehicles. However, Monford Place does contain 18 public on-street parking spaces including 10 x unrestricted spaces and 8 x un-metered, timed “1 Hour Parking 8.30am - 6pm Mon - Fri Permit Holders Excepted Area 27” spaces. These spaces are well used by the community with an average occupancy of 88%. The loss of these public parking spaces is likely to increase demand for parking in surrounding streets in Parking Area 27 such as Winnie Street, Parraween Street, Murdoch Street, Hampden Avenue, and Waters Road.”

Due Diligence Process required for the potential sale of Monford Place – Cremorne

As part of Council’s due diligence process for the potential sale of Monford Place – Cremorne, Council will undertake the following steps:

(a) Investigation of the status of the site and proposed Road Closure

The subject site is Council’s Road and a Surveyor or Information Broker, is required to investigate the status of the site in detail from a property perspective. The Surveyor would ultimately be required to prepare any future road closure plan if Council was to resolve to proceed with the sale.

The key components of any property investigation would include determining when Monford Place was gazetted as a public road, whether any underground services exist and who owns those services, other infrastructure in or above the road, potential easements, and or Section 88B instruments which may be registered. The detailed property investigation and full survey is critical in determining potential obstacles that may constrain the road closure and its potential sale to the school for its Master Planning purposes.

The outcome of the site survey and property investigations will be the subject of a future report to Council.

(b) Property Valuation

As part of the due diligence process, Council is required to engage the services of a Property Valuer to undertake an independent valuation of the road to determine the compensation Council could expect to be paid through the sale of Monford Place. The Valuation and compensation payable to Council will form part of any future decision by Council as to whether it should proceed with the sale or not.

The outcome of the Property Valuation will be the subject of a future report to Council.

(c) Public Consultation

In accordance with Part 4, Division 3 of the Roads Act 1993 – section 38B, the process to be undertaken when Council proposes to close a public road is as follows:

Section 38B - Roads Act - Notification of proposal to close council public road

(1) A council that is proposing to close a council public road must cause notice of the proposal—

(a) to be published in a local newspaper, and

(b) to be given to—

(i) all owners of land adjoining the road, and

(ii) all notifiable authorities, and

(iii) any other person (or class of person) prescribed by the regulations.

(2) The notice--

(a) must identify the road that is proposed to be closed, and

(b) must state that any person is entitled to make submissions to the council with respect to the closing of the road, and

(c) must indicate the manner in which, and the period (being at least 28 days) within which, any such submission should be made.

(d) Sale Process

If Council approves the potential sale of Monford Place based on the outcomes the site investigations, property valuation and public consultation (Subject to a future report being brought to Council), Council will then instruct its solicitors to formulate a formal Contract for Sale of the Land.

The Contract for Sale of Land is to be entered into to sell the road by both parties and is conditional on the gazettal as well as any issues associated with the issuing of a title. In addition, the Contract for Sale would outline the acceptance by both parties of the creation of any necessary easements which may be required.

The Contract for Sale is to contain terms that allows Council to create easements before any Transfer takes place and will also contain a sunset date.

Any Council Resolution must provide for the signing the Contract for Sale of the land including any required Deeds, Transfer arrangements, Easements and or Covenants.

(e) Costs

All costs relating to the road closure and potential sale will be borne by SCEGGS Redlands School. It is recommended that the school lodge a bond of \$50,000 to enable Council to commence the process and avoid incurring any non-refundable expenses.

This bond money will cover all costs associated with the site investigations, property valuation, community consultation, legal costs, all Council property staff costs associated with the proposal and any future Sales costs to Council should Council decide to proceed with the sale.

(f) Legal Implications - Permissibility of selling a Public Road.

Council has received Legal Advice that as the Roads Authority Council can close a Public Road and then sell that land if it so chooses to do so. The right to sell a public road is in the Roads Act, 1993 (NSW). Sections 33-38 of the Roads Act apply to non-Council public road and section 38A-38F applies to Council public road.

A formal process for Council to follow is set out in the "The Registrar- Guidelines" – weblink below.

https://rg-guidelines.nswlrs.com.au/deposited_plans/roads/closing_roads/council_public_roads

The Specific Sections of the Roads Act that allow Council to close and sell a Public Road is Section 38A, 38B and Section 43.

Under Section 38A of the Roads Act, A Council may propose the closure of a Council public road for which it is the roads authority if:-

- “(a) the road is not reasonably required as a road for public use (whether for present or future needs); and*
- (b) the road is not required to provide continuity for an existing road network, and*
- (c) if the road provides a means of vehicular access to particular land, another public road provides lawful and reasonably practicable vehicular access to that land.*

Council must then under Section 38B of the Act undertake consultation and notification that it intends to close the Road. Refer to Section C – Public consultation in the Due Diligence Section of this report.

Under section 43 of the Roads Act 1993 – “Disposal of land comprising former public road owned by Council”, Council is required to resolve to close the public road for the purposes of selling the land - refer to Section 38A of the Local Government Act, outlined above.

Once the road is formally closed it automatically defaults to Operational land which then under Sections 43(3) and (4) of the Roads Act 1993, can be disposed of by sale.

Refer to Section 43 of the Local Government Act 1993 – extract below and note that the proceeds of any sale of this land (former Public Road) can only be used for the purposes of acquiring land for Public Roads or for carrying out roadwork on Public Roads.

Section 43 – Roads Act Disposal of land comprising former public road owned by council

- “1. This section applies to land vested in a council and forming part of a former public road.*
- 2. Land to which this section applies is operational land for the purposes of the Local Government Act 1993 unless, before the land becomes vested in the council, the council resolves that it is to be community land, in which case the land is community land.*
- 3. If the land is disposed of by sale, the proceeds of sale (less the costs of the sale) are to be paid to the council.*
- 4. Money received by a council from the proceeds of sale of land is not to be used by the council except for acquiring land for public roads or for carrying out road work on public roads.”*

(h) Report to Council

A further report will be brought to Council outlining the outcome of the site status investigation and property valuation and will seek Council’s approval as to whether to proceed with the proposed sale of Monford Place to the school, and simultaneously obtain approval to proceed with the Public consultation.

The outcome of the public consultation is the subject of a separate report to Council.

Conclusion

It is noted that whilst SCEGGS Redlands School has acquired all the adjoining properties along the boundary of Monford Place, Cremorne, and the road may no longer be required to provide any public access to the adjacent properties, Monford Place comprises 18 public on-street parking spaces as outlined above from Council’s Traffic and Parking Operations Manager, which may result in an increased demand for parking in the surrounding area.

Council must undertake all due diligence steps outlined in this report to enable Council to make a decision on whether to proceed with the proposed sale of Monford Place to SCEGGS Redlands or not.



6 May 2021

Mr Ken Gouldthorp
General Manager
North Sydney Council
200 Miller Street
NORTH SYDNEY NSW 2060

By email: Ken.Gouldthorp@northsydney.nsw.gov.au

cc: Risha.Joseph@northsydney.nsw.gov.au;
Albert.Lo@northsydney.nsw.gov.au

Re: Request investigation for closure of Monford Place road with the intention for Redlands to acquire at market value

Dear Ken,

On behalf of SCECGS Redlands School, I wish to formally request that North Sydney Council investigate the closure of Monford Place road.

Redlands recently acquired the two remaining apartment units and consequently now owns all apartment units and blocks on Monford Place.

Redlands is willing to acquire Monford Place road at market value to facilitate the future expansion of our Senior Campus. Redlands is willing to meet all expenses incurred by North Sydney Council associated with the closure of Monford Place road.

Thank you for your consideration and should you wish to discuss this matter further, please do not hesitate to contact me directly.

Yours sincerely,

Stephen Webber
Principal

cc: Risha Joseph – Senior Property Officer
Albert Lo – Manager, Property Assets

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