

## **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.

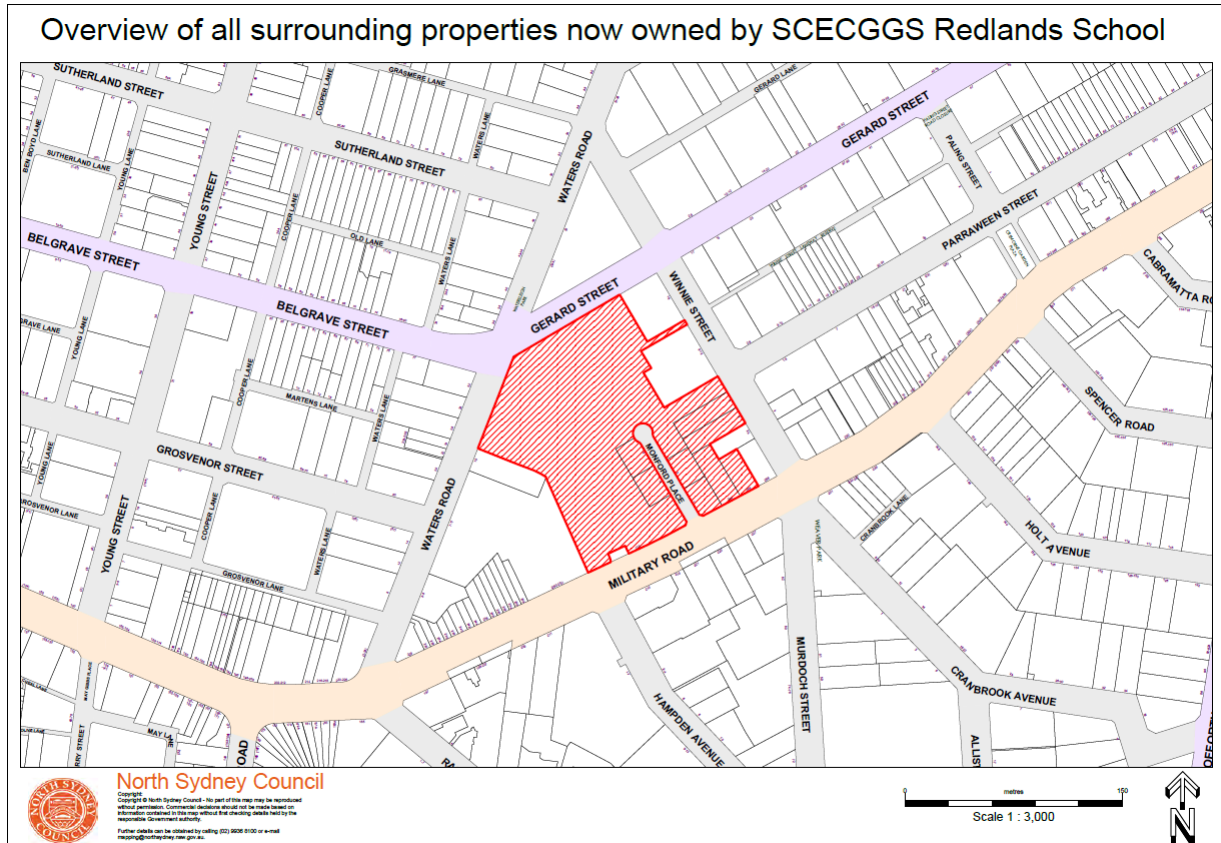


Figure 1. Map of the properties now owned by SCECGS Redlands School in and around Montford Place

## 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

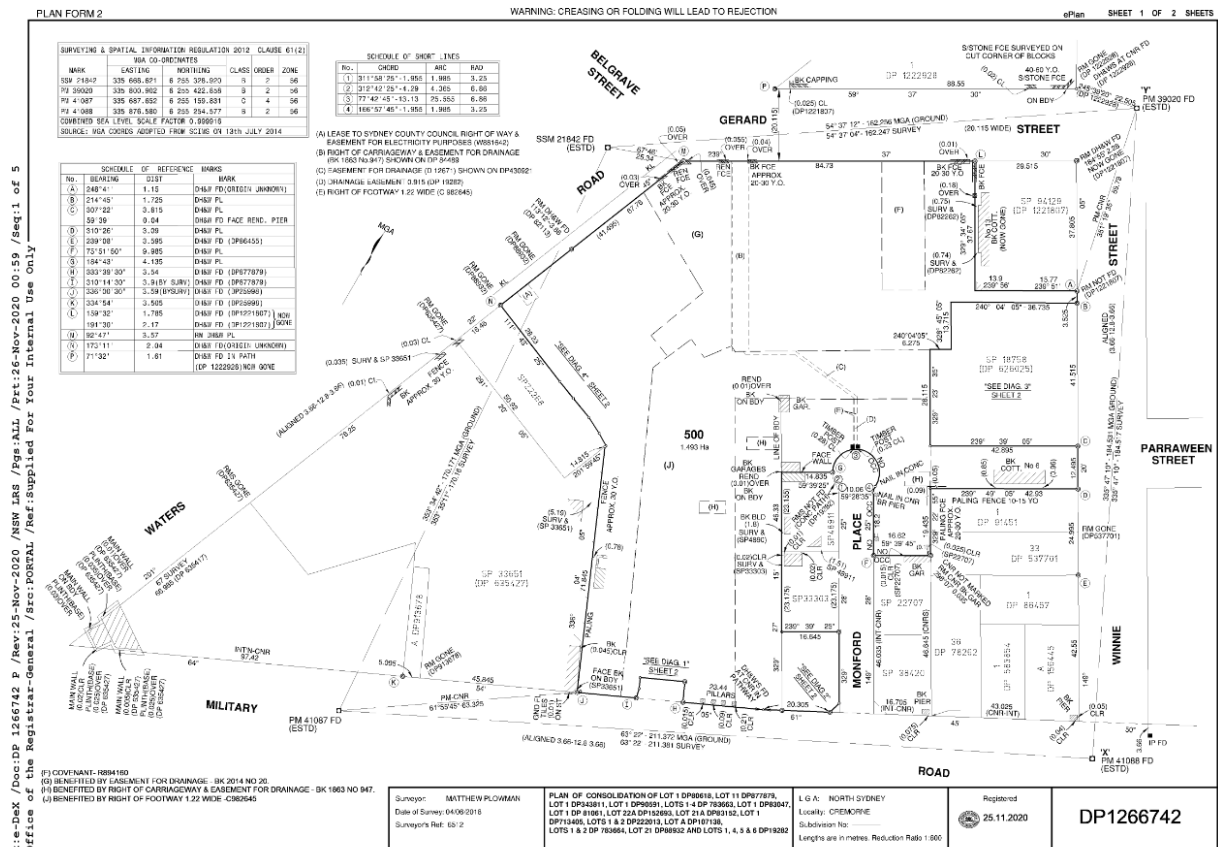


Figure 2: Lot 500 in Deposited Plan 1266742

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
1 Monford Place, Cremorne	SP 38420
3 Monford Place, Cremorne	SP 22707
4 Monford Place, Cremorne	SP 33303
6 Monford Place, Cremorne	SP 48911

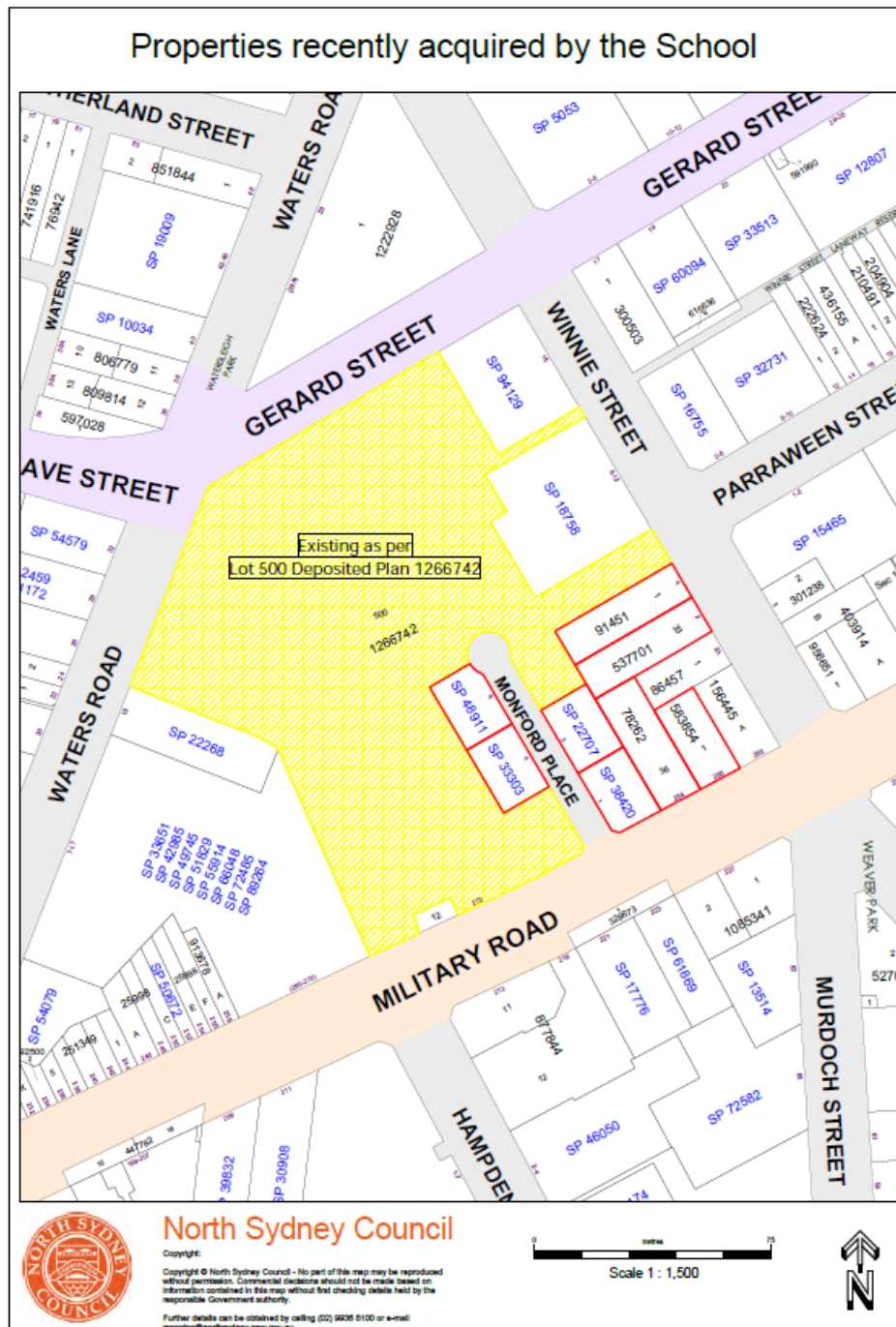


Figure 3. Properties recently acquired by the school are outlined in Red.

### Proposed Road Closure and Potential Sale of Monford Place

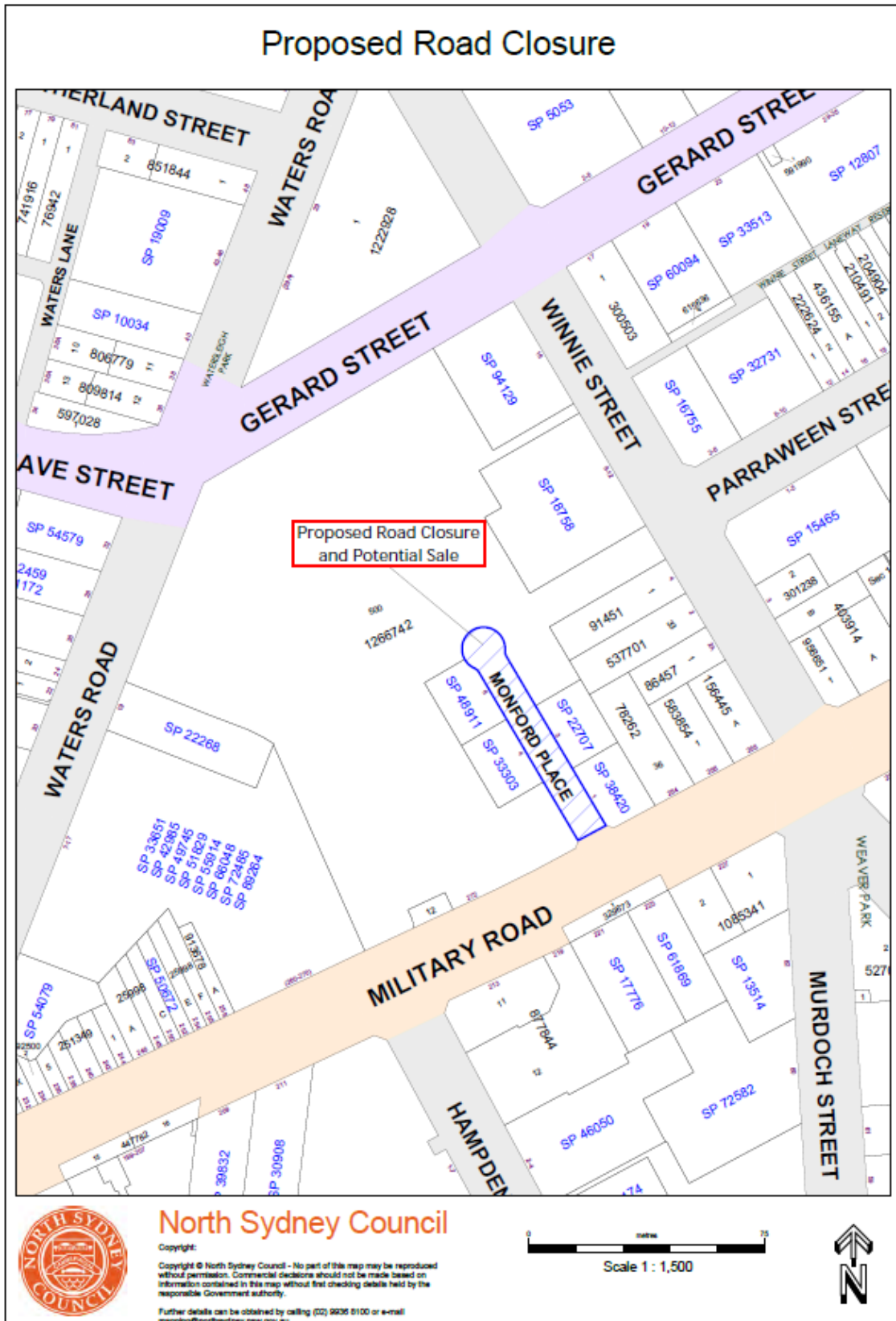


Figure 4. Outlines Monford Place which is the subject of the report (Proposed Road Closure)

## **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](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  
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NORTH SYDNEY NSW 2060

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[Albert.Lo@northsydney.nsw.gov.au](mailto: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