

# ATTACHMENT BOOKLET 1

**ORDINARY COUNCIL MEETING**

**TUESDAY 28 APRIL 2020**

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## Gateway Determination

**Planning proposal (Department Ref: PP\_2019\_NBEAC\_001\_00):** to reclassify Oliver Street and Lawrence Street carparks from community to operational land; rezone the carparks from RE1 Public Recreation to SP2 Infrastructure (Car park;) and introduce a 3m maximum height of buildings development standard.

I, the Director, Sydney Region East at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Warringah Local Environmental Plan (LEP) 2011 to reclassify, rezone and introduce a maximum building height development standard for the Oliver Street and Lawrence Street carparks should proceed subject to the following conditions:

1. Prior to public exhibition the planning proposal is to be updated to include the *Information Checklist For Proposals To Classify Or Reclassify Public Land Through An LEP* in note PN 16-001 *Classification and reclassification of public land through a local environmental plan*.
2. The planning proposal must be returned to the Department prior to public exhibition along with the results of the pre-consultation with NSW Crown Lands.
3. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
  - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
  - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning, Industry and Environment 2018).
  - (c) a copy of practice note PN 16-001 *Classification and reclassification of public land through a local environmental plan* is to be included in the public exhibition material.
4. Consultation is required with NSW Crown Lands within the Department of Planning, Industry and Environment under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions. NSW Crown Lands is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.
5. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act.

6. A public hearing is required under Section 29 of the Local Government Act 1993 as the planning proposal seeks to reclassify land from community land to operational land. After the public exhibition period has ended, at least 21 days public notice is to be given before the hearing is held.
7. The time frame for completing the LEP is to be **9 months** following the date of the Gateway determination.

Dated 23rd      day of September   2019.

**Amanda Harvey**  
**Director North District**  
**Place, Design and Public Spaces**

**Department of Planning, Industry**  
**and Environment**

**Delegate of the Minister for Planning**  
**and Public Spaces**





Planning &  
Environment

## LEP practice note

### LOCAL PLANNING

Ref No.	PN 16-001
Issued	5 October 2016
Related	Supersedes PN 09-003

## Classification and reclassification of public land through a local environmental plan

The purpose of this practice note is to update guidance on classifying and reclassifying public land through a local environmental plan (LEP). This practice note emphasises the need for councils to demonstrate strategic and site specific merit, includes a comprehensive information checklist and clarifies issues arising for public reserves and interests in land. It should be read in conjunction with *A guide to preparing local environmental plans* and *A guide to preparing planning proposals*.

### Classification of public land

Public land is managed under the *Local Government Act 1993* (LG Act) based on its classification. All public land must be classified as either community land or operational land (LG Act ss.25, 26).

- *Community* land – is land council makes available for use by the general public, for example, parks, reserves or sports grounds.
- *Operational* land – is land which facilitates the functions of council, and may not be open to the general public, for example, a works depot or council garage.

#### What is public land?

*Public land* is defined in the LG Act as any land (including a *public reserve*) vested in, or under council control. Exceptions include a public road, land to which the *Crown Lands Act 1989* applies, a common, land subject to the *Trustees of Schools of Arts Enabling Act 1902* or a regional park under the *National Parks and Wildlife Act 1974*.

### Why classify public land?

The purpose of classification is to identify clearly that land made available for use by the general public (community) and that land which need not (operational). How public land is classified determines the ease or difficulty a council can have dealings in public land, including its sale, leasing or licensing. It also provides for transparency in council's strategic asset management or disposal of public land.

Community land must not be sold, exchanged or otherwise disposed of by a council. It can be leased,

but there are restrictions on the grant of leases and licences, and also on the way community land can be used. A plan of management (PoM), adopted by council, is required for all community land, and details the specific uses and management of the land.

There are no special restrictions on council powers to manage, develop, dispose, or change the nature and use of operational land.

#### How is public land classified or reclassified?

Depending on circumstances, this is undertaken by either:

- council resolution under ss.31, 32, or 33 (through LG Act s.27(2)), or
- an LEP under the *Environmental Planning and Assessment Act* (through LG Act s.27(1)).

Councils are encouraged to classify or reclassify land by council resolution where suitable.

**Classification** of public land occurs when it is first acquired by a council and classified as either community or operational.

**Reclassification** of public land occurs when its classification is changed from community to operational, or from operational to community.

### Reclassification through an LEP

Classification and reclassification of public land through an LEP is subject to both the local plan-making process in the EP&A Act and the public land management requirements of the LG Act.

A planning proposal to classify or reclassify public land, will need to be prepared in accordance with this practice note and the additional matters specified in Attachment 1 to this practice note.

Reclassification through an LEP is the mechanism by which council can remove any public reserve status applying to land, as well as any interests affecting all or part of public land (LG Act s.30).

It is critical that all interests are identified upfront as part of any planning proposal. If public land is reclassified from community to operational, without relevant interests being identified and discharged, then the land will need to be reclassified back to community (usually by council resolution under LG Act s.33<sup>1</sup>) before being reclassified in a new planning proposal to operational, to explicitly discharge any interests.

While a reclassification proposal to remove the public reserve status of land and/or discharge interests may not necessarily result in the immediate sale or disposal of the land, the community should be aware the public land in question is no longer protected under the LG Act from potential future sale once it has been reclassified to operational.

Councils should obtain their own advice when proposing to discharge any interests and be aware that this may attract a claim for compensation under the *Land Acquisition (Just Terms Compensation) Act 1991*.

Where land has been dedicated to council by a State agency for a particular purpose and a trust exists, it is advisable for council to seek the views of that agency prior to council commencing any planning proposal affecting the land.

**Public reserve** is defined in the LG Act and includes a public park and land declared or dedicated as a public reserve.

Land can be dedicated as a public reserve by either:

- registering a deposited plan with a statement creating a lot(s) as 'public reserve', or
- publishing a notification in the Government Gazette for an existing parcel.

**Interests in land** refers to property ownership as well as rights and privileges affecting land, such as leasehold, easements, covenants and mortgages.

For the purpose of reclassification through an LEP, 'interests' means trusts, estates, dedications, conditions, restrictions and covenants affecting the land.

A legal owner of land may not be the only person with an interest in the land. For example, one person may have the benefit of an easement for services, such as water, electricity or sewerage over someone else's land.

Certain interests are registered on title to ensure they are on record and cannot be disregarded if sold to a new owner. An electronic title search is generally conducted to determine the land owner, correct land description and the type of interests which may affect the land.

### Standard Instrument LEP requirements

Clause 5.2—Classification and reclassification of public land in Standard Instrument LEPs enables councils to classify or reclassify public land as operational land or community land in accordance with the LG Act. The land to be reclassified or classified is described in Schedule 4 of the LEP.

Schedule 4 is not to refer to any land already classified or reclassified.

Where there is no public land to be classified, or reclassified, through a principal LEP (i.e. the LEP applies to the whole of a local government area), Schedule 4 will appear blank.

Note: At a later stage council may lodge a planning proposal to remove previous listings in Schedule 4. This will not affect the classification status of these parcels of land.

### Department assessment

A proposal to classify or reclassify public land through an LEP must have planning merit. The Department will undertake an assessment to determine whether the proposal demonstrates strategic and site specific merit.

### Community consultation

Planning proposals to reclassify public land are to be publicly exhibited for at least 28 days.

A copy of this practice note is to be included in the public exhibition materials.

<sup>1</sup> Note: Council is required to give public notice of the proposed resolution and provide a period of at least 28 days during which submissions may be made (LG Act s.34).

## Public hearings

Councils must hold a public hearing when reclassifying public land from community to operational (EP&A Act s.57 & LG Act s.29). This gives the community an opportunity to expand on written submissions and discuss issues with an independent person in a public forum.

After the exhibition period has ended, at least 21 days public notice is to be given before the hearing. This allows the person chairing the hearing sufficient time to consider written submissions and all issues raised.

There are specific requirements for the independence of the person chairing the hearing, their preparation of a public hearing report and council making the report publicly available (LG Act s.47G).

## Governor's approval

The Governor's approval is required when a reclassification proposal seeks to remove any public reserve status and/or discharge any interests affecting public land (s.30).

When a council reports back to the Department on the community consultation undertaken and requests the Department make the LEP, the Department will arrange legal drafting of the LEP, including recommending the Governor approve the provisions before the LEP can be legally made.

Where the Governor's approval is required, the council's report accompanying the final planning proposal must address:

- council's interests in the land;
- whether the land is a 'public reserve';
- the effect of the reclassification, including loss of open space, any discharge of interests, and/or removal of public reserve status;
- the strategic and site specific merits of the reclassification and evidence to support this;
- any current use of the land, and whether uses are authorised or unauthorised;
- how funds obtained from any future sale of the land will be used;
- the dates the planning proposal was publicly exhibited and when the public hearing was held;
- issues raised in any relevant submissions made by public authorities and the community;
- an explanation of how written and verbal submissions were addressed or resolved; and
- the public hearing report and council resolution.

## Authorisation of delegation

Local plan making functions are now largely delegated to councils.

A Written Authorisation to Exercise Delegation is issued to a council as part of the Gateway determination. However, where an LEP requires the Governor's approval, this council delegation cannot be issued. In this instance, the council must request the Department make the LEP.

A decision to classify or reclassify public land cannot be sub-delegated by council to the general manager or any other person or body (LG Act s.377(1)(l)).

## Background

On July 1, 1993 when the LG Act commenced, the following land under council ownership or control, was automatically classified as *community* land:

- land comprising a public reserve,
- land subject to a trust for a public purpose,
- land dedicated as a condition of consent under s.94 of the EP&A Act,
- land reserved, zoned or otherwise designated for use under an environmental planning instrument as open space,
- land controlled by council and vested in Corporation Sole - Minister administering the EP&A Act.

Councils must keep a register of land under their ownership or control (LG Act s.53) and anybody can apply to a council to obtain a certificate of classification (LG Act s.54).

## Further information

A copy of this practice note, *A guide to preparing planning proposals* and *A guide to preparing local environmental plans* is available at:

<http://www.planning.nsw.gov.au>

For further information, please contact the Department of Planning and Environment's Information Centre by one of the following:

Post: GPO Box 39, Sydney NSW 2001.

Tel: 1300 305 695

Email: [information@planning.nsw.gov.au](mailto:information@planning.nsw.gov.au)

**Authorised by:**  
**Carolyn McNally**  
**Secretary**

**Important note:** This practice note does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this practice note.

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## ATTACHMENT 1 – INFORMATION CHECKLIST FOR PROPOSALS TO CLASSIFY OR RECLASSIFY PUBLIC LAND THROUGH AN LEP

The process for plan-making under the EP&A Act is detailed in *A guide to preparing planning proposals* and *A guide to preparing local environmental plans*.

Importantly, *A guide to preparing local environmental plans* contains the Secretary's requirements for matters that must be addressed in the justification of all planning proposals to reclassify public land. Councils must ensure the Secretary's requirements are addressed.

Councils must also comply with any obligations under the LG Act when classifying or reclassifying public land. More information on this can be found in *Practice Note No. 1 - Public Land Management* (Department of Local Government, 2000).

All planning proposals classifying or reclassifying public land must address the following matters for Gateway consideration. These are in addition to the requirements for all planning proposals under section 55(a) – (e) of the EP&A Act (and further explained in *A guide to preparing planning proposals* and *A guide to preparing local environmental plans*).

- ☐ the current and proposed classification of the land;
- ☐ whether the land is a 'public reserve' (defined in the LG Act);
- ☐ the strategic and site specific merits of the reclassification and evidence to support this;
- ☐ whether the planning proposal is the result of a strategic study or report;
- ☐ whether the planning proposal is consistent with council's community plan or other local strategic plan;
- ☐ a summary of council's interests in the land, including:
  - how and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution)
  - if council does not own the land, the land owner's consent;
  - the nature of any trusts, dedications etc;
- ☐ whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why;
- ☐ the effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will be discharged);
- ☐ evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. electronic title searches, notice in a Government Gazette, trust documents);
- ☐ current use(s) of the land, and whether uses are authorised or unauthorised;
- ☐ current or proposed lease or agreements applying to the land, together with their duration, terms and controls;
- ☐ current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time);
- ☐ any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy);
- ☐ how council may or will benefit financially, and how these funds will be used;
- ☐ how council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal;
- ☐ a Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot; and
- ☐ preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable.



# PROPOSED RECLASSIFICATION OF LAWRENCE STREET AND OLIVER STREET CARPARKS

## PUBLIC HEARING REPORT

FINAL

24 MARCH 2020



NORTHERN BEACHES COUNCIL

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PROPOSED RECLASSIFICATION OF  
LAWRENCE STREET AND OLIVER  
STREET CARPARKS

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PUBLIC HEARING REPORT

FINAL

24 MARCH 2020

Parkland Planners

ABN: 33 114 513 647

PO Box 41  
FRESHWATER NSW 2096

tel: (02) 9938 1925  
mob: 0411 191 866

sandy@parklandplanners.com.au

www.parklandplanners.com.au

DIRECTOR: Sandy Hoy

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# 1 INTRODUCTION

## 1.1 Purpose of this report

This report has been prepared under Section 29 of the *Local Government Act 1993* to report to Northern Beaches Council on the public submissions made at and after the public hearing on Wednesday 26 February 2020 regarding the proposed reclassification of the Lawrence Street and Oliver Street carparks in Freshwater from community land to operational land.

This report also makes recommendations to Council regarding the proposed reclassification.

## 1.2 History and process of proposed reclassification of Lawrence Street and Oliver Street carparks

The background to and reasons for the proposed reclassification are set out in detail in the Planning Proposal: Freshwater Village – Reclassification and Rezoning of Oliver Street and Lawrence Street Carparks (Northern Beaches Council, November 2019). Background information relevant to the proposed reclassification and the public hearing is set out below.

**Table 1 History and process of proposal to reclassify Lawrence Street and Oliver Street carparks**

Year(s)	Process	Relevant legislation
1973-9	Mackellar County Council dedicated land for the Oliver Street and Lawrence Street carparks to Warringah Council for parking purposes from 1973 to 1979.	
1993	With the commencement of the <i>Local Government Act, 1993</i> , Councils had 12 months to classify public 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 as community land.	
1994	The land was automatically classified as community land 12 months after the <i>Local Government Act 1993</i> came into force in 1993.  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.	Sections 25 and 26 of <i>Local Government Act 1993</i>
1997	9 December 1997 - a report was put to Council after advice 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.	

Year(s)	Process	Relevant legislation
2000	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.	
2008	The Oliver Street and Lawrence Street carparks are included in the Plan of Management for the Harbord Literary Institute and Early Childhood Health Centre in 2008. The carparks are categorised as General Community Use.	<i>Local Government Act 1993</i>
2009	14 July 2009 - a report went to Council seeking to reclassify and rezone 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.	
2010	February 2010 - first meeting of the FVWP. 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 Development Control Plan for Freshwater Village.	
2011	22 February 2011 – Council resolved to defer work on the DCP until Land and Environment Court decision received regarding development on 8 lots in the Village, involving 91 units. 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.	
2012	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.	
2014	At its meeting on 25 March 2014, Council resolved to rezone several carparks in the Council area from Public Recreation to business zones and prepare planning reports to consult with the community about potential reclassification of the carparks to better reflect surrounding land uses. The Oliver Street and Lawrence Street carparks were included in the resolution.	
2018	Several development applications were received and approved by Council for redevelopment of properties in Lawrence Street in Freshwater, with vehicular access necessary from Lawrence Street unless the carpark is reclassified to operational land.  An Information Report on the Planning Proposal and responses to Frequently Asked Questions were exhibited from 28 July to 26 August 2018. 13 individual letters and 86 pro-forma letters were received in support of the proposal, and 8 submissions were received opposing the proposal. Community concerns expressed in submissions were potential sale of the land by Council for redevelopment without consultation, safety of pedestrians and children in Oliver Street carpark, lack of community benefit, rezoning and reclassification compromises the	

Year(s)	Process	Relevant legislation
	availability of parking for community purposes, and loss of parking spaces to developers occupying the carpark.	
	The Northern Beaches Local Planning Panel supported the Planning Proposal to reclassify Oliver Street and Lawrence Street Carparks from community to operational land, and to rezone the land from RE1 Public Recreation to B2-Local Centre on 19 September 2018.	
	At its meeting on 27 November 2018, Northern Beaches Council resolved to: A. submit a Planning Proposal to the Department of Planning and Environment for a Gateway determination to: - reclassify Oliver Street carpark and Lawrence Street carpark in Freshwater Village from Community Land to Operational Land under the Local Government Act 1993 - rezone the carparks from RE1 – Public Recreation to SP2 – Infrastructure (Carpark), and - adopt a 3 metre maximum building height control for the land. B. to continue to utilise the land as a carpark in its present form.	
2019	Council requested a Gateway Determination in respect of the Planning Proposal to reclassify Oliver Street and Lawrence Street Carparks from community to operational land. Council submitted the Planning Proposal to the NSW Department of Planning and Environment on 4 December 2018.	Section 3.34(1) of the <i>Environmental Planning and Assessment Act 1979</i>
	The Minister for Planning and Public Spaces determines the Planning Proposal to reclassify Oliver Street and Lawrence Street Carparks from community to operational land should proceed, subject to several conditions. The Gateway Determination is issued on 23 September 2019.	Section 3.34(2) of the <i>Environmental Planning and Assessment Act 1979</i>
2019-2020	Council places copies of the Planning Proposal and supporting information on public exhibition for comment between Friday 22 November 2019 and Sunday 2 February 2020. Copies were available on Council's website, and Council's Customer Service Centres at Manly, Dee Why and Mona Vale. Submissions from 9 people and one organisation were received.	
2020	A public notice of the Public Hearing was published in the <i>Manly Daily</i> on Wednesday 5 February 2020 after the conclusion of the statutory public exhibition of the Planning Proposal on Sunday 2 February 2020. From 3 February 2020: - Council's 'Have Your Say' web page was updated notifying the community of the public hearing, date, time and venue. - An email was sent to neighbouring residents/landowners, business owners and registered interested community members informing them of the public hearing. - Letters were sent to shop owners and residents/landowners who have not provided their email addresses. - Signs notifying the public of the Public Hearing were placed in the Lawrence Street and Oliver Street carparks.	
	<b>Council held the public hearing, chaired by an independent person, into proposed reclassification on 26 February 2020.</b>	<b>Section 29 of Local Government Act 1993 Department of Planning and Infrastructure Practice Note PN16-001</b>

Year(s)	Process	Relevant legislation
		<b>Section 47G of <i>Local Government Act 1993</i></b>
	<b>The independent chairperson prepared the public hearing report and issued it to Council on 24 March 2020.</b>	
	Council must make a copy of the public hearing report available for inspection by the public at a location within the area of the council no later than 4 days after it has received a report from the person presiding at the public hearing as to the result of the hearing.	Section 47G of <i>Local Government Act 1993</i>
	Consideration of the public hearing report and public submissions by Council.	



## 2 DESCRIPTION OF LAWRENCE STREET AND OLIVER STREET CARPARKS

### 2.1 Location

Two carparks are positioned behind the shops on the northern side of Lawrence Street in Freshwater Village: one with access from Oliver Street and the other with access from Lawrence Street. There is one-way vehicular access from the Lawrence Street carpark to the Oliver Street carpark. An Ausgrid owned substation divides the carparks.

**Figure 1 Location of Lawrence Street and Oliver Street carparks**

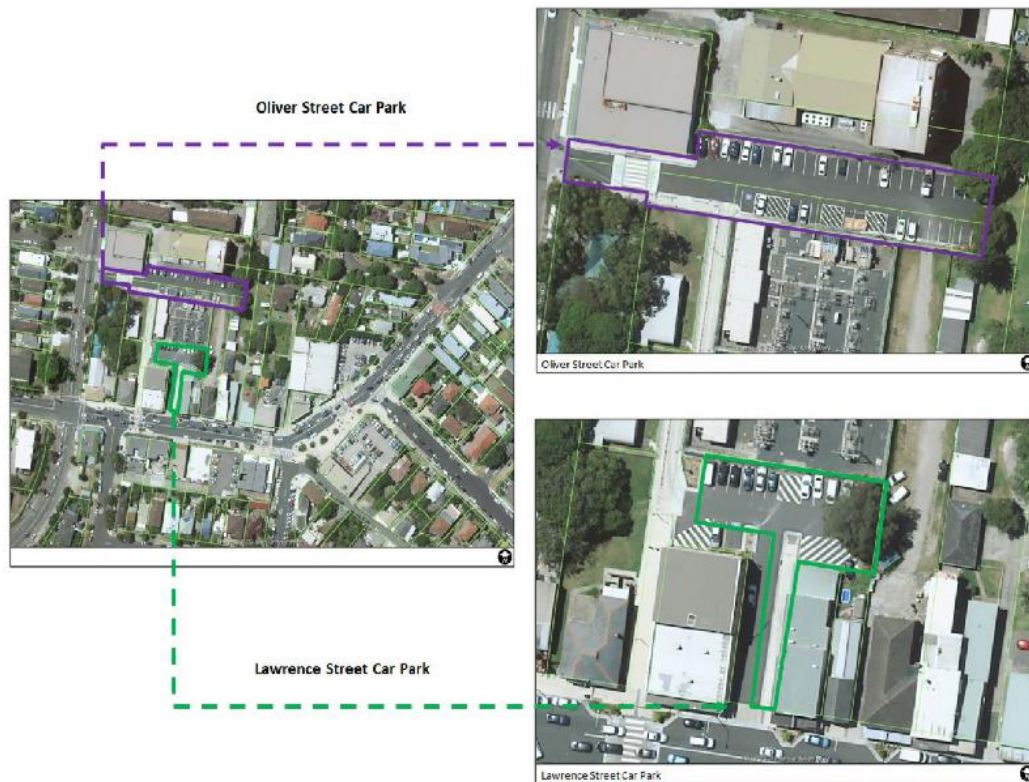


Figure 2 Local site context



View east from Oliver Street



View east - vehicle entry from Oliver Street carpark



View west to Oliver Street



View north of driveway and path between Oliver Street and Lawrence Street carparks



View east in Lawrence Street carpark



Private vehicle access off Lawrence Street carpark



View north in Lawrence Street carpark



View west in Lawrence Street carpark



Entry to Lawrence Street carpark



## 2.2 Use of the carparks

The 54 line-marked parking spaces in the Oliver Street and Lawrence Street carparks provide for overflow parking for Freshwater Village and to cater for the adjoining uses, principally the Harbord Literary Institute and Early Childhood Health Centre.

Limited car parking is also a feature of a number of private developments within Freshwater Village, so these uses rely on the Oliver Street and Lawrence Street car parking areas for vehicular parking. Due to the nature, size and historical development of the Freshwater Village some existing developments rely on access from these carparks for the loading and unloading of goods.

Three properties with right of carriageway, use Lawrence Street carpark for private access. 23 Lawrence Street has a Right of Way over Council land to access the rear of their property.

A constructive trust agreement dating back to 1970 between Council and the owners of 15 Lawrence Street obliges Council to maintain private vehicular access between the property and the Oliver Street carpark.

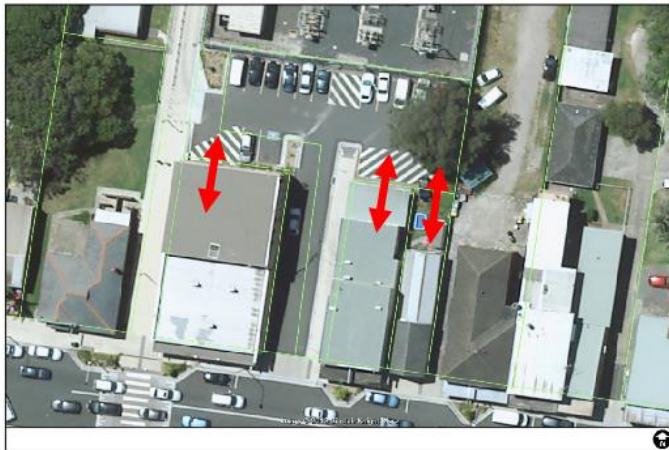
Figure 3 Agreement with 15 Lawrence Street and Council



Several private land holdings adjoining the land gain private access to and from the land.

Figure 4 Informal access to Lawrence Street and Oliver Street Car Parks

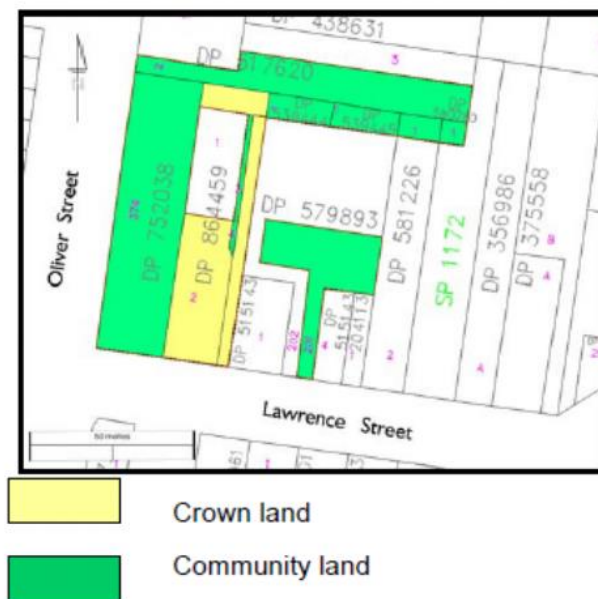




## 2.3 Land ownership

The land comprising the carparks is predominantly owned by Northern Beaches Council. Northern Beaches Council owns the parcel which comprises the Lawrence Street carpark, and six of the seven parcels of the Oliver Street carpark. The Department of Lands owns one parcel of land in the Oliver Street carpark (Lot 7315 DP 1151796).

Figure 2 Ownership of land in Lawrence Street and Oliver Street carparks



Source: Harbord Literary Institute and Early Childhood Health Centre Plan of Management (2008)

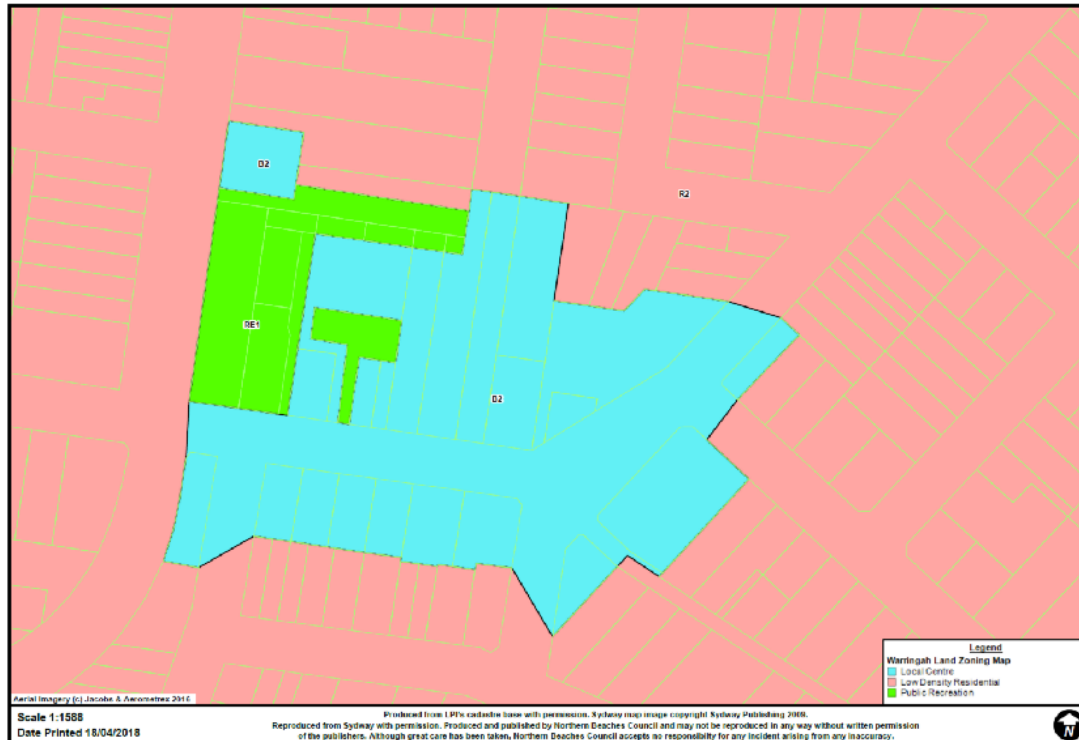
## 2.4 Zoning

The Freshwater Village is generally zoned under Warringah Local Environmental Plan 2011 (WLEP 2011) as B2 – Local Centre (B2 zone). The B2 zone permits a range of uses to support the functions of the Village, including shop top housing, child care centres, commercial premises, medical centres, etc. The land surrounding the Village is zoned R2 – Low Density Residential (R2 zone).



The Lawrence Street and Oliver street carparks, and the heritage listed items (Harbord Literary Institute and Early Childhood Health Centre), are zoned RE1 – Public Recreation (RE1 zone) (see Figure 5).

Figure 5 Land use zoning of Lawrence Street and Oliver Street carparks



The RE1 zoning permits a limited range of uses with development consent consistent with the objectives of the zone. Neither of the carparks holds recreational or open space values, and neither meet the objectives of the RE1 zoning.

*Further information about the site can be obtained from the Planning Proposal: Freshwater Village – Reclassification and Rezoning of Oliver Street and Lawrence Street Carparks (Northern Beaches Council, November 2019).*

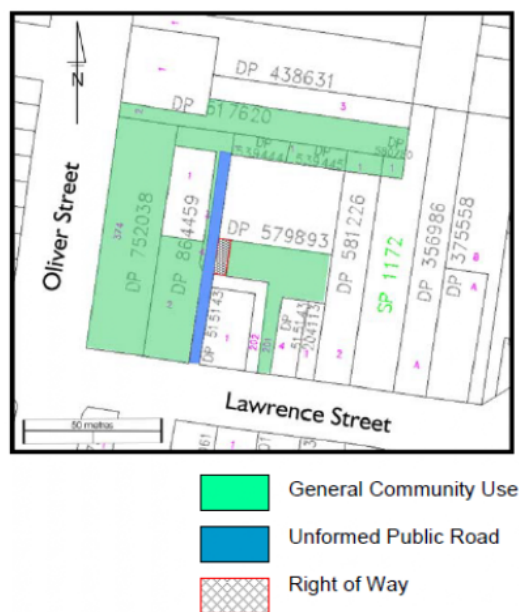
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# 3 PROPOSED RECLASSIFICATION OF LAWRENCE STREET AND OLIVER STREET CARPARKS

## 3.1 What is reclassification of community land?

Under the *Local Government Act 1993*, public land is classified as either 'operational' or 'community' land. The subject land is classified as community land under the *Local Government Act 1993*, and is further categorised as General Community Use in the *Harbord Literary Institute and Early Childhood Health Centre Plan of Management (2008)*.

Figure 6 Categorisation of Lawrence Street and Oliver Street carparks



Community land would ordinarily comprise land accessible to the public, such as a park or a community centre. Community land must not be sold (except in the limited circumstances referred to in Section 45 (4) of the Act). 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. Community land may only be leased or licensed for more than 5 years if public notice of the proposed lease or licence is given and, in the event that an objection is made to the proposed lease or licence, the Minister's consent is obtained. Council also cannot grant a lease, license or other estate for private purposes over community land. This means that shop owners on Lawrence Street are not authorised to use the carparks to gain vehicle access to their properties such as for loading and unloading, or for on-site parking.

Operational land would ordinarily comprise land held as a temporary asset or as an investment, land which facilitates the carrying out by a Council of its functions, or land which

may not be open to the general public, such as a works depot. Operational land may be leased for a longer period of time, and may be sold/ transferred. Operational land does not have any special restrictions and can be used by Council for a broad range of purposes.

Classification or reclassification of land does not affect any estate or interest a council has in the land.

### 3.2 Land to which the proposed reclassification applies

The proposed reclassification applies to the Council-owned land shown by the green hatched areas in Figure 7.

Figure 7 Land to which the proposed reclassification applies



Please note that reclassification of Crown land is a separate process to reclassifying Council owned land. Reclassification of Crown land is dealt with by Council as Crown Land Manager applying to the Minister to reclassify the land to operational. A public hearing is not required for the reclassification of Crown land to operational land.

The Department of Planning, Industry and Environment – Crown Lands advised Council on 18 October 2019 that the department has no objection to the proposed rezoning of Crown Reserve 88574 (Lot 7315 DP 115796) for which Council is the Crown Land Manager, because the proposed SP2 Infrastructure (Carpark) zoning is consistent with the reserve purpose for parking.

Refer to the NSW Department of Industry – Lands and Water, *“Guideline – classification of Crown Land managed by Council Crown Land Managers”*.

### 3.3 Why are the Lawrence Street and Oliver Street carparks proposed to be reclassified?

The carparks are currently zoned as RE1 Public Recreation. This is an anomaly which arose when Warringah Local Environmental Plan (LEP) 2000 was replaced by Warringah LEP 2011.

Council proposes to reclassify the land from community land to operational land, and then to rezone the land from RE1 Public Recreation to SP2 Infrastructure (Carpark). The SP2 zone prohibits development of the land for any other use than carparking.

The current use of the land for carparking is inconsistent with the zoning of the land as RE1 Public Recreation. The carparks have no recreational or open space value. Rezoning of the land to SP2 – Infrastructure (Carpark) will accurately reflect the current use and purpose for which the space is used.

The current classification of the carparks under the Local Government Act as community land prevents Council from granting a lease or licence to private landowners in Lawrence Street for legal vehicular access across community land to their properties. As a consequence, Lawrence Street landowners 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. An operational land classification for the Lawrence Street and Oliver Street carparks would permit legal access to the adjoining properties, which would comply with the requirements of the Freshwater Village Development Control Plan 2011 and resolve the urban design issues along Lawrence Street.

Due to the current layout, built form and historical development of the Freshwater Village there are limited opportunities to provide alternative or increased car parking capacity in the village at this time. There is a perceived lack of parking within the Freshwater Village and the removal of any car parking spaces is not considered favourably by Council unless they are provided elsewhere.

A similar process has been undertaken to reclassify carparks from community land to operational land, for example for the Darley Street carpark and Starkey Street carparks in the Forestville local centre.



### 3.4 Implications of reclassifying the carparks from community land to operational land

Council has no plans to develop or sell the carparks. Council will receive no financial benefit from the reclassification or rezoning of the subject land.

The change in classification of the carparks from community land to operational land would:

- ☐ ensure the function of the carpark remains in the community's benefit. The continued use of the land as a public carpark is critical to the operation of the local centre.
- ☐ permit owners of shops fronting Lawrence Street to obtain legal vehicle 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, thereby improving traffic and pedestrian safety and amenity on Lawrence Street
- ☐ enhance the pedestrian and shopping environment and increase opportunity for street furniture and landscaping.

The proposed changes will secure the function of the carpark remains in the community's benefit. The continued use of the land as a public carpark is critical to the operation of the local centre.

While the rezoning would permit additional uses of the site, this is unlikely to occur because:

- ☐ Council is aware that the carparks are needed by the community.
- ☐ the size and shape of the land would restrict development options
- ☐ the carparks are made up of several parcels of land not owned by Council e.g. one lot within Oliver Street carpark is Crown land, and one lot within the Lawrence Street carpark is owned by Ausgrid
- ☐ the Ausgrid substation and associated underground cabling in the carpark will constrain development options.

The further application of a 3 metre height of building control will restrict the development potential of the site.

A Plan of Management could arguably be used to grant a lease or licence for private access to adjoining properties subject to its amendment. Council's legal advice is that the legality of this approach is not without doubt, so Council is proposing to reclassify the land to operational land.

### 3.5 What will happen if the carparks are not reclassified?

The current classification of the Lawrence Street and Oliver Street carparks under the *Local Government Act 1993* as community land prevents Council from granting a lease or a licence to Lawrence Street landowners for rear vehicular access to their properties. Consequently, Council cannot support development proposals for land in Lawrence Street that would remove driveway crossings in the street and replace them with rear access from the carparks. The removal of driveway crossings in Lawrence Street would significantly improve the safety and amenity of pedestrians and improve the streetscape character consistent with the objectives of the Freshwater Development Control Plan.

New shop-top housing developments proposed at 21 Lawrence Street and approved for 9-15 Lawrence Street, and other future developments, will be forced to gain vehicle access from Lawrence Street, increasing potential conflict between pedestrians and vehicles in the area.

### 3.6 Process of reclassification of community land

The *Local Government Act 1993* and the *Environmental Planning and Assessment Act 1979* set out requirements that Councils must follow when reclassifying community land to operational land. Relevant legislation can be accessed at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au).

Reclassification may be carried out by either:

1. A Local Environmental Plan under the *Environmental Planning and Assessment Act 1979* (through Section 27(1) of the *Local Government Act 1993*, or
2. Council resolution under Section 27(2) of the *Local Government Act 1993*.

Council is proposing to reclassify the Council-owned community land under Option 2.

The process of reclassifying Lawrence Street and Oliver Street carparks from community to operational land by changes to the Warringah Local Environmental Plan 2011 is in Figure 8 and Table 2.

Figure 8 Process of reclassifying Lawrence Street and Oliver Street carparks by local environmental plan

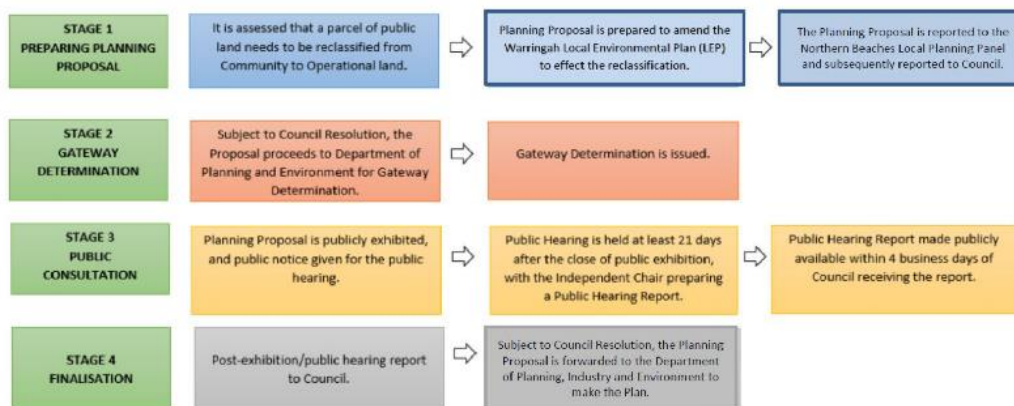


Table 2 Process of the public hearing and report

Process	Relevant legislation
Council held the public hearing into the proposed reclassification on Wednesday 26 February 2020. The person presiding at the public hearing is not a councillor or employee of the council holding the public hearing, or has been a councillor or employee of that council at any time during the 5 years before the date of her appointment.	Section 29 of <i>Local Government Act 1993</i> Department of Planning and Infrastructure Practice Note PN09-003 Section 47G of <i>Local Government Act 1993</i>
Independent chairperson at public hearing prepared the public hearing report and issued it to Council.	

Process	Relevant legislation
Council must make a copy of the public hearing report available for inspection by the public at a location within the area of the council no later than 4 days after it has received a report from the person presiding at the public hearing as to the result of the hearing.	Section 47G of <i>Local Government Act 1993</i>
Consideration of the public hearing report and public submissions by Council.	
<b><i>If Council decides to proceed with the reclassification:</i></b>	
Report to Council on the public hearing and submissions.	
Council requests the Department of Planning, Industry and Environment to prepare the draft Local Environmental Plan to give effect to the Planning Proposal.	
Amendment made to the Warringah Local Environmental Plan to reclassify the community land as operational land may make provision to the effect that, on commencement of the plan, the land ceases to be a public reserve, and that the land is by operation of the plan discharged from any trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land.	Section 27 of <i>Local Government Act 1993</i>
Reclassification of the land to operational land.	Section 30(1) of <i>Local Government Act 1993</i>



## 4 THE PUBLIC HEARING

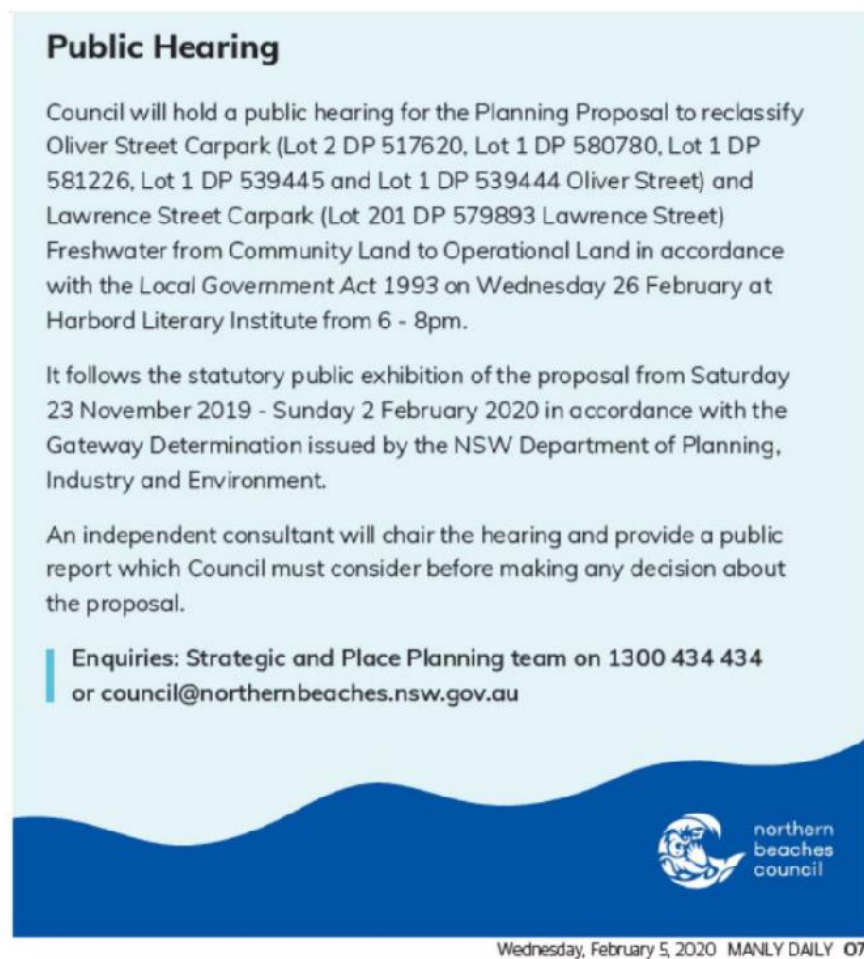
### 4.1 Advertising and notification

On 3 February 2020 Council:

- ☐ updated Council's 'Have Your Say' web page to notify the community of the public hearing, date, time and venue.
- ☐ sent an email to neighbouring residents/landowners, business owners and registered interested community members informing them of the public hearing.
- ☐ sent seventy-seven (77) letters to shop owners and residents/landowners who have not provided their email addresses.
- ☐ placed signs notifying the public of the public hearing in the Lawrence Street and Oliver Street carparks.

A notice was placed in the Manly Daily on Wednesday 5 February 2020.

Figure 9 Manly Daily notice 5 February 2020




**Public Hearing**

Council will hold a public hearing for the Planning Proposal to reclassify Oliver Street Carpark (Lot 2 DP 517620, Lot 1 DP 580780, Lot 1 DP 581226, Lot 1 DP 539445 and Lot 1 DP 539444 Oliver Street) and Lawrence Street Carpark (Lot 201 DP 579893 Lawrence Street) Freshwater from Community Land to Operational Land in accordance with the Local Government Act 1993 on Wednesday 26 February at Harbord Literary Institute from 6 - 8pm.

It follows the statutory public exhibition of the proposal from Saturday 23 November 2019 - Sunday 2 February 2020 in accordance with the Gateway Determination issued by the NSW Department of Planning, Industry and Environment.

An independent consultant will chair the hearing and provide a public report which Council must consider before making any decision about the proposal.

Enquiries: Strategic and Place Planning team on 1300 434 434 or [council@northernbeaches.nsw.gov.au](mailto:council@northernbeaches.nsw.gov.au)

 northern  
beaches  
council

Wednesday, February 5, 2020 MANLY DAILY 07

## 4.2 Timing of the public hearing

The public hearing was timed to occur after the public exhibition of and receipt of any written submissions regarding the planning proposal for the proposed reclassification of the land closed on 2 February 2020.

Public notice of the public hearing was given at least 21 days after the completion of the statutory public exhibition period of the Planning Proposal.

The public hearing to receive submissions on the proposed reclassification of community land at Lawrence Street and Oliver Street carparks was held on Wednesday 26 February 2020 from 6:00-8:00pm at the Harbord Literary Institute Hall, Oliver Street, Freshwater.

## 4.3 Chairperson

As required under Section 47G of the *Local Government Act 1993*, Council appointed an independent chairperson, Sandy Hoy, Director of Parkland Planners, to chair the public hearing. Ms. Hoy has not at any time been either a Councillor or an employee of Northern Beaches Council.

## 4.4 Site inspection

Ms. Hoy inspected the Lawrence Street and Oliver Street carparks prior to the public hearing.

## 4.5 Attendance at the public hearing

The following Council officers were present at the hearing to represent Council and to listen to verbal submissions:

Anne-Maree Newbery	Manager, Strategic and Place Planning
Brendan Gavin	Principal Planner, Strategic and Place Planning
Jeanne Thuez	Planner, Strategic and Place Planning

Sixteen (16) members of the public signed the attendance register at the public hearing.

## 4.6 Agenda of the public hearing

Ms. Hoy opened the public hearing at 6:10 pm, and explained the purpose and process of the public hearing. Council officers explained the purpose of the reclassification, and answered questions. The Planning Proposal was referred to for background information about the proposed reclassification.

Verbal submissions regarding the proposed reclassification were received at the public hearing. The content of those submissions are outlined in more detail in Section 5 of this report.

With there being no further submissions or questions, Ms. Hoy closed the hearing at 7:45 pm.

## 5 ASSESSMENT OF SUBMISSIONS

In addition to verbal submissions made at the public hearing, written submissions from three people who attended the public hearing were received at and after the public hearing by the closing date of 1 March 2020.

Approximately two-thirds of the 16 community members who attended the public hearing indicated through a show of hands, asked for by one of the attendees, that they support the proposed reclassification of Lawrence Street and Oliver Street carparks from community land to operational land.

Comments made at the public hearing and in the three written submissions about the proposed reclassification and related issues are set out in Table 3 below. The comments from Council staff in the 'Council response column' were made at the public hearing, or after the hearing when the chairperson sought clarification about some submissions made at the public hearing.

Table 3 Assessment of submissions

Submission / question	Council response
<b>Land ownership</b>	
Is the access road and pavement Council land?	Yes, Council owns the vehicle access road between the Lawrence Street carpark and Oliver Street carpark.
The Department of Planning approved the reclassification, but a sliver of the land is owned by the Crown. Is that land part of the driveway?	Yes. Lot 7315 DP 1151796, Lawrence Street Freshwater forms part of the Oliver Street carpark.
<b>Process of reclassification</b>	
Who made the resolution in 1994 to classify the carparks as operational?	The Councillors at the time. Since May 1994 Council has been working to reclassify the land with the State government. The purpose was to get the reclassification and rezoning done so the same access issues don't arise again. Council wants to move forward to resolve the access issues through reclassification and rezoning.
Adam Mitchell from Council is gone from the process.	Development applications are handled by a different team in Council. Adam Mitchell was the Development Assessment Officer who was responsible for development applications. Planning Proposals are handled by the Strategic Planning team.
It appears that Council has two options for reclassification – Planning Proposal or Council resolution. Why has Council chosen the option that it has?	In April 2019 Council sought legal advice which advised that preparing the Planning Proposal and holding the public hearing is the correct process for reclassification and rezoning for Council to follow. Council wants to rezone the land to reflect its correct use. The carpark is currently zoned RE1 Public Recreation which doesn't reflect the function of a carpark.

Submission / question	Council response
	The SP2 Carpark zone is the most appropriate because Freshwater Village needs carparking and Council wants to keep the land for carparking.
Is reclassifying Crown land the same process as reclassifying community land? Does that process run parallel?	Yes. Council is currently working on the classification application to classify the Crown land lot in the Oliver Street carpark to operational Land. The application will be submitted to the Department of Planning, Industry and Environment - Crown Lands for the Minister's approval.
What is the purpose of this meeting? Nothing has been determined.	It is a requirement of the Local Government Act for community consultation. The public hearing gives the community an opportunity to make their views about the proposed reclassification known to Council. The outcome of the public hearing is not set. An independent person prepares the report of the hearing.
The community is frustrated with the process, but wants to move forward.	Noted
<b>Timing of the reclassification and rezoning</b>	
The developer of Oceans is willing to change their plans, but Council says it has to do this. Council should have realised that permission and approvals for access would be necessary 8 months ago. In 2021 we will get the outcome we don't want. The community wanted a result before last Christmas so the developer didn't do the crossing.	Noted. The process to reclassify community land to operational land commenced in 2018. The Planning Proposal was submitted to the Department of Planning and Environment in December 2018. The Department did not issue the Gateway Determination until September 2019. Council has no control over the length of time a Planning Proposal takes to be assessed by the Department.
The timeline on page 27 of the Planning Proposal is wrong. It is a slow process from the Planning Proposal to this meeting to the Department of Planning, Industry and Environment in September. When do the Councillors vote on the reclassification?	The process is slow, but Council is following the State government process. At the time of the public hearing the intention was for the Planning Proposal and the public hearing report to go up to the Council meeting on 28 April 2020, which is sooner than June as set out in the timetable in the Planning Proposal. However this timetable may be delayed for some months because of factors such as the recent restriction on meetings due to coronavirus.
Can we lobby the Councillors?	Yes
A lot owner in the Oceans development at 9-15 Lawrence Street is concerned about any delay in construction completion and the planned settlement date in mid June 2020. The lot owner has made plans to put their current residence on the market for sale and to enact a resettlement for mid June.	Noted



Submission / question	Council response
Any further delays due to rezoning and/or amendments to the current development application would negatively impact lot owners financially and emotionally.	
<b>Rezoning process</b>	
Can the land be rezoned after rezoning to a carpark?	Only if another Planning Proposal is prepared.
Is it a separate process to rezone the land from RE1 to SP2 Carpark?	The rezoning and the reclassification are both part of the same Planning Proposal to amend the Warringah Local Environmental Plan 2011.  It is a similar process for reclassification and rezoning, but rezoning does not require a public hearing.
<b>Rights of way and vehicle access</b>	
Concern about rights of way and conditions of a lease if the land is reclassified to operational land. Why would Council want to issue a lease over the carpark? Would a lease specify which vehicles could come and go? Is access to 9-15 and 21 Lawrence Street leased by Council? Is there a potential lease for vehicle access? Can Council put conditions on a lease? Can such conditions be modified or changed? Will conditions control the number of heavy vehicles?	Community land is used for community purposes, but private access is not permitted on community land. Council wants to allow private access over the carpark.  Council can place conditions on a lease.  Standard conditions relate to developments, including the timing and frequency of deliveries. Such conditions would be considered when assessing the development application.  Another team in Council deals with conditions on development.
Have long term leases been offered to the current occupants of the business parking spaces, such as the bottle shop?	Those businesses have Right of Way, not a long term lease.
If the Freshwater car park is reclassified to operational land I understand that: 1. Council approval would be required for a right of carriageway across the car park to permit vehicular access to adjoining private properties. 2. Council land classified as operational can be sold or leased without community consultation. Given the continuing community use of the car park, I wonder if there is an opportunity for community input into any lease agreement or associated conditions. It is possible this would require a Council resolution.	Yes. Council approval is required a right of carriageway across the car park to permit vehicular access to adjoining private properties.  Council is not selling the carparks. Council is aware that the carparks are needed by the community and recommend that any potential sale of the land be subject to the approval of the elected Council. Rezoning the land to SP2 – Infrastructure (Carpark) and creating a height limit of 3 metres will severely restrict the development potential of the site. Any use of the site for other uses would require a further rezoning.  Council's Chief Executive Officer and Directors have delegation to sign off lease agreements.

Submission / question	Council response
Are there plans for further developments that will affect or change the carpark?	The Development Application for 21 Lawrence Street will change the access through Oliver Street.
<b>Support for vehicle access from the rear of Lawrence Street</b>	
Concern about the Oliver Street carpark. The original reason for reclassification was to allow access from the carpark to building sites on Lawrence Street so no entry or exit would be required off Lawrence Street. This would reduce traffic on Lawrence Street, and reduce danger to pedestrians. This proposed reclassification seems not to be Council's objective.	Noted. Refer to responses above.
<p>The "baby has been thrown out with the bathwater". Two developments with driveways through the Oliver Street carpark have been approved. The Friends of Freshwater supported the reclassification because then all garbage trucks and carparking in Lawrence Street would not go through the rear.</p> <p>Friends of Freshwater have been working on this since 2010. The Freshwater Village Working Party worked on the Freshwater Village Masterplan which informed the Warringah Development Control Plan. The purpose was to close the driveways to protect the safety of pedestrians along Lawrence Street. Somehow the process has become convoluted and the purpose has been lost.</p>	<p>There have been hurdles in the process for the Planning Proposal.</p> <p>The opportunity may have been lost to amend vehicle access to some Lawrence Street properties via the Oliver Street carpark. The proposed reclassification would apply to any future development applications though.</p>
<p>Once the reclassification is completed, hopefully soon, there is the possibility that the development at 9-15 Lawrence Street can submit a Section 96 modification and have the garbage and delivery services accessed at the rear.</p> <p>Additionally, any further developments on Lawrence Street would have the opportunity to be totally serviced from the rear.</p> <p>This would assist to minimise the traffic congestion on Lawrence Street.</p>	Noted
Development Applications for two properties and this rezoning are intertwined according the community.	Noted.

Submission / question	Council response
<p>Reclassification would allow vehicular access to private property via the Council car park. This would reduce vehicular conflict and enhance pedestrian safety and amenity on Lawrence Street.</p> <p>The reclassification would still allow access via the car park entrance in Lawrence Street, but would avoid direct vehicular access to the adjoining site via Lawrence Street.</p>	Noted.
<b>Access to 27 Lawrence Street</b>	
Can access from the carpark be obtained to the liquor shop if the carpark is operational land, zoned SP2 Carpark, and has a height limit of 3 metres?	Yes, there is no change to the Right of Ways over Council land or the current functions of the carpark.
<b>Access to Ausgrid property</b>	
Will there be any change to Ausgrid access?	No. Access to Ausgrid owned land through Council land remains the same. Ausgrid has Right of Way.
<b>Access to 9-15 Lawrence Street</b>	
<p>The loading dock for the Oceans development at 9-15 Lawrence Street faces Lawrence Street, and it is hard in retrospect to change this. The Oceans developer won't change the location of the loading dock.</p> <p>Friends of Freshwater supported protecting Lawrence Street.</p>	Noted.
<p>Freshwater Community Bank supports the position of Friends of Freshwater. The bank has bought one of the shops elsewhere in Freshwater to relocate the bank. Access through the driveway is no longer possible. Access for trucks should be from the back of the shops. That doesn't appear to be on the agenda. Should the bank lobby the developer? Is it a condition of development approval to modify the rear entrance?</p>	Noted.
<b>Future uses of operational land</b>	
Once the land is reclassified from community to operational land, does that open up use of the land to fluid, non-specific uses?	The primary use of the carparks after reclassification will still be as carparks.

Submission / question	Council response
The carpark has been used to run a community fair. If the carpark became operational land, could it be used for a community fair?	Yes, but the approvals process would still be required.
<b>Concern about potential sale of the land</b>	
Freshwater Village has a shortage of community land. Reclassification to operational land will allow Council to sell the land without consultation with the community.	<p>Council does not intend to sell the Oliver Street and Lawrence Street Carparks.</p> <p>The Oliver Street and Lawrence Street Carparks are being rezoned SP2 – Infrastructure (Carpark) with a height limit of 3 metres will severely restrict the development potential of the site. Any use of the site for other uses would require a further rezoning.</p>
The proximity of the Electricity Sub-Station currently constrains the development potential of the car park for community and other uses. In the absence of this constraint, reclassification of land zoned B2 Local Centre would increase the value of the land and likelihood of sale.	The Oliver Street and Lawrence Street Carparks are being rezoned SP2 – Infrastructure (carpark) with a height limit of 3 metres will severely restrict the development potential of the site. Any use of the site for other uses would require a further rezoning.
<b>Concern about pedestrian safety</b>	
<p>How can the safety of pedestrians, especially children, be ensured?</p> <p>How has pedestrian safety been taken into account at this stage?</p> <p>Which traffic safety devices would be used?</p>	<p>Council's Traffic and Transport team and Pedestrian Committee look at pedestrian safety, which will be addressed at a different stage. Traffic and transport are looked at as part of a development application for redevelopment.</p> <p>As part of the modification to the DA for 9-15 Lawrence Street Council's Traffic team looked at traffic and how it will be slowed.</p> <p>The traffic safety devices used would be decided by the developer.</p>
<p>Pedestrian safety across the car park entrance in Oliver Street is a concern, as it separates the preschool annexe from the playground.</p> <p>Pedestrians also cross the Oliver Street car park entrance to access the Village.</p> <p>The conflict between pedestrians and vehicular movement to gain access to private property would need to be managed to reduce public risk.</p>	<p>Noted.</p> <p>Potential motor vehicle and pedestrian movements are assessed as part of a development application.</p>
As the Planning Proposal states: carparks require slow and cautious vehicle movement. The driveway access and use of the carpark for heavy vehicles needs to be compatible with pedestrian safety.	<p>Noted.</p> <p>Potential motor vehicle and pedestrian movements are assessed as part of a development application.</p> <p>Pedestrian safety is very important.</p>



Submission / question	Council response
<p>The Planning Proposal predicts the 'increase in traffic would be minor.' However, there is no estimate numerically. The safety issue relates to traffic, speed and size of vehicle within the carpark.</p> <p>A DA was submitted and modification proposed previously. The DA was approved and modification withdrawn - however I do not recall an assessment of the potential impacts on pedestrian safety. Consideration of safety is important for users of community facilities, as many are children.</p>	
<p><b>Concern about safety of car park users</b></p>	
<p>The reclassification of the car park to operational would allow the public car park to be used as a driveway to multiple private apartments.</p> <p>The driveway access through the car park would impact on the entire length of the car park.</p> <p>The use of the community car park for deliveries and heavy vehicle access has drawbacks in terms of safety for users of the car park.</p>	<p>Whilst the proposal could 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 and safer outcome than the retention or increase in driveway crossings in Lawrence Street.</p>
<p><b>Support priority for community use of parking spaces</b></p>	
<p>The shortfall in on-site parking spaces increases the likelihood of resident and visitor parking taking up car spaces allocated for community use.</p> <p>The priority use of the car park should be for residents using the community and retail facilities in Freshwater Village.</p> <p>The community car park is adjacent to community facilities that do not have their own dedicated parking space.</p> <p>The availability of public car spaces near to community facilities is important for convenience and safety.</p>	<p>The number of parking spaces will not decrease nor will the residents in the new top shop housing development be granted specific parking spots in the carpark.</p> <p>The carpark will remain for the use of the public. However, it will allow leases to be put in place for shop owners to access their properties and private carpark from the Oliver Street carpark. 15 Lawrence Street had a longstanding agreement with Council through the Oliver Street carpark.</p>
<p><b>Opportunity for pedestrian link between the Oliver Street carpark and Freshwater Uniting Church</b></p>	
<p>Council should include a right of way / easement for pedestrian access between the north eastern corner of the car park and the hall of the Uniting Church in Marmora Street.</p> <p>The Freshwater Uniting Church is well used for community functions but there is a deficit of parking spaces in Marmora Street.</p>	<p>Noted.</p>

Submission / question	Council response
<p>In earlier years residents had the land owner's permission to access the church hall via an informal path across the rear of the private lot. This allowed convenient access from the community car park.</p> <p>The reinstating and formalising of this link would have a public benefit, but has not been pursued as an option.</p> <p>The pedestrian link would provide a greater public benefit in conjunction with any proposal to reclassify the car park from community to operational.</p>	

## 6 RECOMMENDATIONS

### 6.1 Recommendations regarding proposed reclassification

After considering the verbal submissions made at the public hearing and the written submissions received after the public hearing listed in Section 5, there is a strong imperative for the reclassification of the Lawrence Street and Oliver Street carparks from community land to operational land. Reclassification from community land to operational land would:

- ☐ reflect general community support
- ☐ allow vehicles to access private developments from the rear through either carpark entrance rather than from driveways off Lawrence Street, thus contributing to the safety of pedestrians using Lawrence Street
- ☐ permit the carpark to be rezoned SP2 Infrastructure (Carparking), rather than RE1 Public Recreation, to continue its use for carparking. The proposed 3 metre maximum building height limit supports the use of the land for carparking
- ☐ formalise existing private vehicle access to private developments adjoining the carpark through a lease or licence agreement with Council
- ☐ be consistent with precedents for reclassifying carparks on community land to operational land, for example at Forestville Centre.

My recommendations to Northern Beaches Council regarding the proposed reclassification of Lawrence Street and Oliver Street carparks from community land to operational land are to:

1. Note that most of the 16 people attending the public hearing supported the proposed reclassification of Lawrence Street and Oliver Street carparks from community land to operational land.
2. Consider the viewpoints and issues raised in the verbal and written submissions outlined in Section 5 when making the decision whether to proceed with the proposed reclassification.
3. Reclassify the Lawrence Street and Oliver Street carparks from community land to operational land.

### 6.2 Recommendations regarding reporting

Within four days of receiving this report, Council is required under Section 47G(3) of the *Local Government Act 1993* to make a copy of this report available for inspection by the public. It is recommended that Council:

- ☐ send a copy of the public hearing report to the people who attended the public hearing.
- ☐ keep a copy of the public hearing report for inspection at its administration centre and at its libraries.
- ☐ post an electronic copy of the public hearing report on Council's website.



Sandy Hoy  
Director, Parkland Planners

24 March 2020

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## **PLANNING PROPOSAL**

Freshwater Village – Reclassification and Rezoning of Oliver Street and  
Lawrence Street Carparks

Warringah Local Environmental Plan 2011

April 2020



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## Background

Freshwater is identified as a local centre in the North District Plan. Freshwater Village is a mixed-use area with a range of local businesses, residential and cultural significance including local heritage items and proximity to Freshwater Beach. 'Lawrence Street' is the main road that runs through the village and 'Oliver Street' intersects Lawrence Street and bypasses the village.

The Council-owned Oliver Street and Lawrence Street carparks in Freshwater Village provide carparking for local residents visiting the centre. The current classification of these carparks under the Local Government Act, 1993 as "Community" land. Community land prevents the use of the land for private purposes.

A Plan of Management could arguably be used to grant a lease or licence for private access to adjoining properties subject to its amendment but Council's legal advice is that the legality of this approach is not without doubt. Council is therefore proposing to reclassify the land to "Operational" land.

With the commencement of the Local Government Act 1993, Councils had 12 months to classify public land. Council owned land not classified within 12 months of the implementation of the Local Government Act 1993 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 - a Council resolution 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 was put to Council after advice 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 went to Council seeking to reclassify and rezone 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 to Council to make recommendations. First meeting of FVWP 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 DCP until Land and Environment Court decision received regarding development on 8 lots in Village, involving 91 units.
- 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.

Number 15 Lawrence Street had an agreement with Council to allow private vehicle access through Oliver Street carpark, while 21 Lawrence Street has informal access. Properties 23, 25 and 27 Lawrence Street have Right of Carriageway to access the rear of the properties over the Lawrence Street carpark.

#### **Development Applications**

Recently two development applications were approved for shop top housing at 9-15 Lawrence Street (DA2017/1294) and 21 Lawrence Street (DA2017/1287) with separate vehicle crossovers onto Lawrence Street. As 9 and 15 Lawrence Street have been consolidated for the development the above-mentioned agreement with, 15 Lawrence Street does not carry over to 9 Lawrence Street, therefore the approved shop top housing does not have legal private vehicle access via Oliver Street carpark and the premises. During the exhibition period for the two development applications, the community raised concerns that the development will result in increased traffic on Lawrence Street.

Since the above-mentioned development applications have been approved for vehicle access from Lawrence Street, if either of the approved developments would like to gain access via Oliver Street carpark, they would be required to submit section 4.55(2) application to modify the consent.

Council proposes to reclassify the land to "Operational" which will allow the two new shop top developments to have vehicle access for residents and commercial operators through Oliver Street carpark, deterring traffic from Lawrence Street.

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.



## Lots & Deposited Plans

The proposal is to reclassify and rezone the following Lots and Deposited Plans (DP) as per the table 1 below.

Table 1: Affected Lots.

Property details	Address	Action	Owner
Lot 2 DP 517620	Lot 2/ Oliver Street FRESHWATER	Reclassify, rezone, height control	Northern Beaches Council
Lot 1 DP 580780	Lot 2/ Oliver Street FRESHWATER	Reclassify, rezone, height control	Northern Beaches Council
Lot 1 DP 581226	Lot 2/ Oliver Street FRESHWATER	Reclassify, rezone, height control	Northern Beaches Council
Lot 1 DP 539445	Lot 2/ Oliver Street FRESHWATER	Reclassify, rezone, height control	Northern Beaches Council
Lot 1 DP 539444	Lot 2/ Oliver Street FRESHWATER	Reclassify, rezone, height control	Northern Beaches Council
Lot 7315 DP 1151796	Lot 7315/1151796 Lawrence Street FRESHWATER	Rezone, height control	Department of Lands
Lot 201 DP 579893	Lot 201/ Lawrence Street FRESHWATER	Reclassify, rezone, height control	Northern Beaches Council

## Report to Consult with the Community

The Planning Proposal is a result of a Council meeting and a report to consult with the community. At its 25 March 2014 Council meeting, Council resolved to consult with the community regarding the proposed reclassification and rezoning. The consultation occurred between July and August 2018.

The Report to Consult with the Community exhibited the Council's proposal to reclassify the land to Operational, rezone and apply a height of building control. It proposed that the carparks be rezoned from RE1 Public Recreation to B2 Local Centre and to implement an 11 metre height of building control.

The reason to rezone the carparks to B2 Local Centre and adopt an 11 metre height standard was to align the zoning with the zoning and height controls applying to surrounding commercial uses.

However, after the exhibited period it was decided that the land should be rezoned to SP2 Infrastructure (Carpark) and a restrictive 3 metre height control adopted due to community concerns regarding potential sale of the land and redevelopment of the site.

The objectives of SP2 Infrastructure (Carpark) under Warringah Local Environmental Plan 2011 are 'to provide for infrastructure and related uses' and 'to prevent development that is not compatible with or that may detract from the provision of infrastructure'. A height of building of 3 metres is proposed to be applied over the two carparks. These objectives support Council's desired outcome for the carparks.

None of Council owned land identified in the Planning proposal is a "Public Reserve". The Crown Land lot, is a Reserve (see title search) however the land is currently being used as part of the public carpark and it is not proposed to reclassify this land or to remove its "Reserve" status as part of the Planning proposal to ensure the carparks retain the current use.

### Interests in Land

Council owns six of the lots the subject of the Planning Proposal and the other lot is own by the Department of Crown Lands (see table). Some of the Council-owned lots are subject to rights of carriageway and easements for electricity purposes (adjoin sub-station).

Council consulted with the Department of Crown Lands for consent to rezone their parcel of land Lot 7315 DP 115796 from RE1 Public Recreation to SP2 Infrastructure (Carpark), and to adopt a 3-metre maximum building height control over the land.

Council received a response from the Department of Crown Lands on 18 October 2019, stating they had no objections to the planning controls sought under the planning proposal for Lot 7315 DP 115796 for the following reasons:

- The proposed SP2 Infrastructure (Carpark) zoning is considered to be consistent with the purpose for which the Crown land has been reserved under the CLM Act 2016.
- Establishing a maximum building height of 3 metres is not considered likely to harm the use of the site for the purpose for which it has been reserved.
- Council does not intend to sell its land the subject of this Planning Proposal and does not therefore, intend to discharge any interests in the land. There are no current or proposed lease agreements applying to the land.

### Part 1 - Intended Outcomes

This planning proposal applies to Oliver Street carpark and Lawrence Street carpark, Freshwater as shown in Part 4, Map 1.

The intended outcome is to reclassify the carparks to "Operational" land, rezone both carparks to SP2 Infrastructure (Carpark) and implement a height of building control of 3 metres under the Warringah Local Environmental Plan 2011 (WLEP2011).

The changes will allow Council to permit private vehicle access from the carparks to adjoining developments thereby allowing the removal of vehicular access crossings on Lawrence Street to these properties.

SP2 Infrastructure under *Warringah LEP 2011* permits:

"Aquaculture; The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose; Environmental protection works; Roads".

SP2 Infrastructure prohibits any further development of the land for private development without initiating a public consultation for a rezoning.

The application of a 3 metre height of building control restricts development potential. The changes will secure the function of the carpark remains in the community's benefit.

## Part 2 – Explanation of Provision

The proposed amendments to Warringah Local Environmental Plan 2011 are:

- Amend Schedule 4 Part 1 to include reference to the land.
- Amend LZN\_010 map to change the zoning from RE1 –Public Recreation to SP2 – Infrastructure (Map sheet LZN\_010).
- Amend HOB\_010 map to implement a maximum height of building of 3 metres (Map sheet HOB\_010).

## Part 3 – Justification

Section A – Need for the planning proposal

### Is the planning proposal a result of any strategic study or report?

The Planning Proposal is the result of the Freshwater Village Carpark - Report to consult with the Community. The consultation was a Council resolution from 25 March 2014. The Planning Proposal was placed on statutory public exhibition from Saturday 23 November 2019 until Sunday 2 February 2020 with, and the majority of submissions received were in support of the proposal.

### Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

A Planning Proposal is the best means of allowing private vehicle access through Oliver Street carpark. The alternative option is a lease or licence agreement with the adjoining owners. A lease or licence agreement may be entered into under a Plan of Management (POM).

The relevant POM is 'Harbord Literary Institute and Early Childhood Health Care Centre', however legal advice sought by Council states that as the POM currently stands a lease or licence agreement cannot be made for the purposes of providing access to adjoining properties. It is possible to amend the existing POM or prepare a new POM to allow access to adjoining properties. The legal advice has concluded that the amendment or preparation of a POM is a considerable undertaking that involves community consultation and would result in further significant delay and costs for Council.

In addition, the legal advice indicates that it would be better to address the issue via the reclassification of land under the Planning Proposal process as:

A Planning Proposal is still required to rezone the land from RE1 Public Recreation to SP2 Infrastructure (Carpark) and to change the height controls.

The POM approach is not without doubt.

The POM approach may not be best to accommodate long-term leases.

Whilst the reclassification of land can also be achieved through a resolution of Council in certain circumstances under sections 31, 32, and 33 of the Local Government Act 1993, none of those circumstances apply in this case.

Council originally proposed an 11 metre height standard for the site to align with height controls applying to surrounding commercial uses. However, following exhibition, a restrictive 3 metre height control was supported due to community concerns regarding potential sale of the land and redevelopment of the site.

The objectives of SP2 Infrastructure under Warringah Local Environmental Plan 2011 are 'to provide for infrastructure and related uses' and 'to prevent development that is not compatible with or that may detract from the provision of infrastructure'. These objectives support Council's desired outcome for the carparks. The 3 metre height standard applied over the two carparks will ensure they retain the current use.

Therefore, Council has decided that proceeding with a reclassification, rezoning and application of a height of building control as the preferred avenue to achieve the outcome.

### Section B – Relationship to strategic planning framework

Is the planning proposal consistent with the objective and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies).

#### A Metropolis of Three Cities

Table 2: Relevant Objectives and Directions of a Metropolis of Three Cities.

Direction	Objective	Planning Proposal
A City supported by infrastructure.	Objective 3: Infrastructure adapts to future needs.	Reclassifying the land to Operational Land will allow the carparks to maximise their use by servicing the future shop top housing and removing traffic away from Lawrence Street.
A City for people.	Objective 6: Services and infrastructure meet communities' changing needs.	The approval of two shop top housing developments 9-15 and 21 Lawrence Street with entry and exit from Lawrence Street will increase traffic on Lawrence Street. By reclassifying the carparks traffic can be better managed allowing exit and entry to private properties and businesses through Oliver Street Carpark.
A City for people.	Objective 7: Communities are healthy, resilient and socially connected.	Removal of vehicle crossovers along Lawrence Street will allow improved pedestrian experience i.e. safety and connectivity.
A City of great places.	Objective 12: Great places that bring people together.	Removal of vehicle crossovers along Lawrence Street will allow for opportunities for better streetscape treatments to encourage pedestrianisation.
A City in its landscape.	Objective 30: Urban tree canopy cover is increased.	Opportunities for improved streetscape includes increasing trees along the street.



### The North District Plan:

#### Theme 3.Liveability

Table 3: North District Plan – Theme 3 Liveability Priorities.

Priority	Objective	Planning Proposal
Planning Priority N3 - Providing services and social infrastructure to meet people's changing needs.	Objective 6: Services and infrastructure meet communities' changing needs.	Reclassifying the land to Operational Land will allow the carparks to maximise their use by servicing the future shop top housing and removing traffic away from Lawrence Street.
Planning Priority N6 - Creating and renewing great places and local centres, and respecting the District's heritage.	Objective 12: Great places that bring people together.	The result of the reclassification supports the alignment of Freshwater Village with the North District Plan by delivering a high quality urban space. Permitting private vehicle access through the carparks provides opportunity to remove vehicle crossovers from Lawrence Street to improve the pedestrian environment and allow for streetscape opportunities. The pedestrian environment include improving walkability, safety and the making of a socially connected place.

### Northern Beaches Local Strategic Planning Statement

Table 4: Relevant Northern Beaches Local Strategic Planning Statement Priorities.

Priority	Principles	Planning Proposal
Planning Priority 21 Road space and facilities to match changing community needs.	Prioritise pedestrians over cars in centres to create places where people want to spend time.	Reclassifying the land to Operational Land will allow the carparks to maximise their use by servicing the future shop top housing and removing traffic away from Lawrence Street.

Is the planning proposal consistent with a council's local strategy or other local strategic plan?

### Community Strategic Plan SHAPE 2028

- Goal 5 – Our built environment is developed in line with best practice sustainability principles.

Rezoning the carparks from RE1 Public Recreation to SP2 Infrastructure will better align the zoning to the land use, supporting social and economic needs of the community.

- Goal 7 – Our urban planning reflects the unique character of our villages and natural environment and is responsive to the evolving needs of our community.

Reclassifying to Operational Land and rezoning to SP2 Infrastructure will better reflect the need of Freshwater Village by enhancing the pedestrian use of the shopping strip.

- Goal 8 – Our neighbourhoods inspire social interaction, inclusion and support health and wellbeing.

Pedestrianising the shopping strip will create a welcoming village and will support opportunities for increased urban design.

- Goal 17 – Our community can safely and efficiently travel within and beyond Northern Beaches.

The reclassification enables safe walking networks as convenient transport options and improves parking options in the village by allowing for increased street parking.

### Freshwater Development Control Plan

The reclassification outcomes align with the Freshwater Development Control Plan (DCP). DCP Part G5.

**Table 5: Freshwater Development Control Plan Objectives.**

Objectives	Requirements	Planning Proposal
O1. To improve amenity and safety for pedestrians.	R1. Service and loading areas should improve the amenity of the streetscape and reduce any potential for vehicle / pedestrian conflict.	The loading area related to the two approved development applications (DA2017/1294 and DA2017/1287) commercial component can be allocated within the development.
O3. To relocate loading and servicing away from Lawrence and Albert Streets.	R3. No additional vehicle or loading access is to be provided from Lawrence or Albert Streets.	With vehicle access via Oliver Street carparks, service and loading areas will be relocated away from Lawrence Street and be placed in an allocated area within the shop top development.
	R4. Rear or underground loading, garbage collection and access for vehicles is to be provided as part of any new development for lots fronting Lawrence and Albert Streets wherever possible via new connected laneways or through negotiation with Council for access via existing surface carparking areas.	

Is the planning proposal consistent with applicable State Environmental Planning Policies?

The majority of SEPP's are not relevant to the current Planning Proposal and no SREP's are relevant. An assessment of compliance with SEPPs is provided at Attachment 1.

### State Environmental Planning Policy No. 55 – Remediation of Land

Rezoning of the land from RE1 Public Recreation to SP2 Infrastructure (Carpark) would secure the sites use as a carpark. The site is unlikely to have been used for any purpose that would cause contamination. It is not Council's intention to sell or redevelop the land but to permit vehicular access to adjoining properties.

Is the planning proposal consistent with applicable Ministerial Directions (S9.1).

**Table 6: Applicable Ministerial Directions (S9.1).**

S9.1 Direction	Requirement	Comment
6.2 Reserving Land for Public Purposes.	A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning.	Council owns the land. The Planning Proposal seeks approval of the Director- General of the Department of Planning, Infrastructure and Environment to change the existing zoning from RE1 Public Recreation to SP2 Infrastructure (Carpark) as the use of the land as a carpark is inconsistent with the objectives of the RE1 zone and the land has no recreational values.
7.1 Implementation of 'A plan for growing Sydney.'	The objective of this direction is to give legal effect to the vision, transport and land use strategy, policies, outcomes and actions contained in 'A plan for growing Sydney'.	This Planning Proposal is consistent with themes from Greater Sydney Region Plan – A Metropolis of Three Cities, as referred to under 3.1.

### Section C - Environmental, social and economic impact

**Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

No. The land is currently operating as a paved carpark and will continue to be used as a carpark.

**Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

No. The changes are legal definitions and do not impact the current use or physical structure.

**Has the planning proposal adequately addressed any social and economic effects?**

The proposal will not have any negative social or economic effects. There will be no increase to housing growth; however, there may be a potential increase for job growth as a result of this planning proposal, because the removal of driveways onto Lawrence Street allows street frontage to be used by additional commercial premises.

It is important to note that both development applications have been approved for vehicle access onto Lawrence Street and that new development applications are required to be submitted and assessed for vehicle access via both Oliver and Lawrence Street carparks.

## Heritage Items

There are two existing local heritage items (I71 and I72), being the Harbord Literary Institute and the Early Childhood Health Centre adjoining the site.



Neither will be impacted by the proposed changes. Hatched area (top) Oliver Street carpark, (bottom) Lawrence Street carpark

## Traffic Impacts

The aim of a reclassification and rezoning is to improve traffic flow around Freshwater Village. This will allow for the removal of vehicle crossovers from Lawrence Street, and move the traffic flow through the carparks. The removal of vehicle crossovers will allow for more street parking.

Three properties with right of carriageways use Lawrence Street carpark for private access. Lawrence Street carpark is likely to retain current traffic flow. There may be a slight increase of residential traffic coming from the Lawrence Street carpark entry; however, access from Lawrence Street will be isolated to the one vehicle crossing entrance. The shop top developments will only have direct access to Oliver Street carpark.

Resident's and their visitors will unlikely use the carpark for parking as this will be provided on their property and the carparks have 3-hour time limits. Visitors may choose to park in the carpark whether there is private vehicular access provided to these properties. In addition, there will be an increase of street parking made available in Lawrence Street because of the removal of the vehicle crossovers.

Heavy vehicle access to the commercial component of the shop top developments will be made through the Oliver Street carpark. This will deter heavy vehicles from loading on Lawrence Street or on the existing vehicle crossovers, which is hazardous for other vehicles and pedestrians. This will support the local economy by easing heavy vehicle loading.



### **Pedestrian Experience**

The removal of the vehicle crossovers and removal of loading areas will improve the pedestrian experience by improving pedestrian safety and opportunities to improve the streetscape in Lawrence Street.

Allowing vehicular access to the carparks from properties fronting Lawrence Street will result in a slight increase in traffic in the Oliver Street carpark. However, the increase in traffic would be minor as the development potential on these sites is limited and very few properties are affected.

It is unlikely that there will be an increase in pedestrians in the carpark as residents and their visitors of the new developments will have dedicated parking on site. Carparks are also an area that require slow and cautious vehicle movement due to the physical constraints and unpredictability of pedestrian movement.

It is also the case that the potential impacts on traffic and pedestrian safety can be assessed in detail as part of any development application for redevelopment of these sites.

### **Section D – State and Commonwealth interests**

#### **Is there adequate public infrastructure for the planning proposal?**

The land will remain undeveloped and therefore no public infrastructure is required. The use of the carpark as private vehicle access will allow an opportunity to improve the pedestrian experience on Lawrence Street and decrease traffic congestion on Lawrence Street.

#### **What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?**

The Planning Proposal was referred to the NSW Crown Lands for notice of Council's intention to rezone a parcel of Crown Land on 24 September 2019 and response of support received on 18 October 2019.

On the 22 November 2019, a letter was sent to NSW Crown Lands notifying them that the Planning Proposal was now on statutory public exhibition, allowing further opportunity to comment on the Planning Proposal. Comments on the proposal was sought by Monday 16 December 2019 and stated in the correspondence, "Should no response be received within this time, it will be assumed that no objection is raised to the Planning Proposal".

This is in accordance with Condition 4 of the Gateway Determination that states:

*[Consultation is required with NSW Crown Lands within the Department of Planning, Industry and Environment under section 3.34(2) (d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions. NSW Crown Lands is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.]*

To date Council has not had a response from NSW Crown Lands.

Council requests that as part of any Gateway Determination the requirements include consent from the Department of Lands to rezone parcel of Crown Land (Lot 7315 DP 1151796) prior to exhibition of the Planning Proposal.

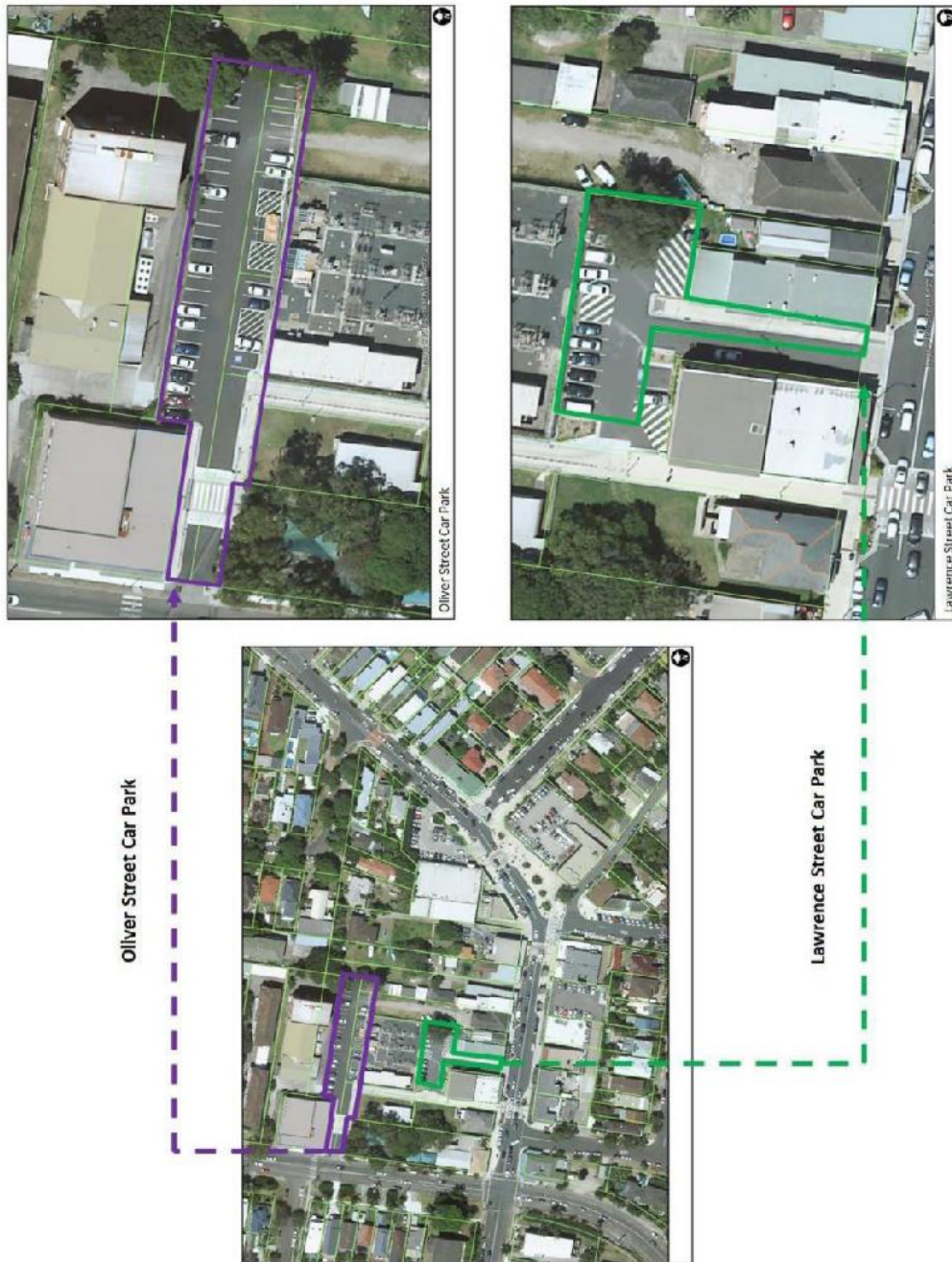
Council consulted with the Department of Crown Lands for consent to rezone their Lot 7315 DP 1151796 from RE1 Public Recreation to SP2 Infrastructure (Carpark), and to adopt a 3-metre maximum building height control for the land.

Council received a response from the Department of Crown Lands on 18 October 2019, stating they had no objections to the planning controls sought under the planning proposal for Lot 7315 DP 115796 for the following reasons:

- The proposed SP2 infrastructure (Carpark) zoning is considered to be consistent with the purpose for which the Crown land has been reserved under the CLM Act 2016.
- Establishing a maximum building height of 3 metres is not considered likely to harm the use of the site for the purpose for which it has been reserved.

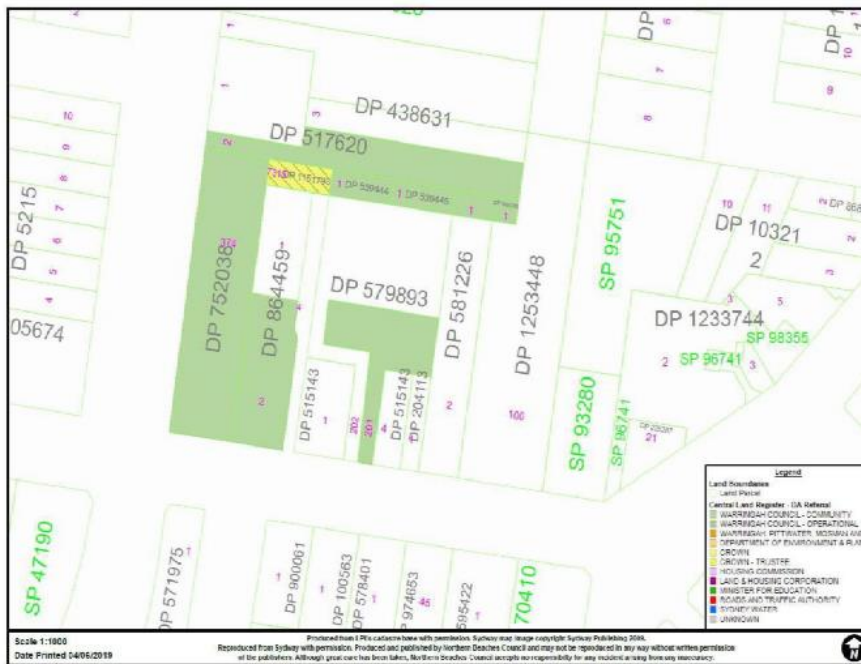
## Part 4 – Maps

### Map 1. – Site locality map





**Map 2 – Existing classification and Lots & DP**



**Map 3 – Existing Classification Map and Proposed Below – (Hatched Area)**





Map 4 – Land Zoning Map





**Map 5 – Height of Building**



## Map 6 – Heritage



## Part 5 – Community Consultation

Council placed the Planning Proposal on Statutory public exhibition in accordance with a gateway determination from Saturday 23 November 2019 to Sunday 2 February 2020. The Statutory public exhibition period was extended longer than 28 days to allow for School holidays and the Christmas and New Year period.

Exhibition material included:

- Notification letters and emails sent to adjoining landowners, occupiers and businesses owners.
- Email to community members who have registered their interest.
- A Manly Daily advertisement on Saturday 23 November 2019 and Saturday 1 February 2020.
- Hard copies were exhibited to Manly, Dee Why and Mona Vale Customer Service Centres on 23 November 2019.
- The Planning Proposal was available online at <https://yoursay.northernbeaches.nsw.gov.au/planning-proposal-freshwater>.
- Signs were placed in the Lawrence Street and Oliver Street carparks, Freshwater.

## Submissions Summary

Council received a total of 11 submissions during the statutory public exhibition period from Saturday 23 November 2019 to Sunday 2 February 2020. See Table 7 below for the summary.

Four submissions were in favour of the Planning Proposal, two were outright objections and the remaining five submissions were about:

- The decrease in parking.

- Increase in traffic through Oliver Street carpark.
- The loss of Community Land throughout the local government area.
- The effect on Right of Way (Lawrence Street carpark).

**Table 7: Summary of Submissions Statutory Public Exhibition.**

Issue Raised	Issue Raised in No. of submissions	Council Response
Benefit and Support of the Planning Proposal.	4	Noted.
Reclassification of the Oliver Street and Lawrence Street carparks will allow vehicle access to private properties and increase traffic through Oliver Street carpark. This will have a negative impact on pedestrian safety.	1	Whilst the proposal could 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 and safer outcome than the retention or increase in driveway crossings in Lawrence Street.
Loss of parking spaces due to residents of the new developments and their visitors parking in the Council carpark and change in parking limits and introducing parking fees.	4	The number of parking spaces will not decrease nor will the residents in the new top shop housing development be granted specific parking spots in the carpark.  The carpark will remain for the use of the public. However, it will allow leases to be put in place for shop owners to access their properties and private carpark from the Oliver Street carpark. 15 Lawrence Street had a longstanding agreement with Council through the Oliver Street carpark.
Objection to rezoning and reclassification of Community Land as Council will sell the carparks once they have been reclassified to Operational Land.	2	Council is not selling the carparks. Council is aware that the carparks are needed by the community and recommend that any potential sale of the land be subject to the approval of the elected Council. Rezoning the land to SP2 Infrastructure (carpark) and creating a height limit of 3 metres will severely restrict the development potential of the site. Any use of the site for other uses would require a further rezoning.
Removal of the connecting road between Lawrence Street and Oliver Street carparks.	1	This is incorrect. The connecting road between Lawrence Street and Oliver Street carparks will remain as is. There is no plans for Council to close this road.
Reclassification of the carpark will increase the land value of adjoin privately owned land with no public benefit.	2	Noted.

Reinstate the Pedestrian Link between the Oliver Street Carpark and the Uniting Church in Marmora Street via the rear of 9-15 Lawrence Street.	1	Noted but outside of the scope of the planning proposal. This issue relates to an approved development application.
Withdrawal of the development application modification for 9-15 Lawrence Street Freshwater – to modify the vehicle entry/exit from Lawrence Street to Oliver Street carpark.	2	Noted, but this is a development application issue.
The Planning Proposal will affect Our Right of Way (RoW) of my property.	1	Noted.  The rezoning and reclassification of Community Land and the inclusion of a 3 metre height limit will have no effect on the RoW on the property title. An email was sent to the landowner in question responding to their concerns raised about what effect will the rezoning and reclassification of have on their RoW.
Reclassification of Community Land to Operational Land will lead to an overall decrease of community land throughout the Local Government Area.	2	Noted.

#### Public Hearing to Reclassify Community Land to Operational Land

A public notice of the Public Hearing was published in the Manly Daily on Wednesday 5 February 2020 after the conclusion of the statutory public exhibition on Sunday 2 February 2020. Giving the community exactly 21 days' notice.

On the 3 February 2020:

- Council's 'Have Your Say' web page was updated notifying the community of the Public hearing, date, time and venue.
- An email was sent to registered community members who have registered their interest.
- An email sent to 204 adjoining local residents, businesses and landowners.
- 77 letters sent to adjoining local residents, businesses and landowners who email addresses are not held by Council.
- Signs notifying the public of the public hearing were placed in the Lawrence Street and Oliver Street Carparks.

The public hearing was held on Wednesday 26 February 2020 at Harbord Literary and Chaired by and independent consultant. Sixteen (16) people attended the meeting and three submissions were made to the Independent Chair after the public hearing and prior to the 1 March 2020.

The public hearing report was submitted to Council on Tuesday 24 March 2020. The report was made available to the public and displayed at the Manly and Warringah Mall Libraries and placed on Councils "Have Your Say" page as per the Local Government Act 1993 s. 47G(3). An electronic copy of the public hearing report was emailed to those in attendance at the public hearing within four days of receiving the report.



## Part 6 – Project Timeline

Table 8: Task and Anticipated Timeframe.

Task	Anticipated timeframe
Submit Planning Proposal and report to Council to Council Meeting	27 November 2018
Pre exhibition government agency consultation	13 June 2019
Refer to Department of Planning and Environment for Gateway determination	14 June 2019
Receive Gateway determination	23 September 2019
Return amended Planning Proposal to the Department of Planning, Industry and Environment	October – November 2020
Post Government agency consultation (if required)	November – December 2020
Public exhibition period	January – February 2020
Public Hearing	February – March 2020
Consideration of submissions	February – March 2020
Report to Council	28 April 2020
Submit planning proposal to the Department of Planning & Environment for determination	May 2020



### Attachment 1 – State Environmental Planning Policies (SEPPs)

SEPP	Relevant	Consistent
SEPP No 1—Development Standards	No	NA
SEPP No 14—Coastal Wetlands	No	NA
SEPP No 19—Bushland in Urban Areas	No	NA
SEPP No 21—Caravan Parks	No	NA
SEPP No 26—Littoral Rainforests	No	NA
SEPP No 30—Intensive Agriculture	No	NA
SEPP No 33—Hazardous and Offensive Development	No	NA
SEPP No 36—Manufactured Home Estates	No	NA
SEPP No 44—Koala Habitat Protection	No	NA
SEPP No 47—Moore Park Showground	No	NA
SEPP No 50—Canal Estate Development	No	NA
SEPP No 52—Farm Dams and Other Works in Land and Water Management Plan Areas	No	NA
SEPP No 55—Remediation of Land	Yes	Yes
SEPP No 62—Sustainable Aquaculture	No	NA
SEPP No 64—Advertising and Signage	No	NA
SEPP No 65—Design Quality of Residential Apartment Development	No	No
SEPP No 70—Affordable Housing (Revised Schemes)	No	NA
SEPP No 71—Coastal Protection	No	NA
SEPP (Affordable Rental Housing) 2009	No	NA
SEPP (Building Sustainability Index: BASIX) 2004	No	NA
SEPP (Educational Establishments and Child Care Facilities) 2017	No	NA
SEPP (Exempt and Complying Development Codes) 2008	No	NA
SEPP (Housing for Seniors or People with a Disability) 2004	No	NA
SEPP (Infrastructure) 2007	No	NA
SEPP (Integration and Repeals) 2016	No	NA
SEPP (Kosciuszko National Park—Alpine Resorts) 2007	No	NA
SEPP (Kurnell Peninsula) 1989	No	NA
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	No	NA
SEPP (Miscellaneous Consent Provisions) 2007	No	NA
SEPP (Penrith Lakes Scheme) 1989	No	NA
SEPP (Rural Lands) 2008	No	NA
SEPP (State and Regional Development) 2011	No	NA
SEPP (State Significant Precincts) 2005	No	NA
SEPP (Sydney Drinking Water Catchment) 2011	No	NA
SEPP (Sydney Region Growth Centres) 2006	No	NA
SEPP (Three Ports) 2013	No	NA
SEPP (Urban Renewal) 2010	No	NA
SEPP (Vegetation in Non-Rural Areas) 2017	No	NA
SEPP (Western Sydney Employment Area) 2009	No	NA
SEPP (Western Sydney Parklands) 2009	No	NA
SREP	Relevant	Consistent
SREP No 9 – Extractive Industry (No 2 – 1995)	No	NA
SREP No 16 – Walsh Bay	No	NA
SREP No 20 – Hawkesbury – Nepean River (No 2 – 1997)	No	NA

SREP No 24 – Homebush Bay Area	No	NA
SREP No 26 – City West	No	NA
SREP No 30 – St Marys	No	NA
SREP No 33 – Cooks Cove	No	NA
SREP (Sydney Harbour Catchment) 2005	No	NA

## Attachment 2 – Ministerial Directions

	Direction	Applicable	Consistent	Our Response
<b>1</b>	<b>Employment and Resources</b>			
1.1	Business and Industrial Zones	No	NA	
1.2	Rural Zones	No	NA	
1.3	Mining, Petroleum Production and Extractive Industries	No	NA	
1.4	Oyster Aquaculture	No	NA	
1.5	Rural lands	No	NA	
<b>2</b>	<b>Environment and Heritage</b>			
2.1	Environmental Protection Zones	No	NA	
2.2	Coastal Protection	No	NA	
2.3	Heritage Conservation	No	NA	
2.4	Recreation Vehicle Area	No	NA	
2.5	Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	No	NA	
<b>3</b>	<b>Housing, Infrastructure and Urban Development</b>			
3.1	Residential Zones	No	NA	
3.2	Caravan Parks and Manufactured Home Estates	No	NA	
3.3	Home Occupations	No	NA	
3.4	Integrating Land Use and Transport	No	NA	
3.5	Development Near Licensed Aerodromes	No	NA	
3.6	Shooting Ranges	No	NA	
<b>4</b>	<b>Hazard and Risk</b>			
4.1	Acid Sulphate Soils	No	NA	
4.2	Mine Subsidence and Unstable Land	No	NA	
4.3	Flood Prone Land	No	NA	
4.4	Planning for Bushfire Protection	No	NA	
<b>5</b>	<b>Regional Planning</b>			
5.1	Implementation of Regional Strategies	No	NA	
5.2	Sydney Drinking Water Catchments	No	NA	
5.3	Farmland of State & Regional Significance Far North Coast	No	NA	
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	No	NA	
5.8	Second Sydney Airport: Badgerys Creek	No	NA	
5.9	North West Rail Link Corridor Strategy	No	NA	
5.10	Implementation of Regional Plans	No	NA	
<b>6</b>	<b>Local Plan Making</b>			
6.1	Approval and Referral Requirements	No	NA	
6.2	Reserving Land for Public Purposes	Yes	Yes	Refer to question 6
6.3	Site Specific Provisions	No	NA	
<b>7</b>	<b>Metropolitan Planning</b>			
7.1	Implementation of A Plan for Growing Sydney	Yes	Yes	Refer to question 6

7.2	Implementation of Greater Macarthur Land Release Investigation	No	NA	
7.3	Parramatta Road Corridor Urban Transformation Strategy	No	NA	
7.4	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	No	NA	
7.5	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	No	NA	
7.6	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	No	NA	



## **PLANNING PROPOSAL**

Amendments to Warringah Local Environmental Plan 2011

### **MANLY CREEK NATIVE VEGETATION (In the vicinity of “Mermaid Pool”, Manly Vale)**



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## Part 1 – Intended Outcomes

The intended outcome of the Planning Proposal is to rezone certain Crown Land parcels, downstream of Manly Dam, Manly Vale from Low Density Residential R2 to Public Recreation RE1 to provide for a range of recreational settings, activities and land uses that are compatible with the values of the land. The proposal will also better protect and enhance the natural environmental values of the land.

It is also proposed that residential building height and minimum allotment size controls be removed from the land as residential uses will no longer be permitted under the RE1 zone.

## Part 2 – Explanation of Provisions

The proposal seeks to amend Warringah LEP 2011 as follows:

Amend Zoning Map (LZN\_008) to rezone certain land from Low Density Residential (R2) to Public Recreation (RE1) comprising the following land:

- Part Lot 7370 DP1165551 being land adjoining 102 King Street, Manly Vale
- Part Lot 7369 DP1165551 Wandella Road, Allambie, south of Jenna Close
- Lot 7371 DP1165577, Allambie, south of Blamey Street
- Part unmade road at the southern end of Wandella Road, near King Street, Manly Vale

The effect of the rezoning will be that the subject lots will be zoned Public Recreation (RE1) in their entirety (note: some of the above land parcels are currently zoned part Low Density Residential (R2) and part Public Recreation (RE1)).

Some minor consequential amendments to the LEP are also proposed to accompany the rezoning, removing residential development standards for height and minimum lot size from the subject land parcels.

In this regard, it is proposed to remove the subject land from the following LEP Maps:

- WLEP2011 Map HoB\_008 (Height of Building Map)
- WLEP2011 Map LZN\_008 (Minimum Lot Size Map)

## The Land

The subject land parcels are contained within David Thomas Reserve and surrounding bushland located in the suburbs of Allambie Heights and Manly Vale below Manly Dam. The land is bounded by low-density residential development to the north and south. The land is covered by native vegetation and partly includes the riparian corridor of Manly Creek.

This creek line corridor of vegetation on and adjoining the subject lots directly connects Manly Dam in the west to Millers Reserve and Warringah Golf Club in the east, before discharging into Manly Lagoon. In this regard, the land contributes significantly to important vegetative links from Manly Dam to the coast. The land is also included in several local and state ecological studies and databases detailed in this Planning Proposal.

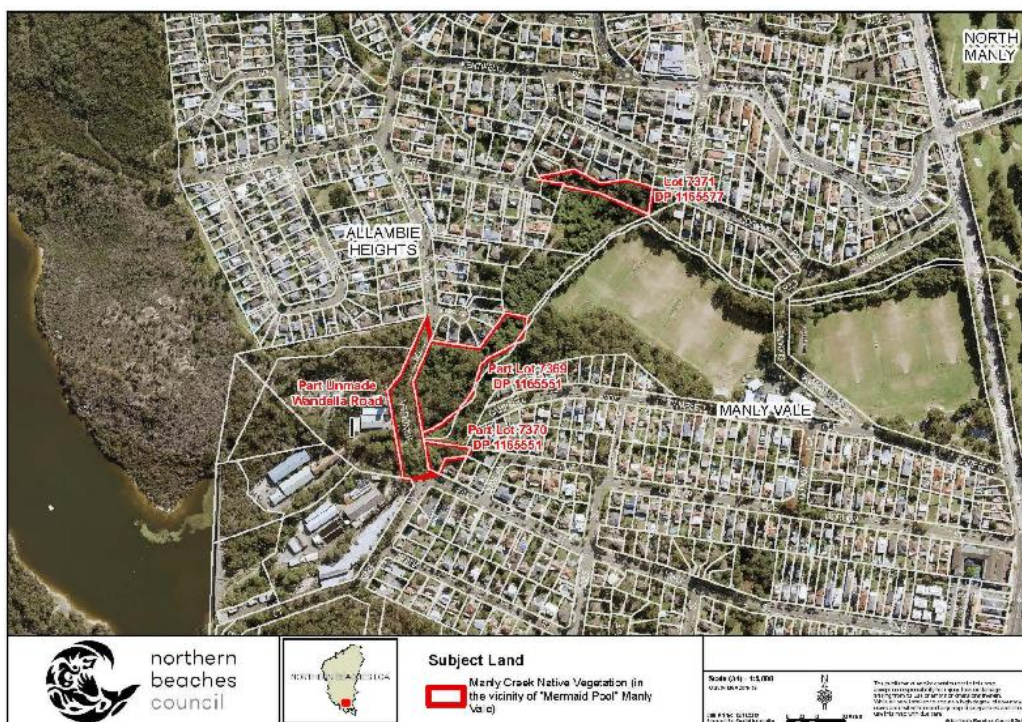


Figure 1 – The Subject Land

The subject land parcels and bushland form part of a place fondly known by the local community as the 'Mermaid Pool'. The subject land parcels are in the vicinity of this riparian pool with associated waterfall and rock escarpments. This land is the subject of an ongoing community restoration project, which gained recognition and impetus under the national Clean Up Australia Day campaign in 2001/2002, and the "Return of the Mermaids" project.

At this time, over 4 tonnes of waste was removed from the creek including old ovens, car parts, trolleys, and building material. From this event, efforts have been sustained with ongoing bush-care volunteers meeting monthly to continue the bushland regeneration of this community-valued place. Other events and workshops run by 'Save Manly Dam Catchment Committee' include educational programs, nesting box installation, drain stencilling, lobbying and advocacy. Council also currently manages and funds a bush regeneration volunteer program at the Mermaid Pool and bush regeneration contracts in the adjacent David Thomas Reserve.



## The Zones

The existing zone to be omitted in relation to the subject lands is as follows:

### Zone R2 Low Density Residential (existing zone)

- 1 Objectives of zone
  - To provide for the housing needs of the community within a low-density residential environment.
  - To enable other land uses that provide facilities or services to meet the day-to-day needs of residents.
  - To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.
- 2 Permitted without consent  
Home-based childcare; Home occupations
- 3 Permitted with consent  
Bed and breakfast accommodation; Boarding houses; Boat sheds; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dwelling houses; Educational establishments; Emergency services facilities; Environmental protection works; Exhibition homes; Group homes; Health consulting rooms; Home businesses; Hospitals; Places of public worship; Recreation areas; Respite day care centres; Roads; Secondary dwellings; Veterinary hospitals
- 4 Prohibited  
Any development not specified in item 2 or 3

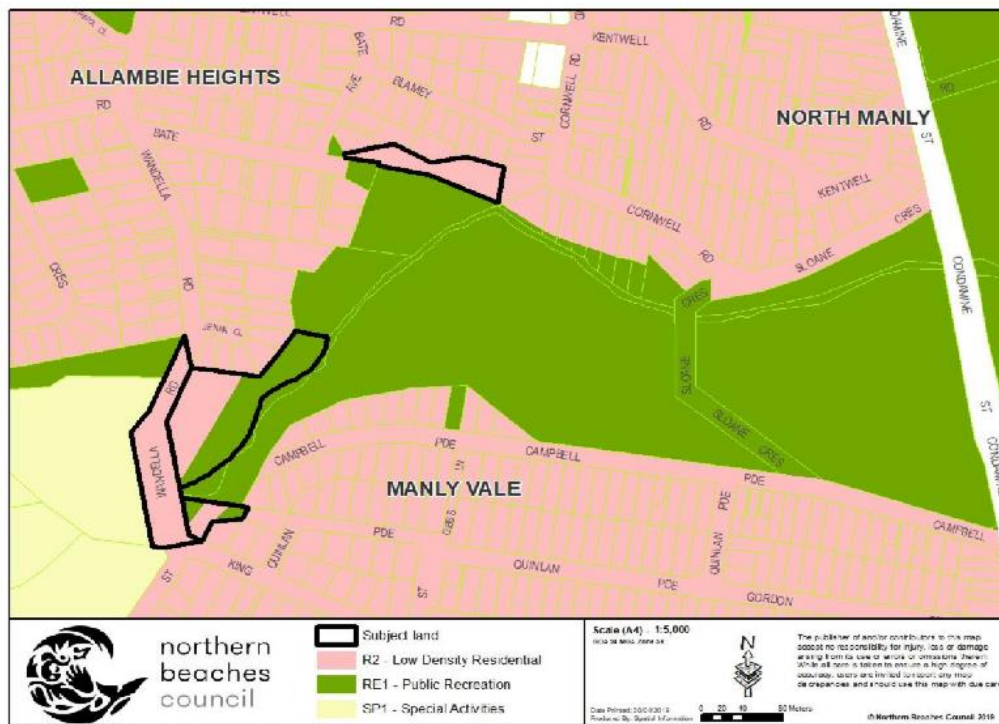


Figure 2 – Current Zones



The proposed zone land use table for Public Recreation (RE1) in relation to the subject lands is as follows:

Zone RE1 Public Recreation (proposed zone)

- 1 Objectives of zone
  - To enable land to be used for public open space or recreational purposes.
  - To provide a range of recreational settings and activities and compatible land uses.
  - To protect and enhance the natural environment for recreational purposes.
  - To protect, manage and restore public land that is of ecological, scientific, cultural or aesthetic value.
  - To prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- 2 Permitted without consent  
Environmental facilities; Environmental protection works; Roads
- 3 Permitted with consent  
Boat building and repair facilities; Boat sheds; Building identification signs; Business identification signs; Car parks; Centre-based child care facilities; Community facilities; Emergency services facilities; Kiosks; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Respite day care centres; Restaurants or cafes; Water recreation structures
- 4 Prohibited  
Any development not specified in item 2 or 3

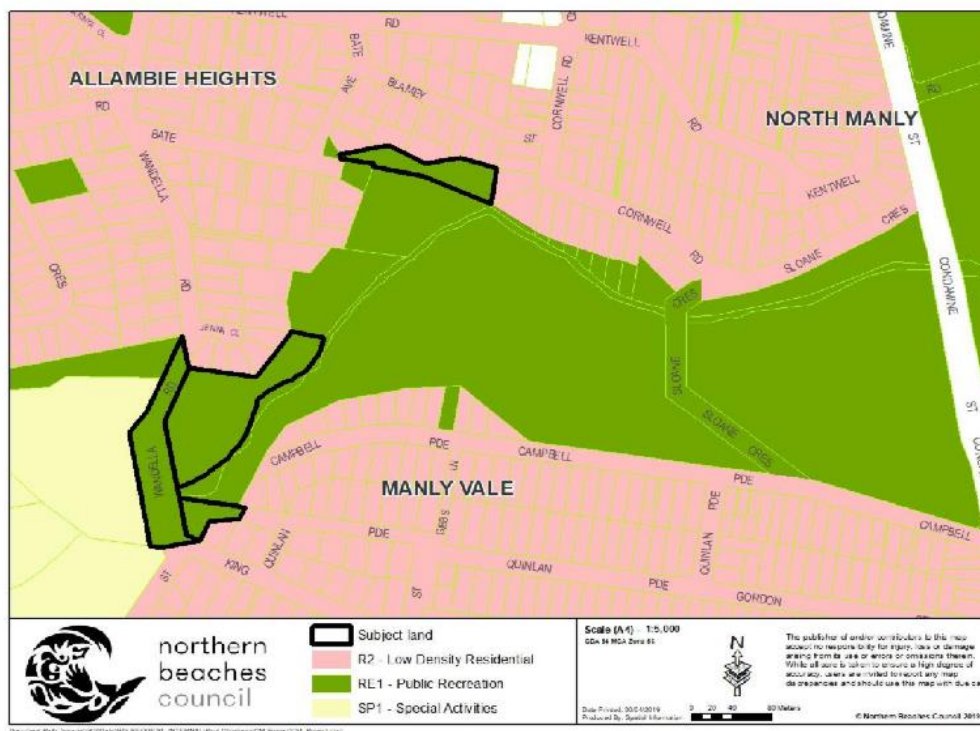


Figure 3 – Proposed Zone

Related Provisions in the Warringah LEP (Heritage and Land Slip Risk).

Other provisions associated with the land under Warringah LEP 2011 include Heritage (see Figure 4 – LEP Heritage Map) and Land Slip Risk (see Figure 5 – LEP Land Slip Risk Map).

In relation to Heritage, Councils Heritage Advisor has reviewed the Planning Proposal and provided the following comments:

*The land is within the vicinity of a number of local heritage items and a heritage conservation area listed in Schedule 5 of Warringah Local Environmental Plan 2011, as can be seen on attached map, they being:*

- *Item 1144 - Manly Hydraulics Laboratory, 110b King Street, Manly Vale Item 184 - Manly Dam, King Street, Manly Vale Conservation Area C9 - Manly Dam and Surrounds Conservation Area*
- *Manly Dam is also listed as a State Heritage item under the NSW Heritage Act (Database No. 5051428). The extent of this State listing can be seen attached, which generally corresponds to local Item 184.*

*The rezoning of these lots to RE1 will have no adverse impact upon the heritage items in the vicinity nor the Manly Dam and surrounding Conservation Area.*

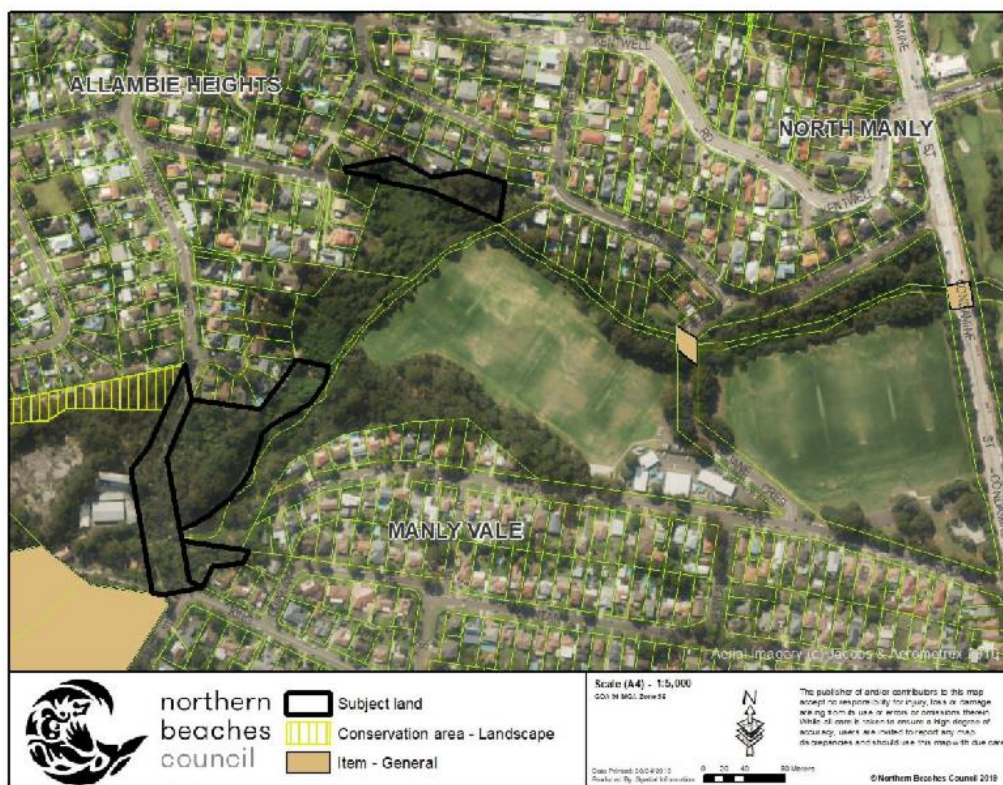


Figure 4 – LEP Heritage Map



In relation to Landslip Risk, the Warringah LEP maps the subject land as 'Area B – Flanking Slopes' in terms of landslip risk (see Figure 5). Consideration is required to be given to risk associated with landslides and their impact on both property and life when assessing applications for development. Furthermore, such development must not cause significant detrimental impacts because of stormwater discharge from the development site or impact on or affect the existing subsurface flow conditions.

The Planning Proposal is consistent with the existing provisions as applicable to the land to be re-zoned.

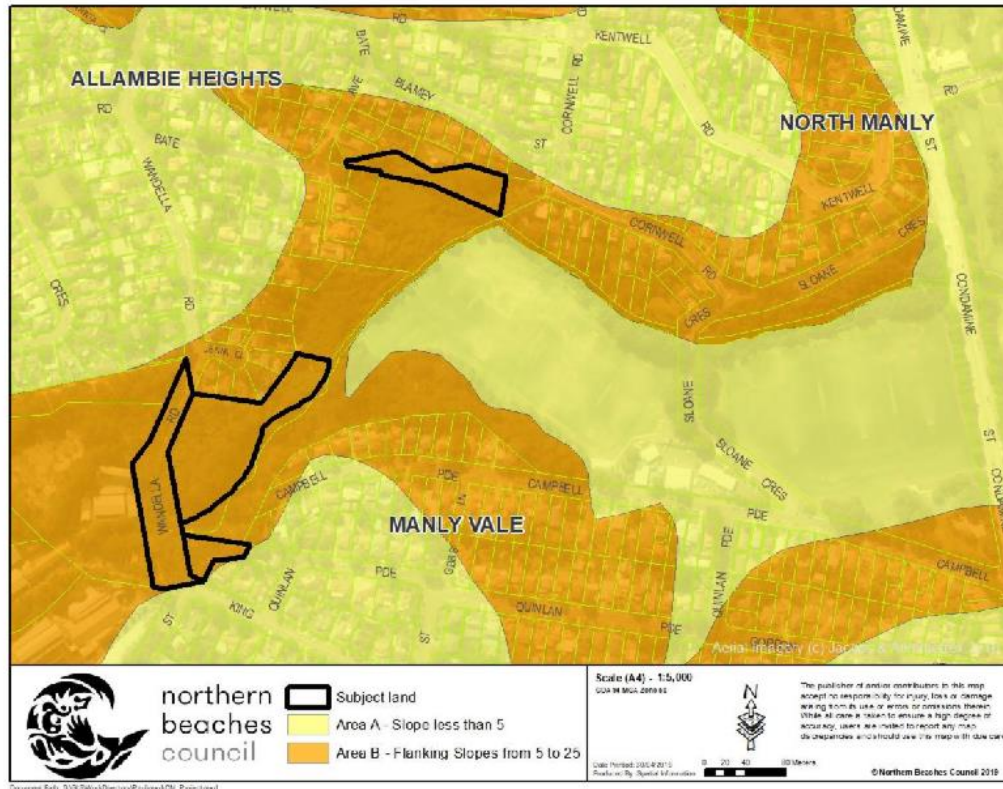


Figure 5 – LEP Land Slip Risk Map

## Part 3 – Justification

### Section A – Need for the Planning Proposal

#### 1. Is the Planning Proposal a result of any strategic study or report?

The Planning Proposal results from a resolution of Council at its Ordinary Meeting dated 27 November 2018. At this time, Council considered Notice of Motion No 65/2018 regarding a variety of land parcels for rezoning in and around Manly Warringah Memorial Park.

Council's resolution regarding parcels of land owned by Sydney Water and the Crown in the vicinity of Wakehurst Parkway, Seaforth is to be subject to a separate Planning Proposal.

Part B of the Council's Resolution was as follows:

*"B. Council prepare a Planning Proposal to rezone two lots owned by the Crown in the vicinity of King Street and Wandella Road from Low Density Residential (R2) to Public Recreation (RE1) under the Warringah LEP 2011. The two lots are identified as:*

- Part Lot 7370 DP1165551 being land adjoining 102 King Street, Manly Vale*
- Part Lot 7369 DP1165551 Wandella Road, Allambie, south of Jenna Close, Allambie"*

In this regard, a further two parcels are also sought to be incorporated into the Planning Proposal as follows:

- Lot 7371 DP1165577, Allambie, south of Blamey Street
- Part unmade road at the southern end of Wandella Road, King Street, Manly Vale.

At its Ordinary Meeting dated 26 February 2019, Council resolved:

*"That:*

*A. Council submit the attached Planning Proposal to the Department of Planning and Environment for a Gateway Determination to rezone the following parcels of land from Low Density Residential (R2) to Public Recreation (RE1) and to remove height and minimum allotment size controls from the land:*

- Lot 7370 DP1165551 being land adjoining 102 King Street, Manly Vale*
- Lot 7369 DP1165551 Wandella Road, Allambie, south of Jenna Close*
- Lot 7371 DP1165577, Allambie, south of Blamey Street*
- Part unmade road at the southern end of Wandella Road, King Street, Manly Vale.*

*B. Council prepare and exhibit consequential amendments to Warringah DCP 2011 to remove residential development controls, including setback and minimum landscaped area controls, from this land."*

A number of existing ecological studies data supports the current Planning Proposal:

- Connected Corridors for Biodiversity project by Southern Sydney Regional Organisation of Councils in December 2016
- Local Habitat Strategy by former Warringah Council in 2007
- Biodiversity Values Map by Office of Environment and Heritage (OEH) in 2018
- Sydney Metropolitan Catchment Management Authority v3 Mapping, OEH 2016
- Warringah Creek Management Study 2000, former Warringah Council
- Native Vegetation DCP Mapping, former Warringah Council



- BioNet threatened species records, OEH 2018

Other existing site-specific and locality information include:

- Manly Creek/Mermaid's Pool Restoration Plan (Total Earth Care 2003)
- Manly Dam ongoing comprehensive species list project (Northern Beaches Council 2018)
- Biodiversity Assessment of nearby Sydney Water land (Sydney Water 2018)

All of the above studies and databases are further detailed in this report in Part 3B – Relationship to Strategic Planning Framework.

In this regard, Council commissioned a Biological Study from independent ecological consultants Niche Environment and Heritage to provide a full species inventory, determine and map native vegetation, undertake a habitat assessment and targeted surveys for threatened species and provide an independent assessment of the area's function as a wildlife corridor. This study primarily assists Council in its future management of the native vegetation lands, not directly affected or determinative to the land use zoning of the land. Further, the study does not result in a different land use zone or additional LEP amendments beyond what is currently proposed in the Planning Proposal.

This Study supports the rezoning planning proposal for various lots currently zoned R2 contained within Manly Creek Native Vegetation, near Mermaid Pool, Manly Vale.

## **2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

The Planning Proposal to rezone the land to RE1 Public Recreation is the best means of achieving the objectives to maintain the use of the land for public open space and recreational purposes and to better protect and enhance the natural environment and the values of the land.

In 2016, the Manly Lagoon Catchment Coordinating Committee sought to have the land rezoned to environmental protection (E1 or E2). Warringah Council subsequently committed to a review of the zoning due to the environmental significance of land, with the Mayor of Warringah seeking support for the rezoning from Member for Manly and the Minister for Lands and Water. Whilst environmental protection zones in the LEP provide a higher level of environmental protection, the extent of the Manly Warringah Memorial Park, the Mermaid Pool and much of the riparian corridor is zoned RE1 Public Recreation. The RE1 Public Recreation is therefore considered the most appropriate means of achieving the intended outcomes of the Planning Proposal.

## Section B – Relationship to strategic planning framework

### 3. Is the Planning Proposal consistent with the objective and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

#### The Greater Sydney Region Plan

The Planning Proposal has been reviewed against relevant outcomes of the Greater Sydney Region Plan “A Metropolis of Three Cities – connecting people” published on 18 March 2018. The Plan identifies a number of strategic directions and specific policy settings transforming the Greater Sydney Region into a metropolis of three cities comprising the Western Parkland City, the Central River City and the Eastern Harbour City. The Planning Proposal is informed by the Plan’s vision for the Eastern Harbour City and aligns with the Directions of the Plan. In particular, the Planning Proposal satisfies a range of Objectives as follows:

- Objective 25 - The coast and waterways are protected and healthier

The Planning Proposal is consistent with this Objective on the basis that the subject land is native vegetation and the proposed Public Recreation zone protects the biodiversity in an area around the land and enhances sustainability and livability in the management of public lands.

- Objective 27 - Biodiversity is protected, urban bushland and remnant vegetation is enhanced

The Planning Proposal is consistent with this Objective on the basis that biodiversity values of the land are recognised under the proposed Public Recreation zone, landscape-scale biodiversity conservation, the restoration of bushland is supported, and urban bushland is better managed as green infrastructure.

- Objective 28 – Scenic and cultural landscapes are protected

The Planning Proposal is consistent with this Objective on the basis that the scenic and cultural landscape values of the subject land have been considered and are supported.

- Objective 30 – Urban Tree Canopy is increased

The Planning Proposal is consistent with this Objective on the basis that the proposed Public Recreation zone provides for maximizing the urban tree canopy and enhancing the amenity of the public domain.

- Objective 31 – Public open space is accessible, protected and enhanced

The Planning Proposal is consistent with this Objective on the basis that the subject land is part of the network of public open space and the proposed Public Recreation zone represents the optimal use of the land that is accessible, protected and enhanced.

- Objective 32 – The Green Grid links parks, open spaces, bushland and walking and cycling paths

The Planning Proposal is consistent with this Objective on the basis that the proposed zoning of the subject land for open space purposes appropriately refines zoning for the local delivery of the Greater Sydney Green Grid in terms of the bushland and corridor values of the land.

### North District Plan

The Planning Proposal supports the North District Plan vision for 'A city in its Landscape' and Directions 'Valuing green spaces and landscape'.

The Planning Proposal is consistent with a number of Planning Priorities of the North District Plan as follows:

- Planning Priority N15 – Protecting and improving the health and enjoyment of Sydney Harbour and Waterways

The Planning Proposal is consistent with this Planning Priority on the basis that the subject land is within the Manly Lagoon Catchment and the proposed Public Recreation zone supports the protection and improvement of the health and enjoyment of land within the Waterways catchment.

- Planning Priority N16 – Protecting and enhancing bushland and biodiversity

The Planning Proposal is consistent with this Planning Priority on the basis that the proposed rezoning of land involves areas of native vegetation with better opportunities to protect and enhance connected bushland corridors and endangered ecological communities.

- Planning Priority N17 – Protecting and enhancing scenic and cultural landscapes

The Planning Proposal is consistent with this Planning Priority on the basis that the scenic and cultural landscape values of the subject land have been considered and supported by the zoning of the land to RE1 Public Recreation in the LEP.

- Planning Priority N19 – Increasing urban tree canopy cover and delivering Green Grid Connections

The Planning Proposal is consistent with this Planning Priority on the basis that the proposed zoning of the subject land for open space purposes appropriately refines the local delivery of the North District Green Grid in terms of the bushland and corridor values of the land.

- Planning Priority N20 – Delivering high quality open space

The Planning Proposal is consistent with this Planning Priority on the basis that the zoning of the land RE1 Public Recreation delivers high quality open space near Manly Creek, Manly Vale.

#### **4. Is the Planning Proposal consistent with a council's local strategy or other local strategic plan?**

A review has been undertaken of the Planning Proposal against certain policies and plans of Northern Beaches Council as follows:

##### Northern Beaches Community Strategic Plan 2017-2028 'SHAPE 2028'

Council adopted the Northern Beaches Community Strategic Plan in June 2018 following 2 stages of engagement and drafting in September/October 2016 (developing community issues, priorities and visions) and in March/April 2017 (developing draft goals and strategies to achieve the vision).

The Plan is built around themes of community, place, environment and leadership. The Community Strategic Plan supports the objectives and intended outcomes of the Planning Proposal.

Relevant Goals and Strategies of the Community Strategic Plan include the following:

- Goal 1 Our bushland, coast and waterways are protected to ensure safe and sustainable use for present and future generations

The Planning Proposal is consistent with this Goal on the basis that the land subject for rezoning is bushland and the proposed Public Recreation zone protects and ensures sustainable use of the land for present and future generations.

- Goal 2 Our environment and community are resilient to natural hazards and climate change

The Planning Proposal is consistent with this Goal on the basis that the proposed zoning will provide for protection and restoration of local biodiversity and bushland; improve ecological conditions in Manly Creek and recognise and protect the cultural and heritage value of the land.

- Goal 3 Our community is well-supported in protecting the environment

The Planning Proposal is consistent with this Goal on the basis that the proposed Public Recreation zone encourages the community to protect the environment noting that the site of the proposal is associated with well established community participation and education programs including local community groups involved in restoring the natural environment through community participation and volunteering.

- Goal 5 Our built environment is developed in line with best practice sustainability principles

The Planning Proposal is consistent with this Goal on the basis that the proposed Public Recreation zone ensures integrated land use planning - balancing the environmental, social and economic needs of present and future generations. The proposed rezoning also aligns with associated strategy under the Community Strategic Plan to create greener and resilient urban environments by improving tree cover and native vegetation.

#### Northern Beaches Local Strategic Planning Statement (*Towards 2040*)

Northern Beaches Local Strategic Planning Statement (*Towards 2040*) was on public exhibition from Friday 27 September to Sunday 10 November 2019. *Towards 2040* is the Northern Beaches Council's first Local Strategic Planning Statement. It outlines the Northern Beaches' direction for housing, employment, transport, recreation, environment and infrastructure over the next 20 years. It will help guide future land use decisions through planning priorities, principles and actions that build on the strengths and opportunities for the Northern Beaches as well as addressing key issues and challenges.

The Planning Proposal is consistent with the following priorities contained in *Towards 2040*.

- Priority 1 - Healthy and valued coast and waterways

The Planning Proposal will protect and enhance the ecological condition of the catchments, waterways and their riparian areas. It will improve the quality of water discharged to beaches, waterways, riparian areas and bushland. Rezoning of subject land will conserve watercourses and will restore them to their natural state.



- Priority 2 - Protected and enhanced bushland and biodiversity

The Planning Proposal will conserve and restore threatened species habitat and will retain native vegetation and maintain ecological functions in wildlife corridors.

- Priority 3 - Protected scenic and cultural landscapes

The Planning Proposal will enhance and protect views of scenic and cultural landscapes from public areas.

- Priority 4 - Protected Metropolitan Rural Area

The Planning Proposal will protect biodiversity values for riparian corridors and areas that support threatened species, communities and populations and on lands identified for biodiversity connectivity.

- Priority 6 - High quality open space for recreation

The Planning Proposal will improve the provision, diversity and quality of open space for recreation, and will use open space to connect people to nature. Rezoning of subject properties will ensure new open space contributes to, connects and enhances the local green grid. Further, it will ensure access to natural open space and waterways is sustainable so that these areas are preserved for the future.

#### Warringah DCP Native Vegetation, and Waterways and Riparian Lands Mapping

The subject lots are identified in the Warringah DCP 2011 as predominantly “Native Vegetation” and to a lesser extent; “Waterways and Riparian Lands” (see Figure 6 below). The DCP outlines Objectives relating to this land and states that these objectives must be satisfied by technical studies for certain development as follows:

In relation to land identified on the DCP Native Vegetation Map (WDCP2011 Section E5), the following is sought:

- To preserve and enhance the area’s amenity, whilst protecting human life and property.
- To improve air quality, prevent soil erosion; assist in improving water quality, carbon sequestration, storm water retention, energy conservation and noise reduction.
- To provide natural habitat for local wildlife, maintain natural shade profiles and provide psychological & social benefits.
- To promote the retention of native vegetation in parcels of a size, condition and configuration which will as far as possible enable local plant and animal communities to survive in the long term.
- To maintain the amount, local occurrence and diversity of native vegetation in the area

In relation to land identified on the DCP Waterway or Riparian Land Map (WDCP2011 Section E8), the following is sought:

- To protect, maintain and enhance the ecology and biodiversity of waterways and riparian land.
- To encourage development to be located outside waterways and riparian land.
- To avoid impacts that will result in an adverse change in watercourse or riparian land condition.
- To minimise risk to life and property from stream bank erosion and flooding by incorporating appropriate controls and mitigation measures.



- To maintain and improve access, amenity and scenic quality of waterways and riparian lands.
- Development on waterways and riparian lands shall aim to return Group B and Group C creeks to a Group A standard (as described in Warringah Creek Management Study, 2004) through appropriate siting and development of development.

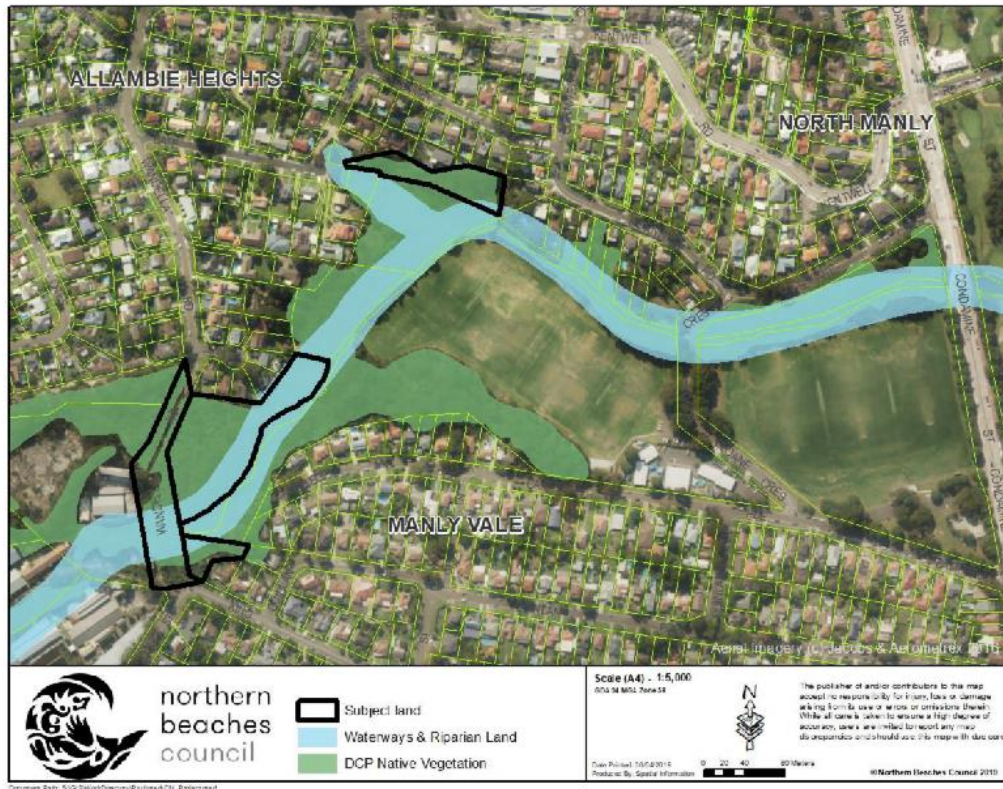


Figure 6 – Native Vegetation and Waterways & Riparian Lands DCP mapping

Local Habitat Strategy (Warringah Council, 2007)

This strategy outlines the state of habitat in Warringah and suggests actions Council can take, in partnership with the community, to preserve, protect and restore habitat areas. The Strategy identifies "Local Habitat" which was defined as any area, which provides food, shelter and opportunities to breed for native plants and animals, within the former Warringah LGA.

The objectives of this strategy are as follows:

- Local habitat is recognised, maintained and improved throughout Warringah
- Warringah's community values habitat and is actively involved in its protection and improvement

The subject lots are mapped as "existing vegetation" within this strategy (See Figure 7).

The subject lots and surrounding areas, particularly around Mermaid Pools, have undergone significant restoration fuelled by volunteers within the community. In this regard, the Strategy objectives are being satisfied in relation to the subject lots. The Biodiversity Study being undertaken in conjunction with the Planning Proposal will provide a more detailed and updated species list and habitat assessment for the subject lots and surrounding land to further establish the value of this habitat for local native species.

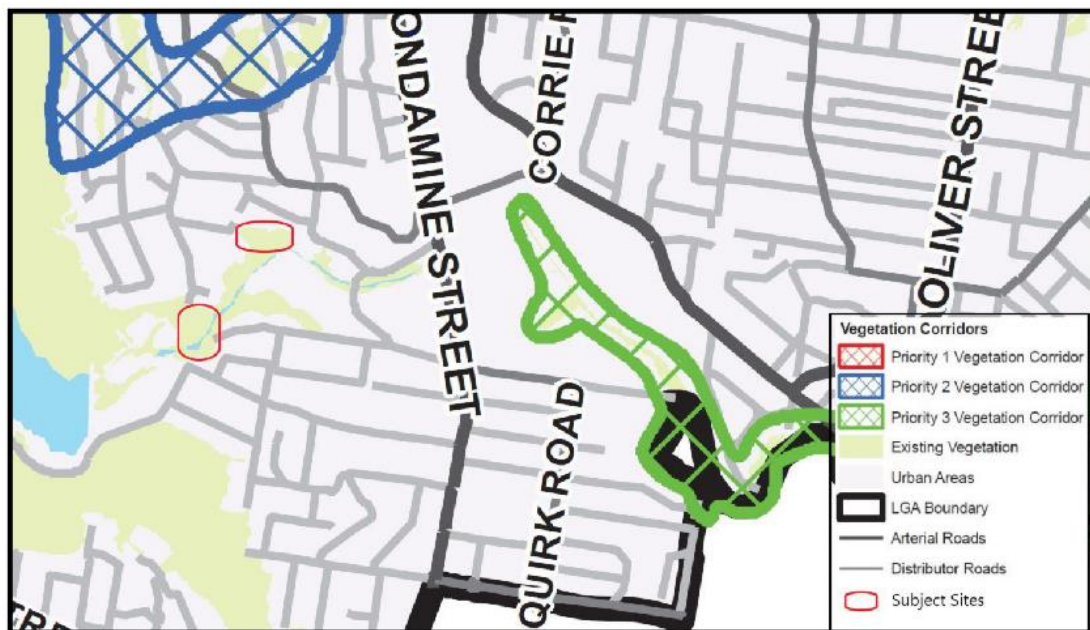


Figure 7 – Local Habitat Strategy mapping (Warringah Council, 2007)



### Warringah Creek Management Study, 2000

The Manly Creek sub-catchment covers an area of approximately 810 ha. Upstream of Manly Dam, steep headwaters tributaries in the north-western corner of the Manly Dam Reserve flow through natural bushland into the main stream (known as Curl Curl Creek) which feeds into Manly Reservoir. The section downstream of the Manly Dam (known as Manly Creek) flows through a bedrock controlled, discontinuous floodplain, surrounded by parkland and residential development, before flowing under the Condamine Street Bridge and adjoining Brookvale Creek immediately upstream of Passmore Reserve. The catchments surrounding the upper and lower reaches are less than 10% impervious and over 30% impervious, respectively. Major users of the creek's water include research laboratories and Warringah Golf Course.

Figure 8 shows a core riparian zone of approximately 30m in total width with an additional buffer zone of approx. 5-10m on either side of the creek.

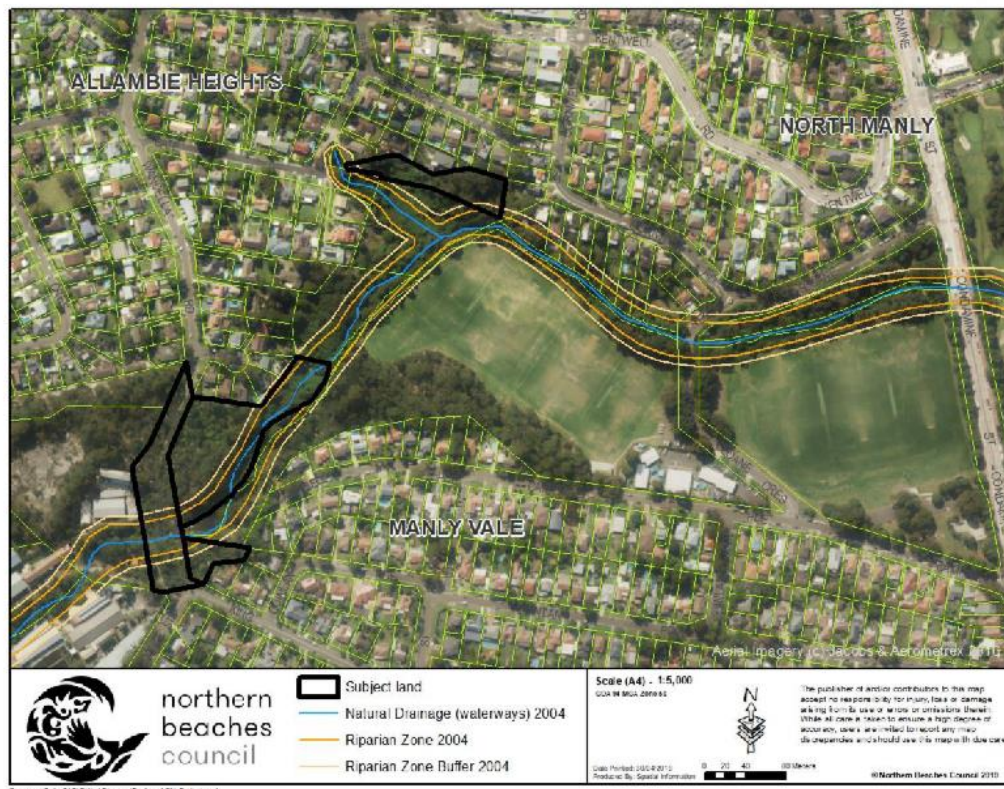


Figure 8 – Manly Creek Riparian Zone and Buffer (Warringah Council, 2000)

Connected Corridors for Biodiversity project by Southern Sydney Regional Organisation of Councils in December 2016

This project provides Council with tools for habitat corridor mapping across Sydney and identifies the subject lots as 'Priority Habitat'. The main aim of the Connected Corridors for Biodiversity project was to create tools to be used by Councils to facilitate increased habitat connectivity. This included the preparation of a habitat corridor map.

The subject lots and surrounding land are mapped as "Priority Habitats" within the Connected Corridors for Biodiversity project by Southern Sydney Regional Organisation of Councils in December 2016. See Figure 9.



Figure 9 – Biodiversity Corridor linking Manly Dam to the coast (SSROC 2016)



The Sydney Metropolitan Catchment Management Authority V3 mapping (OEH 2016)

The Sydney Metropolitan Catchment Management Authority map some areas of the subject lots and surrounding land as being made up of 3 Plant Community Types (PCT) (Figure 10).

- PCT 1250 - S\_DSF09: Coastal Sandstone Gully Forest
- PCT 1783 - S\_DSF11: Sydney North Exposed Sandstone Woodland
- PCT 1824 - S\_HL08: Coastal Sandstone Heath-Mallee

Coastal Sandstone Gully Forest (PCT1250, S\_DSF09) is known to support at least five rare plant species (*Angophora crassifolia*, *Darwinia procera*, *Eucalyptus luehmanniana*, *Hibbertia nitida* and *Lomandra brevis*), and fourteen species rare in northern Sydney (*Amyema pendulum*, *Blechnum minus*, *Deyeuxia decipiens*, *Eucalyptus capitellata*, *E. scias*, *Gahnia radula*, *Juncus pallidus*, *Lepidosperma elatius*, *Lycopodiella cernua*, *Ophioglossum lusitanicum*, *Prostanthera denticulata*, *Utricularia australis*, *U. uliginosa* and *Xanthorrhoea minor*).

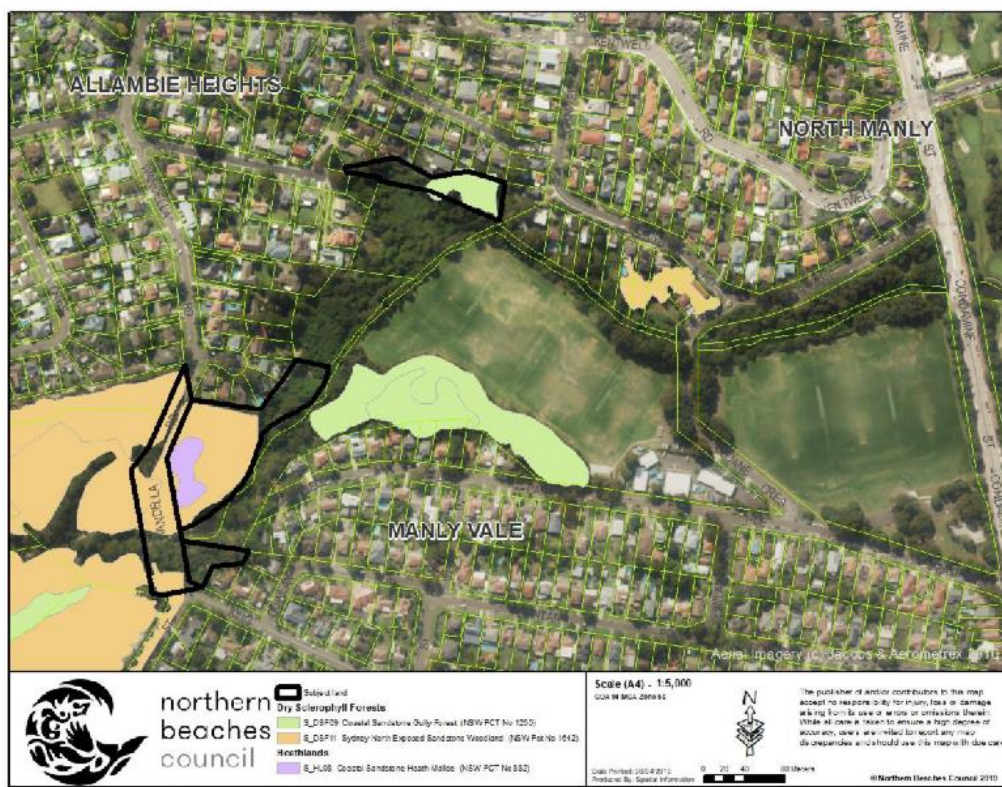


Figure 10 – SMCMA V3 mapping (OEH 2016)

Manly Creek/Mermaid's Pool Restoration Plan (Total Earth Care 2003)

In 2003, Total Earth Care Pty Ltd was commissioned by Warringah Council to prepare a Restoration Plan for the Mermaid's Pool reach of Manly Creek. The Study Area encompassed all publicly owned land on both sides of Manly Creek between the Manly Dam wall (to the west) and Condamine Street (to the east), excluding the playing fields within David Thomas Reserve and Millers Reserve. This study included a flora and fauna field survey, an assessment of habitat, a discussion of threats to biodiversity, and recommended bushland restoration methods.



The primary recommendation of the Plan is that a comprehensive and ongoing biotic survey be undertaken so that the bushland management recommendations are amended periodically to ensure the study area is appropriately managed. This plan also suggested that the species lists provided in the Plan should be included in the Manly Dam Reserve species list. Council's Bushland and Biodiversity team advises the plans and actions associated with this Plan will assist in integrating the management of these contiguous bushland areas. The Planning Proposal, with the associated Biodiversity Study will fulfil the primary recommendation of this project.

#### Manly Dam species list project (Northern Beaches Council 2018)

This ongoing project lists species recorded within Manly Dam. The list currently contains as many as 97 bird species, 23 reptile species, 9 amphibian species, 13 mammal species, 6 fish species, and 320 flora species. Two threatened mammal species previously recorded are now locally extinct, the *phascolarctos cinereus* Koala and *dasyurus maculatus* Spotted-tailed Quoll.

#### Biodiversity Assessment on nearby Sydney Water land (Sydney Water 2018)

In 2018, Sydney Water undertook a comprehensive survey on their land adjacent to the Manly Dam wall, nearby to the subject lots. This survey identified an additional threatened species occurring including *chalinolobus dwyeri* Large-eared pied bat (Vulnerable under the BC Act 2016 and the EPBC Act 1999), which has not been recorded within 5 km of the site in the NSW BioNet database.

The subject lots and surrounding land contain suitable potential breeding habitat for the *chalinolobus dwyeri* Large-eared pied bat, which is listed as a SAI under the BC Act. "Habitat" for bat species is defined by OEH as, all areas of potential habitat on the subject land where the species is determined to be present. Potential habitat for this species is defined by OEH as "Potential breeding habitat is PCTs associated with the species within 100m of rocky areas containing caves, or overhangs or crevices, cliffs or escarpments, or old mines, tunnels, culverts, derelict concrete buildings. Surveys must be undertaken as per the Threatened Bat Survey Guide to confirm breeding habitat". The study also notes the potential presence of two other threatened bat species.

Council's Bushland and Biodiversity team advise this project demonstrates that previously unrecorded threatened species are still being recorded within the locality and that further biodiversity surveys are required to determine whether threatened species or species habitat are located on the land.

#### Manly Warringah War Memorial Park Plan of Management

While this Plan of Management does not apply to the subject Crown land for rezoning, it is relevant in that it states that 'Bushland linkages need to be protected and enhanced to enable movement of flora and fauna between reserves in Warringah' (p61). In this regard, the subject land parcels are recognised as important strategic Bushland linkages in the vicinity of, and connected with Manly Warringah War Memorial Park.

#### Other Local Reports and Investigation

Council has been advised of Community investigations and support for the establishment of a small bird habitat corridor comprising the Mermaid Pool locality and outlined by Greater Sydney Landcare Network (and Save Manly Dam Catchment Committee). These strategic initiatives are supported by the Greater Manly Residents Forum, Birdlife Australia, Humaine Society International and STEP Inc. Current investigations support the suitability of the proposed

corridor given the large areas of dense undisturbed vegetation, connectivity with surrounding reserves, and refuge from other predation and other impacts on the fringe of residential areas.

A Species Impact Statement by Kleinfelder (for Manly Vale Public School) identified small birds of significance (Eastern Spinebill, Superb Fairy Wren, Red Browned Finch, Spotted Pardalote, New Holland Honey Eater, and White Browned Scrub Wren). Further independent surveys identified Scarlet Honey Eater, Little Wattlebird, Brown Thornbill & Black Faced Cuckoo Shrike. Upstream at Manly Dam Reserve over 80 bird species have been recorded.

**5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?**

The Planning Proposal is consistent with applicable State Environmental Planning Policies as shown in the following Table 1.

**Table 1. Compliance with State Environmental Planning Policies (SEPPs)**

SEPPs (as at September 2017)	Applicable	Consistent
1 Development Standards	NO	N/A
19 Bushland in Urban Areas	YES	YES
21 Caravan Parks	NO	N/A
33 Hazardous and Offensive Development	NO	N/A
36 Manufactured Home Estates	NO	N/A
44 Koala Habitat Protection	NO	N/A
47 Moore Park Showground	NO	N/A
50 Canal Estate Development	NO	N/A
55 Remediation of Land	NO	N/A
64 Advertising and Signage	NO	N/A
65 Design Quality of Residential Apartment Development	NO	N/A
70 Affordable Housing (Revised Schemes)	NO	N/A
Coastal Management 2018	NO	N/A
(Aboriginal Land) 2019	NO	N/A
(Affordable Rental Housing) 2009	NO	N/A
(Building Sustainability Index: BASIX) 2004	NO	N/A
(Concurrences) 2018	NO	N/A
(Education Establishments and Child Care Facilities) 2017	NO	N/A
(Exempt and Complying Development Codes) 2008	NO	N/A
(Gosford City Centre) 2018	NO	N/A
(Housing for Seniors or People with a Disability) 2004	NO	N/A
(Infrastructure) 2007	YES	YES
(Kosciuszko National Park – Alpine Resorts) 2007	NO	N/A
(Kurnell Peninsula) 1989	NO	N/A
(Mining, Petroleum Production and Extractive Industries) 2007	NO	N/A
(Miscellaneous Consent Provisions) 2007	NO	N/A
(Penrith Lakes Scheme) 1989	NO	N/A
(Primary Production and Rural Development) 2019	NO	N/A
(State and Regional Development) 2011	NO	N/A
(State Significant Precincts) 2005	NO	N/A
(Sydney Drinking Water Catchment) 2011	NO	N/A
(Sydney Region Growth Centres) 2006	NO	N/A
(Three Ports) 2013	NO	N/A
(Urban Renewal) 2010	NO	N/A
(Vegetation in Non-Rural Areas) 2017	YES	YES
(Western Sydney Employment Area) 2009	NO	N/A
(Western Sydney Parklands) 2009	NO	N/A

Sydney Regional Environmental Plans (Deemed SEPPs):			
	(Sydney Harbour Catchment) 2005	NO	N/A
8	(Central Coast Plateau Areas)	NO	N/A
9	Extractive Industry (No 2 -1995)	NO	N/A
16	Walsh Bay	NO	N/A
20	Hawkesbury – Nepean River (No 2 – 1997)	NO	N/A
24	Homebush Bay Area	NO	N/A
26	City West	NO	N/A
30	St Marys	NO	N/A
33	Cooks Cove	NO	N/A

In relation to applicable SEPPs listed at Table 1, the following comments are provided regarding how the Planning Proposal is either consistent or inconsistent with the SEPPs as follows:

#### SEPP 19 - Bushland in Urban Areas

The Planning Proposal is consistent with SEPP 19 -Bushland in Urban Areas on the basis that bushland within the urban area is being protected and preserved bushland because of:

- (a) its value to the community as part of the natural heritage,
- (b) its aesthetic value, and
- (c) its value as a recreational, educational and scientific resource.

#### SEPP (Infrastructure) 2007

The Planning Proposal is consistent with SEPP (Infrastructure) 2007 on the basis that the proposed Public Recreational zone will continue to facilitate the effective delivery of infrastructure and the provision of services.

#### SEPP (Vegetation in Non-Rural Areas) 2017

The Planning Proposal is consistent with SEPP (Vegetation in Non-Rural Areas) 2007 on the basis that the proposed Public Recreational zone will continue to preserve trees and other vegetation and protect the biodiversity values of trees and other vegetation in non-rural areas of the State but with particular regard to the land the subject of the Planning Proposal.

#### **Is the planning proposal consistent with applicable Ministerial Directions?**

Applicable Directions are summarised at Table 2 below including comments on each of the applicable directions. The following comments are provided regarding where the Planning Proposal may be inconsistent with the terms of any direction, and any such inconsistencies are addressed below as follows:

#### Direction 3.1 Residential Zones

This direction applies as the Planning Proposal affects land within an existing residential zone i.e. Zone R2 Low Density Residential.

Under clause 3.1(1) of the Direction, the objectives of this direction are:

- (a) to encourage a variety and choice of housing types to provide for existing and future housing needs,
- (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and
- (c) to minimise the impact of residential development on the environment and resource lands.

Under clause 3.1(4) & (5) of the Direction, the Planning Proposal must:

- (4) include provisions that encourage the provision of housing that will:
- (a) broaden the choice of building types and locations available in the housing market, and
  - (b) make more efficient use of existing infrastructure and services, and
  - (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and
  - (d) be of good design.
- (5) in relation to land to which this direction applies:
- (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and
  - (b) not contain provisions which will reduce the permissible residential density of land.

The Planning Proposal is inconsistent with the above requirements, as the proposed rezoning will not provide for residential development on the subject land. In this regard, a planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:

- (a) justified by a strategy which:
- (i) gives consideration to the objective of this direction, and
  - (ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and
  - (iii) is approved by the Director-General of the Department of Planning, or
- (b) justified by a study prepared in support of the planning proposal which gives consideration to the objective of this direction, or
- (c) in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
- (d) of minor significance.

The provisions of the Planning Proposal that are inconsistent are considered to be of minor significance for the following reasons:

- While the land is subject to an existing residential zone, the Planning Proposal supports and fully justifies a future zone that is not a residential zone in which residential development is not permitted or proposed to be permitted
- The Planning Proposal is confined to 4 parcels of Crown Land which comprises part of a wider Open Space Reserve for public purposes
- The provisions of a variety and choice of housing types and the existing and future housing needs will not be effected by the Planning Proposal
- The environmental studies and strategies identified in this report provide detailed support for the proposed non-residential zoning of the land
- The Planning Proposal seeks to minimise the impact of residential development on the environment by rezoning the land to Zone RE1 Public Recreation, consistent with the remainder of the Public Reserve and consistent with the ecological, scientific, cultural and aesthetic values of the land.
- Council's Local Strategic Planning Statement, *Towards 2040*, and future Housing Strategy outline how Council will meet our housing targets.



#### Direction 4.4 - Planning for Bushfire Protection

Appropriate consideration was given to the subject land as it is mapped as bushfire prone (see Figure 11).

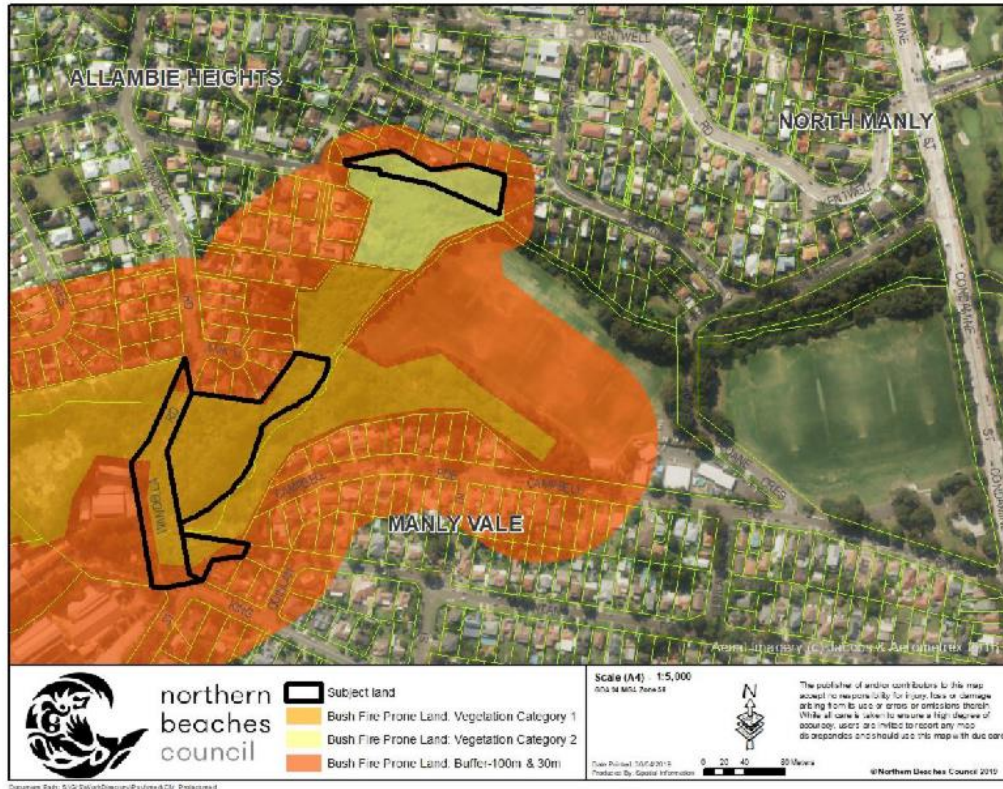


Figure 11 – Bushfire Prone Lands Map

Council, in accordance with the Gateway Determination, consulted with the Commissioner of the NSW Rural Fire Service prior to community consultation. A copy of their response is appended to this Planning Proposal.

The NSW RFS, advised as follows:

*"It is noted that there are several permitted uses, with consent, within the proposed Public Recreation Zone RE1 under the Warringah LEP 2011 which the NSW RFS consider to be inappropriate due to the bushfire risk. Some uses are Special Fire Protection Purpose developments under PBP, and require larger APZs than residential development. The requirement for complying APZs under PBB would require significant vegetation clearing and ongoing management which would be inconsistent with the objectives of the zone:*

- *To protect and enhance the natural environment for recreational purposes.*

*In the preparation of the new Northern Beaches LEP, Council should consider prohibiting inappropriate development."*

Council agrees the current RE1 Public Recreation zone under WLEP 2011 permits developments the NSW RFS considers inappropriate due to the bushfire risk, including some Special Fire Protection Purpose developments. The land is currently zoned R2 Low Density Residential and already permits residential development, the same Special Fire Protection Purpose developments, and a broader range of development than would otherwise be permitted under the RE1 zone. Rezoning the land to RE1 'Public Recreation' will prohibit many land uses which could be Special Fire Protection Purpose developments including bed and breakfast accommodation, boarding houses and group homes, as well as prohibiting dwelling houses.

Although unlikely, if a Development Application (DA) were to be lodged for a Special Fire Protection Purpose development requiring '*...significant vegetation clearing and ongoing management which would be inconsistent with the objectives of the zone...*', or other development requiring the clearing of vegetation, the merits of the DA including the environmental value of the land demonstrated by this Planning Proposal will need to be duly addressed. The NSW RFS response is consistent with Council's stated areas and objectives for this Planning Proposal.

#### Direction 5.11 Development of Aboriginal Land Council land

This Direction is not applicable as the subject land is not located on the Land Application Map of State Environmental Planning Policy (Aboriginal Land) 2019.

Nonetheless, the land is subject to a claim made by Aboriginal Land Council elsewhere addressed in this report.

#### Direction 6.2 - Reserving Land for Public Purposes

This direction applies as the Planning Proposal seeks to create a new zone requiring the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General).

Under clause 6.2(1) of the Direction, the objectives of this direction are:

- (a) to facilitate the provision of public services and facilities by reserving land for public purposes, and
- (b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.

Under clause 6.2(4) of the Direction, the Planning Proposal must:

- (a) not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General).

Other requirements apply at paragraphs (5)-(7) in respect of when a Minister or public authority may request that Council reserve land for a public purpose and in other circumstances where the land is to be acquired under Division 3 of Part 2 of the Land Acquisition (Just Terms Compensation) Act 1991.

NSW Crown Lands was consulted in accordance with the Gateway Determination, and advised as follows:

*The department is supportive of the Planning Proposal the rezone these Crown parcels which will make their zoning complimentary with the existing reserves for public recreation, which adjoin.*

The Planning Proposal does not involve the reservation of land and does not involve changes to the LEP Land Acquisition Map.

**Table 2: Ministerial (Local Planning) Directions – Summary of Applicable Directions**

Ministerial Direction	Comment
<b>1 Employment and Resources</b>	
1.1 Business and Industrial Zones	Not applicable
1.2 Rural Zones	Not applicable
1.3 Mining, Petroleum Production and Extractive Industries	Not applicable
1.4 Oyster Aquaculture	Not applicable
1.5 Rural Lands	Not applicable
<b>2 Environment and Heritage</b>	
2.1 Environment Protection Zones	Applicable and consistent
The objective of this direction is to protect and conserve environmentally sensitive areas.	The Planning Proposal seeks to rezone certain lands that will facilitate the protection and conservation of environmentally sensitive areas and does not reduce any environmental protection standards that apply to the land.
2.2 Coastal Protection	Not applicable
2.3 Heritage Conservation	Applicable and consistent
The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	While the Planning Proposal adjoins a heritage conservation area and listed item, the proposed rezoning is not considered to impact on the heritage significance of any listed heritage item as detailed in the Planning Proposal.
2.4 Recreation Vehicle Areas	Not applicable
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEP's	Not applicable
<b>3. Housing, Infrastructure and Urban Development</b>	
3.1 Residential Zones	Applicable
The objectives of this direction are to: a) encourage a variety of choice of housing types to provide for existing and future housing needs, b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and	The terms of this Direction are addressed above in detail.



c) To minimise the impact of residential development on the environment and resource lands.	
3.2 Caravan Parks and Manufactured Home Estates	Not applicable
3.3 Home Occupations	Not applicable
3.4 Integrating Land Use and Transport	Applicable and consistent
<p>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <p>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</p> <p>(b) increasing the choice of available transport and reducing dependence on cars, and</p> <p>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</p> <p>(d) supporting the efficient and viable operation of public transport services, and</p> <p>(e) providing for the efficient movement of freight.</p>	<p>This direction applies as the planning proposal will alter zones or provisions relating to urban land, including land zoned for residential purposes. Having regard to the minor nature of the changes proposed, the Proposal is not considered to be inconsistent with this Direction.</p>
3.5 Development Near Licensed Aerodromes.	Not applicable.
3.6 Shooting Ranges.	Not applicable.
3.7 Reduction in non-hosted short-term rental accommodation.	Not applicable.
<b>4. Hazard and Risk</b>	
4.1 Acid Sulfate Soils	Applicable and consistent.
<p>The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p>	<p>While the Planning Proposal applies to certain lands contained on LEP Acid Sulfate Soils Planning Maps, the existing provisions adequately regulate works and are consistent with the Acid Sulfate Soils Planning Guidelines.</p>
4.2 Mine Subsidence and Unstable Land	Not applicable
4.3 Flood Prone Land	Applicable and consistent.
<p>The objectives of this direction are:</p> <p>(a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and</p>	<p>While the Planning Proposal partly applies to certain lands identified as Flood Prone Land (see Figure 11), the existing provisions adequately regulate works and are consistent with the NSW Flood Prone Land</p>



(b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	Policy and the principles of the Floodplain Development Manual 2005. Water management facilities may be designed and constructed in accordance with these requirements more readily on larger sites identified in the planning proposal.
4.4 Planning for Bushfire Protection	Applicable and consistent.
The objectives of this direction are: (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and (b) to encourage sound management of bush fire prone areas.	The terms of this Direction are addressed above in detail.
<b>5 Regional Planning</b>	
5.1 Implementation of Regional Strategies	Not applicable
5.2 Sydney Drinking Water Catchments	Not applicable
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked 18 June 2010)	Not applicable
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008 See amended Direction 5.1)	Not applicable
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	Not applicable
5.8 Second Sydney Airport: Badgerys Creek	Not applicable
5.9 North West Rail Link Corridor Strategy	Not applicable
5.10 Implementation of Regional Plans	Not applicable
5.11 Development of Aboriginal Land Council land	Not applicable
<b>6. Local Plan Making</b>	
6.1 Approval and Referral Requirements	Applicable and consistent.
The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	The Planning Proposal is consistent with the terms of this direction as follows: a) provisions that require the concurrence, consultation or referral of DAs to a Minister or public authority are minimised (b) no provisions are contained in the Planning Proposal requiring concurrence, consultation or referral of a Minister or public

	authority without approval prior to undertaking consultation. (c) no development is identified as designated development.
<b>6.2 Reserving Land for Public Purposes</b>	Applicable and consistent.
The objectives of this direction are: (a) to facilitate the provision of public services and facilities by reserving land for public purposes, and (b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	Crown Land NSW, as the owners of the lands the subject of this Planning Proposal, is supportive of this proposal. The land is already in public ownership for a public purpose.
<b>6.3 Site Specific Provisions</b>	Applicable and consistent.
The objective of this Direction is to discourage unnecessarily restrictive site specific planning controls.	The Planning Proposal does not seek to allow a particular development proposal under the terms of the Direction.
<b>7 Metropolitan Planning</b>	
<b>7.1 Implementation of A Plan for Growing Sydney</b>	Applicable and consistent.
The objective of this direction is to give legal effect to the planning principles; directions; and priorities for subregions, strategic centres and transport gateways contained in A Plan for Growing Sydney.	The Planning Proposal is consistent with the NSW Government's Greater Sydney Regional Plan "A Metropolis of Three Cities – connecting people" published on 18 March 2018, as outlined in Part 3, Section B of this report.
<b>7.2 Implementation of Greater Macarthur Land Release Investigation</b>	Not applicable
<b>7.3 Parramatta Road Corridor Urban Transformation Strategy</b>	Not applicable
<b>7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan</b>	Not applicable
<b>7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan</b>	Not applicable
<b>7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan</b>	Not applicable
<b>7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor</b>	Not applicable
<b>7.8 Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan</b>	Not applicable
<b>7.9 Implementation of Bayside West Precincts 2036 Plan</b>	Not applicable

7.10 Implementation of Planning Principles  
for the Cooks Cove Precinct

Not applicable

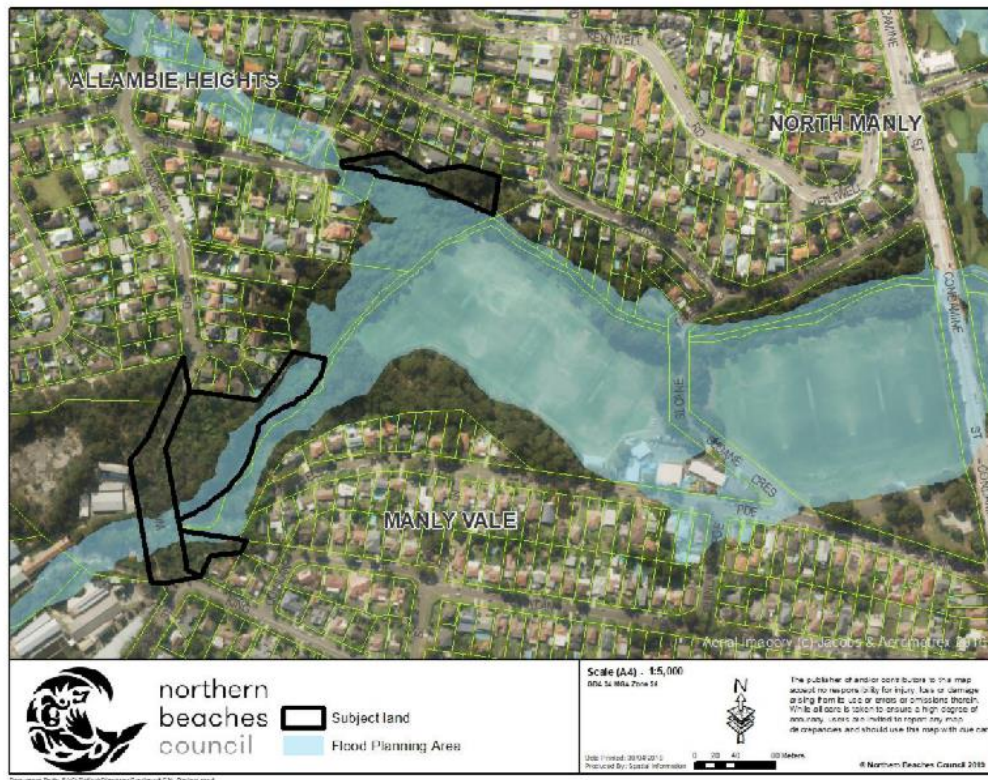


Figure 12 – Flood Planning Area

## 6. Other Legislation under the Strategic Planning Framework

### Biodiversity Conservation Act 2016

Biodiversity Values Mapping by the Office of Environment and Heritage (OEH) in 2018 under the Biodiversity Conservation Act 2016 acts as one of the thresholds for entry into the Biodiversity Offsets Scheme. This map is published by the OEH under the Biodiversity Conservation Regulation 2017. This tool identifies 'Biodiversity Value' within some parts of the subject lots due to the presence of species with potential for 'serious and irreversible impacts on biodiversity values under section 6.5 (2) of the Act'.

Lot 7369 DP 1165551 is identified as having "Biodiversity Value" on the Biodiversity Values Map and Threshold Tool (<https://www.lmbc.nsw.gov.au/Maps/index.html?viewer=BOSETMap>) due to the presence of potential habitat for *prostanthera marifolia* Seaforth Mintbush. Habitat for this species is currently only known from the northern Sydney suburb of Seaforth and has a very highly restricted distribution within the Sydney Basin Bioregion.

*Prostanthera marifolia*, Seaforth Mintbush has been identified as a species where there is potential for serious and irreversible impacts because of the very small population (principle 2) and its very limited distribution (principle 3). To date no individuals have been recorded within

the lot. The upcoming Biodiversity Study will include targeted surveys to investigate and map suitable habitat at a site-scale and determine presence/absence of the species.



### Aboriginal Land Rights Act 1983

Under clause 36 of the Aboriginal Land Rights Act 1983, provisions exist for claims to Crown lands made by Aboriginal Land Councils. The Planning Proposal comprises certain lands subject to undetermined land claims under the Aboriginal Land Rights Act 1983. In this regard, Figure 13 below, indicates the Land Claims provided by the Crown Lands Office. Having regard to these interests, the Crown Lands Office and NSW Department of Planning, Industry and Environment have been advised during the drafting of the Planning Proposal that consultation with the Metropolitan Local Aboriginal Land Council (MLALC) will be undertaken during Community Consultation/Public Exhibition.

The NSW Department of Planning, Industry and Environment have advised that '...there is no restriction on a planning proposal to rezone land proceeding where the relevant land is subject to a pending land claim'.

Contact was made with MLALC on 16 August 2019, 18 October 2019, and 23 November 2019. No response was provided.

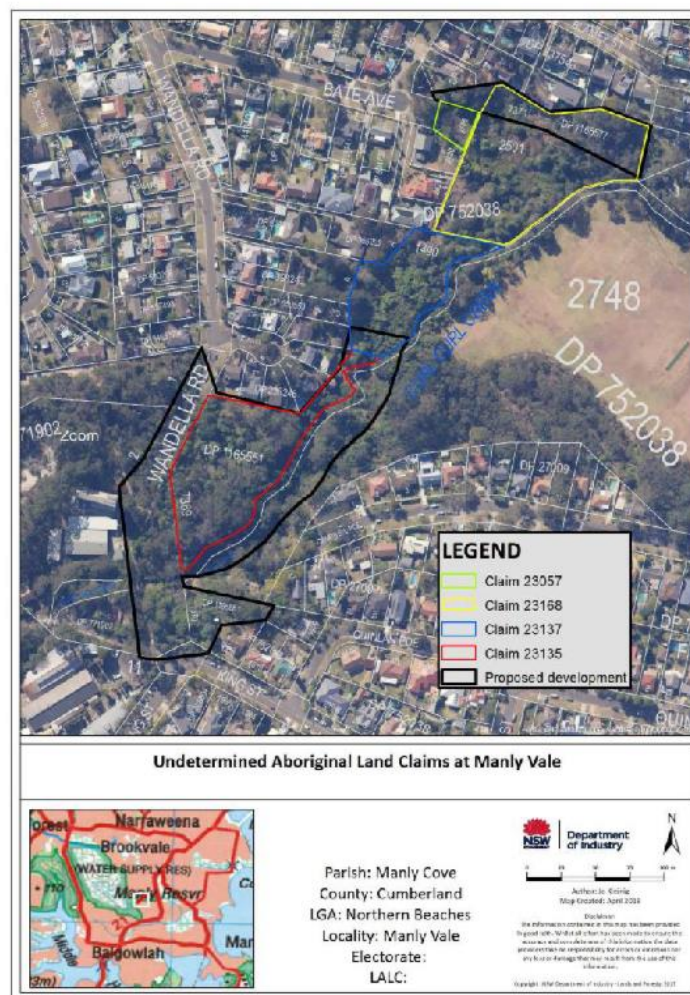


Figure 13 – Aboriginal Land Claims (undetermined)

## Section C – Environmental, social and economic impact

### 7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No adverse effects on critical habitat or threatened species, populations or ecological communities, or their habitats are likely as a result of the proposal.

The proposed rezoning of certain lands will introduce new zone objectives and land use permissibility for the land that will provide for a range of recreational settings, activities and compatible land uses that will better address the local flora and fauna, which characterise the land. The planning provisions will also better protect and enhance the natural environment and the values of the land. The likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats may be identified on the land will warrant further ecological study identified in the Planning Proposal.

Council's Bushland and Biodiversity Team review of Office of Environment & Heritage datasets of threatened species, populations in the vicinity (BioNet 10 x 10 km search - report generated on 18/12/2018 4:23 PM), returned 99 threatened and migratory species over 3,458 records. Since 2008, thirty-nine (39) of these species have been recorded in the area with 2,714 records.

The most abundant threatened species recorded within the locality is the *Prostanthera marifolia* Seaforth Mintbush, which is listed as Critically Endangered under both the NSW Biodiversity Conservation Act 2016 (BC Act 2016) and Commonwealth Environment Protection & Biodiversity Conservation Act 1999 (EPBC Act 1999), and the *Cercartetus nanus* Eastern Pygmy-possum, *Ninox strenua* Powerful Owl, *Varanus rosenbergi* Rosenberg's Goanna and *Pseudophryne australis* Red-crowned Toadlet, all listed as Vulnerable under the NSW BC Act 2016.

The Biodiversity Study prepared in conjunction with this Planning Proposal identifies the presence of threatened species currently utilising the subject lots. The threatened fauna detected were the Southern Myotis (*Myotis macropus*), Eastern Bentwing-bat (*Miniopterus schreibersii*), Little Bentwing-bat (*Miniopterus australis*), Grey headed Flying Fox (*Pteropus poliocephalus*), Black Bittern (*Ixobrychus flavicollis*), Powerful Owl (*Ninox strenua*), White-throated Needletail (*Hirundapus caudacutus*), Little Lorikeet (*Glossopsitta pusilla*), Swift Parrot (*Lathamus discolor*), Heath Monitor (*Varanus rosenbergi*) and Red-crowned Toadlet (*Pseudophryne australis*).

### 8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Council's Bushland & Biodiversity and Coast & Catchments teams have assisted in the preparation of the Planning Proposal and confirm that the likely environmental effects of the Planning Proposal will be to better protect manage and restore public land with ecological, scientific, cultural or aesthetic values.

The studies and mapping outlined and discussed in this Planning Proposal provide evidence that the subject lots are highly likely to contain habitat for local native species including threatened species, and are also likely to function as an important wildlife corridor, particularly for local native species including a range of bird species.

Council's Natural Environment and Climate Change Division, insofar as it relates to the proposed Zone (RE1) Objectives for the subject land, advise:

- Objective 1: To enable land to be used for public open space or recreational purposes.

*Response:* The local community in conjunction with Save Manly Dam Catchment Committee have been working to protect the bushland around Mermaid Pool since 2002. The Mermaid Pool Volunteers meet regularly on the 4th Saturday of every month.

The area is well known locally for its beauty and natural resources, and is already heavily used for public recreation activities including bush walking, and picnics. This connects well with adjacent land for public recreation, including Manly Dam and David Thomas Reserve facilities.

The site has a long history of human-use and enjoyment for recreational activities. The area contains two (2) listed Aboriginal Places. The rezoning of the land will ensure the continuation of these activities at the site.

- Objective 2: To provide a range of recreational settings and activities and compatible land uses.

*Response:* As well as providing a range of recreational activities listed above, the subject lots and surrounding land provide a range of opportunities for educational activities such as community engagement programs, school educational programs, and the continuation of ongoing volunteer bush regeneration.

- Objective 3: To protect and enhance the natural environment for recreational purposes.

*Response:* As stated above, this land is well known for its beauty and natural resources, with stunning waterfalls, waterholes and sandstone cliff-faces in an otherwise urban landscape. The subject lots form part of a locally significant environmental feature and heritage site, which should be protected and conserved, to be enjoyed by many future generations.

- Objective 4: To protect, manage and restore public land that is of ecological, scientific, cultural or aesthetic value.

*Response:* The subject land has important ecological, scientific, cultural *and* aesthetic value. Ecologically, this land provides potential and known habitat for hundreds of local native species. Scientifically, this land provides potential habitat for state and Commonwealth listed threatened species, including the Critically Endangered *Prostanthera marifolia* Seaforth Mintbush. Culturally, this land contains two (2) Aboriginal Places. Aesthetically, this land provides stunning natural landforms including waterfalls, and sandstone cliffs and escarpments.

- Objective 5: To prevent development that could destroy, damage or otherwise have an adverse effect on those values.

*Response:* From an ecological perspective, any development, except those permissible within RE1 zoning, may impact or otherwise have an adverse effect on the ecological, scientific, cultural and aesthetic values listed above and described throughout this referral.

#### The Biodiversity Study

A detailed biodiversity study was undertaken by ecological consultants, Niche Environment and Heritage, in conjunction with the Planning Proposal to assist with the future environmental management of the land.

The objectives of the study are as follows:

- Determine and map the NSW Plant Community Types (PCTs) on all vegetated areas;
- Undertake a comprehensive field survey including complete flora and fauna inventory, targeting threatened flora and fauna as well as small cryptic birds and introduced



species, in accordance with relevant government guidelines and including the most up-to-date survey methods;

- Record and map important habitat features and wildlife corridors, including known threatened species and small bird habitat, and;
- Report on findings and provide general recommendations to improve biodiversity values in the future.

The project was completed in July 2019. The conclusion of the report was:

*'The study area contains areas valuable for the conservation of biodiversity in the Northern Beaches region. The site helps to link the more substantial bushland areas to the west with smaller patches of habitat and open space towards the coastal beaches. The site is also one of the closest patches of wooded habitat to North Head (Sydney Harbour National Park) which contains an endangered population of the Long-nosed Bandicoot (Perameles nasuta). The area is important habitat in its own right for a number of threatened animals. The preservation of this site is important for the ongoing welfare of wildlife in the local area.'*

#### **9. Has the Planning Proposal adequately addressed any social and economic effects?**

The Planning Proposal will ensure social and economic effects are addressed in the zoning of certain lands for Public Recreation (RE1). In terms of social effects, the rezoning aligns with community aspirations for the site including volunteer bushland regeneration events in an around the site. The proposed Public Recreation zone affords a land use framework that provides a range of passive recreational activities, and local amenity and values. In terms of economic effects, the proposal constitutes the optimal use of the land. Council does not foresee any significant economic consequences arising from the Planning Proposal. Any likely economic consequences arising for the Metropolitan Local Aboriginal Land Council in relation to current Land Claims will be informed by consultations to be undertaken as detailed in this Planning Proposal.

#### Aboriginal Heritage Office Comments

Comments received from the Aboriginal Heritage Office in relation to the Planning Proposal are as follows:

*'Recorded Aboriginal rock art sites exist within the locality of the proposed rezoning ranging from paintings in excellent condition to those faded with time, damaged by graffiti and vandalism and obscured by vegetation. Each individual site is considered to be of high significance by the Aboriginal community. Overall, they have national and international significance due to their age (some sites dated over 6000 years, and many have occupation evidence going back at least 4000 years old), the style and variety of art, their level of preservation in the context of Australia's biggest city, the representative variety of different overlapping site types, and their association with the place where Europeans first settled Aboriginal land.'*

*These sites in this location are important to the custodians, the Metropolitan Local Aboriginal Land Council (MLALC), to local Aboriginal people and to Aboriginal communities across Australia where they symbolise the survival of Aboriginal culture even where the impacts of invasion have been the longest and hardest felt. This heritage is also of increasing importance to the wider public. Local residents have grown up with the sites and many have undertaken Sites Awareness training to learn more. There are many local people involved in reconciliation issues who appreciate the Aboriginal heritage of their local area and are active in trying to protect it. Visitors from*



*Australia and internationally value the heritage and appreciate the opportunity to see at first hand Aboriginal heritage in Sydney, not just 'outback'.*

*No rock art sites are currently specifically listed on heritage registers. This is not due to the paucity of significant rock art sites but due to historical neglect of Indigenous heritage in this context and a general policy of keeping such sites low profile.'*

## **Section D – State and Commonwealth interests**

### **10. Is there adequate public infrastructure for the planning proposal?**

The Planning Proposal involves land that is supported by adequate infrastructure. However, in accordance with the Department Guidelines, this question typically applies to Planning Proposal's that result in substantial subdivisions, urban renewal, or development that will result in additional demand for infrastructure. The Planning Proposal is not considered to result in additional demand for infrastructure.

### **11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?**

The Gateway Determination, issued 9 August 2019, required Council to consult with NSW Rural Fire Service (the 'NSW RFS') prior to the Community Consultation. In response to consultation, the NSW RFS provided as follows:

*"It is noted that there are several permitted uses, with consent, within the proposed Public Recreation Zone RE1 under the Warringah LEP 2011 which the NSW RFS consider to be inappropriate due to the bushfire risk. Some uses are Special Fire Protection Purpose developments under PBP, and require larger APZs than residential development. The requirement for complying APZs under PBB would require significant vegetation clearing and ongoing management which would be inconsistent with the objectives of the zone:*

- To protect and enhance the natural environment for recreational purposes.*

*In the preparation of the new Northern Beaches LEP, Council should consider prohibiting inappropriate development."*

The NSW RFS letter of 13 November 2019 is in the Appendix.

#### **Council Response:**

Council agrees that currently in the WLEP 2011, the RE1 Public Recreation zone permits developments that the NSW RFS consider inappropriate due to the bush fire risk, including some Special Fire Protection Purpose developments, which require larger APZs. The land, currently zoned R2 Low Density Residential already permits residential development, the same Special Fire Protection Purpose developments, and a broader range of development than under RE1 zone.

Rezoning the land to RE1 Public Recreation will prohibit many land uses which could be Special Fire Protection Purpose developments including bed and breakfast accommodation, boarding houses and group homes, as well as prohibiting dwelling houses.

Although unlikely, if a Development Application (DA) were to be lodged for a Special Fire Protection Purpose development requiring '...significant vegetation clearing and ongoing management which would be inconsistent with the objectives of the zone...', or other development requiring the clearing of vegetation, a merit assessment including the

environmental value of the land demonstrated by this Planning Proposal is required. The NSW RFS response is consistent with Council's stated areas and objectives for this Planning Proposal.

In accordance with the NSW RFS correspondence, in preparation of the new Northern Beaches LEP, Council will consider the land uses currently permitted in the RE1 Public Recreation zone.

The following public authorities were consulted during the Community Consultation period:

- Metropolitan Local Aboriginal Land Council (MLALC)
- NSW Department of Industry – Lands and Water (Crown Lands)
- Office of Environment and Heritage (now known as the Environment, Energy and Science Group (the "EES") in the Department of Planning, Industry and Environment)

Council consulted with MLALC on three separate occasions during the exhibition period, namely 16 August 2019, 18 October 2019, and 23 November 2019. No formal response has been received from MLALC. Council assumes that MLALC raises no objection to the Planning Proposal.

Crown Lands, in its letter of 13 November 2019, confirms it supports the Planning Proposal as follows:

*The department is supportive of the Planning Proposal the rezone these Crown parcels which will make their zoning complimentary with the existing reserves for public recreation, which adjoin.*

A copy of Crown Lands letter is appended to the Planning Proposal.

The EES response dated 18 November 2019 is appended to the Planning Proposal, and advises as follows:

*"EES has reviewed the planning proposal and supporting documentation and does not object to the planning proposal but provides the following comments..."*

*It is noted that the planning proposal is to replace the existing R2 Low Density Residential zone in relation to the subject land with RE1 Recreation zone. While the proposed RE1 Recreation zoning would provide a higher level of protection than the existing R2 Low Density Residential zone, the proposed RE1 zoning still permits with consent several uses that are not compatible with the objective of the planning proposal to better protect and enhance the natural environment and values of the land.*

*EES has consistently recommended that the best protection for environmental values under the current planning regime is for land to be held in public ownership with an E2 Environmental Conservation zone. Therefore, it is EEs's preference that the subject lands be zoned E2 Environmental Conservation and that permissible uses of land within the E2 zones be restricted to those consistent with the conservation of those values."*

**Council Response to EES letter:**

Council notes there is no objection to the Planning Proposal.

Council acknowledges that from an environmental conservation perspective, the proposed RE1 zone may not be the ideal when compared to an environmental conservation zone. The

primary reason for the land being rezoned RE1 "Public Recreation" in lieu of another zone, is to ensure a consistent zoning/land use approach with the abutting, public owned land already zoned RE1, namely the extent of the Manly Warringah Memorial Park, the Mermaid Pool and much of the riparian corridor. The RE1 Public Recreation zone is considered the most appropriate means of achieving the intended outcomes of the Planning Proposal and does not compromise the objective of the Planning Proposal.

The objectives of the RE1 Public Recreation zone under WLEP 2011 include objectives that specifically seek to protect that natural environment and any works proposed within the zone would need to meet the objectives of the zone, specifically:

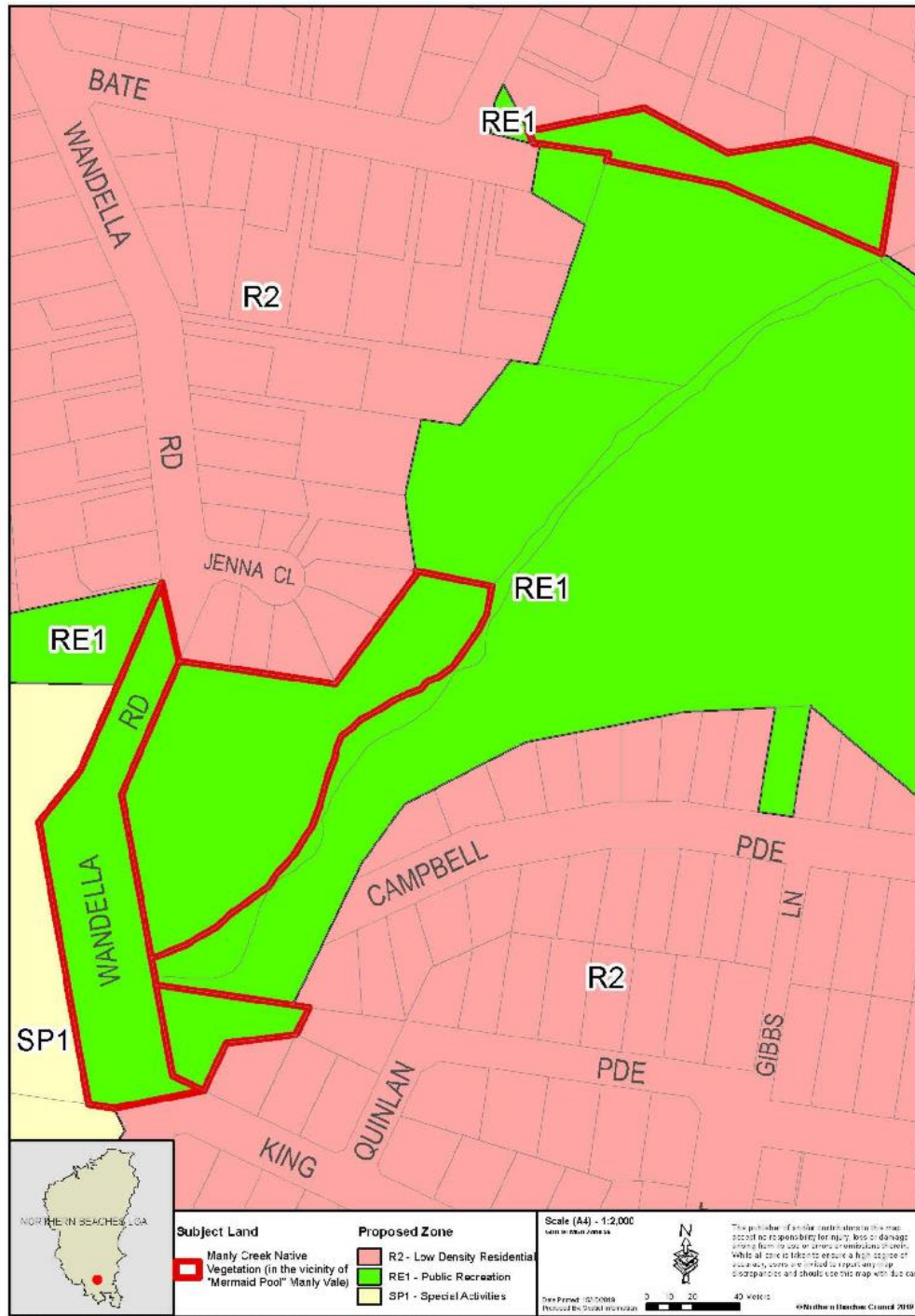
- To protect and enhance the natural environment for recreational purposes.
- To protect, manage and restore public land that is of ecological, scientific, cultural or aesthetic value.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.

Council has commenced preparation of the new Northern Beaches Local Environment Plan (the 'new LEP'), encompassing all land in the Northern Beaches Local Government Area. At which time the overall approach to land use zoning and permissibility under each zone in the new LEP will facilitate a more consistent approach across the Northern Beaches.

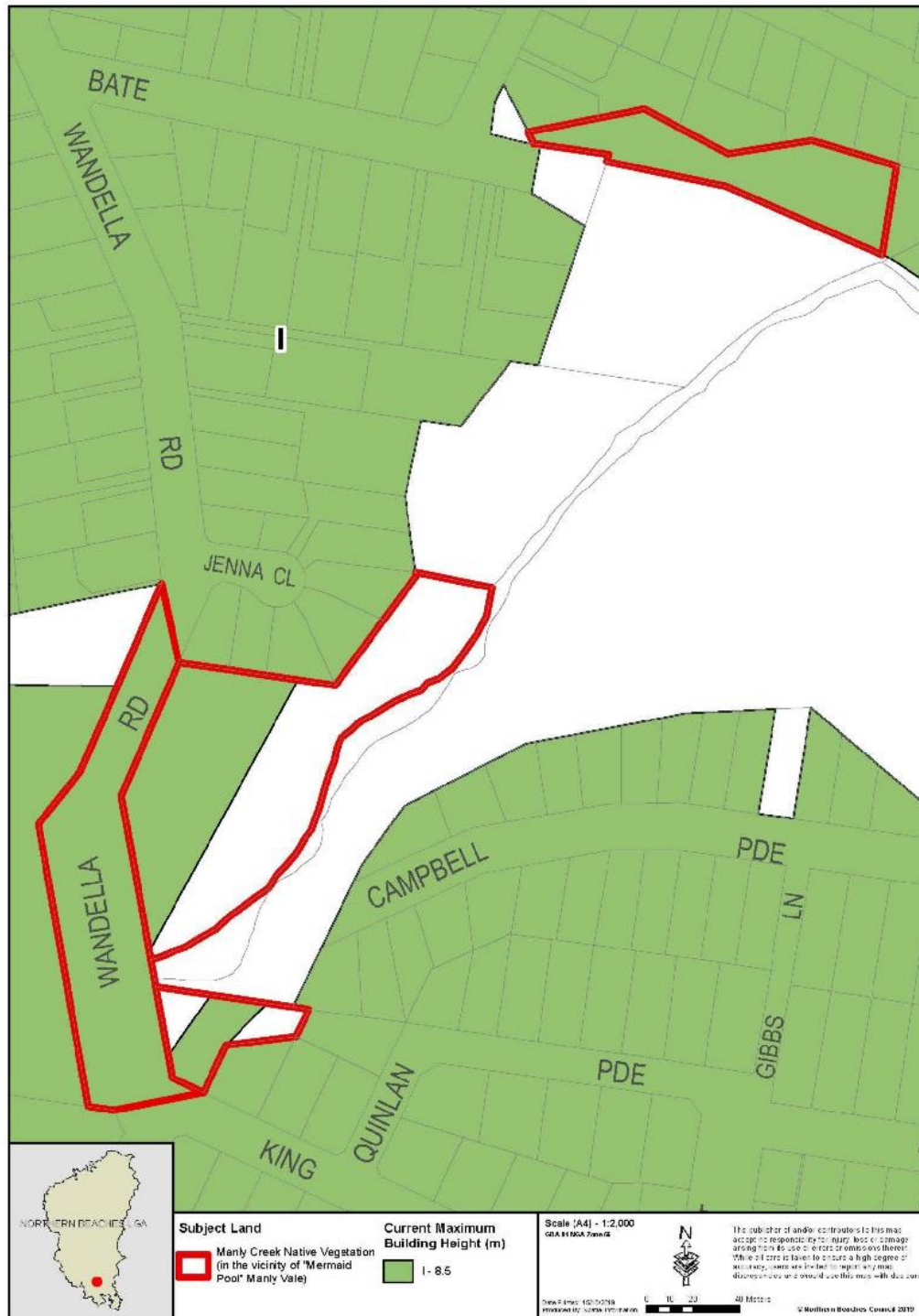




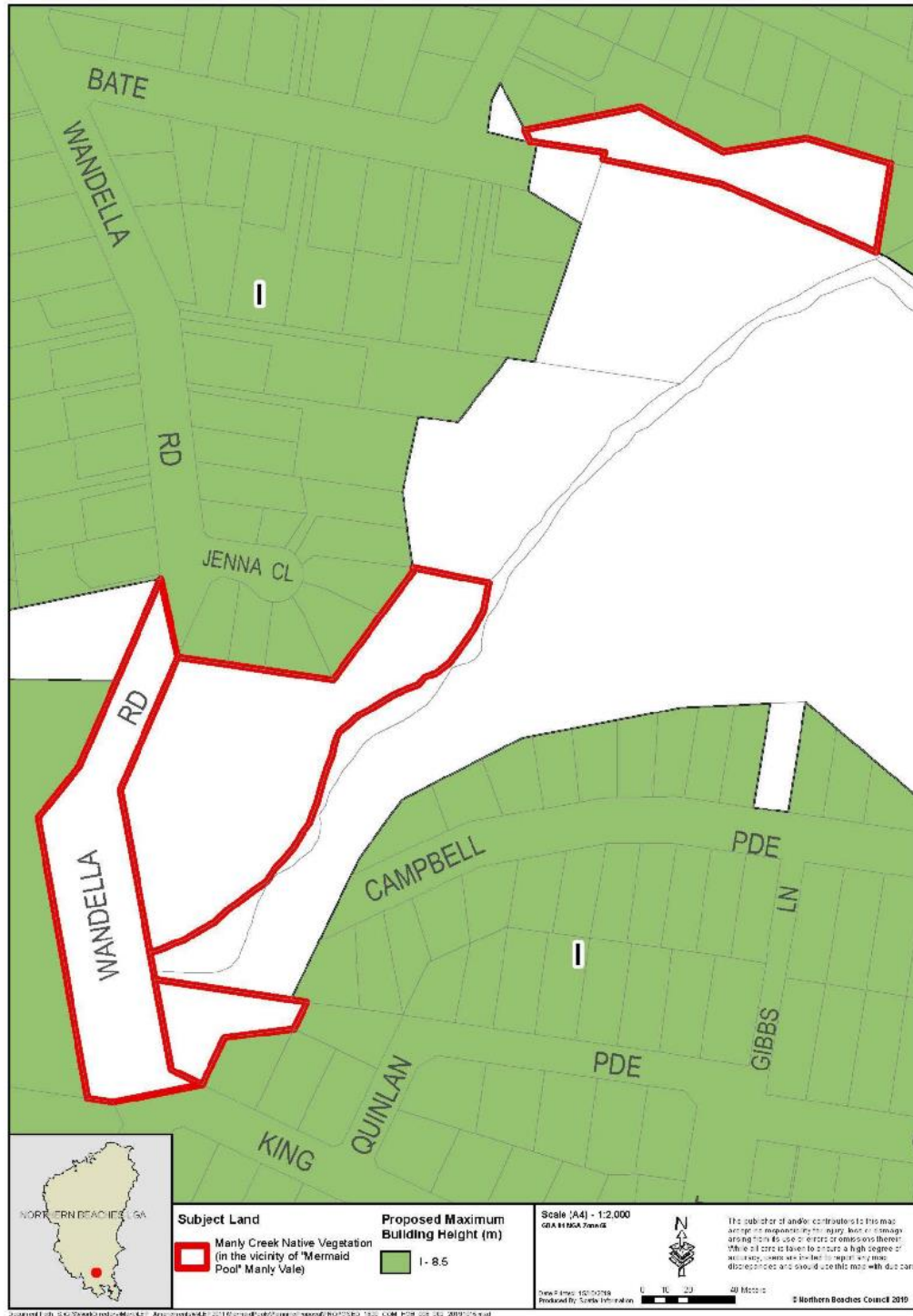
Proposed Mapping Amendment – WLEP2011 Map LZN 008 002 20191015



Existing Mapping – WLEP2011 Map HOB\_008\_002\_20191015 (Height of Building)

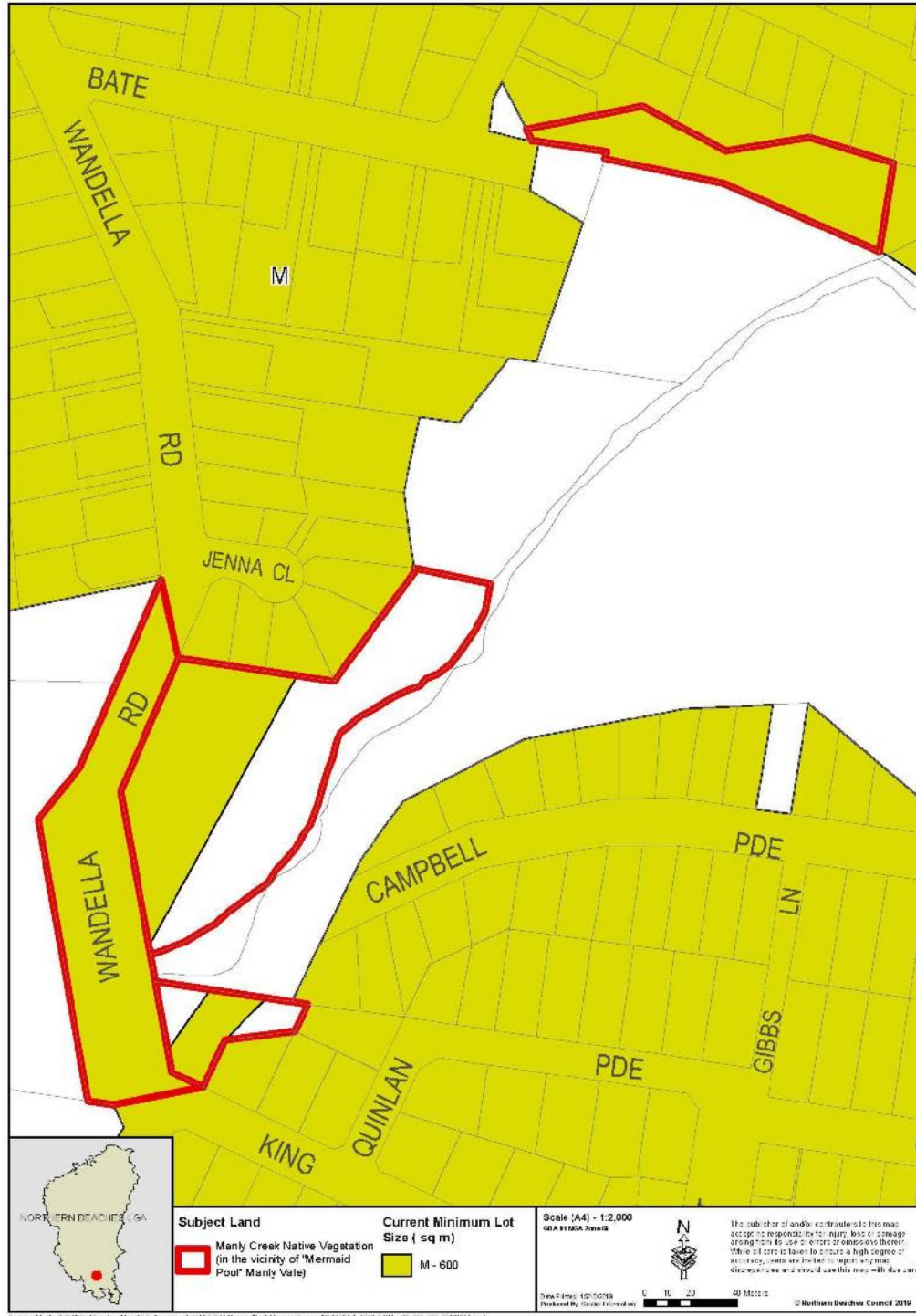


Proposed Mapping Amendment – WLEP2011 Map HOB\_008\_002\_20191015 (Height of Building)



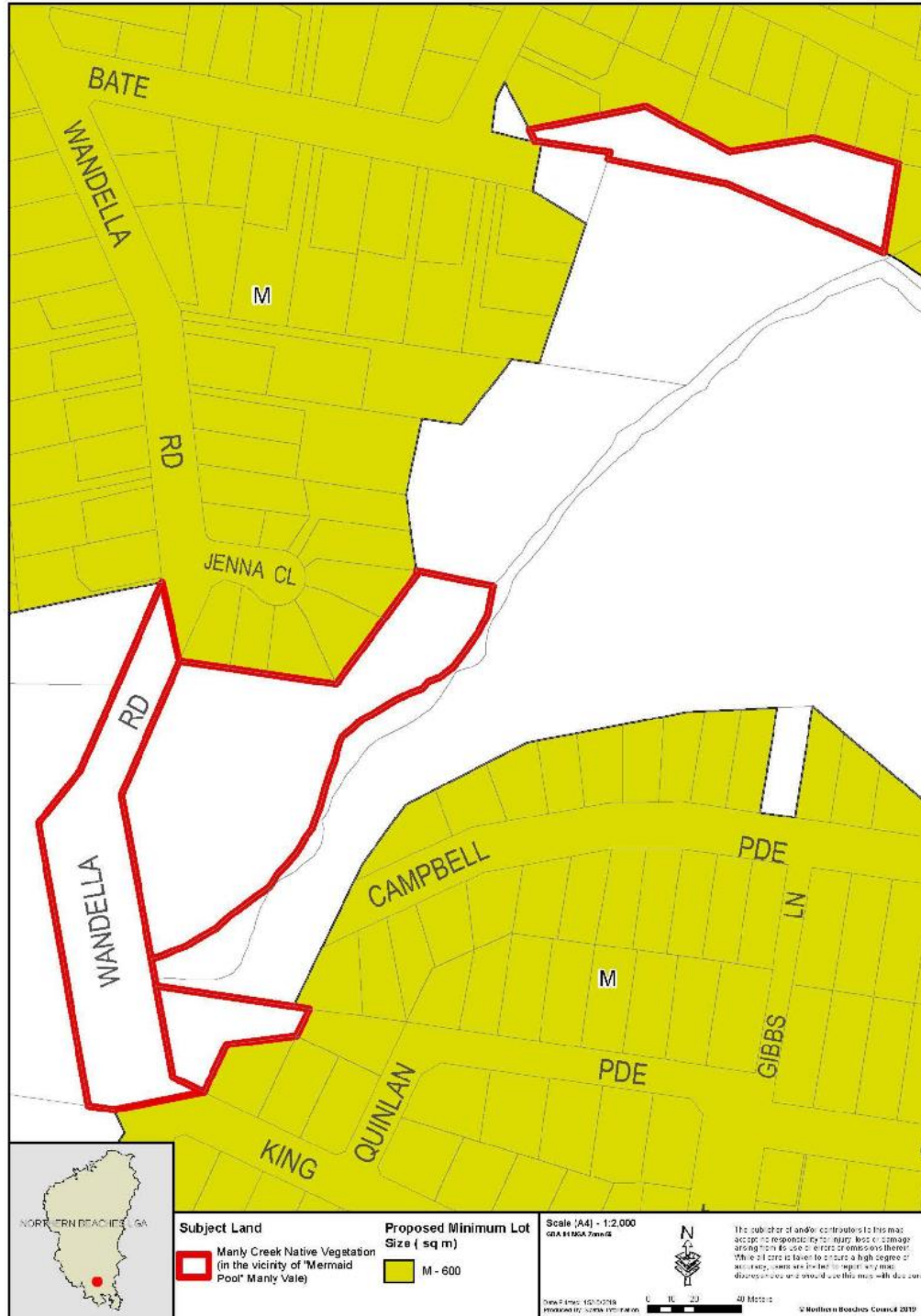


Existing Mapping Amendment – WLEP2011 Map LSZ 008 002 20191015 (Minimum Lot Size)





Proposed Mapping Amendment – WLEP2011 Map LSZ\_008\_002\_20191015 (Minimum Lot Size)



## Part 5 – Community Consultation

The Planning Proposal was on public exhibition in accordance with the Gateway Determination and consistent with Council's Community Engagement Policy including:

- A public notice in the Manly Daily notifying of the public exhibition;
- Letters to key stakeholders, including relevant state agencies noted in the Gateway Determination, community groups, and owners and occupiers of adjoining and nearby properties;
- Hard copies of the exhibition material at Council's offices; and
- Electronic copies of the exhibition material on Council's website.



**Northern Beaches Weekly News**

**A message from the Mayor**

Did you know there are over 2.7 million carers in Australia supporting a friend or family member in need?

This week is National Carers Week and an opportunity to recognise and celebrate those incredible people who give so much to others.

On behalf of the whole community, a huge thank you to all our carers. I hope you have been able to enjoy some of the many Carers Week events this week to have a little time out and have your contribution recognised.

October is also Mental Health Month and the theme this year is Share the Journey. Share the journey is all about ways we can connect, for our own health and wellbeing, and that of others. It can mean telling your loved ones about not only your successes but also your challenges, reaching out to someone who might be withdrawing from others or asking for help when you need it.

Tomorrow, come along to the Narrabeen Markets between 8am and 3pm for a free event held by the Northern Beaches Mental Health Interagency where you can try out free yoga, tai chi, mindfulness, Tibetan meditation and meet with local mental health providers. Council also has a hub of great referral information on our website to support those looking for mental health support.

How exciting to see all the activity at the brand new skate park at Lionel Watts this week. The fences were barely down and scores of kids on skateboards, scooters and bikes were drawn like magnets to the site!

This project was a great example of what can be achieved when Council works with our community. We had a great team of young people involved from the beginning to co-design the park with us and I hope they are as thrilled as us with the result.

The playground nearby is also progressing really well and we are planning a community celebration day in December to mark the completion of all the works in this area - the off-leash dog park, playing fields, skate park and playground. Stay tuned.

Finally, a great opportunity to celebrate summer coming at the Warringah Aquatic Centre this afternoon. Entry is free and there is lots of family entertainment including inflatables, face painting and more.

Have a great weekend.

**Michael Regan**  
michael.regan@northernbeaches.nsw.gov.au  
@beachemayor

**Warringah Aquatic Centre Family Open Day**  
Today! Sat 19 Oct, 12.30 - 6pm

Celebrate the start of summer and the opening of our outdoor pool and splash pad. Enjoy giant inflatable course, familiar wheels, face painting, aqua Zumba, free swim assessments and more.

Free entry

**Seniors Festival 2020**  
Expression of Interest (EOI)

We're calling for community groups, organisations and businesses to be part of our annual Seniors Festival events and activities program for over-55s.

NSW Seniors Festival runs from 12-23 Feb 2020.

EOI close: Fri 8 Nov

**Have your say**

The following projects are open for comment:

- Maxwell Parade, Frenchs Forest - Left Turn Only**  
Comments close: Sun 20 Oct
- 2019/20 Fees and Charges - Environmental Compliance**  
Submissions close: Sun 27 Oct
- Community Service Awards Policy (draft)**  
Submissions close: Sun 27 Oct
- Diplomatic Ties and Civic Relationships Policy (draft)**  
Submissions close: Sun 27 Oct
- Draft Northern Beaches Community Participation Plan (Plan Making and Development Assessment)**  
Submissions close: Sun 27 Oct
- Manly Town Hall fees and charges**  
Comments close: Sun 27 Oct
- Protect, Create, Live - Northern Beaches Environment and Climate Change Strategy 2040 (draft)**  
Submissions close: Sun 27 Oct

**Council Meeting**  
Tue 22 Oct, 6pm  
Council Chambers, Dee Why

View the agenda online or at any of our Customer Service Centres.

Requests to address Council or speak at the public forum: complete the form online or call 9942 2193 by Tue 22 Oct, 12pm

**Council notices**

**Weed and pest control program**

We're conducting preventative weed and pest control on some sports fields on the Northern Beaches until November.

**Development proposals**

View application plans and documents or make a submission online.

Call or email us to contact a planner.

Consent authority: Northern Beaches Council

**9-15 Lawrence St, Freshwater**  
Mod2019/0477 (Lot 100 DP 1253448) - modification of development consent DA2017/1294 granted for demolition works and the construction of a shop-top housing development.

Applicant: IPM Holdings Pty Ltd

Enquiries: Daniel Milken, Principal Planner  
Submissions close: Mon 18 Nov

**Road reserve lease - Wilga St and Powderworks Rd, Banora Heights**  
Submissions close: Sun 27 Oct

**2018-2019 Annual Financial Statements**  
Submissions close: Tue 29 Oct

**Community Safety Plan**  
Survey closes: Sun 3 Nov

**Towards 2040 - draft Local Strategic Planning Statement**  
Submissions close: Sun 10 Nov

**Planning Proposal - Manly Creek Riparian Lands (Mermaid Pool)**  
Submissions close: Sun 17 Nov

Information on events, activities or to provide feedback visit our Customer Service Centres | [northernbeaches.nsw.gov.au](http://northernbeaches.nsw.gov.au) | [council@northernbeaches.nsw.gov.au](mailto:council@northernbeaches.nsw.gov.au) | 1300 634 434

06 MANLY DAILY Saturday, October 19, 2019

Figure 17 Manly Daily, 19 October 2019



1/30/2020

Manly Daily, Saturday, November 2, 2019, pages from 10 to 10

## Northern Beaches Weekly News



facebook twitter instagram @beachescouncil

### A message from the Mayor



A huge happy 40th birthday to the Warringah Aquatic Centre. Affectionately known as the WAC, the centre opened in 1979 and has seen over 15 million swimmers through the doors over the past four decades.

Right from the outset the facility attracted both casual swimmers and elite athletes. Local Lisa Forrest prepared for the Moscow Olympics in 1980 and Brooke Hanson and Mitchell Patterson trained for their bids for the 2004 Olympics and the 2010 Commonwealth Games respectively.

Other notable users of the centre include Sydney Olympic 2000 water polo gold medalist Deb Watson and champion disability swimmers Matt Levy, Ben Austin and Kate Bailey.

Mostly though, the centre is enjoyed by hundreds of people each week keeping fit, learning to swim or just having a great time splashing about.

Join us to celebrate the milestone tomorrow, with a giant inflatable course, diving boards and face painting. A number of eye-catching contemporary sculptures will also be on display in the WAC garden, not just tomorrow but throughout the summer. There are 17 incredible works featuring emerging and established artists from the local area and beyond, including budding artist Jake James, who is only 11 years old!

While on the subject of milestones, the forward thinking of legendary 'Bubble' Warren Mitchell will be recognised this afternoon at Avalon SLSC.

Back in 1969, Mr Mitchell approached the surf club about the possible use of inflatable boats with a motor for ocean rescues. Multiple rescues later that summer, the IRB's or rubber ducks quickly became a vital aspect of surf rescues, and remain so in 2019 across Australia. What an incredible contribution, many lives have been saved as a result.

For those looking to celebrate the Melbourne Cup next Tuesday, why not enjoy the race festivities while supporting some important local organisations. Northern Beaches Peninsula Pals are hosting a Cup lunch for multiple charities including Sunnyfield and the Burdekin Association, and the Northern Beaches Women's Shelter are also putting on a Cup event. Check online for details.

And head to Manly today for the Inaugural Street Sale. A joint event between Council and Manly Business Chamber, you can grab a bargain at this large outdoor market down the centre of The Corso.

Have a great weekend.

Michael Regan  
michael.regan@northernbeaches.nsw.gov.au  
@beachescmayor



### Remembrance Day

**Lest we forget**  
Mon 11 Nov, 10.45am

We are hosting services in memory of those who have paid the ultimate sacrifice in times of armed conflict.

Manly Dam War Memorial Park, King St, Manly Vale  
(Presented by the Manly Warringah War Memorial Park Remembrance Trust)

Manly War Memorial, The Corso

### Grand Connections

**Tue 12 Nov, 10am - 12pm**  
Northern Beaches PCYC, Dee Why

Come along to a fun-filled family day made especially for grandparents. Enjoy a cultural performance, entertainment, craft and speakers who will discuss the joys and challenges of grandparenting.

Free, come along on the day



### Warringah Aquatic Centre is turning 40!

**Sun 3 Nov, 9am - 6pm**

Celebrate with free family fun - giant inflatable course, diving boards, face painting, aqua disco and well be launching the 3D Poseidon sculpture exhibition.

### Have your say

The following projects are open for comment:

<p><b>Community Safety Plan</b> Survey closes Sun 3 Nov</p> <p><b>Protect, Create, Live - Northern Beaches Environment and Climate Change Strategy 2040 (draft)</b> Submissions close: Sun 10 Nov</p> <p><b>Towards 2040 - draft Local Strategic Planning Statement</b> Submissions close: Sun 10 Nov</p> <p><b>Manly Parking Permit Scheme Framework (draft)</b> Submissions close: Sun 24 Nov</p>	<p><b>Community Centres Policy (draft)</b> Submissions close: Sun 1 Dec</p> <p><b>Community Centres Strategy (draft)</b> Submissions close: Sun 1 Dec</p> <p><b>Planning Proposal - Manly Creek Riparian Lands (Marina Pool)</b> Submissions extended: Sun 1 Dec</p>
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Information on events, activities or to provide feedback visit our Customer Service Centres | [northernbeaches.nsw.gov.au](http://northernbeaches.nsw.gov.au) | [council@northernbeaches.nsw.gov.au](mailto:council@northernbeaches.nsw.gov.au) | 1 800 636 434

06 'MANLY DAILY' Saturday, November 2 2019 NBN020219A-V2

Figure 18 - Manly Daily, 2 November 2019

## Part 6 – Project Timeline

Task	Anticipated timeframe
Referral of Planning Proposal to NSW Department of Planning, Industry and Environment for Gateway determination	5 March 2019 (complete)
Issue of further guidance from NSW Department of Planning, Industry and Environment, and submission of Planning Proposal with minor edits in reply (including additional map of ALCs from Crown Land, 30 April 2019)	10 April 2019-3 May 2019 (complete)
Detailed Biodiversity Study complete	July 2019
Issue of Gateway Determination	9 August 2019
Government agency consultation (as required)	18 October 2019
Public exhibition period	19 October 2019-1 December 2019
Consideration of submissions and agency consultations	November-December 2019
Report to Council to determine Planning Proposal	28 April 2020
Submit Planning Proposal to the DPI and Parliamentary Counsel for LEP drafting and publication	Early May 2020



## APPENDIX

Letter to Council - NSW Rural Fire Service, dated 13 September 2019

Letter to Council - Crown Lands, Department of Planning Industry and Environment,  
dated 13 November 2019

Letter to Council - Environment, Energy and Science Group, Department of Planning  
Industry and Environment, dated 18 November 2019



## NSW RURAL FIRE SERVICE



The General Manager  
Northern Beaches Council  
PO Box 882  
MONA VALE NSW 1660

Your reference: 2019/457203  
Our reference: R19/104  
DA19082320138

13 September 2019

Attention: Carla Davies

Dear Sir/Madam,

### Planning Proposal - Planning Proposal to Amend Warringah LEP 2011

Reference is made to Council's correspondence dated 16 August 2019 requesting comments in relation to the above Planning Proposal which seeks to rezone four parcels of Crown land downstream of Manly Dam, in the suburbs of Manly Vale and Allambie Heights, from R2 Low Density Residential to RE1 Public Recreation.

The New South Wales Rural Fire Service (NSW RFS) has reviewed the proposal with regard to Section 4.4 of the directions issued in accordance with Section 9.1(2) of the *Environmental Planning and Assessment Act 1979*.

The direction provides that a Planning Proposal must:

- (a) have regard to *Planning for Bushfire Protection (PBP)*,
- (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and
- (c) ensure that bushfire hazard reduction is not prohibited within the asset protection zone (APZ).

The following comments are provided for Council's consideration.

It is noted that there are several permitted uses, with consent, within the proposed Public Recreation Zone RE1 under the Warringah LEP 2011 which the NSW RFS consider to be inappropriate due to the bush fire risk. Some uses are Special Fire Protection Purpose developments under PBP, and require larger APZs than residential development. The requirement for complying APZs under PBP would require significant vegetation clearing and ongoing management which would be inconsistent with the objectives of the zone:

- To protect and enhance the natural environment for recreational purposes.

In the preparation of the new Northern Beaches LEP, Council should consider prohibiting inappropriate development.

Postal address  
NSW Rural Fire Service  
Planning and Environment Services  
Locked Bag 17  
GRANVILLE NSW 2141

T 1300 NSW RFS  
F (02) 8741 3400  
E [records@rfs.nsw.gov.au](mailto:records@rfs.nsw.gov.au)  
[www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)





*[Handwritten signature]*

If you have any queries regarding this advice please contact Garth Bladwell Development Assessment and Planning Officer on 1300 NSW RFS.

Yours sincerely,

Nika Fomin  
**Manager**  
Planning and Environment Services (East)



Liza Cordoba  
Manager, Strategic & Place Planning  
Northern Beaches Council  
PO Box 1336  
Dee Why NSW 2099

Our ref: DOC19/257312  
Our file ref: 19/09961  
Your ref: 2019/619398

13 November 2019

Dear Ms Cordoba

**Subject:** Planning Proposal to Amend Warringah Local Environmental Plan 2011

Thank you for your letter dated 31 October 2019 advising of the Planning Proposal seeking to rezone four parcels of Crown land downstream of Manly Dam, in the suburb of Manly Vale and Allambie Heights, from R2 Low Density Residential to RE1 Public Recreation and remove all development standards from these parcels. I note that the notification period for the Planning Proposal has been extended until 23 November 2019.

The department is supportive of the Planning Proposal to rezone these Crown parcels which will make their zoning complementary with the existing reserves for public recreation, which adjoin.

Should you or your staff have queries as to this submission, please contact Stan Rees on 9842 8327.

Yours sincerely,

Ben Tax  
Area Manager – Sydney & South Coast

Crown Lands | Department of Planning, Industry and Environment





Planning,  
Industry &  
Environment

Our ref: doc19/013755  
Senders ref: 2019/457203

Mr Neil Cocks  
Manager Strategic & Place Planning  
Northern Beaches Council  
PO BOX 1336  
Dee Why NSW 2099

Dear Mr Cocks,

**Subject: Planning Proposal to amend Warringah Local Environmental Plan 2011**

Thank you for your email dated 18 October 2019, requesting input from Environment, Energy and Science Group (EES) in the Department of Planning, Industry and Environment on the planning proposal to amend Warringah Local Environmental Plan (LEP) 2011 which seeks to rezone four parcels of Crown land downstream of Manly Dam, in the suburbs of Manly Vale and Allambie Heights, from R2 Low Density Residential to RE1 Public Recreation and remove all development standards.

EES has reviewed the planning proposal and supporting documentation and does not object to the planning proposal but provides the following comments.

EES would like to acknowledge the considerable Council and volunteer investment that has been made in making environmental improvements to the subject lands through removal of dumped waste and bush restoration.

It is noted that the planning proposal is to replace the existing R2 Low Density Residential zone in relation to the subject land with RE1 Recreation zone. While the proposed RE1 Recreation zoning would provide a higher level of protection than the existing R2 Low Density Residential zone, the proposed RE1 zoning still permits with consent several uses that are not compatible with the objective of the planning proposal to better protect and enhance the natural environment and values of the land.

EES has consistently recommended that the best protection for environmental values under the current planning regime is for land to be held in public ownership with an E2 Environmental Conservation zone. Therefore, it is EES's preference that the subject lands be zoned E2 Environmental Conservation and that permissible uses of land within the E2 zones be restricted to those consistent with the conservation of those values.



EES agrees with the proponent that the rezoning will remove the permissibility of residential uses on the land, part of which is within the flood planning area, and that no further flood risk management requirements should apply beyond the existing Warringah Local Environmental Plan 2011.

Should you have any queries regarding this matter, please contact Bronwyn Smith, Senior Conservation Planning Officer on 9673 8604 or [Bronwyn.smith@environment.nsw.gov.au](mailto:Bronwyn.smith@environment.nsw.gov.au)

Yours sincerely

**Susan Harrison**  
**Senior Team Leader Planning**  
**Greater Sydney Branch**  
**CLi**



**Amendments To  
Warringah  
Development Control Plan 2011 (WDGP 2011)**

(Amendments consequential to Planning Proposal - Mermaid Pool – PEX2018/0008)

**Reference: PEX2018/0008**

**AMENDMENT TO WARRINGAH DEVELOPMENT CONTROL PLAN 2011**

The changes to the Warringah Development Control Plan 2011 (the "WDCP 2011") are summarized below:

1. Remove the subject lands from any DCP maps where WDCP 2011 provisions do not apply to RE1 zoned land, such as:
  - Part B (Built Form Controls) and in particular DCP maps associated with controls B1 *Wall Heights*, B3 *Side Boundary Envelope*, B5 *Side Boundary Setbacks*, B7 *Front Boundary Setbacks*, B9 *Rear Boundary Setbacks*;
  - Control D1 *Landscaped Open Space and Bushland Setting* and associated DCP Map to Control D1;
  - Control E7 *Development on land adjoining public open space* and associated DCP Map to control E7.

The subject lands being rezoned RE1 Public Recreation (under Planning Proposal PEX2018/0008) are:

- Lot 7370 DP1165551 being land adjoining 102 King Street, Manly Vale.
  - Lot 7369 DP1165551 Wandella Road, Allambie, south of Jenna Close.
  - Lot 7371 DP1165577 located to the rear of properties south of Blamey St and Bate Avenue, Allambie.
  - Part unmade road at the southern end of Wandella Road, King Street, Manly Vale and east of the Manly Water Laboratory (Research Station).
2. Control E7 *Development on land adjoining public open space* is to be apply to the following nine land parcels and identified in the associated DCP Map(s) to Control E7.

The nine land parcels, which need to be shown in the associated DCP Map to control E7, are:

- No. 6 Jenna Close, Allambie Heights (Lot 7 DP 238245)
- No. 5 Jenna Close, Allambie Heights (Lot 6 DP 238245)
- No. 24 Bate Avenue, Allambie Heights (Lot 3 DP 747057)
- No. 1 Blamey Street, Allambie Heights (Lot 1 DP 237548)
- No. 3 Blamey Street, Allambie Heights (Lot 2 DP 237548)
- No. 5 Blamey Street, Allambie Heights (Lot 3 DP 237548)
- No. 11 Blamey Street, Allambie Heights (Lot 13 DP 237548)
- No. 17 Cornwell Road, Allambie Heights (Lot 12 Sec 3 DP 5875)
- No. 19 Cornwell Road, Allambie Heights (Lot 13 Sec 3 DP 5875)

**Figure 1** contains an Indicative Map showing these properties.



**Subject Land**

**Proposed DCP Map Land Adjoining Public Open Space**

**Additional Lands Subject to control E7**

Manly Creek Native Vegetation (in the vicinity of "Mermale Pod" (Manly Vale))

3. The DCP Map changes highlighted in changes 1 and 2 above are in Appendices 1 and 2 respectively.

**Justification for the changes**

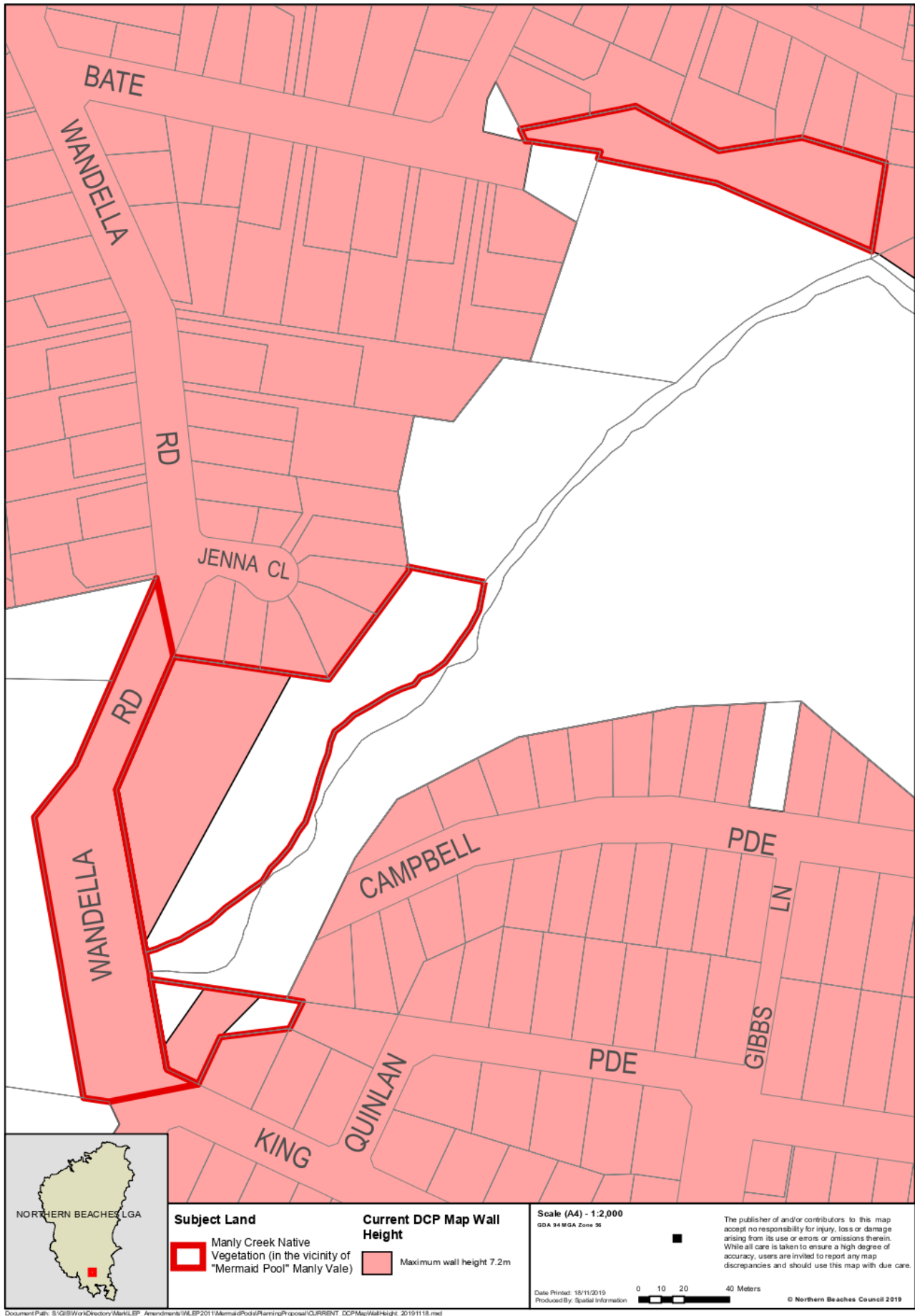
The subject lands identified in Change 1 above are Crown Land and being rezoned from R2 Low Density Residential to RE1 Public Recreation, via a Planning Proposal PEX 2018/0008. As such, development standards for height and minimum lot size for subdivision applicable to residential development will not be necessary due to the change in zoning of the land.

Applying Control E7 to the nine properties listed in Change 2 above will protect and preserve bushland adjoining parks, bushland reserves and other public open spaces – being the land being rezoned RE1 Public Recreation. It requires that any development on the nine properties that adjoins land zoned/being rezoned RE1 Public Recreation:

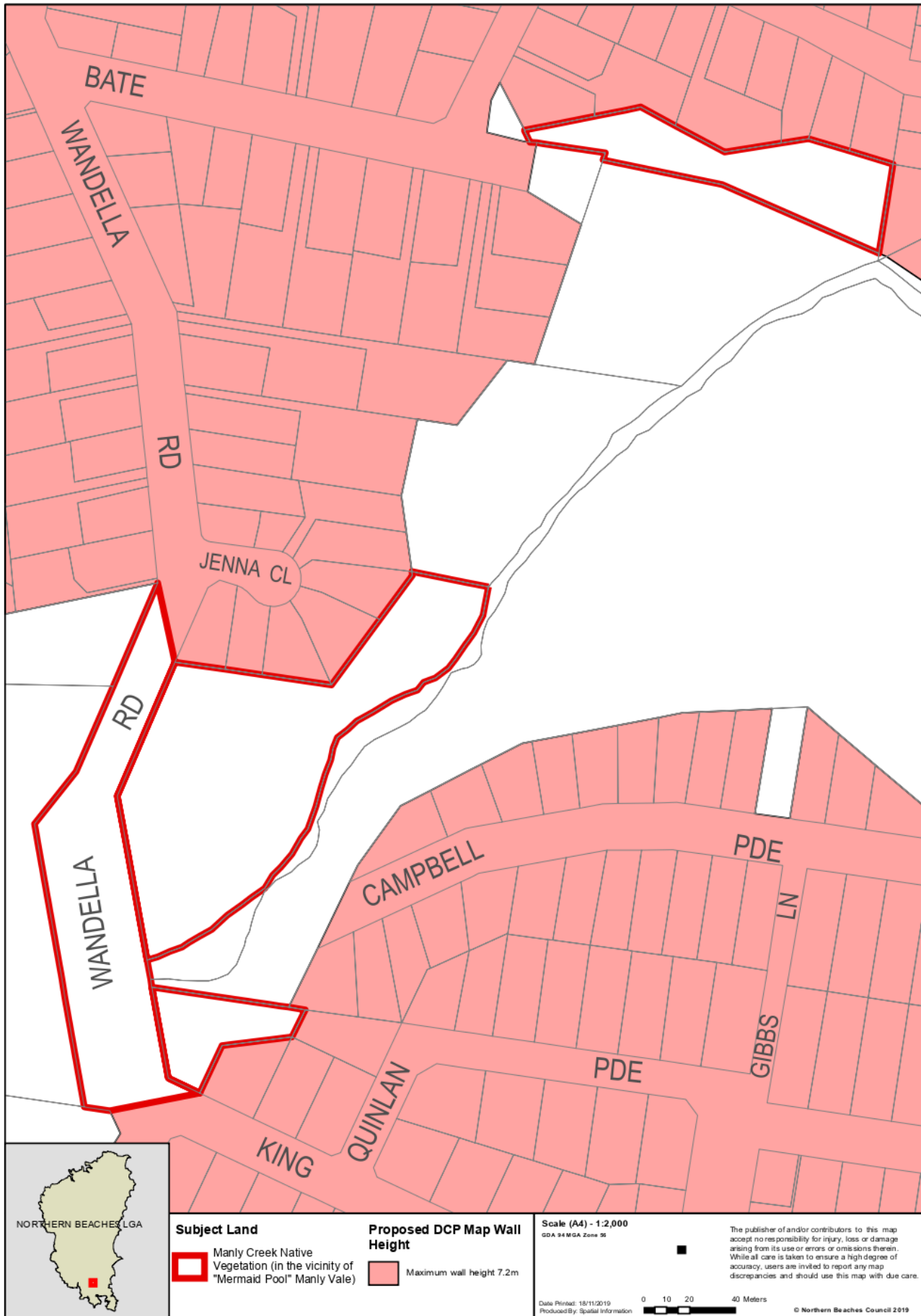
- responds to its adjacent surroundings to preserve and enhance the natural qualities of the environment.
- complements the landscape character and public use and enjoyment of the adjoining parks, bushland reserves and other public open spaces.

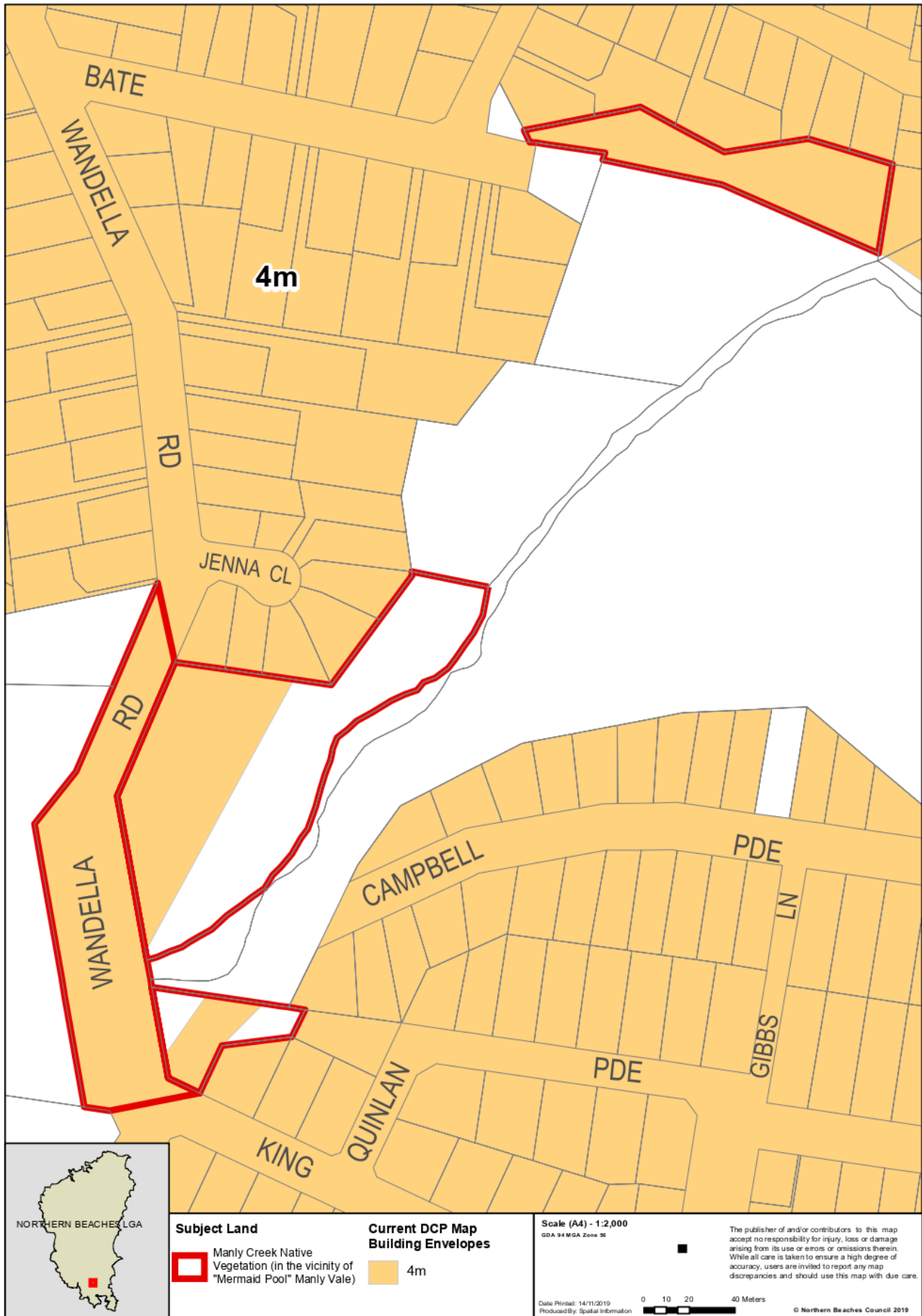
The amendment to Warringah Development Control Plan 2011 (the “WDCP 2011”) are a consequence of the Planning Proposal PEX2018/0008. These changes to the WDCP 2011 can only come into effect if the subject Planning Proposal is progressed to effect the rezoning of the Crown Land.

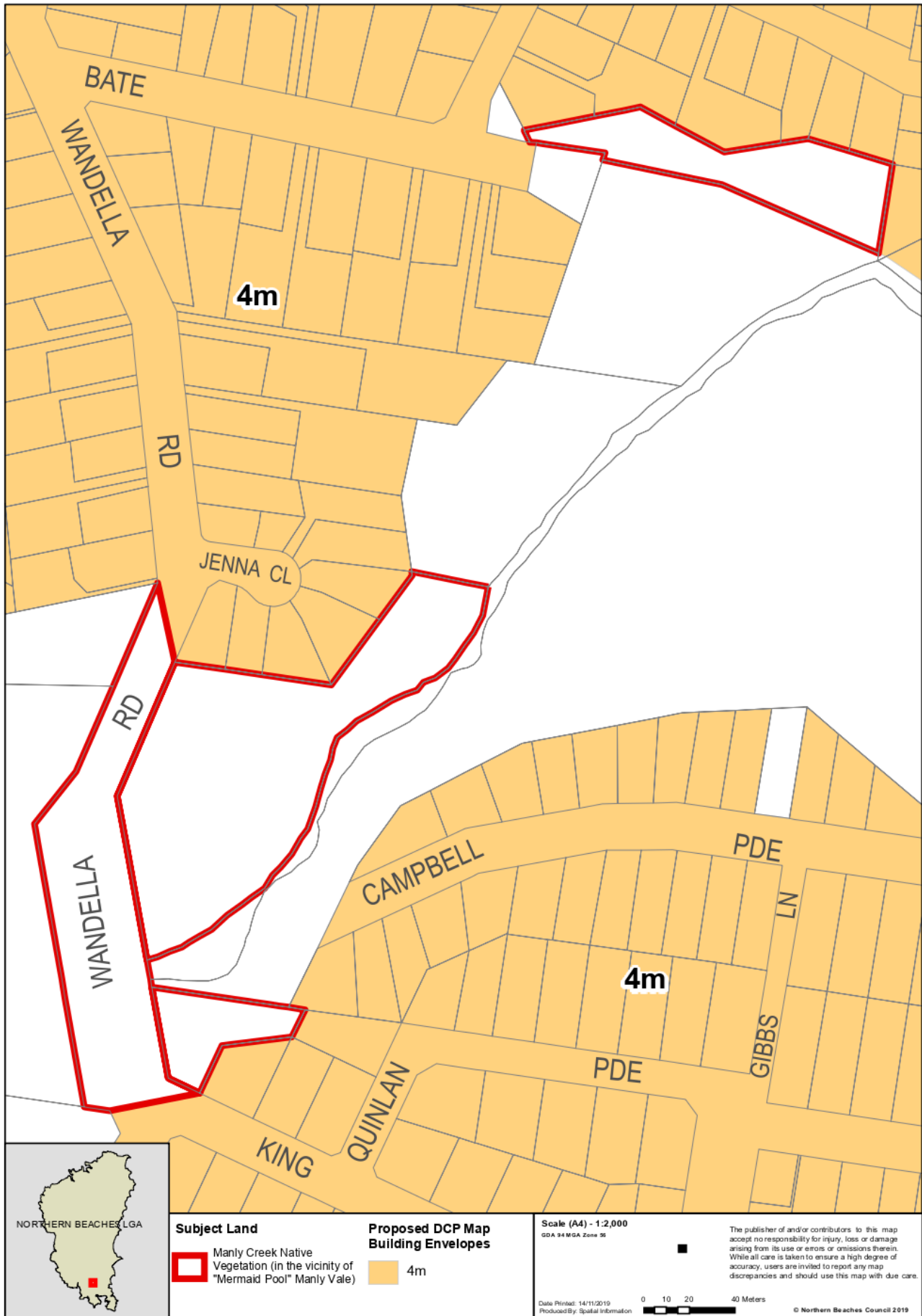
# Appendix 1

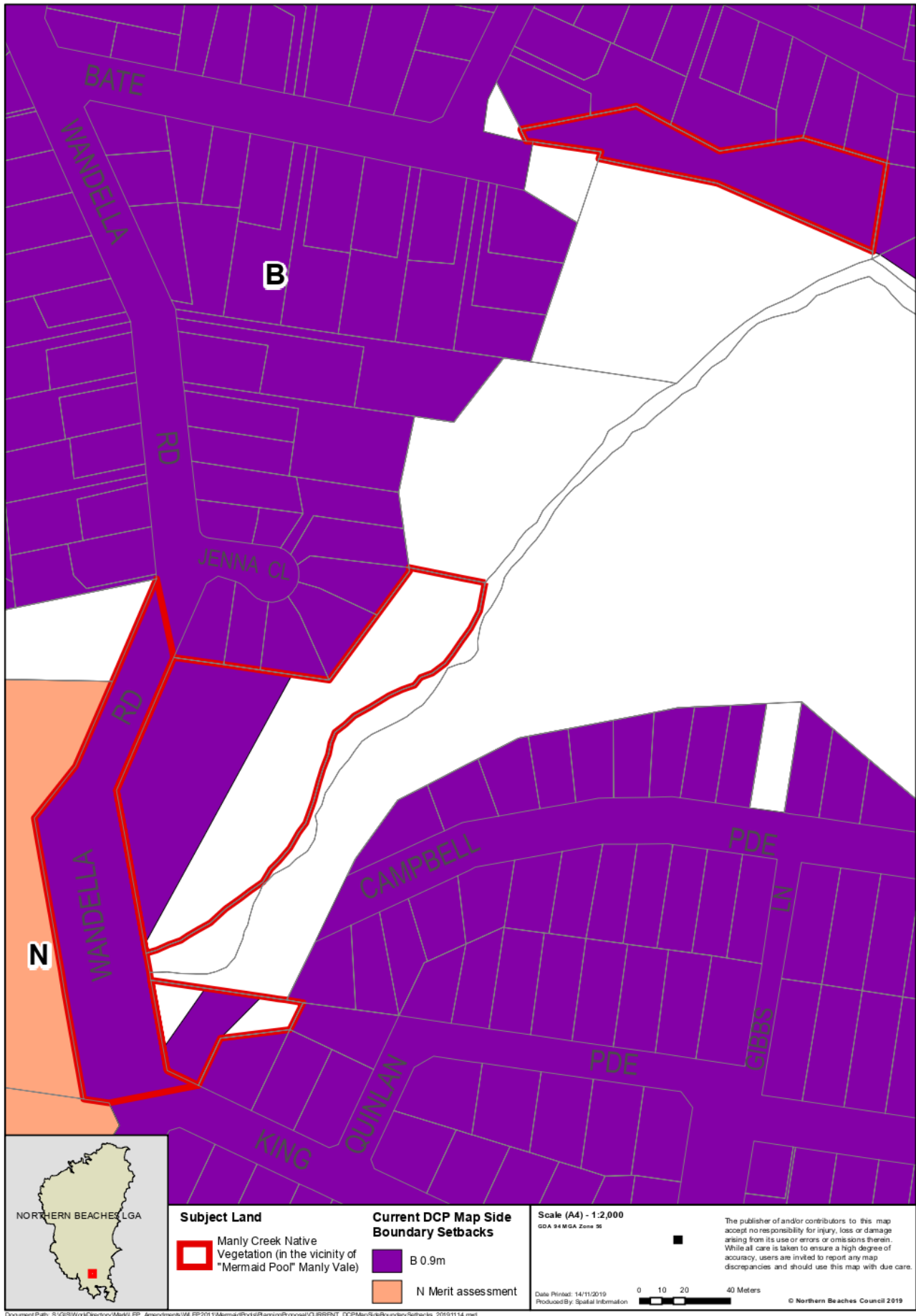




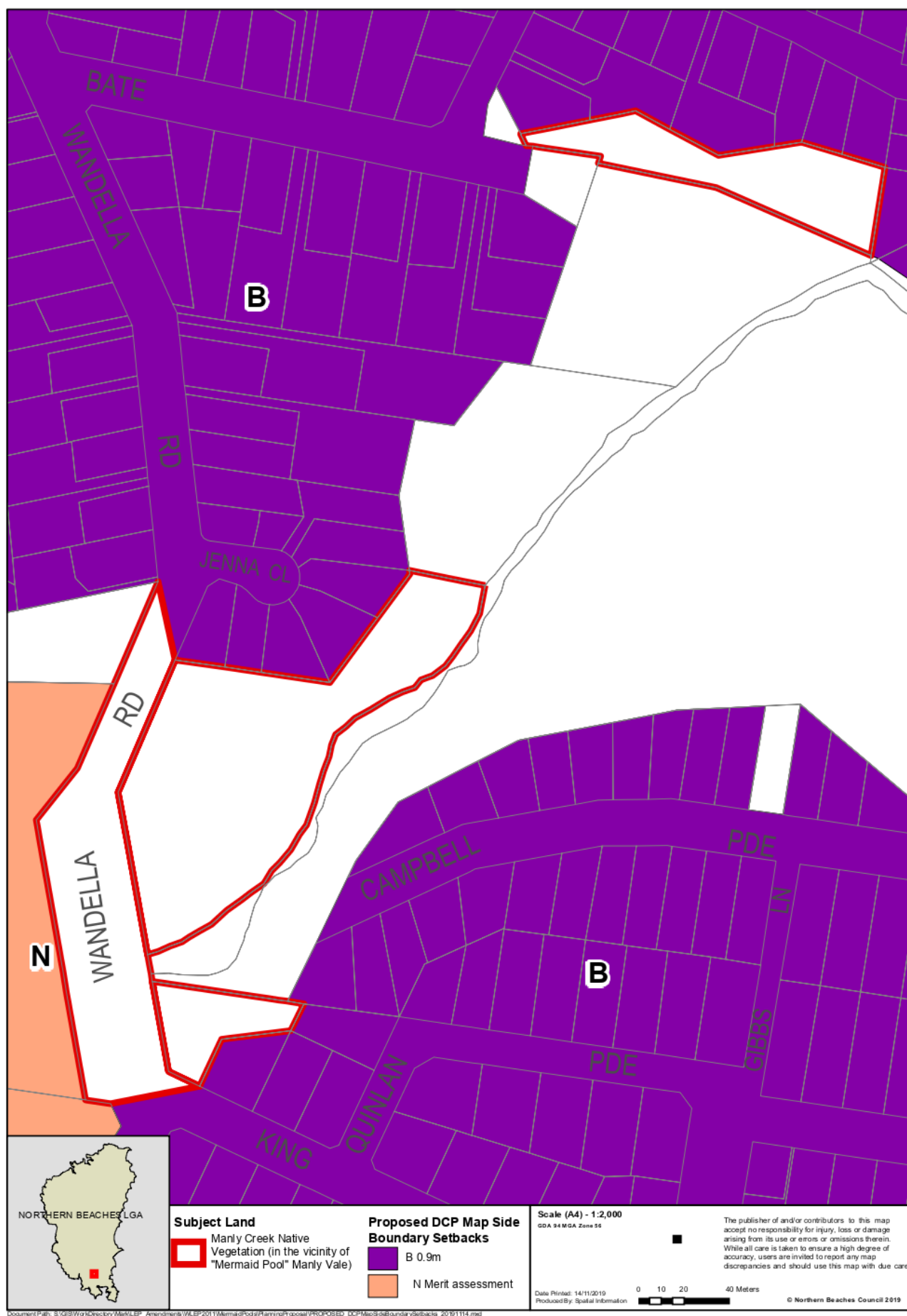


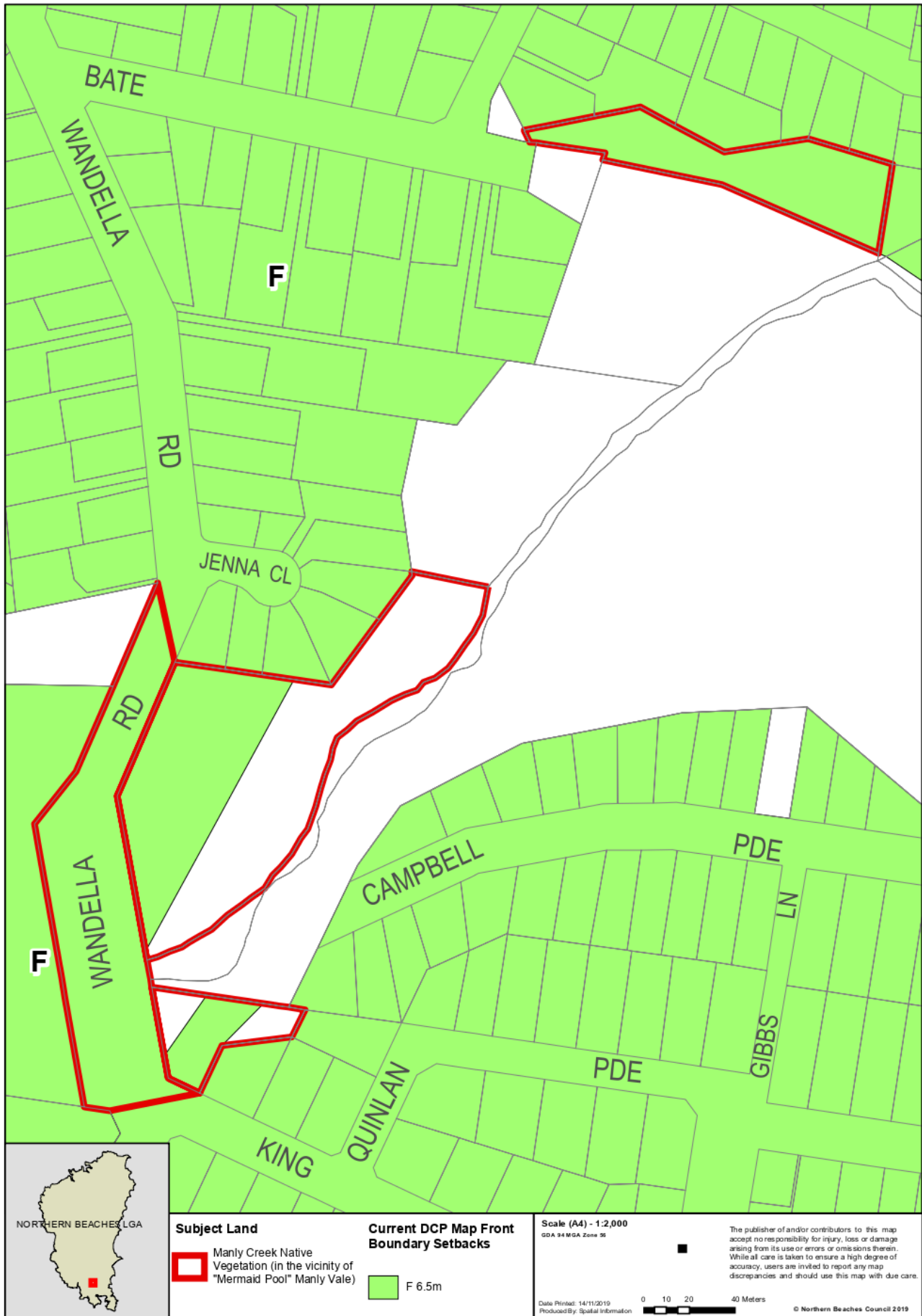


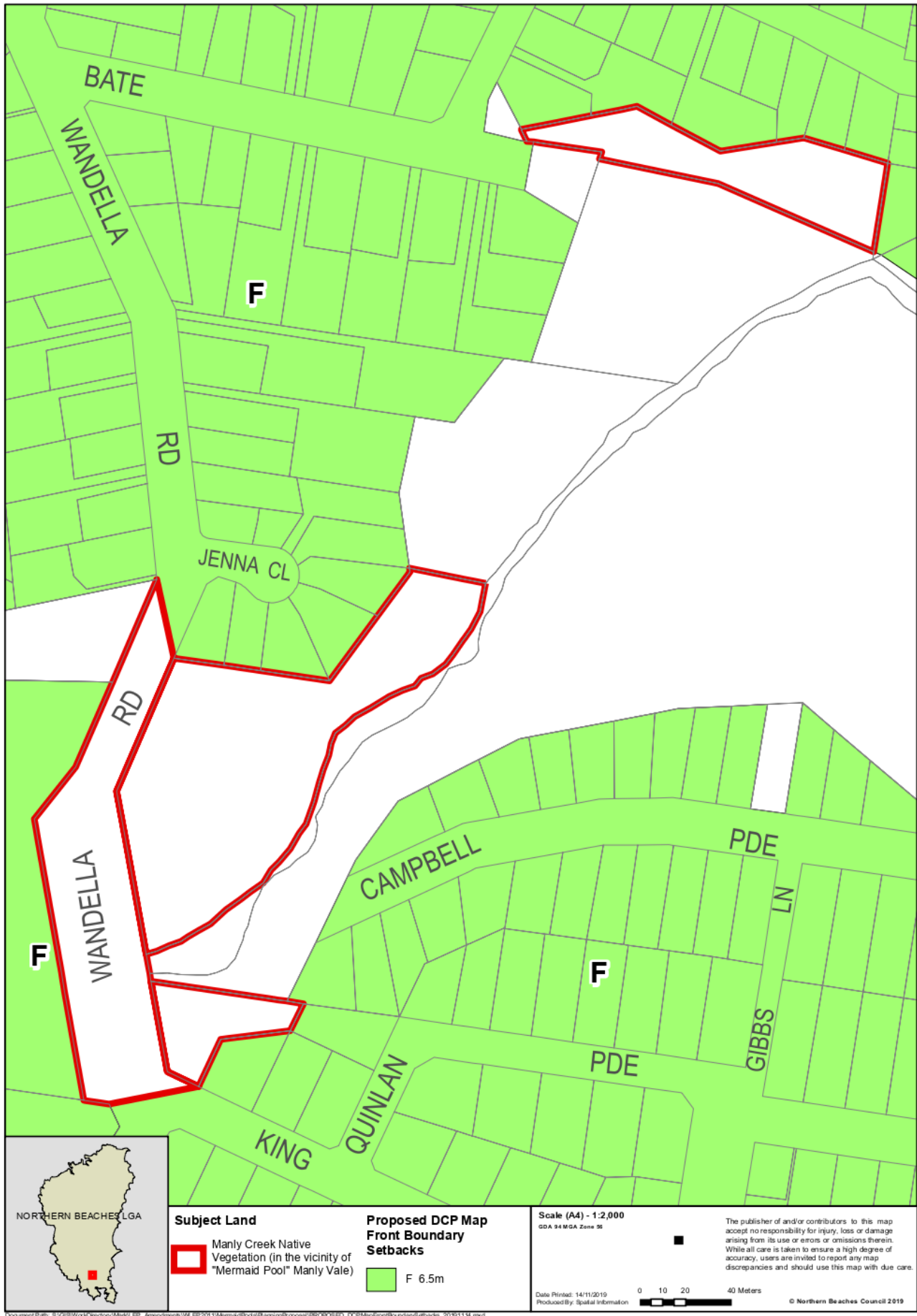


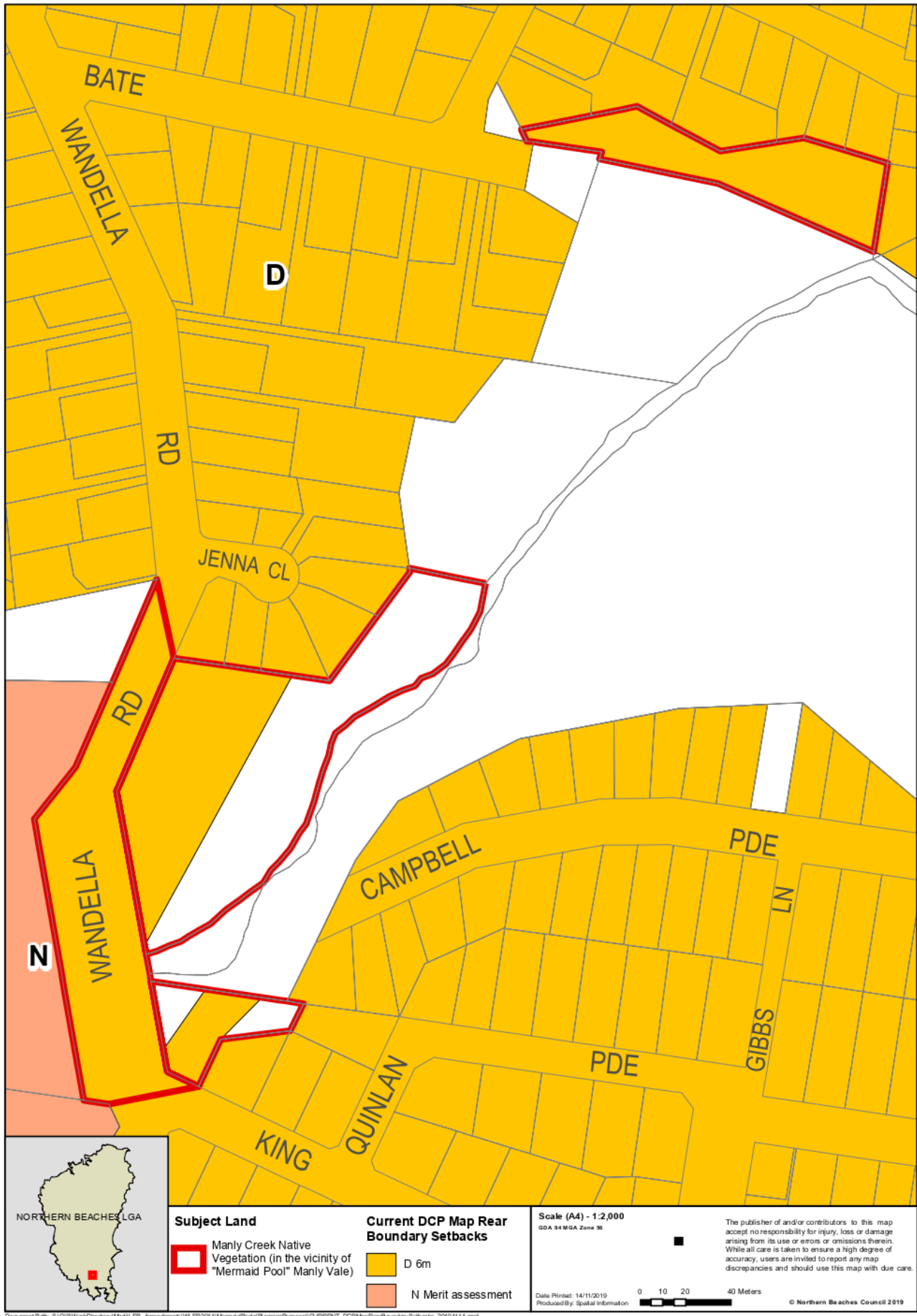




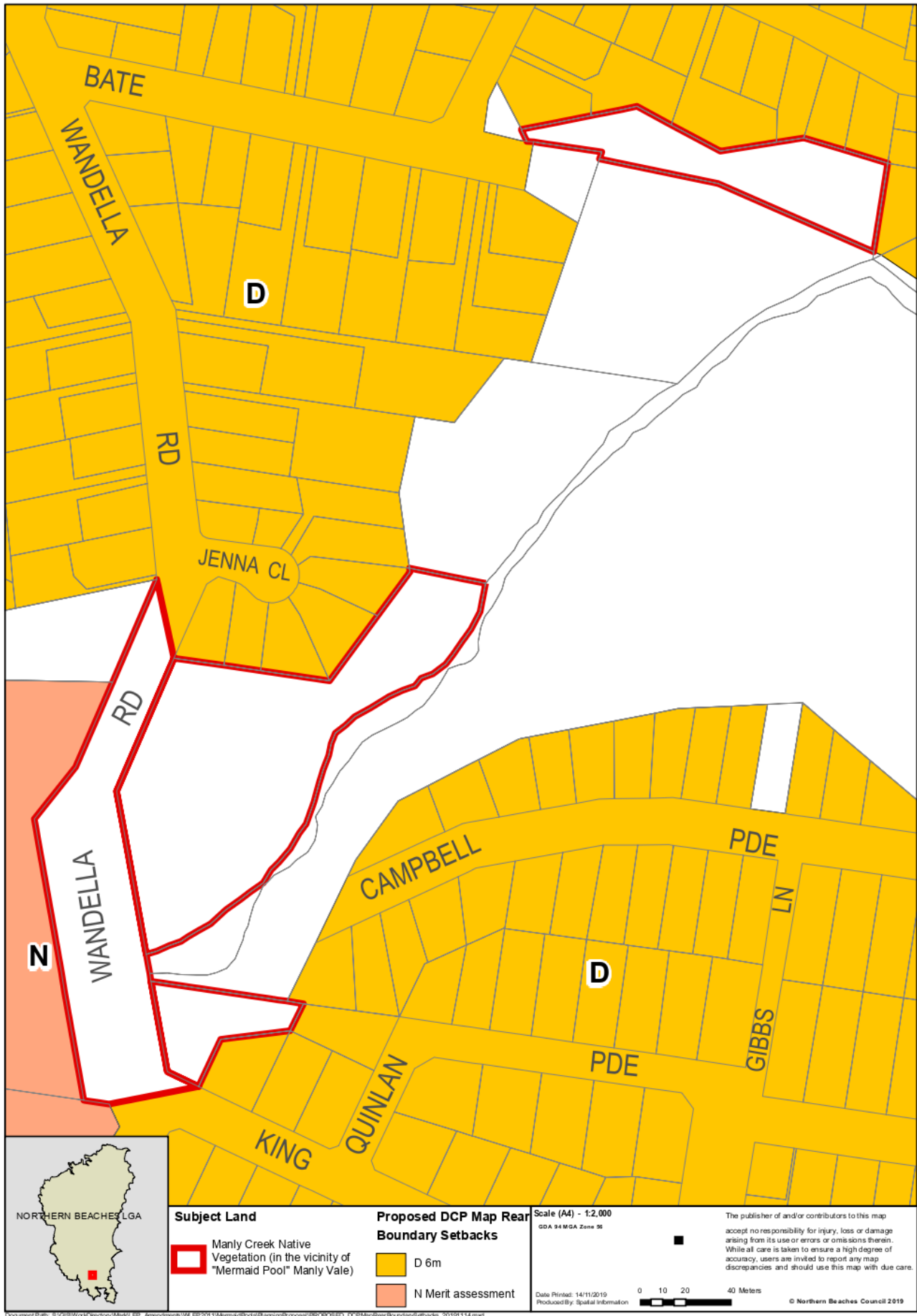


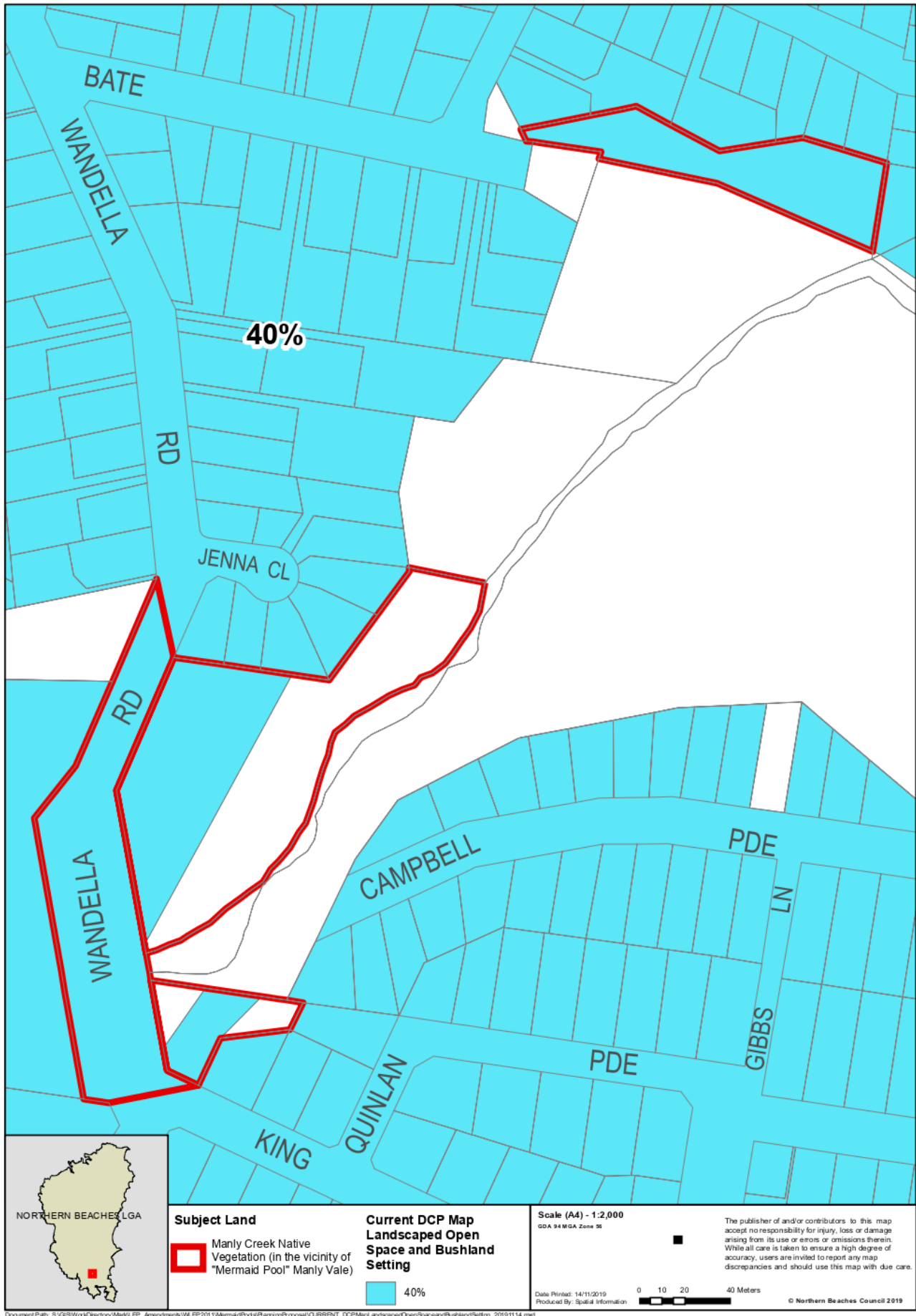


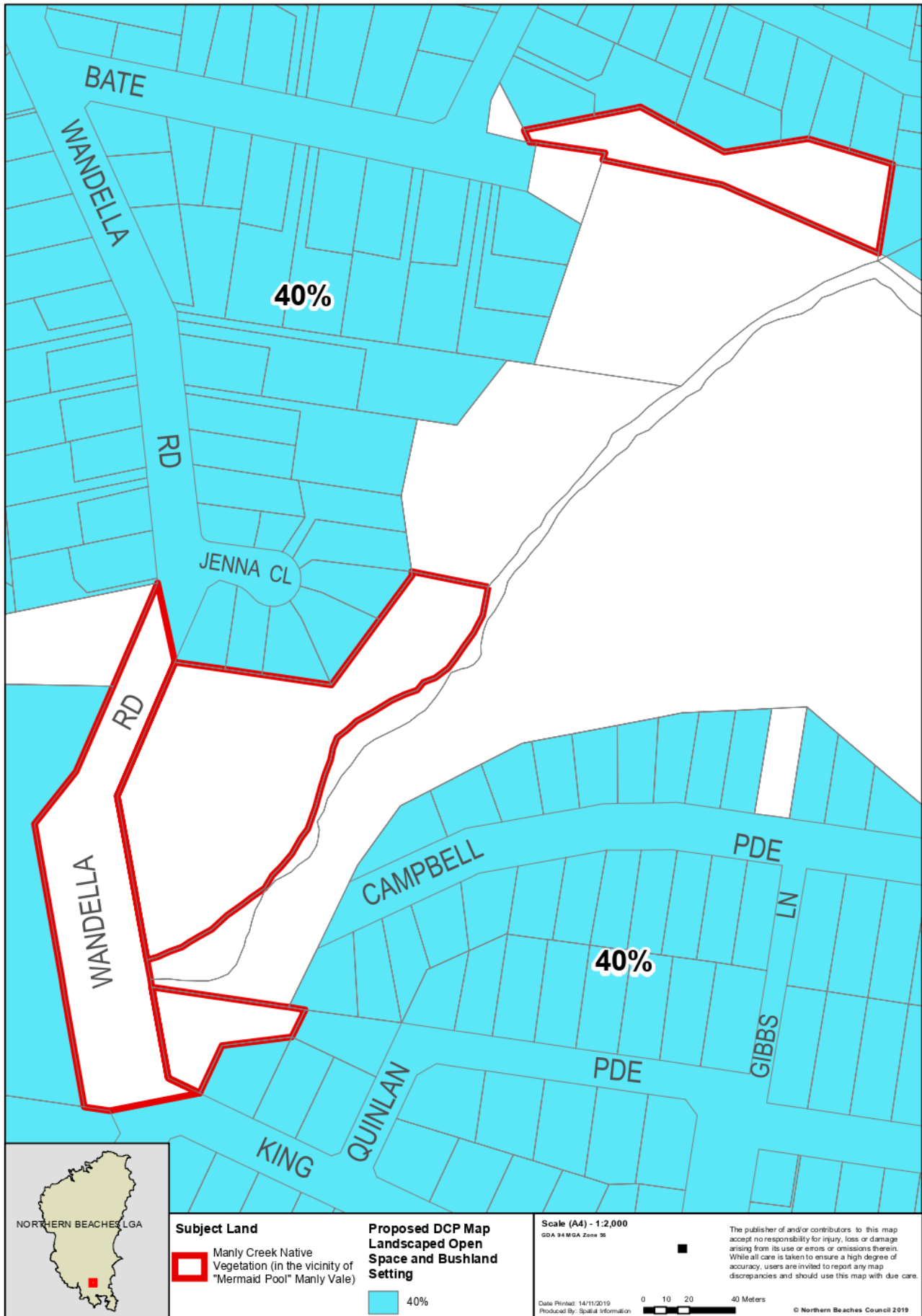








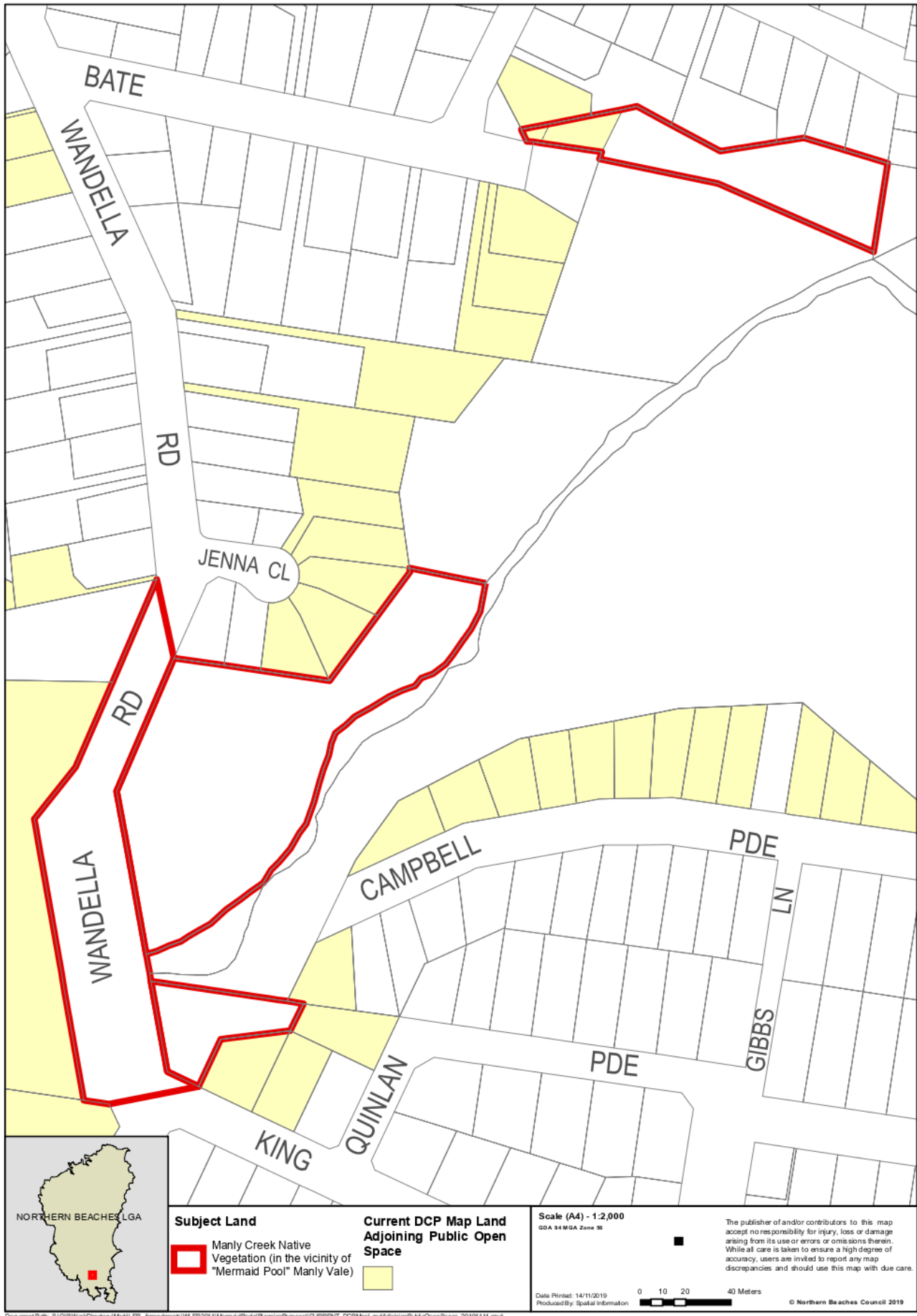


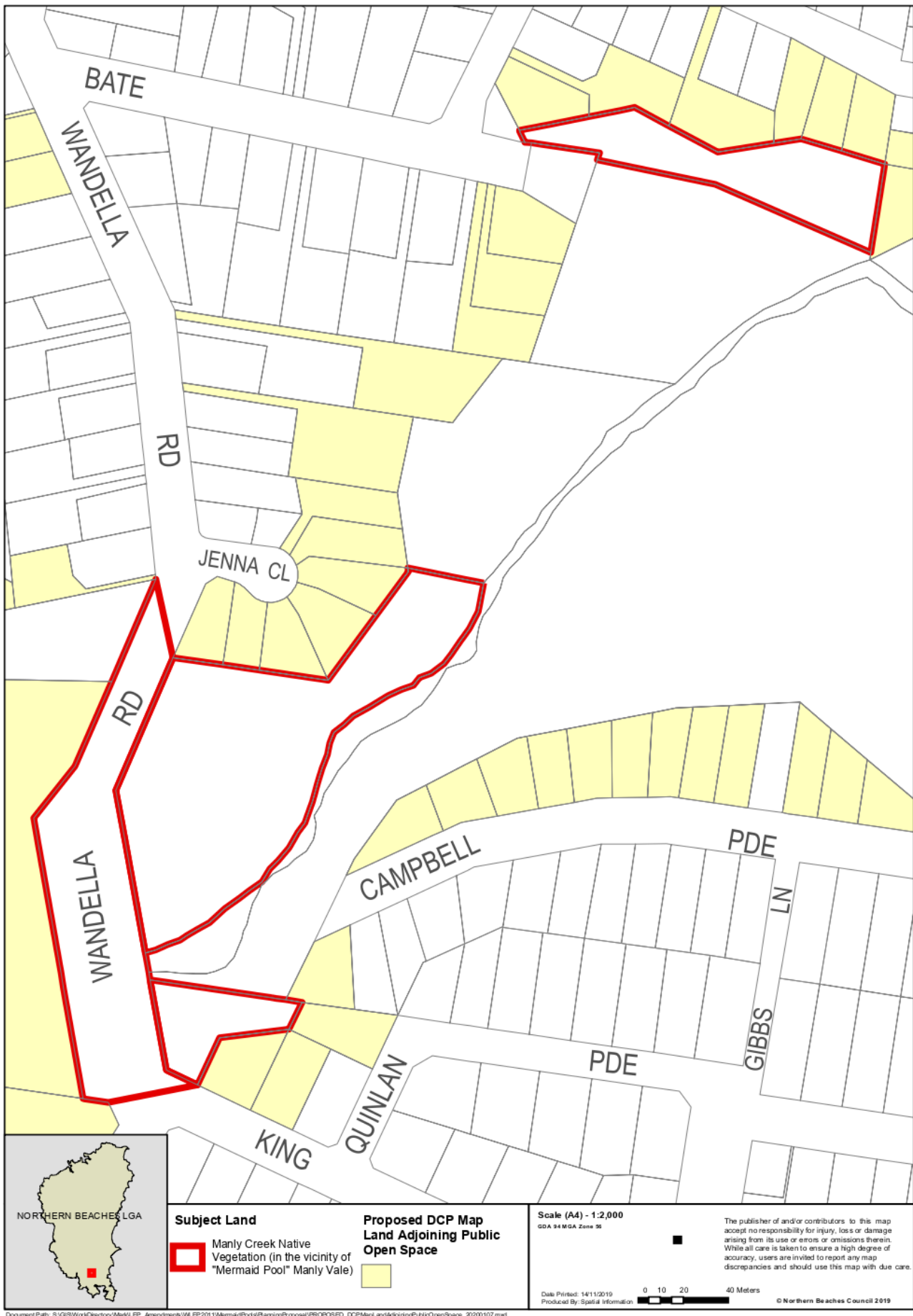


Document Path: S:\GIS\Work\Development\Amendments\WALEP2011\Manly\Pod\Planning\Proposed\PROPOSED\_DCPMapLandscapedOpenSpaceandBushlandSetting\_20191114.mxd

# Appendix 2









Planning,  
Industry &  
Environment

PP\_2019\_NBEAC\_002\_00 / IRF19/1894

Mr Ray Brownlee  
Chief Executive Officer  
Northern Beaches Council  
PO Box 82  
MANLY NSW 1655

Attention: Louise Kerr, Director Planning & Place

Dear Mr Brownlee

**Planning proposal PP\_2019\_NBEAC\_002\_00 to amend Warringah Local Environmental Plan 2011**

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) and the revised planning proposal received on 6 May 2019 in respect of the planning proposal to rezone four parcels of Crown land downstream of Manly Dam, in the suburbs of Manly Vale and Allambie Heights from R2 Low Density Residential to RE1 Public Recreation and remove development standards.

As delegate of the Minister for Planning and Public Spaces, I have now determined that the planning proposal should proceed subject to the conditions in the enclosed Gateway determination.

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistency with section 9.1 Direction 3.1 Residential Zones is justified in accordance with the terms of the Direction. No further approval is required in relation to this Direction.

Council may still need to obtain the agreement of the Secretary to comply with the requirements of relevant section 9.1 Direction 4.3 Planning for Bushfire Protection. Council should ensure this occurs prior to the plan being made.

I have considered Council's request to be the local plan-making authority and have determined not to condition the Gateway for Council to be the local plan-making authority due to an unresolved consistency with Section 9.1 Direction 4.3 Planning for Bushfire Protection.

The amending local environmental plan (LEP) is to be finalised within nine months of the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the

Department of Planning, Industry and Environment to draft and finalise the LEP should be made eight weeks prior to the projected publication date.

The state government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any enquiries about this matter, I have arranged for Ms Yolande Miller to assist you. Ms Miller can be contacted on 9274 6500.

Yours sincerely

**Amanda Harvey**  
Director, Sydney Region East  
Places, Design and Public Spaces

Encl: Gateway determination



Planning,  
Industry &  
Environment

## Gateway Determination

**Planning proposal (Department Ref: PP\_2019\_NBEAC\_002\_00):** to rezone four parcels of Crown land downstream of Manly Dam, in the suburbs of Manly Vale and Allambie Heights, from R2 Low Density Residential to RE1 Public Recreation and remove all development standards.

I, the Director, Sydney Region East at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Warringah Local Environmental Plan (LEP) 2011 to rezone four parcels of Crown land downstream of Manly Dam, in the suburbs of Manly Vale and Allambie Heights, from R2 Low Density Residential to RE1 Public Recreation and remove all development standards should proceed subject to the following conditions:

1. Prior to community consultation, the planning proposal is to be updated to:
  - a. replace the existing and proposed maps in Part 4 with extracts of the relevant Standard Instrument (SI) LEP maps prepared in accordance with the Standard Technical Requirements for Spatial Datasets and Maps (2017);
  - b. include a map that identifies the land subject to the planning proposal by its legal description (where relevant); and
  - c. correct all map sheet references.
2. Prior to community consultation, Council is to consult with NSW Rural Fire Service to address consistency with section 9.1 Direction 4.4 Planning for Bushfire Protection.
3. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
  - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
  - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning, Industry and Environment 2016).
4. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:

- NSW Crown Lands
- Metropolitan Local Aboriginal Land Council
- Office of Environment and Heritage

Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.

5. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
6. The time frame for completing the LEP is to be **9 months** following the date of the Gateway determination.

Dated *9<sup>th</sup>* day of *August* 2019.

Amanda Harvey  
Director, Sydney Region East  
Places, Design and Public Spaces  
Department of Planning, Industry and  
Environment

Delegate of the Minister for Planning  
and Public Spaces

	Actual Submission	Summary	Response
1	I have viewed the Planning Proposal (PEX218/0008) as well as the Niche Environment Biodiversity study on The Manly Creek Riparian Corridor and strongly support all efforts to regenerate and maintain the bushland and waterways around Manly Dam and Mermaid Pools. I have previously volunteered to help with weed control near Manly Dam. I support the zoning changes around that area from R2 to RE1. My wish is that the area can ultimately be given Wildlife Protection Area status to truly represent the amazing biodiversity housed in the area.	~ Supports the Planning Proposal to rezone the land ~ Would like if the area is set apart as Wildlife Protection Area	<ul style="list-style-type: none"> <li>Note the support for the rezoning.</li> <li>Declaration of Wildlife Protection Areas is a separate process under the provisions of the NSW Companion Animals Act 1998 which involves community consultation requirements consistent with Council's Community Engagement Policy and must be supported by the elected Council.</li> </ul>
2	The mermaid pool is a very special space with many engaged species that are not found anywhere else in Sydney. It also holds some very old aboriginal hand paintings and it would be a shame to see them all disappear. With this change in zoning it can help protect this natural wonder. But what would help Evan more is if it could be put under wildlife protection status which would make sure that many generations to come can also appreciate this place.	~ Supports the Planning Proposal to rezone the land ~ Would like if the area is set apart as Wildlife Protection Area ~ Should recognize and protect aboriginal heritage associated with land	<ul style="list-style-type: none"> <li>Note the support for the rezoning.</li> <li>Declaration of Wildlife Protection Areas is a separate process under the provisions of the NSW Companion Animals Act 1998 which involves community consultation requirements consistent with Council's Community Engagement Policy and must be supported by the elected Council.</li> <li>The site is not listed under the NSW Heritage Act, National Parks and Wildlife Act nor by Local Government and State Agencies. Any Aboriginal Heritage, known or unknown, associated with a parcel of land in the LGA is protected by legislation.</li> </ul>
3	Finally some real progress. The Mermaid Pool is an unknown Northern Beaches natural treasure. But as is typical of the Nth Beaches Council a job half done. I worked as a volunteer on the Manly Lagoon & Catchment Committee (29 years approx.) and in most of that time constant requests were made for action on the creeks feeding into the main body of water. The then Manly Council did an outstanding job on rectifying the creek adjacent to Burnt Bridge. The results were outstanding and the area is still performing as a creek and nature reserve of high quality. When mentioning the creek connecting Manly Dam to the main body of Manly Lagoon there was deafening silence from all those connected with the then Warringah Council. It was easy to see that in the opinion of WSC they didn't want to do it, it wasn't in "their" list of priorities, too hard, too much real work. I still have the notes from all the meetings where this subject was constantly raised. What is the point of regenerating the area (riparian zones) when the main creek running through the area is hopelessly silted up and algae outbreaks infused in areas. So get serious and do the whole creek from Manly Dam to Warringah Golf Course at Condamine Street, otherwise your doing as I intimated early half a job. Please don't come back to me and say budget restrictions or it will be in future budgets, heard it all before. So get serious and stop wasting money on spot fixes and do the whole area in one complete master plan. That is what	~ Request further work on the creek down from the Dam	<ul style="list-style-type: none"> <li>Note the specific requests for creek works downstream of Manly Dam. The Planning Proposal before Council, relates only to the land rezoning. Any creek works is subject to identified/planned Capital Works by Council via its adopted "delivery plan"</li> </ul>

	I and many of the ratepayers expect not half baked measures that will make you look good for a short period. I look forward to reply to see what you cant do.			
4	Wildlife corridors are essential to protect. The Mermaid Pool and its surrounds are an important link in the NB Wildlife corridor, particularly as it contains unique rock pools. It should be zoned RE1.	~ Supports the Planning Proposal to rezone the land		<ul style="list-style-type: none"><li>• The support for the Planning Proposal is noted.</li></ul>
5	I most definitely support the zoning changes from low density recreation (R2) to Public Recreation (R1). Please seriously consider that the land ultimately be given Wildlife Protection Status and Designated as a "small bird habitat corridor".	~ Supports the Planning Proposal to rezone the land ~ Would like if the area is set apart as Wildlife Protection Area ~ Designate the area as a "small bird habitat corridor"		<ul style="list-style-type: none"><li>• The support for the Planning Proposal is noted.</li><li>• Declaration of Wildlife Protection Areas is a separate process under the provisions of the NSW Companion Animals Act 1998 which involves community consultation requirements consistent with Council's Community Engagement Policy and must be supported by the elected Council.</li></ul>
6	I support this. Adding this land into the RE1 zone will ensure that these areas remain public natural environment for further generations.	~ Supports the Planning Proposal to rezone the land		<ul style="list-style-type: none"><li>• The support for the Planning Proposal is noted.</li></ul>
7	I am writing to both support and congratulate the council on their proposal to rezone the area around Mermaids Pool at Manly Dam. Mermaids is a beautiful spot and one of the best on the northern beaches. It is environmentally important for our wildlife, it's culturally significant, historically important and above all else it is a symbol of what can be achieved by people who value our local area and its history and wildlife who breathed new life into something that was completely destroyed. It is something to be immensely proud of and a shining example set for everyone. It must be protected and preserved for generations to come. I comment the council for this initiative as it has changed my whole perspective on the council and its attitude toward our local environment. I urge to council to take this approach and apply it to Manly Dam as a whole. Manly Dam is the only war memorial of its kind in the country, it's ours and we have the responsibility to protect and preserve it, in the spirit in which it was created to ho nor those that gave their lives so that we can live in freedom today. To allow its destruction even in the slightest way, is an insult to those fallen soldiers, and brings shame on us all. We are the custodians, it's our responsibility to protect and ensure it remains untouched so that the sacrifices made and the lives lost are not forgotten and honoring those lives is something the community continues to do generation after generation to come.	~ Supports the Planning Proposal to rezone the land ~ Urge the council to take this approach and apply it to Manly Dam as a whole		<ul style="list-style-type: none"><li>• The support for the Planning Proposal is noted.</li><li>• The land containing Manly Dam is zoned RE1. No changes proposed.</li></ul>
8	I support the rezoning proposal and increasing any environmental protections for the land in the vicinity of the Mermaid Pool area.	~ Supports the Planning Proposal to rezone the land		<ul style="list-style-type: none"><li>• The support for the Planning Proposal is noted.</li></ul>



9	I support the change to R1 zoning... in fact I think it should be taken a step further and given some form of wildlife heritage protection. This is a truly unique place and we need to protect it	~ Supports the Planning Proposal to rezone the land ~ Would like if the area is set apart as Wildlife Protection Area	<ul style="list-style-type: none"> <li>• The support for the Planning Proposal is noted.</li> <li>• Declaration of Wildlife Protection Areas is a separate process under the provisions of the NSW Companion Animals Act 1998 which involves community consultation requirements consistent with Council's Community Engagement Policy and must be supported by the elected Council.</li> </ul>
10	I support the zoning changes from low density recreation (R1) and I hope that the land can ultimately be given Wildlife Protection Area status- (and designated as a "small bird habitat corridor").	~ Supports the Planning Proposal to rezone the land ~ Would like if the area is set apart as Wildlife Protection Area ~ Designate the area as a "small bird habitat corridor"	<ul style="list-style-type: none"> <li>• The support for the Planning Proposal is noted.</li> <li>• Declaration of Wildlife Protection Areas is a separate process under the provisions of the NSW Companion Animals Act 1998 which involves community consultation requirements consistent with Council's Community Engagement Policy and must be supported by the elected Council.</li> </ul>
11	<p>I am convener of the Mermaid Pools Restoration project and am very supportive of proposals to rezone the four land parcels, as identified, to afford them increased protective status. I appreciate that the zoning from R2 to R1 [SIC] gives the area uniformity with surrounding land. However, given the community interest in conservation outcomes for the Mermaid Pool environs I had hoped that a Category 1 Wildlife Protection Area (or something with stronger conservation outcomes) could be achieved <a href="https://www.northernbeaches.nsw.gov.au/environment/native-animals/wildlife-protection-areas">https://www.northernbeaches.nsw.gov.au/environment/native-animals/wildlife-protection-areas</a></p> <p>The Mermaid Pool Restoration Project has proposed that the area should become an official small bird habitat corridor (to compensate for the bulldozing of vital habitat for the nearby Manly Vale Public School expansion). The thick bushland and even areas of inaccessible Lantana creates great shelter for vulnerable wildlife) Council has letters of support for this from the Save Manly Dam Catchment Committee, Birdlife Australia, Manly Residents Forum, Humane Society International, The Greater Sydney Landcare Network, The Habitat Network and Step Inc. The Biodiversity Survey conducted by Niche Environment and Heritage Consultants (as part of this Planning Proposal) emphasises the value of the site for small birds with the, critically endangered, Swift Parrot being recorded here (amongst a host of other rare birds). It would also be beneficial if an attempt was made to control cats and foxes which remote cameras identified in this area.</p> <p>We appreciate Council's support and the impressive contribution that staff have made to progress positive outcomes. We are also mindful that this is an important "Aboriginal Place" and are keen to protect and recognise the indigenous values and status of the area.</p> <p>This is the story of community efforts to restore and enhance the Mermaid Pool and surrounding bushland as a wildlife refuge:- <a href="https://thegreenmanly.blogspot.com/2013/09/how-to-revive-mermaid.html">https://thegreenmanly.blogspot.com/2013/09/how-to-revive-mermaid.html</a></p>	<p>~ Supports the Planning Proposal to rezone the land ~ Would like if the area is set apart as Category 1 Wildlife Protection Area ~ Designate the area as a "small bird habitat corridor"</p> <p>~ The Council should attempt to control cats and foxes in the area ~ Should recognize and protect aboriginal heritage associated with land</p>	<ul style="list-style-type: none"> <li>• The support for the Planning Proposal is noted.</li> <li>• Declaration of Wildlife Protection Areas is a separate process under the provisions of the NSW Companion Animals Act 1998 which involves community consultation requirements consistent with Council's Community Engagement Policy and must be supported by the elected Council.</li> <li>• The site is not listed under the NSW Heritage Act, National Parks and Wildlife Act nor by Local Government and State Agencies. Any Aboriginal Heritage, known or unknown, associated with a parcel of land in the LGA is protected by legislation.</li> </ul>

12	I support this initiative and fully endorse any rezoning to protect this special area and its wildlife.	~ Supports the Planning Proposal to rezone the land	<ul style="list-style-type: none"> <li>• The support for the Planning Proposal is noted.</li> </ul>
13	I SUPPORT the zoning changes from low density recreation (R2) to Public recreation (R1) And would like to see it given Wildlife Protection Area status- and designated as a small bird habitat corridor.	~ Supports the Planning Proposal to rezone the land ~ Would like if the area is set apart as Wildlife Protection Area ~ Designate the area as a "small bird habitat corridor"	<ul style="list-style-type: none"> <li>• The support for the Planning Proposal is noted.</li> <li>• Declaration of Wildlife Protection Areas is a separate process under the provisions of the NSW Companion Animals Act 1998 which involves community consultation requirements consistent with Council's Community Engagement Policy and must be supported by the elected Council.</li> </ul>
14	<p>On 26th February 2019, council voted to pursue zoning changes on bushland parcels surrounding Mermaid Pools.</p> <p>I wish to register my support to change the zones from low density recreation R2 to public recreation R1. Further, I hope that ultimately the land will be give Wildlife Protection Area status as it most definitely deserves.</p> <p>So many people have worked so hard, for so many years, to preserve this beautiful area. The NSW Department of Education saw fit to bulldoze several hectares of rare bushland at nearby McComb Hill for the Manly Vale Public School expansion, despite the community pleading with them to "build up not out", to save the habitat of the threatened Eastern Pygmy Possum. This did not deter these community members to do the best they could to preserve the area, and their warnings of the destruction that would follow have come to fruition. Please take note this time of community wishes.</p>	~ Supports the Planning Proposal to rezone the land ~ Would like if the area is set apart as Wildlife Protection Area ~ Raise concerns regarding vegetation clearing for Manly Vale Public School expansion	<ul style="list-style-type: none"> <li>• The support for the Planning Proposal is noted.</li> <li>• Declaration of Wildlife Protection Areas is a separate process under the provisions of the NSW Companion Animals Act 1998 which involves community consultation requirements consistent with Council's Community Engagement Policy and must be supported by the elected Council.</li> <li>• Manly Vale Public School is located in an unconnected lot and approximately 350m away from subject land parcels. Vegetation clearing due to Manly Vale Public School expansion does not affect the primary focus, rezoning, of this Planning Proposal.</li> </ul>
15	<p>I support the proposal.</p> <p>The proposal seeks to amend Warringah LEP 2011 as follows:</p> <p>Amend Zoning Map (LZN_008) to rezone certain land from Low Density Residential (R2) to Public Recreation (RE1) comprising the following land:</p> <ul style="list-style-type: none"> <li>• Part Lot 7370 DP1165551 being land adjoining 102 King Street, Manly Vale</li> <li>• Part Lot 7369 DP1165551 Wandella Road, Allambie, south of Jenna Close</li> <li>• Lot 7371 DP1165577, Allambie, south of Blamey Street</li> <li>• Part unmade road at the southern end of Wandella Road, near King Street, Manly Vale</li> </ul> <p>The effect of the rezoning will be that the subject lots will be zoned Public Recreation (RE1) in their entirety (note: some of the above land parcels are currently zoned part Low Density Residential (R2) and part Public Recreation (RE1)).</p> <p>Some minor consequential amendments to the LEP are also proposed to accompany the rezoning, removing residential development standards for height and minimum lot</p>	~ Supports the Planning Proposal to rezone the land	<ul style="list-style-type: none"> <li>• The support for the Planning Proposal is noted.</li> </ul>

	<p>size from the subject land parcels. In this regard, it is proposed to remove the subject land from the following LEP Maps:</p>		
16	<p>I support the proposal to rezone the parcels of land identified in this document from R2 to RE1. I work on Mermaid Pool once a month removing weeds, and believe corridors for biodiversity can enhance the sustainability of remnant vegetation, and thus the animals it supports. Green grid links will maintain use of the land for the benefit of walkers, cyclists and lovers of nature. It makes sense that the wonderful bushland surrounding Manly Dam be extended for everyone's use. This area is of cultural significance also, which at present is not recognised. Our area needs to maintain as much bush as possible, especially with the influx of new residents which will boost the population enormously.</p>	<p>~ Supports the Planning Proposal to rezone the land ~ Should recognize and protect aboriginal heritage associated with land</p>	<ul style="list-style-type: none"> <li>• Note the submission is supportive of the Planning Proposal.</li> <li>• The site is not listed under the NSW Heritage Act, National Parks and Wildlife Act nor by Local Government and State Agencies. Any Aboriginal Heritage, known or unknown, associated with a parcel of land in the LGA is protected by legislation.</li> </ul>
17	<p>Changing the zoning of this area from R2 to RE1 will be a great benefit to both the community and the natural wild life. Eventually changing this area to a wildlife protected area for habitat for various native birds would be their best outcome.</p>	<p>~ Supports the Planning Proposal to rezone the land ~ Would like if the area is set apart as Wildlife Protection Area for birds</p>	<ul style="list-style-type: none"> <li>• The support for the Planning Proposal is noted.</li> <li>• Declaration of Wildlife Protection Areas is a separate process under the provisions of the NSW Companion Animals Act 1998 which involves community consultation requirements consistent with Council's Community Engagement Policy and must be supported by the elected Council.</li> </ul>

18	I would like to support the proposal to change the zoning from residential to recreational use. I live a couple of streets away from this area and am a regular avid user of Manly Dam area. The Mermaid pool area is an idyllic natural beauty and provides important wildlife corridor for endangered species who have suffered much locally with the destruction of huge areas of bush land in the continued construction of Manly Vale Public School. The Mermaid Pool being in such close proximity needs to be protected and preserved for future generations. It will help the locals who are on the clean up committee create a cleaner environment, which restores the local wildlife.	~ Supports the Planning Proposal to rezone the land ~ Raise concerns regarding vegetation clearing for Manly Vale Public School expansion	<ul style="list-style-type: none"> <li>• The support for the Planning Proposal is noted.</li> <li>• Manly Vale Public School is located in an unconnected lot and approximately 350m away from subject land parcels. Vegetation clearing associated with Manly Vale Public School expansion is not part of the rezoning land, and does not affect the primary focus, rezoning, of this Planning Proposal.</li> </ul>
19	This area should be zoned as environmental conservation and most certainly not be developed. The environmental impact to this area would be terrible. We little biodiversity areas in the manly area.	~ Should be zoned as environmental conservation	<ul style="list-style-type: none"> <li>• Whilst environmental protection zones in the LEP provide a higher level of environmental protection, the RE1 Public Recreation, consistent with the remainder of the Public Reserve, the extent of the Manly Warringah Memorial Park, and consistent with the ecological, scientific, cultural and aesthetic values of the land, is therefore considered the most appropriate means of achieving the intended outcomes of the Planning Proposal.</li> </ul>
20	Please keep these beautiful pools as they are. The buildings can go anywhere else!	~ Supports the Planning Proposal to rezone the land	<ul style="list-style-type: none"> <li>• The support for the Planning Proposal is noted.</li> </ul>
21	As Conservation Officer of Birdlife Southern NSW and representing 1100 members, we strongly urge Northern Beaches Council to rezone Mermaid Pool PEX2018/0008 to Public Recreation (RE1) as Proposed. We are aware of the value to wildlife this important corridor provides but in particular rare bird species such as Black Bittern, Powerful Owl, Little Lorikeet and Swift Parrot are recorded in the area. Should the rezoning go ahead as planned, we will be the first to Congratulate Council on this excellent move to protect the environment.	~ Supports the Planning Proposal to rezone the land	<ul style="list-style-type: none"> <li>• The support for the Planning Proposal is noted.</li> </ul>
22	What a wonderful way to preserve this wildlife corridor for future generations	~ Supports the Planning Proposal to rezone the land	<ul style="list-style-type: none"> <li>• The support for the Planning Proposal is noted.</li> </ul>
23	I am writing to support the proposed zoning changes from low density residential (R2) to Public recreation (RE1). Ultimately I hope that the land can be given Wildlife Protection Area status and be designated as a small bird habitat corridor. Please protect this important area.	~ Supports the Planning Proposal to rezone the land ~ Would like if the area is set apart as Wildlife Protection Area ~ Designate the area as a "small bird habitat corridor"	<ul style="list-style-type: none"> <li>• The support for the Planning Proposal is noted.</li> <li>• Declaration of Wildlife Protection Areas is a separate process under the provisions of the NSW Companion Animals Act 1998 which involves community consultation requirements consistent with Council's Community Engagement Policy and must be supported by the elected Council.</li> </ul>



24	<p>Please ensure that this is given proper oversight and thought given to other cases in the surrounding landscape, all of our remaining suburban wildlife corridors and waterways are damaged or littered to our shame and only through council involvement and instigation can proper community based projects restore and protect them.</p>	~ Supports the Planning Proposal to rezone the land	<ul style="list-style-type: none"> <li>The support for the Planning Proposal is noted.</li> </ul>
25	<p>As a local Manly Vale resident and rate payer, and also a regular volunteer with the Mermaid Pool Restoration initiative, I fully support this proposal by Council to re-zone areas of land in the vicinity of the Mermaid Pool from Low Density Residential R2 to Public Recreation RE1.</p>	~ Supports the Planning Proposal to rezone the land	<ul style="list-style-type: none"> <li>The support for the Planning Proposal is noted.</li> </ul>
26	<p>The Planning Proposal (unreferenced as downloaded other than heading) appears to be incomplete as it does not seem to address or explore alternatives to the E1 alternative as proposed and thus limits submitters' ability to evaluate, express views in a submission in a fully informed manner.</p> <p>Up to date, the area has been nurtured and maintained as close to natural pristine (except for recent State Govt sponsored vandalism) condition at great emotional, physical and financial cost (for which I am very respectful and grateful) yet at very little cost to Council/fellow ratepayers by dedicated, responsible local residents and volunteers and it seems apparent that this direction should not only continue but be encouraged and proactively enhanced.</p> <p>Flipping from R2 to RE1 is commendable, however, RE1(3) Permitted with consent, seems to still allow for some similar extracurricular activities, whereas a more appropriate direction the proposal should have been taken to, and if it was also allowed to be explored initially, is E2 Environmental Conservation.</p> <p>Furthermore, those residents and volunteers who have played such a dedicated and outstanding guardianship role over the Mermaid Pool, for their community spirit and tenacity in the face of systemic top-down indifference should be recognised and further encouraged.</p> <p>I urge Council to explore in greater depth an E2 Environmental Conservation amendment to the local environmental plan in support of a community asset which incorporates all the elements of continued success and evolution other such like assets can be inspired to reach community environmental excellence.</p> <p>Thank you for the opportunity to have my say.</p>	~Should be zoned as environmental conservation	<ul style="list-style-type: none"> <li>Whilst environmental protection zones in the LEP provide a higher level of environmental protection, the RE1 Public Recreation, consistent with the remainder of the Public Reserve, the extent of the Manly Warringah Memorial Park, and consistent with the ecological, scientific, cultural and aesthetic values of the land, is therefore considered the most appropriate means of achieving the intended outcomes of the Planning Proposal.</li> </ul>

27	I write to fully support the zoning changes from low density residential (R2) to public recreation (R1). And ultimately be given Wildlife Protection Area status. This land and waterway is too precious and vital to be damaged, destroyed or lost forever.	~ Supports the Planning Proposal to rezone the land ~ Would like if the area is set apart as Wildlife Protection Area	<ul style="list-style-type: none"> <li>The support for the Planning Proposal is noted.</li> <li>Declaration of Wildlife Protection Areas is a separate process under the provisions of the NSW Companion Animals Act 1998 which involves community consultation requirements consistent with Council's Community Engagement Policy and must be supported by the elected Council.</li> <li>The support for the Planning Proposal is noted.</li> </ul>
28	Please go ahead with this proposal	~ Supports the Planning Proposal to rezone the land	<ul style="list-style-type: none"> <li>The support for the Planning Proposal is noted.</li> </ul>
29	When is council going to do something about Mermaid Pool. It is absolutely choked with noxious weeds.	~ Wants weeds removed ~ Neither Support nor against the proposal	<ul style="list-style-type: none"> <li>The issues raised relate to ongoing maintenance of the land in regard to vegetation clearing/weed management. Weed management is not within the scope of this Planning Proposal.</li> </ul>
30	Warringah golf course has creek running through back nine hole. It is currently overgrown & choked with weed. Please plan to have creek cleared of obnoxious weeds as part of creek upgrade	~ Wants weeds removed ~ Neither Support nor against the proposal	<ul style="list-style-type: none"> <li>The issues raised relate to ongoing maintenance of the land in regard to vegetation clearing/weed management. Weed management is not within the scope of this Planning Proposal.</li> </ul>
31	I refer to Manly Creek that runs through the Manly Vale / North Manly corridor. The creek that runs through what I believe to be referred as "Mermaid Pool" is being choked by noxious weeds. I have noticed the weeds run a long distance through Millers Reserve under Condamine Street and along the Warringah golf course through to Passmore reserve. I would ask that Council considers treating this creek with a view to eradicating the noxious weeds.	~ Wants weeds removed ~ Neither Support nor against the proposal	<ul style="list-style-type: none"> <li>The issues raised relate to ongoing maintenance of the land in regard to vegetation clearing/weed management. Weed management is not within the scope of this Planning Proposal.</li> </ul>
32	Support proposal 100%. I would also like to see public access improved to Mermaid Pool so that it is a more viable route to Miller Reserve.	~ Supports the Planning Proposal to rezone the land ~ Request improved public access	<ul style="list-style-type: none"> <li>The support for the Planning Proposal is noted.</li> <li>The zoning seeks to make the land consistent with the zoning of the adjacent District Park. Rezoning will facilitate a link between Manly Dam and District Park subject to environmental investigations and approvals.</li> </ul>
33	I grew up in Arana St Manly Vale and the Mermaid Pool was a regular area to play and explore with friends. The work done to restore this area was superb and it was tragedy that the Manly Vale School upgrade led to such degradation. I fully support the rezoning of this land as proposed. In addition to the proposed rejuvenation of the pool I request that this work be extended to include the removal of noxious weeds to the east of the pool for an extended length of Manly Creek all the way to Condamine St to beautify this entire area and minimise further damage from weeds downstream.	~ Supports the Planning Proposal to rezone the land ~ Raise concerns regarding vegetation clearing for Manly Vale Public School expansion ~ Wants weeds removed	<ul style="list-style-type: none"> <li>The support for the Planning Proposal is noted.</li> <li>Manly Vale Public School is located in an unconnected lot and approximately 350m away from subject land parcels. Vegetation clearing due to Manly Vale Public School expansion does not affect the primary focus, rezoning, of this Planning Proposal. The issues raised relate to ongoing maintenance of the land in regard to vegetation clearing/weed management. Weed management is not within the scope of this Planning Proposal.</li> </ul>

34	This is a magical spot, and it would be tragic if it wasn't brought to it's true potential. It is already a haven for wildlife, and it's essential that we preserve and enhance areas like this near urban areas that continue to grow	~ Supports the Planning Proposal to rezone the land	<ul style="list-style-type: none"> <li>The support for the Planning Proposal is noted.</li> </ul>
35	As a regular user of David Thomas reserve, I am fully supportive of this proposal to rezone the 4 parcels of land to public recreation. I am also aware of the excellent work undertaken at Mermaid Pool by the community group and this has shown the possibility of making a special Nature area connected to the playing fields.	~ Supports the Planning Proposal to rezone the land	<ul style="list-style-type: none"> <li>The support for the Planning Proposal is noted.</li> </ul>
36	We would like you to consider maintaining the Manly Creek in the area of Mermaid Ponds' The noxious weeds have not been able to be controlled by volunteers and desperately need attention by the council	~Wants weeds removed ~Neither Support nor against the proposal	<ul style="list-style-type: none"> <li>The issues raised relate to ongoing maintenance of the land in regard to vegetation clearing/weed management. Weed management is not within the scope of this Planning Proposal.</li> </ul>
37	It would be great if the noxious weeds that are choking this creek and pool were removed. They take valuable space.	~Wants weeds removed ~Neither Support nor against the proposal	<ul style="list-style-type: none"> <li>The issues raised relate to ongoing maintenance of the land in regard to vegetation clearing/weed management. Weed management is not within the scope of this Planning Proposal.</li> </ul>
38	remove noxious weeds for Manly Creek from "Mermaid Pond"	~Wants weeds removed ~Neither Support nor against the proposal	<ul style="list-style-type: none"> <li>The issues raised relate to ongoing maintenance of the land in regard to vegetation clearing/weed management. Weed management is not within the scope of this Planning Proposal.</li> </ul>
39	I recently walked from the mermaid pool down to the soccer fields and I think council should give the entire area a clean up. The creek and banks are full of weeds that will continue to choke the creek. Slitting is also an issue. Northern Beaches Council should give maintenance to the rest of the creek after the Mermaid Pool portion. When if ever has this creek been cleaned of rubbish and weeds? If ever?	~Wants weeds removed ~Neither Support nor against the proposal	<ul style="list-style-type: none"> <li>The issues raised relate to ongoing maintenance of the land in regard to vegetation clearing/weed management. Weed management is not within the scope of this Planning Proposal.</li> </ul>

40	The entire Manly Creek from "Mermaid Pond" needs to be cleared of the noxious weed. Piecemeal clearing will never sort out the problem.	<p>~Wants weeds removed</p> <p>~Neither Support nor against the proposal the proposal</p>	<ul style="list-style-type: none"> <li>The issues raised relate to ongoing maintenance of the land in regard to vegetation clearing/weed management. Weed management is not within the scope of this Planning Proposal.</li> </ul>
41	I write to request that a conservation order be applied over this area covered in the Planning Proposal - a classification that protects it IN PERPETUITY is essential: a watertight environmentally focused zoning so that once all current Councillors and Council Staff have turned over in time, it is absolutely clear to future stakeholders that this zone is not to be developed with playgrounds, cafes, childcare centers etc. Our wildlife habitat is being diminished and degraded from every side of the Manly Dam bushland right now so the re-zoning for this needs to please be firmly conservation focused.	<p>~ Supports the Planning Proposal to rezone the land</p> <p>~ Raise concerns regarding permissible uses in RE1 zone</p> <p>~ Should be zoned as environmental conservation</p>	<ul style="list-style-type: none"> <li>The support for the Planning Proposal is noted.</li> <li>Whilst environmental protection zones in the LEP provide a higher level of environmental protection, the RE1 Public Recreation, consistent with the remainder of the Public Reserve, the extent of the Manly Warringah Memorial Park, and consistent with the ecological, scientific, cultural and aesthetic values of the land, is therefore considered the most appropriate means of achieving the intended outcomes of the Planning Proposal.</li> <li>The Planning Proposal seeks to minimise the impact of residential development on the environment by rezoning the land to Zone RE1 Public Recreation. In the unlikely circumstance that a Development Application was lodged requiring the clearing of vegetation, it is unlikely that Council would support the proposed development given the environmental value of the land, which has been demonstrated in several documents outlined in this Planning Proposal.</li> </ul>



42	<p>I support this land being rezoned to preserve its conservation and recreational value. This land forms part of the broader heritage listed Manly Dam catchment area. Preserving and expanding greenspace around the Dam ensures that the Dam has adequate buffer from threatening processes such as development and pollution, as well as contributing to expanded habitat and refuge for native animals. As the Northern Beaches faces broader threats such as climate change, it is significant that pieces of green habitat such as the Mermaid Pool exist. Trees and canopy cover contribute pockets of resilience, by contributing to shade, cooling and transpiration, as well as improving the stability and moisture of soils and groundwater recharge. Likewise, as the broader Northern Beaches increases in urban density, the liveability of our area is contingent on public green space being preserved, enhanced, and expanded, so that the growing number of residents without backyards can access outdoor recreational opportunities near home, such as bushwalking and picnicking.</p>	~ Supports the Planning Proposal to rezone the land	<ul style="list-style-type: none"> <li>• The support for the Planning Proposal is noted.</li> </ul>
43	<p>I support the proposal to rezone the land to RE1 Public Recreation, in the interests of the land remaining available to the public and for recreational purposes and to protect the natural environment of the Manly Creek area.</p>	~ Supports the Planning Proposal to rezone the land	<ul style="list-style-type: none"> <li>• The support for the Planning Proposal is noted.</li> </ul>
44	<p>I would like to see the residential zoning on bushland parcels surrounding Mermaid Pools changed. I am extremely supportive of the zoning changes from low density residential (R2) to Public recreation (RE1). This is vital bush land for our wildlife and deserves our protection.</p> <p>Ultimately I believe this land should be given Wildlife Protection Area status- (and designated as a "small bird habitat corridor") or ideally zoned E2 for Environmental Conservation.</p> <p>I live in Balgowlah Hts - how happy am I that many years ago the council voted to protect the bush land near me. So want this to happen for the beautiful mermaid pools area. A walk we love to take.</p>	<p>~ Supports the Planning Proposal to rezone the land</p> <p>~ Would like if the area is set apart as Wildlife Protection Area</p> <p>~ Designate the area as a "small bird habitat corridor"</p> <p>- Prefer if zoned as environmental conservation</p>	<ul style="list-style-type: none"> <li>• The support for the Planning Proposal is noted.</li> <li>• Declaration of Wildlife Protection Areas is a separate process under the provisions of the NSW Companion Animals Act 1998 which involves community consultation requirements consistent with Council's Community Engagement Policy and must be supported by the elected Council.</li> <li>• Whilst environmental protection zones in the LEP provide a higher level of environmental protection, the RE1 Public Recreation, consistent with the remainder of the Public Reserve, the extent of the Manly Warringah Memorial Park, and consistent with the ecological, scientific, cultural and aesthetic values of the land, is therefore considered the most appropriate means of achieving the intended outcomes of the Planning Proposal.</li> </ul>
45	<p>The mermaid pools are an iconic part of the northern beaches and should be protected. I support the move to rezone from residential but I would like council to take one step further and ensure this area becomes a wildlife corridor for the native wildlife we need to protect for future generations.</p>	<p>~ Supports the Planning Proposal to rezone the land</p> <p>~ Would like if the area is set apart as Wildlife Protection Area</p>	<ul style="list-style-type: none"> <li>• The support for the Planning Proposal is noted.</li> <li>• Declaration of Wildlife Protection Areas is a separate process under the provisions of the NSW Companion Animals Act 1998 which involves community consultation requirements consistent with Council's Community Engagement Policy and must be supported by the elected Council.</li> </ul>

46	<p>The Mermaid Pool and the area around it are a special place for our community and wildlife. I fully support the proposed public recreation zoning and hope that this will eventually lead to a protected wildlife area. With so many threats and encroachments on our natural environment, particularly the area around the Manly Dam, everything needs to be done to protect and preserve what is left.</p>	<p>~ Supports the Planning Proposal to rezone the land ~ Would like if the area is set apart as Wildlife Protection Area</p>	<ul style="list-style-type: none"> <li>• The support for the Planning Proposal is noted.</li> <li>• Declaration of Wildlife Protection Areas is a separate process under the provisions of the NSW Companion Animals Act 1998 which involves community consultation requirements consistent with Council's Community Engagement Policy and must be supported by the elected Council.</li> </ul>
47	<p>I support this zoning to public recreation (RE1), please please conserve this area and hopefully zone it Environmental Conservation (E2). We need to protect our wildlife corridors. I am so frustrated and angry that nature always suffers "collateral damage" due to poor planning/greedy developers etc. Please council protect our green spaces for wildlife and humans.</p>	<p>~ Supports the Planning Proposal to rezone the land ~ Would like if the area is set apart as Wildlife Protection Area - Prefer if zoned as environmental conservation</p>	<ul style="list-style-type: none"> <li>• The support for the Planning Proposal is noted.</li> <li>• Declaration of Wildlife Protection Areas is a separate process under the provisions of the NSW Companion Animals Act 1998 which involves community consultation requirements consistent with Council's Community Engagement Policy and must be supported by the elected Council.</li> <li>• Whilst environmental protection zones in the LEP provide a higher level of environmental protection, the RE1 Public Recreation, consistent with the remainder of the Public Reserve, the extent of the Manly Warringah Memorial Park, and consistent with the ecological, scientific, cultural and aesthetic values of the land, is therefore considered the most appropriate means of achieving the intended outcomes of the Planning Proposal.</li> </ul>
48	<p>To Whom it may concern: Please re zone The Mermaid Pools to Public Recreational use from Residential. Riparian zones between residential and places of natural beauty are becoming rarer and rarer. Mermaid Pools is an exquisite example of a natural pond in an urban environment that gives an enormous incalculable amount of joy to 1,000's of people every year. Recreation in Nature is one of the healthiest things we can do. A community that can access nature readily is a valuable community. By preserving the area around the pools we are giving a fighting chance for them to flourish for generations not just our own. I urge you to make this amendment to the DCP.</p>	<p>~ Supports the Planning Proposal to rezone the land</p>	<ul style="list-style-type: none"> <li>• The support for the Planning Proposal is noted.</li> </ul>

49	<p>Not only should the Mermaid Pool be cleaned up but the creek downstream also requires action. It is choked with weeds which constantly wash down and recontaminate the creek which traverses Warringah Golf Course. I would also comment that the riparian zone following the creek down from the dam seems to stop on your drawings at Condamine Street. In particular the piped section of creek crossing under the eastern side of the golf course provides discontinuity for the passage of wildlife up and down the creek. Why can't the Council open up the piped section of creek for continuity? I'm sure the golfers wouldn't mind this because the open creek already crosses several fairways.</p>	<p>~Wants weeds removed ~Request further work on the creek down from the Dam ~Neither Support nor against the proposal</p>	<ul style="list-style-type: none"> <li>The issues raised relate to ongoing maintenance of the land in regard to vegetation clearing/weed management. Weed management is not within the scope of this Planning Proposal.</li> <li>Note the concern raised which specifically requests creek works downstream of Manly Dam. The Planning Proposal however specifically rezones the land only. Any creek works is subject to identified/planned Capital Works adopted by Council.</li> </ul>
50	<p>Planning Proposal - Mermaid Pool' PEX2018/0008 to Northern Beaches Council</p> <p>I am avid enjoyer of the manly dam precinct. Which provides a wonderful escape into nature for the community, as well as habitat and animal corridors for wildlife. Please support the change of zoning to public recreation or even better as environmental protection so that it is there for future generations. The mermaid pools are a special area and impacts from recent building of the school highlights how desperately the surrounding land needs to be free from development to preserve this unique environment.</p>	<p>~ Supports the Planning Proposal to rezone the land - Prefer if zoned as environmental conservation</p>	<ul style="list-style-type: none"> <li>The support for the Planning Proposal is noted.</li> <li>Whilst environmental protection zones in the LEP provide a higher level of environmental protection, the RE1 Public Recreation, consistent with the remainder of the Public Reserve, the extent of the Manly Warringah Memorial Park, and consistent with the ecological, scientific, cultural and aesthetic values of the land, is therefore considered the most appropriate means of achieving the intended outcomes of the Planning Proposal.</li> </ul>
51	<p>On behalf of Humane Society International and the Wildlife Land Trust, I write in support of the Planning Proposal seeking to amend the Warringah Local Environmental Plan 2011 (WLEP 2011). Humane Society International (HSI) is the largest animal welfare and conservation organisation in the world, and works as a major non-government force for wildlife conservation in Australia on behalf of our 70,000 national supporters from our offices on Sydney's Northern Beaches. The Wildlife Land Trust is HSI's private land conservation and habitat protection program which now represents more than 600 landholders across Australia. It is our understanding that the Planning Proposal is seeking to rezone four parcels of land near Manly Creek in Manly Vale and Allambie Heights from Low Density Residential (R2) to Public Recreation (RE1). Humane Society International supports the decision to rezone the four parcels of land and agrees that the proposed change would serve to better protect the natural environment whilst enhancing the ecological value of the areas. Due to the high value of the region as a habitat for small native birds and mammals, we additionally believe that the region would be eligible for a Wildlife Protection Area status and designation as a Small Bird Habitat Corridor in the future. We fully support the Planning Proposal to rezone the aforementioned parcels of land to RE1 Public Recreation in order to improve conservation and biodiversity in the region.</p>	<p>~ Supports the Planning Proposal to rezone the land ~ Would like if the area is set apart as Wildlife Protection Area ~ Designate the area as a "small bird habitat corridor"</p>	<ul style="list-style-type: none"> <li>The support for the Planning Proposal is noted.</li> <li>Declaration of Wildlife Protection Areas is a separate process under the provisions of the NSW Companion Animals Act 1998 which involves community consultation requirements consistent with Council's Community Engagement Policy and must be supported by the elected Council.</li> </ul>



52	I think this rezoning proposal is long over due and an investment in the future of our local biodiversity in terms of helping preserve the amazing patches of flora and fauna we have left as well as providing a linking corridor to other areas. More and more we need these wildlife refuges - plants and animals cannot compete with the rate of development and resource use caused by humans. The land in question should be declared a Wildlife Protection Area or, ideally, zoned E2 for Environmental Conservation.	~ Would like if the area is set apart as Wildlife Protection Area - Prefer if zoned as environmental conservation	<ul style="list-style-type: none"> <li>• Declaration of Wildlife Protection Areas is a separate process under the provisions of the NSW Companion Animals Act 1998 which involves community consultation requirements consistent with Council's Community Engagement Policy and must be supported by the elected Council.</li> <li>• Whilst environmental protection zones in the LEP provide a higher level of environmental protection, the RE1 Public Recreation, consistent with the remainder of the Public Reserve, the extent of the Manly Warringah Memorial Park, and consistent with the ecological, scientific, cultural and aesthetic values of the land, is therefore considered the most appropriate means of achieving the intended outcomes of the Planning Proposal.</li> </ul>
53	I strongly support the zoning changes for this lovely area from low density residential (R2) to Public recreation (RE1). I am so pleased that the Council has pursued this and fervently hope that it will come to fruition so that the area may be given Wildlife Protection status.	~ Supports the Planning Proposal to rezone the land ~ Would like if the area is set apart as Wildlife Protection Area	<ul style="list-style-type: none"> <li>• The support for the Planning Proposal is noted.</li> <li>• Declaration of Wildlife Protection Areas is a separate process under the provisions of the NSW Companion Animals Act 1998 which involves community consultation requirements consistent with Council's Community Engagement Policy and must be supported by the elected Council.</li> <li>• The support for the Planning Proposal is noted.</li> </ul>
54	I support any proposal to rezone land that leads to greater protection of environmental values. I support the removal of the residential zoning to be replaced by Public Recreation zoning. Manly Creek and it's environs, Mermaid Pool in particular, has intrinsic value that we need to recognise and protect.	~ Supports the Planning Proposal to rezone the land	<ul style="list-style-type: none"> <li>• The support for the Planning Proposal is noted.</li> </ul>
55	I strongly support any action that will preserve and improve the public amenity of the Mermaid Pool.	~ Supports the Planning Proposal to rezone the land	<ul style="list-style-type: none"> <li>• The support for the Planning Proposal is noted.</li> </ul>
56	I support zoning changes from low density residential (R2) to Public recreation (RE1). Ultimately I would like to see that the land can be given Wildlife Protection Area status- (and designated as a "small bird habitat corridor") or ideally zoned E2 for Environmental Conservation.	~ Supports the Planning Proposal to rezone the land ~ Would like if the area is set apart as Wildlife Protection Area ~ Designate the area as a "small bird habitat corridor" - Prefer if zoned as environmental conservation	<ul style="list-style-type: none"> <li>• The support for the Planning Proposal is noted.</li> <li>• Declaration of Wildlife Protection Areas is a separate process under the provisions of the NSW Companion Animals Act 1998 which involves community consultation requirements consistent with Council's Community Engagement Policy and must be supported by the elected Council.</li> <li>• Whilst environmental protection zones in the LEP provide a higher level of environmental protection, the RE1 Public Recreation, consistent with the remainder of the Public Reserve, the extent of the Manly Warringah Memorial Park, and consistent</li> </ul>



	with the ecological, scientific, cultural and aesthetic values of the land, is therefore considered the most appropriate means of achieving the intended outcomes of the Planning Proposal.			<ul style="list-style-type: none"> <li>The support for the Planning Proposal is noted.</li> </ul>
57	<p>I support the rezoning as the area has stunning diversity of flora and fauna, on site, including the presence of the critically endangered Swift Parrot and a type of shrimp called the "Riffle Shrimp" for which there are no other records in the Northern Beaches.</p> <p>We need to preserve our valuable and special open spaces.</p> <p>As supervisor of the 'Return of the Mermaids' Bushcare for more than seventeen years, I strongly support the proposed zoning changes for the parcels of bushland surrounding Mermaids Pool along the Manly Vale/Allambie border from Low Density Residential (R2) to Public Recreation (RE1). This is a valuable wildlife corridor and is in the process of ongoing ecological restoration by the community.</p> <p>Manly Creek Riparian Corridor Biodiversity Study, (2019) recorded an extraordinary array of native fauna and flora including fourteen reptile species, five frog species, six bat species and over sixty bird species. Threatened fauna detected were the Eastern Bentwing-bat (<i>Miniopterus schreibersii</i>), Little Bentwing-bat (<i>Miniopterus australis</i>), Grey headed Flying Fox (<i>Pteropus poliocephalus</i>), Southern Myotis (<i>Myotis macropus</i>), Black Bittern (<i>Ixobrychus flavicollis</i>), Powerful Owl (<i>Ninox strenua</i>), White-throated Needletail (<i>Hirundapus caudacutus</i>), Little Lorikeet (<i>Glossopsitta pusilla</i>), Heath Monitor (<i>Varanus rosenbergi</i>) and Red-crowned Toadlet (<i>Pseudophryne australis</i>) and the critically endangered Swift Parrot (<i>Lathamus discolor</i>) overwintering from Tasmania.</p> <p>A type of shrimp called the "Riffle Shrimp" (<i>Australatya striolat</i>) was also found, and this species has not been previously recorded on the Northern Beaches.</p> <p>Over 165 native flora species were identified.</p> <p>The study confirms that these bushland parcels surrounding Mermaid Pool are a wonderful natural asset for the district, and with enough vision and sufficient resources, a corridor of native flora could be re-established along Manly Creek in its entirety all the way to the lagoon. Protecting the Mermaid Pool environs is a vital, not-to-be-missed opportunity towards realising this long-term goal.</p>	<p>~ Supports the Planning Proposal to rezone the land</p>	<ul style="list-style-type: none"> <li>The support for the Planning Proposal is noted.</li> </ul>	
58		<p>~ Supports the Planning Proposal to rezone the land</p> <p>~ Would like if the area is set apart as Wildlife Protection Area</p> <p>~ Designate the area as a "small bird habitat corridor"</p> <p>- Prefer if zoned as environmental conservation</p>	<ul style="list-style-type: none"> <li>Declaration of Wildlife Protection Areas is a separate process under the provisions of the NSW Companion Animals Act 1998 which involves community consultation requirements consistent with Council's Community Engagement Policy and must be supported by the elected Council.</li> <li>Whilst environmental protection zones in the LEP provide a higher level of environmental protection, the RE1 Public Recreation, consistent with the remainder of the Public Reserve, the extent of the Manly Warringah Memorial Park, and consistent with the ecological, scientific, cultural and aesthetic values of the land, is therefore considered the most appropriate means of achieving the intended outcomes of the Planning Proposal.</li> </ul>	

	I am also keen to see the land given Wildlife Protection Area status (and designated as a "small bird habitat corridor") or ideally zoned E2 for Environmental Conservation.		
59	I am writing in favour of the proposal to rezone the Manly Dam area from Low Density Residential R2 to Public Recreation RE1. Bushland throughout the Northern Beaches, let alone across Sydney and the rest of NSW, is becoming increasingly fragmented, facing various ongoing threats such as climate change, invasive species, general pollution and other factors leading to its degradation. This rezoning would help safeguard this beautiful section of bushland that several volunteers have worked tirelessly to protect from human disturbance over many years. Regards, Lorenzo	~ Supports the Planning Proposal to rezone the land	<ul style="list-style-type: none"> <li>The support for the Planning Proposal is noted.</li> </ul>
60	Please remove noxious weeds all along the sides of the Mermaid Pool and associated creek tributaries	~Wants weeds removed ~Neither Support nor against the proposal	<ul style="list-style-type: none"> <li>The issues raised relate to ongoing maintenance of the land in regard to vegetation clearing/weed management. Weed management is not within the scope of this Planning Proposal.</li> </ul>
61	Whilst I agree with the intended outcome to 'better protect and enhance the natural environment', greater environmental and wildlife protection status should be granted as sought by the Manly Lagoon Catchment Coordinating Committee in 2016. The land should be rezoned to environmental protection (E1 or E2) status not the proposed RE1. In relation to the proposed rezoning, it is noted that RE1 status permits roads to	~Should be zoned as environmental conservation ~ Raise concerns regarding permissible uses in RE1 zone	<ul style="list-style-type: none"> <li>Whilst environmental protection zones in the LEP provide a higher level of environmental protection, the RE1 Public Recreation, consistent with the remainder of the Public Reserve, the extent of the Manly Warringah Memorial Park, and consistent</li> </ul>

62	<p>be constructed without approval. Other developments can be constructed with approval. If RE1 status is granted then construction that is not in keeping with the intention of environmental protection should be explicitly prohibited. Roads should be explicitly prohibited. Other 'inappropriate development' should be explicitly prohibited in accordance with the NSW Rural Fire Service letter to the General Manager, Northern Beaches Council, dated 13 September 2019.</p>		<p>with the ecological, scientific, cultural and aesthetic values of the land, is therefore considered the most appropriate means of achieving the intended outcomes of the Planning Proposal.</p> <ul style="list-style-type: none"> <li>The Planning Proposal seeks to minimise the impact of residential development on the environment by rezoning the land to Zone RE1 Public Recreation. In the unlikely circumstance that a Development Application was lodged requiring the clearing of vegetation, it is unlikely that Council would support the proposed development given the environmental value of the land, which has been demonstrated in several documents outlined in this Planning Proposal.</li> </ul>
	<p>I am supporting the zoning changes from low density residential (R2) to Public recreation (RE1). We are hoping that the land can ultimately be given Wildlife Protection Area status- (and designated as a "small bird habitat corridor") or ideally zoned E2 for Environmental Conservation- please stress this in my preference.</p>	<p>~ Supports the Planning Proposal to rezone the land  ~ Would like if the area is set apart as Wildlife Protection Area  ~ Designate the area as a "small bird habitat corridor"  - Prefer if zoned as environmental conservation</p>	<ul style="list-style-type: none"> <li>The support for the Planning Proposal is noted.</li> <li>Declaration of Wildlife Protection Areas is a separate process under the provisions of the NSW Companion Animals Act 1998 which involves community consultation requirements consistent with Council's Community Engagement Policy and must be supported by the elected Council.</li> <li>Whilst environmental protection zones in the LEP provide a higher level of environmental protection, the RE1 Public Recreation, consistent with the remainder of the Public Reserve, the extent of the Manly Warringah Memorial Park, and consistent with the ecological, scientific, cultural and aesthetic values of the land, is therefore considered the most appropriate means of achieving the intended outcomes of the Planning Proposal.</li> </ul>

63	<p>I support the rezoning from R2 to RE1 for the four parcels of land in this proposal. Ideally it would be better to have them zoned as E2 or E3 for stronger environmental protection. This bushland corridor should be preserved and maintained as a small bird habitat corridor and then given Wildlife Protection status. Additional consideration should be given to including these parcels of land into the Manly Warringah War Memorial State Park in order to better preserve these strategic bushland linkages and corridors. The Niche Environment and Heritage Study supports this proposal. The Mermaid Pools Bushcare group has been instrumental in helping restore this area and would seek more assistance from NBC, and this rezoning would assist. Thank you for your consideration.</p>	<p>~ Supports the Planning Proposal to rezone the land ~ Would like if the area is set apart as Wildlife Protection Area ~ Designate the area as a "small bird habitat corridor" - Prefer if zoned as environmental conservation ~ Should be included in Manly Warringah War Memorial State Park</p>	<ul style="list-style-type: none"> <li>• The support for the Planning Proposal is noted.</li> <li>• Declaration of Wildlife Protection Areas is a separate process under the provisions of the NSW Companion Animals Act 1998 which involves community consultation requirements consistent with Council's Community Engagement Policy and must be supported by the elected Council.</li> <li>• Whilst environmental protection zones in the LEP provide a higher level of environmental protection, the RE1 Public Recreation, consistent with the remainder of the Public Reserve, the extent of the Manly Warringah Memorial Park, and consistent with the ecological, scientific, cultural and aesthetic values of the land, is therefore considered the most appropriate means of achieving the intended outcomes of the Planning Proposal.</li> <li>• The proposal to include the area in the state Park boundaries is a separate process to the planning proposal. However this is not supported at this point in time, as the area is not contiguous with the state Park and is separated by lots held by other parties.</li> </ul>
64	<p>SMDCC Mermaid Pools: • We support the proposal to rezone the four land parcels from R2 to RE1. • We would prefer E2 or E3 and wildlife protection status for a small bird habitat corridor. • Ideally the parcels of land should be included in the MWWMSPP to enhance the environment and wildlife corridors "Priority Habitats" within the Connected Corridors for Biodiversity. • We support the removal of principal development standards (height of building and minimum lot size) that currently apply to the land. (see attached document also)</p>	<p>~ Supports the Planning Proposal to rezone the land ~ Would like if the area is set apart as Wildlife protection Area ~ Designate the area as a "small bird habitat corridor" - Prefer if zoned as environmental conservation ~ Should be included in Manly Warringah War Memorial State Park</p>	<ul style="list-style-type: none"> <li>• The support for the Planning Proposal is noted.</li> <li>• Declaration of Wildlife Protection Areas is a separate process under the provisions of the NSW Companion Animals Act 1998 which involves community consultation requirements consistent with Council's Community Engagement Policy and must be supported by the elected Council.</li> <li>• Whilst environmental protection zones in the LEP provide a higher level of environmental protection, the RE1 Public Recreation, consistent with the remainder of the Public Reserve, the extent of the Manly Warringah Memorial Park, and consistent with the ecological, scientific, cultural and aesthetic values of the land, is therefore considered the most appropriate means of achieving the intended outcomes of the Planning Proposal.</li> <li>• The proposal to include the area in the state Park boundaries is a separate process to the planning proposal. However this is not supported at this point</li> </ul>



		in time, as the area is not contiguous with the state Park and is separated by lots held by other parties.	
65	<p>Whilst I agree with the intended outcome to 'better protect and enhance the natural environment', greater environmental and wildlife protection status should be granted as sought by the Manly Lagoon Catchment Coordinating Committee in 2016. The land should be rezoned to environmental protection (E1 or E2) status not the proposed RE1.</p> <p>In relation to the proposed rezoning, it is noted that RE1 status permits roads to be constructed without approval. Other developments can be constructed with approval. If RE1 status is granted then construction that is not in keeping with the intention of environmental protection should be explicitly prohibited. Roads should be explicitly prohibited. Other 'inappropriate development' should be explicitly prohibited in accordance with the NSW Rural Fire Service letter to the General Manager, Northern Beaches Council, dated 13 September 2019.</p>	<p>~Should be zoned as environmental conservation</p> <p>~ Raise concerns regarding permissible uses in RE1 zone</p>	<p>• Whilst environmental protection zones in the LEP provide a higher level of environmental protection, the RE1 Public Recreation, consistent with the remainder of the Public Reserve, the extent of the Manly Warringah Memorial Park, and consistent with the ecological, scientific, cultural and aesthetic values of the land, is therefore considered the most appropriate means of achieving the intended outcomes of the Planning Proposal.</p> <p>• The Planning Proposal seeks to minimise the impact of residential development on the environment by rezoning the land to Zone RE1 Public Recreation. In the unlikely circumstance that a Development Application was lodged requiring the clearing of vegetation, it is unlikely that Council would support the proposed development given the environmental value of the land, which has been demonstrated in several documents outlined in this Planning Proposal.</p>



<p>66</p>	<p>Scanned 19.11.2019</p> <p>[Redacted] Northern Beaches Council PO Box 82 Manly NSW 1555 [Redacted]</p> <p><b>RE: Planning Proposal No. PEX2018/0008 - Mermaid Pools</b></p> <p>We wish to advise that we are in agreement with Council's proposal to re-zone the land from Low Density Residential (R2), to Public Recreation, (RE1).</p> <p>However, while the proposal report strongly indicates that all the re-zoned land would be kept as is, ie., natural bushland with natural habitat, we cannot agree that the "Proposed zone land use table for Public Recreation, (RE1)", should allow the possibilities mentioned in item 3 as "Permitted with consent".</p> <p>We believe, in view of the size of the land areas proposed to be re-zoned, that ALL items listed in item 3 should be included in item 4, "Prohibited".</p> <p>This would remove the possibility of any future Council's from proposing to use these areas, along with adjacent existing RE1 areas, to allow for any Developments mentioned in item 3.</p> <p>We hereby wish to advise that we have made no Political donations and/or gifts to any Political parties in the previous 2 years prior to this submission, in relation to the Political Donations Act 2008.</p> <p>Yours Faithfully, [Redacted] [Redacted] [Redacted] [Redacted] [Redacted]</p> <p><b>SCANNED</b> NORTHERN BEACHES COUNCIL 19 NOV 2019 20 /</p>	<p>~ Supports the Planning Proposal to rezone the land</p> <p>~ Raise concerns regarding permissible uses in RE1 zone</p>	<ul style="list-style-type: none"><li>• The support for the Planning Proposal is noted.</li><li>• The Planning Proposal seeks to minimise the impact of residential development on the environment by rezoning the land to Zone RE1 Public Recreation. In the unlikely circumstance that a Development Application was lodged requiring the clearing of vegetation, it is unlikely that Council would support the proposed development given the environmental value of the land, which has been demonstrated in several documents outlined in this Planning Proposal.</li></ul>
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**STEP Inc**  
Community-based Environmental Conservation since 1978

26 November 2019

Michael Regan  
Mayor  
Northern Beaches Council  
PO Box 82  
MANLY NSW 1655

Dear Mr Regan

**Re: Planning Proposal - Mermaid Pool PEX2018/0008**

STEP Inc is a local community-based environmental group, with a membership of over 400 in the northern Sydney area. Our main objective is to preserve natural bushland in northern Sydney from alienation or degradation and ensuring proper management of this bushland. Our group has considerable experience in environmental issues and regenerating and preserving natural bushland and native vegetation.

We are writing to you to support the Planning Proposal – Mermaid Pool that will protect of the small bird habitat corridor in the vicinity of Manly Creek from housing development under the current R2 zoning. Once the Public Recreation (R1) zoning is in place we hope that the land can be given the status of a Wildlife Protection Area

The Manly Warringah War Memorial Park Plan of Management has explained the need for increasing connectivity of Warringah reserves. *The Manly Creek Riparian Corridor Biodiversity Study 12 Aug 2019* states that: 'The area is important habitat in its own right for a number of threatened animals. The preservation of this site is important for the ongoing welfare of wildlife in the local area.' 'Any reduction in size of the wooded area will compromise the value of the bushland as habitat and a wildlife corridor.' Ongoing bushcare will further enhance the value of this wildlife corridor.



Yours faithfully,

[Redacted Signature]

[Redacted Address]

~ Supports the Planning Proposal to rezone the land  
~ Would like if the area is set apart as Wildlife Protection Area for birds

- The support for the Planning Proposal is noted.
- Declaration of Wildlife Protection Areas is a separate process under the provisions of the NSW Companion Animals Act 1998 which involves community consultation requirements consistent with Council's Community Engagement Policy and must be supported by the elected Council.

<p></p> <p>To: Northern Beaches Council PO Box 82, Manly NSW 1655 Email: <a href="mailto:council@northernbeaches.nsw.gov.au">council@northernbeaches.nsw.gov.au</a></p> <p>1 December 2019</p> <p>'Planning Proposal - Mermaid Pool' PEX2018/0008 Northern Beaches Council PO Box 82, Manly NSW 1655</p> <p>Dear Sir/Madam</p> <p>I strongly support the planning proposal for Manly Creek Native Vegetation (in the vicinity of 'Mermaid Pool', Manly Vale.</p> <p>The Council report is comprehensive and provides ample justification for the proposed rezoning of the four parcels of land from the current Zone R2 (low density residential) zone to Zone RE1 (public recreation).</p> <p>The planning proposal will provide protection for:</p> <ul style="list-style-type: none"> <li>• Environment and recreation values</li> <li>• Manly Creek and aquatic habitat</li> <li>• Native vegetation and bird habitat</li> <li>• Riparian land and wildlife corridor</li> <li>• Soil and bank stabilisation</li> <li>• Scenic landscape and amenity</li> </ul> <p>The Zone RE1 includes the following objectives, which are relevant to the environmental and recreational values of the land:</p> <ul style="list-style-type: none"> <li>• To protect and enhance the natural environment for recreational purposes.</li> <li>• To protect, manage and restore public land that is of ecological, scientific, cultural or aesthetic value.</li> </ul> <p>RE1 zone land use table permits development (with consent) that would not be suitable for the land. However, the report acknowledges that:</p> <ul style="list-style-type: none"> <li>• Council is unlikely to support inappropriate development, and</li> <li>• much of the vegetation in the vicinity of the Mermaid Pool is already zoned RE1 Public Recreation.</li> </ul> <p>The Zone E2 (Environmental Conservation) would prohibit inappropriate development and its objectives focus on protecting the natural environment. However, the RE1 zone is an acceptable alternative, as it consistent with adjoining vegetation areas within the Manly Creek corridor.</p> <p>Yours sincerely</p> <p></p>	<p>~ Supports the Planning Proposal to rezone the land</p> <p>• The support for the Planning Proposal is noted.</p>
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Late submission via your say page for DCP amendments

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<p>It is great that Council has exhibited a Planning Proposal to rezone four parcels of land in the vicinity of 'Mermaid Pool' from Low Density Residential (R2) to Public Recreation (RE1): Lot 7370 DP1165551 being land adjoining 102 King Street, Manly Vale. Lot 7369 DP1165551 Wandella Road, Allambie, south of Jenna Close. Lot 7371 DP1165577 located to the rear of properties south of Blamey St and Bate Avenue, Allambie. Part unmade road at the southern end of Wandella Road, King Street, Manly Vale and east of the Manly Water Laboratory (Research Station). As a consequence, the Planning Proposal to remove development standards for height and minimum lot size for subdivision for this land (given that residential development will no longer be permitted) is only logical. Just a reminder that many in the community would like the rezoned lands to be given an extra level of conservation status (ideally E2 zoning). However, if this is not possible, can the declaration of a Wildlife Protection Area be considered. This would assist in proposals for a small bird habitat corridor conservation area to assist in the protection of vulnerable wildlife. The Niche survey underlined the fact that this is an important area for biodiversity.</p>	<p>~ Supports the Planning Proposal to rezone the land ~ Would like if the area is set apart as Wildlife protection Area ~ Designate the area as a "small bird habitat corridor" - Prefer if zoned as environmental conservation</p>	<p>This community member has already submitted a submission raising the identical concerns. Please refer to <b>Item 11</b> for the response.</p>
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	Submission	Summary	Response
1	SMDCC fully supports the proposed amendments to Warringah DCP associated with the Mermaid Pool Planning Proposal. We agree that consequential amendments be made to Warringah DCP 2011 to remove residential development controls, including setbacks and minimum landscaped area controls, from these lands. At least one of the land parcels subject to this Planning Proposal is identified in the following DCP maps either wholly or partially: DCP wall height Side Boundary Envelopes Side Boundary Setbacks Front Boundary Setback Rear Boundary Setbacks Landscaped Open Space and Bushland Setting Land Adjoining Public Open Space In accordance with the above Council resolution, it is proposed to remove all references to subject land parcels from the DCP maps.	Support the amendments	<ul style="list-style-type: none"> <li>The support for the proposed amendments to Warringah DCP associated with the Mermaid Pool Planning Proposal is noted.</li> </ul>
2	I fully support the proposed amendments to Warringah DCP associated with the Mermaid Pool Planning Proposal. I agree that consequential amendments be made to Warringah DCP 2011 to remove residential development controls, including setbacks and minimum landscaped area controls, from these lands. At least one of the land parcels subject to this Planning Proposal is identified in the following DCP maps either wholly or partially: DCP wall height Side Boundary Envelopes Side Boundary Setbacks Front Boundary Setback Rear Boundary Setbacks Landscaped Open Space and Bushland Setting Land Adjoining Public Open Space In accordance with the above Council resolution, it is proposed to remove all references to subject land parcels from the DCP maps.	Support the amendments	<ul style="list-style-type: none"> <li>The support for the proposed amendments to Warringah DCP associated with the Mermaid Pool Planning Proposal is noted.</li> </ul>
3	I support the proposed DCP amendments for the reasons outlined in the report.	Support the amendments	<ul style="list-style-type: none"> <li>The support for the proposed amendments to Warringah DCP associated with the Mermaid Pool Planning Proposal is noted.</li> </ul>
4	Not allowing development on the subject land is totally correct. There should be no housing/building of any type permitted on this land.	Support the amendments	<ul style="list-style-type: none"> <li>The support for the proposed amendments to Warringah DCP associated with the Mermaid Pool Planning Proposal is noted.</li> </ul>
5	STEP strongly supports the planned amendments to the Warringah DCP to rezone four parcels of land in the vicinity of Mermaid Pool from Zone R2 'Low Density Residential' to Zone RE1 'Public Recreation'. As part of the Manly Creek Riparian Lands these land parcels provide essential small bird habitat, support biodiversity and provide a wildlife corridor between Manly Dam Reserve and bushland along the Manly Creek to Miller Reserve.	Support the amendments	<ul style="list-style-type: none"> <li>The support for the proposed amendments to Warringah DCP associated with the Mermaid Pool Planning Proposal is noted.</li> </ul>
6	DCP 2011 Amendments – Mermaid Pool I support the DCP amendments: 1. To remove the subject lands from any DCP maps where WDCP 2011 provisions do not apply to RE1 zoned land. The residential provisions are no longer applicable if the zoning of the Crown land is changed from R2 (low density residential) to RE1 (public open space). 2. Control E7 Development on land adjoining public open space to be applied to nine land parcels identified in the associated DCP Map(s) to Control E7. This will protect and preserve adjoining bushland reserves and public open space – being the land being rezoned RE1 Public Recreation. The proposed rezoning and associated amendments to the DCP 2011 will protect and preserve the bushland in the vicinity of Mermaid Pool and Manly Creek.	Support the amendments	<ul style="list-style-type: none"> <li>The support for the proposed amendments to Warringah DCP associated with the Mermaid Pool Planning Proposal is noted.</li> </ul>

7	<p>We live at Blamey Street, Allambie Heights one of the properties adjoining the sites that are being rezoned. Can you please explain to us what implications may arise in terms of renovations?</p> <p>Our property will now be Land Adjoining Public Open Space. What else will that mean for us?</p>	<p>Further Information Request</p>	<ul style="list-style-type: none"> <li>• Council directly responded on 18/02/2020 as follows:   <i>" Q. Can you please explain to us what implications may arise in terms of renovations? Our property will now be Land Adjoining Public Open Space. What else will that mean for us?</i>   <i>By way of general background, planning legislation and development standards apply to all properties in the Northern Beaches. For your property, the relevant rules and regulations are in Warringah Local Environmental Plan 2011, which deals with the zoning of the land, what is permitted on the land and Building height, and needs to be read in conjunction with the development standards detailed in the Warringah Development Control Plan 2011. The applicable development standards are based on the subject property and development type you are seeking to undertake on that property.</i>   <i>For instance, Control E7 "Development on land adjoining public open space" applying to your property means that a future development on your property will need to consider this control (as attached) in terms:</i> <ul style="list-style-type: none"> <li>• <i>How does the development responds to its adjacent surroundings, in terms of:</i> <ul style="list-style-type: none"> <li>- <i>enhancing the natural qualities of the environment?</i></li> <li>- <i>Complementing the landscaping character of the adjacent Public Recreation zoned</i></li> </ul> </li> </ul> </li> </ul>
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			<p>land, or alternatively is the development impacting the enjoyment of same?</p> <ul style="list-style-type: none"> <li>To assist you, the Note associated with Control E7 gives you instructions on how you should design your development so that the response to the above questions will result in a positive impact.</li> </ul> <p>You may wish to seek independent planning advice to determine if you impacted (or otherwise) by the proposed change currently on exhibition.</p> <p>With regard to future plans for renovating your existing dwelling or carrying out any development on subject land, Council has an advisory service that you can utilise prior to formal lodgement of a Development Application. More information on this service can be obtained on this <a href="#">weblink, DA Pre-Lodgement Meetings</a>"</p>
8	<p>The mermaid pools are an iconic part of the northern beaches and should be protected. I support the move to rezone from residential but I would like council to take one step further and ensure this area becomes a wildlife corridor for the native wildlife we need to protect for future generations.</p>	<p>Planning Proposal</p>	<ul style="list-style-type: none"> <li>The content of this submission is related to the Planning Proposal, not the exhibited DCP amendments. Sentiment noted.</li> </ul>
9	<p>Do not allow any development at all near this biodiverse and ecologically sensitive area. It has already suffered enough due to human interference. Wildlife depends on balanced eco-systems and Mermaid Pool and surrounding areas have been severely compromised as a result of development.</p>	<p>Planning Proposal</p>	<ul style="list-style-type: none"> <li>Currently applicable Built Form Controls are proposed to remove from subject lands and additional controls are applied to adjoining properties to preserve and enhance the natural qualities of the environment.</li> </ul>



10	<p>It is great that Council has exhibited a Planning Proposal to rezone four parcels of land in the vicinity of 'Mermaid Pool' from Low Density Residential (R2) to Public Recreation (RE1):</p> <p>Lot 7370 DP1165551 being land adjoining 102 King Street, Manly Vale.  Lot 7369 DP1165551 Wandella Road, Allambie, south of Jenna Close.  Lot 7371 DP1165577 located to the rear of properties south of Blamey St and Bate Avenue, Allambie. Part unmade road at the southern end of Wandella Road, King Street, Manly Vale and east of the Manly Water Laboratory (Research Station).</p> <p>As a consequence, the Planning Proposal to remove development standards for height and minimum lot size for subdivision for this land (given that residential development will no longer be permitted) is only logical</p> <p>Just a reminder that many in the community would like the rezoned lands to be given an extra level of conservation status (ideally E2 zoning). However, if this is not possible, can the declaration of a Wildlife Protection Area be considered. This would assist in proposals for a small bird habitat corridor conservation area to assist in the protection of vulnerable wildlife. The Niche survey underlined the fact that this is an important area for biodiversity.</p>	Planning Proposal	<ul style="list-style-type: none"> <li>The content of this submission is related to the Planning Proposal, not the exhibited DCP amendments. Sentiment noted.</li> </ul>
11	<p>The proposal and move to return these land parcels to be part of the recreational reserve is to be commended. The result will be an enhanced native 'corridor' and habitat.</p> <p>Landcare / bushcare groups will extend their areas of responsibility to ensure the maintenance and integrity of the included parcels</p>	Planning Proposal	<ul style="list-style-type: none"> <li>The content of this submission is related to the Planning Proposal, not the exhibited DCP amendments. Sentiment noted.</li> </ul>

# DRAFT Code of Meeting Practice

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# 1 Introduction

This Code of Meeting Practice is made under section 360 of the *Local Government Act 1993* (the Act) and the *Local Government (General) Regulation 2005* (the Regulation).

This code applies to all meetings of council and committees of council of which all the members are councillors (committees of council). Council committees whose members include persons other than councillors may adopt their own rules for meetings unless the council determines otherwise.

Councils must adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code.

A council's adopted code of meeting practice may also incorporate the non-mandatory provisions of the Model Meeting Code and other supplementary provisions. However, a code of meeting practice adopted by a council must not contain provisions that are inconsistent with the mandatory provisions of this Model Meeting Code.

## 2 Meeting Principles

2.1 Council and committee meetings should be:

<b>Transparent</b>	Decisions are made in a way that is open and accountable.
<b>Informed</b>	Decisions are made based on relevant, quality information.
<b>Inclusive</b>	Decisions respect the diverse needs and interests of the local community.
<b>Principled</b>	Decisions are informed by the principles prescribed under Chapter 3 of the Act.
<b>Trusted</b>	The community has confidence that councillors and staff act ethically and make decisions in the interests of the whole community.
<b>Respectful</b>	Councillors, staff and meeting attendees treat each other with respect.
<b>Effective</b>	Meetings are well organised, effectively run and skilfully chaired.
<b>Orderly</b>	Councillors, staff and meeting attendees behave in a way that contributes to the orderly conduct of the meeting.



## 3 Definitions

<b>chief executive officer</b>	means the person who carries out the role of the general manager of a council in accordance with <i>the Local Government Act 1993</i> .
<b>the Act</b>	means the <i>Local Government Act 1993</i> .
<b>the Regulation</b>	means the <i>Local Government (General) Regulation 2005</i> .
<b>act of disorder</b>	means an act of disorder as defined in clause 16.11 of this code.
<b>amendment</b>	in relation to an original motion, means a motion moving an amendment to that motion.
<b>business day</b>	means any day except Saturday or Sunday or any other day the whole or part of which is observed as a public holiday throughout New South Wales.
<b>chairperson</b>	in relation to a meeting of the council – means the person presiding at the meeting as provided by section 369 of the Act and clauses 7.1 and 7.2 of this code; and in relation to a meeting of a committee – means the person presiding at the meeting as provided by clause 21.11 of this code.
<b>this code</b>	means the council's adopted code of meeting practice
<b>committee of council</b>	means a committee established by the council in accordance with clause 21.2 of this code (being a committee consisting only of councillors) or the council when it has resolved itself into committee of the whole under clause 13.1.
<b>council official</b>	has the same meaning as in the Model Code of Conduct for Local Councils in NSW and includes councillors, administrators, council staff, council committee members and delegates of the council.
<b>day</b>	means calendar day
<b>division</b>	means a request by two councillors under clause 12.6 of this code requiring the recording of the names of the councillors who voted both for and against a motion.
<b>foreshadowed amendment</b>	means a proposed amendment foreshadowed by a councillor under clause 11.18 of this code during debate on the first amendment.
<b>foreshadowed motion</b>	means a motion foreshadowed by a councillor under clause 11.17 of this code during debate on an original motion.
<b>open voting</b>	means voting on the voices or by a show of hands or by a visible electronic voting system or similar means.
<b>planning decision</b>	means a decision made in the exercise of a function of a council under the <i>Environmental Planning and Assessment Act 1979</i> including any decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but not including the making of an order under Division 2A of Part 6 of that Act.
<b>performance improvement order</b>	means an order issued under section 438A of the Act.
<b>quorum</b>	means the minimum number of councillors or committee members necessary to conduct a meeting.
<b>year</b>	means the period beginning 1 July and ending the following 30 June.

## 4 Before the Meeting

### *Timing of ordinary council meetings*

- 4.1 The council shall, by resolution, set the frequency, time, date and place of its ordinary meetings.

**Note:** Under section 365 of the Act, councils are required to meet at least ten (10) times each year, each time in a different month unless the Minister for Local Government has approved a reduction in the number of times that a council is required to meet each year under section 365A.

### *Extraordinary meetings*

- 4.2 If the mayor receives a request in writing, signed by at least two councillors, the mayor must call an extraordinary meeting of the council to be held as soon as practicable, but in any event, no more than fourteen days after receipt of the request. The mayor can be one of the two councillors requesting the meeting.

**Note:** Clause 4.2 reflects section 366 of the Act.

- 4.3 The mayor or the chief executive officer, in consultation with the mayor, may call an extraordinary meeting without the need to obtain the signature of two councillors to consider urgent business.
- 4.4 For the purpose of clause 4.3, urgent business is any matter that, in the opinion of the mayor or the chief executive officer, requires a decision by the council before the next scheduled ordinary meeting of the council.

### *Notice to the public of council meetings*

- 4.5 The council must give notice to the public of the time, date and place of each of its meetings, including extraordinary meetings and of each meeting of committees of the council.

**Note:** Clause 4.5 reflects section 9(1) of the Act.

- 4.6 For the purposes of clause 4.5, notice of a meeting of the council and of a committee of council is to be published before the meeting takes place. The notice must be published on the council's website, and in such other manner that the council is satisfied is likely to bring notice of the meeting to the attention of as many people as possible.
- 4.7 For the purposes of clause 4.5, notice of more than one meeting may be given in the same notice.

### *Notice to councillors of ordinary council meetings*

- 4.8 The chief executive officer must send to each councillor, at least three days before each meeting of the council, a notice specifying the time, date and place at which the meeting is to be held, and the business proposed to be considered at the meeting.

**Note:** Clause 4.8 reflects section 367(1) of the Act.

- 4.9 The notice and the agenda for, and the business papers relating to, the meeting may be given to councillors in electronic form, but only if all councillors have facilities to access the notice, agenda and business papers in that form.

**Note:** Clause 4.9 reflects section 367(3) of the Act.

### ***Notice to councillors of extraordinary meetings***

- 4.10 Notice of less than three days may be given to councillors of an extraordinary meeting of the council in cases of emergency.

**Note: Clause 4.10 reflects section 367(2) of the Act.**

### ***Giving notice of business to be considered at council meetings***

- 4.11 A councillor may give notice of any business they wish to be considered by the council at its next ordinary meeting by way of a notice of motion. To be included on the agenda of the meeting, the notice of motion must be in writing and must be submitted by 12 noon, 7 days before the meeting is to be held.
- 4.12 A councillor may, in writing to the chief executive officer, request the withdrawal of a notice of motion or question on notice submitted by them prior to its inclusion in the agenda and business paper for the meeting at which it is to be considered.
- 4.13 The first two notices of motion submitted by each councillor will be dealt with in the order they are received at an ordinary meeting. Any subsequent notices of motion will be dealt with in the order they are received once all of the councillors' first two notices of motion have been put to the meeting.
- 4.14 If the chief executive officer considers that a notice of motion submitted by a councillor for consideration at an ordinary meeting of the council has legal, strategic, financial or policy implications which should be taken into consideration by the meeting, the chief executive officer may prepare a report in relation to the notice of motion for inclusion with the business papers for the meeting at which the notice of motion is to be considered by the council.
- 4.15 A notice of motion for the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the notice of motion. Councillors should liaise with the chief executive officer for assistance in costing notices of motion and identifying potential funding sources in sufficient time to complete the notice of motion and meet the deadline in clause 4.11. If the notice of motion does not identify a funding source, the chief executive officer must either:
- (a) prepare a report on the availability of funds for implementing the motion if adopted for inclusion in the business papers for the meeting at which the notice of motion is to be considered by the council, or
  - (b) by written notice sent to all councillors with the business papers for the meeting for which the notice of motion has been submitted, defer consideration of the matter by the council to such a date specified in the notice, pending the preparation of such a report.

### ***Questions with notice***

- 4.16 A councillor may, by way of a notice submitted under clause 4.11, ask a question for response by the chief executive officer about the performance or operations of the council.
- 4.17 A councillor is not permitted to ask a question with notice under clause 4.16 that comprises a complaint against the chief executive officer or a member of staff of the council, or a question that implies wrongdoing by the chief executive officer or a member of staff of the council.

- 4.18 The chief executive officer or their nominee may respond to a question with notice submitted under clause 4.16 by way of a report included in the business papers for the relevant meeting, or orally at the meeting. If the preparation of a response is likely to divert significant time and resources of staff the response will be provided no later than the third ordinary meeting of council following the meeting that the question was published.

### ***Agenda and business papers for ordinary meetings***

- 4.19 The chief executive officer must cause the agenda for a meeting of the council or a committee of the council to be prepared as soon as practicable before the meeting.
- 4.20 The chief executive officer must ensure that the agenda for an ordinary meeting of the council states:
- (a) all matters to be dealt with arising out of the proceedings of previous meetings of the council, and
  - (b) if the mayor is the chairperson – any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and
  - (c) all matters, including matters that are the subject of staff reports and reports of committees, to be considered at the meeting, and
  - (d) any business of which due notice has been given under clause 4.11.
- 4.21 Nothing in clause 4.20 limits the powers of the mayor to put a mayoral minute to a meeting under clause 10.9.
- 4.22 The chief executive officer must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the chief executive officer, the business is, or the implementation of the business would be, unlawful. The chief executive officer must report, without giving details of the item of business, any such exclusion to the next meeting of the council.
- 4.23 Where the agenda includes the receipt of information or discussion of other matters that, in the opinion of the chief executive officer, is likely to take place when the meeting is closed to the public, the chief executive officer must ensure that the agenda of the meeting:
- (a) identifies the relevant item of business and indicates that it is of such a nature (without disclosing details of the information to be considered when the meeting is closed to the public), and
  - (b) states the grounds under section 10A(2) of the Act relevant to the item of business.

**Note: Clause 4.23 reflects section 9(2A)(a) of the Act.**

- 4.24 The chief executive officer must ensure that the details of any item of business which, in the opinion of the chief executive officer, is likely to be considered when the meeting is closed to the public, are included in a business paper provided to councillors for the meeting concerned. Such details must not be included in the business papers made available to the public, and must not be disclosed by a councillor or by any other person to another person who is not authorised to have that information.

### ***Availability of agenda and business papers to the public***

- 4.25 Copies of the agenda and the associated business papers, such as correspondence and reports for meetings of the council and committees of council, are to be published on the council's website, and must be made available to the public for inspection, or for taking away by any person free of charge at the offices of the council, at the relevant meeting and



at such other venues determined by the council.

**Note: Clause 4.25 reflects section 9(2) and (4) of the Act.**

- 4.26 Clause 4.25 does not apply to the business papers for items of business that the chief executive officer has identified under clause 4.23 as being likely to be considered when the meeting is closed to the public.

**Note: Clause 4.26 reflects section 9(2A)(b) of the Act.**

- 4.27 For the purposes of clause 4.25, copies of agendas and business papers must be published on the council's website and made available to the public at a time that is as close as possible to the time they are available to councillors.

**Note: Clause 4.27 reflects section 9(3) of the Act.**

- 4.28 A copy of an agenda, or of an associated business paper made available under clause 4.25, may in addition be given or made available in electronic form.

**Note: Clause 4.28 reflects section 9(5) of the Act.**

### ***Agenda and business papers for extraordinary meetings***

- 4.29 The chief executive officer must ensure that the agenda for an extraordinary meeting of the council deals only with the matters stated in the notice of the meeting.
- 4.30 Despite clause 4.29, business may be considered at an extraordinary meeting of the council, even though due notice of the business has not been given, if:
- (a) a motion is passed to have the business considered at the meeting, and
  - (b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.
- 4.31 A motion moved under clause 4.30(a) can be moved without notice but only after the business notified in the agenda for the extraordinary meeting has been dealt with.
- 4.32 Despite clauses 11.20–11.30, only the mover of a motion moved under clause 4.30(a) can speak to the motion before it is put.
- 4.33 A motion of dissent cannot be moved against a ruling of the chairperson under clause 4.30(b) on whether a matter is of great urgency.

### ***Pre-meeting briefing sessions***

- 4.34 Prior to each ordinary meeting of the council, the chief executive officer **may** arrange a pre-meeting briefing session to brief councillors on the items of business to be considered at the meeting. The pre-meeting session may include other matters as determined by the chief executive officer including, but not limited to, legal briefings and staff reports deferred from previous council meetings for further discussion. Pre-meeting briefing sessions may also be held for extraordinary meetings of the council and meetings of committees of the council.
- 4.35 Pre-meeting briefing sessions are to be held in the absence of the public.
- 4.36 The chief executive officer or a member of staff nominated by the chief executive officer is to preside at pre-meeting briefing sessions.
- 4.37 Councillors (including the mayor) are to make all reasonable efforts to attend pre-meeting

briefing sessions.

- 4.38 Councillors (including the mayor) must not use pre-meeting briefing sessions to debate or make preliminary decisions on items of business they are being briefed on, and any debate and decision-making must be left to the formal council or committee meeting at which the item of business is to be considered.
- 4.39 It is the responsibility of councillors (including the mayor) to declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of a briefing at a pre-meeting briefing session, in the same way that they are required to do at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at pre-meeting briefing sessions and how the conflict of interest was managed by the councillor who made the declaration.

## 5 Public Forum and Public Address

### Public forum

- 5.1 A public forum will be conducted at each ordinary council meeting for a period of 30 minutes (maximum of 10 speakers at 3 minutes each).
- 5.2 A public forum should not be used to raise routine questions, matters or complaints. Such matters should be forwarded in writing to council where they will be responded to by appropriate council officers.
- 5.3 Any question to council must be submitted with the request to address council and will be reviewed by staff prior to the meeting:
  - (a) If the question is deemed to be a routine matter it will be processed as a customer request and a response will be provided in accordance with customer service standards.
  - (b) If the question is accepted staff and councillors are under no obligation to answer questions at the meeting however a written response will be provided in accordance with customer service standards.
- 5.4 The order of speakers at the public forum is determined by the order of receipted applications.

### Public address

- 5.5 Following the public forum, the council will hold a public address at each ordinary meeting of the council for the purpose of hearing oral submissions from members of the public on items of business, being mayoral minutes, reports to council and notices of motion, to be considered at the meeting. Public addresses may also be held at extraordinary council meetings and meetings of committees of the council if included on the order of business.
- 5.6 No more than two speakers are to be permitted to speak 'for' or 'against' each item of business on the agenda for the council meeting. The order of speakers for each item is determined by the order of receipted "for" and "against" applications.
- 5.7 Councillors (including the mayor) must disclose and manage any conflicts of interest they may have in relation to any item of business at public address.

### Conducting the public forum and public address

- 5.8 For each meeting, a person may apply to speak during a public address on no more than two items of business on the agenda of the council meeting and no more than once at a public forum.
- 5.9 Legal representatives acting on behalf of others are not to be permitted to speak at a public address or public forum unless they identify their status as a legal representative when applying to speak at the public address.
- 5.10 To speak at the public forum or public address, a person must first make an application to the council in the approved form. Applications to speak must be received by 12 noon of the date on which the council meeting is to be held, and must identify:
  - (a) the item of business on the agenda of the council meeting the person wishes to speak on, and whether they wish to speak 'for' or 'against' the item, or
  - (b) the subject matter of what they would like to speak to at the public forum.

- 5.11 The chief executive officer or the executive manager, governance and risk may refuse an application to speak at the public forum or public address for the following reasons:
- (a) the application does not meet the requirements of the Code of Meeting Practice
  - (b) there is a genuine and demonstrable concern relating to the applicant or their dealings with council or their intentions.
- 5.12 Speakers may use and distribute information such as photos, maps and petitions to councillors in support of their address if submitted to and approved by the chief executive officer (or the executive manager, governance and risk) by 12 noon on the day of the meeting.
- 5.13 Each speaker will be allowed three minutes to address the council. This time is to be strictly enforced by the chairperson with no extensions given.
- 5.14 Speakers at the public forum or public address must not digress from the item on the agenda of the council meeting or the subject matter they have applied to address the council on. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.
- 5.15 A councillor (including the chairperson) may through the chairperson, for the purpose of clarification only, ask a question of a speaker following their address at the public forum or public address. A question put to a speaker must be direct, succinct and without argument. Once the speaker has answered any questions there will be no further debate on the matter.
- 5.16 Speakers are under no obligation to answer a question put under clause 5.15. Answers by the speaker, to each question are to be limited to two minutes per question. A maximum of two questions may be asked of a speaker.
- 5.17 Speakers at the public forum or public address may ask questions of the council, councillors or council staff. Councillors or council staff are under no obligation to answer questions at the meeting and a written response to questions will be provided in accordance with customer service standards.
- 5.18 When addressing the council, speakers must comply with this code and all other relevant council codes, policies and procedures. Speakers must refrain from engaging in disorderly conduct, publicly alleging breaches of the council's code of conduct or making other potentially defamatory statements.
- 5.19 If the chairperson considers that a speaker has engaged in conduct of the type referred to in clause 5.18, the chairperson may request the person to refrain from the inappropriate behaviour and to withdraw and unreservedly apologise for any inappropriate comments. Where the speaker fails to comply with the chairperson's request, the chairperson may immediately require the person to stop speaking.
- 5.20 Clause 5.19 does not limit the ability of the chairperson to deal with disorderly conduct by speakers at the public forum or public addresses in accordance with the provisions of Part 16 of this code.
- 5.21 Where a speaker engages in conduct of the type referred to in clause 5.18, the chief executive officer or their delegate may refuse further applications from that person to speak at the public forum or public addresses for such a period as the chief executive officer or their delegate considers appropriate.



### *Invited speakers*

5.22 Other parties may be permitted to address an ordinary meeting of council subject to:

- (a) Notice of that person's attendance at the meeting being included by the chief executive officer on the relevant business paper or advised to councillors via a memo prior to the meeting.
- (b) Public forum not being considered the most appropriate forum in which to hear that person(s).
- (c) Not more than ten (10) minutes in total being provided at any ordinary council meeting to hear such person(s).

## 6 Coming Together

### *Attendance by councillors at meetings*

- 6.1 All councillors must make reasonable efforts to attend meetings of the council and of committees of the council of which they are members.

**Note: A councillor may not attend a meeting as a councillor (other than the first meeting of the council after the councillor is elected or a meeting at which the councillor takes an oath or makes an affirmation of office) until they have taken an oath or made an affirmation of office in the form prescribed under section 233A of the Act.**

- 6.2 A councillor cannot participate in a meeting of the council or of a committee of the council unless personally present at the meeting.
- 6.3 Where a councillor is unable to attend one or more ordinary meetings of the council, the councillor should request that the council grant them a leave of absence from those meetings. This clause does not prevent a councillor from making an apology if they are unable to attend a meeting. However the acceptance of such an apology does not constitute the granting of a leave of absence for the purposes of this code and the Act.
- 6.4 A councillor's request for leave of absence from council meetings should, if practicable, identify (by date) the meetings from which the councillor intends to be absent and the grounds upon which the leave of absence is being sought.
- 6.5 The council must act reasonably when considering whether to grant a councillor's request for a leave of absence.
- 6.6 A councillor's civic office will become vacant if the councillor is absent from three consecutive ordinary meetings of the council without prior leave of the council, or leave granted by the council at any of the meetings concerned, unless the holder is absent because he or she has been suspended from office under the Act, or because the council has been suspended under the Act, or as a consequence of a compliance order under section 438HA.

**Note: Clause 6.6 reflects section 234(1)(d) of the Act.**

- 6.7 A councillor who intends to attend a meeting of the council despite having been granted leave of absence should, if practicable, give the chief executive officer at least two days' notice of their intention to attend.

### *The quorum for a meeting*

- 6.8 The quorum for a meeting of the council is a majority of the councillors of the council who hold office at that time and are not suspended from office.

**Note: Clause 6.8 reflects section 368(1) of the Act.**

- 6.9 Clause 6.8 does not apply if the quorum is required to be determined in accordance with directions of the Minister in a performance improvement order issued in respect of the council.

**Note: Clause 6.9 reflects section 368(2) of the Act.**

- 6.10 A meeting of the council must be adjourned if a quorum is not present:
- (a) at the commencement of the meeting where the number of apologies received for

the meeting indicates that there will not be a quorum for the meeting, or

- (b) within half an hour after the time designated for the holding of the meeting, or
- (c) at any time during the meeting.

6.11 In either case, the meeting must be adjourned to a time, date and place fixed:

- (a) by the chairperson, or
- (b) in the chairperson's absence, by the majority of the councillors present, or
- (c) failing that, by the chief executive officer.

6.12 The chief executive officer must record in the council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the council, together with the names of the councillors present.

6.13 If during a meeting of council or a committee, a quorum is not present, the chairperson shall suspend the proceedings for a period of **five** minutes. If a quorum is not then present at the end of the **five**-minute suspension, the provisions of Clause 6.11 shall apply.

6.14 If the meeting is to resume on another day any decisions of council made prior to the lapsing of the meeting are to be acted upon by staff and do not need to await the resumption of the adjourned meeting. The outstanding items are to be resubmitted to the adjourned meeting for determination.

6.15 Where, prior to the commencement of a meeting, it becomes apparent that a quorum may not be present at the meeting, or that the safety and welfare of councillors, council staff and members of the public may be put at risk by attending the meeting because of a natural disaster (such as, but not limited to flood or bushfire), the mayor may, in consultation with the chief executive officer and, as far as is practicable, with each councillor, cancel the meeting. Where a meeting is cancelled, notice of the cancellation must be published on the council's website and in such other manner that the council is satisfied is likely to bring notice of the cancellation to the attention of as many people as possible.

6.16 Where a meeting is cancelled under clause 6.15, the business to be considered at the meeting may instead be considered, where practicable, at the next ordinary meeting of the council or at an extraordinary meeting called under clause 4.2.

### ***Entitlement of the public to attend council meetings***

6.17 Everyone is entitled to attend a meeting of the council and committees of the council. The council must ensure that all meetings of the council and committees of the council are open to the public.

**Note: Clause 6.17 reflects section 10(1) of the Act.**

6.18 Clause 6.17 does not apply to parts of meetings that have been closed to the public under section 10A of the Act.

6.19 A person (whether a councillor or another person) is not entitled to be present at a meeting of the council or a committee of the council if expelled from the meeting:

- (a) by a resolution of the meeting, or
- (b) by the person presiding at the meeting if the council has, by resolution, authorised the person presiding to exercise the power of expulsion.

**Note: Clause 6.19 reflects section 10(2) of the Act.**

### ***Webcasting of meetings***

- 6.20 All meetings of the council and committees of the council are to be webcast on council's website. Meetings are livestreamed (audio visual) via council's website and a copy uploaded to the website the day following the meeting.
- 6.21 Clause 6.20 does not apply to parts of a meeting that have been closed to the public under section 10A of the Act.
- 6.22 At the start of each meeting the chairperson is to make a statement informing those in attendance that the meeting is being webcast and that those in attendance should refrain from making any defamatory statements.
- 6.23 An audio visual recording of each meeting of the council and committee of the council is to be retained on the council's website for a minimum of four years. Recordings of meetings may be disposed of in accordance with the State Records Act 1998.
- 6.24 Written transcriptions of such proceedings shall not be made available.

### ***Attendance of the chief executive officer and other staff at meetings***

- 6.25 The chief executive officer is entitled to attend, but not to vote at, a meeting of the council or a meeting of a committee of the council of which all of the members are councillors.

**Note: Clause 6.25 reflects section 376(1) of the Act.**

- 6.26 The chief executive officer is entitled to attend a meeting of any other committee of the council and may, if a member of the committee, exercise a vote.

**Note: Clause 6.26 reflects section 376(2) of the Act.**

- 6.27 The chief executive officer may be excluded from a meeting of the council or a committee while the council or committee deals with a matter relating to the standard of performance of the chief executive officer or the terms of employment of the chief executive officer.

**Note: Clause 6.27 reflects section 376(3) of the Act.**

- 6.28 The attendance of other council staff at a meeting, (other than as members of public) shall be with the approval of the chief executive officer.



## 7 The Chairperson

### *The chairperson at meetings*

- 7.1 The mayor, or at the request of or in the absence of the mayor, the deputy mayor (if any) presides at meetings of the council.

**Note: Clause 7.1 reflects section 369(1) of the Act.**

- 7.2 If the mayor and the deputy mayor (if any) are absent, a councillor elected to chair the meeting by the councillors present presides at a meeting of the council.

**Note: Clause 7.2 reflects section 369(2) of the Act.**

### *Election of the chairperson in the absence of the mayor and deputy mayor*

- 7.3 If no chairperson is present at a meeting of the council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a chairperson to preside at the meeting.
- 7.4 The election of chairperson must be conducted:
- (a) by the chief executive officer or, in their absence, an employee of the council designated by the chief executive officer to conduct the election, or
  - (b) by the person who called the meeting or a person acting on their behalf if neither the chief executive officer nor a designated employee is present at the meeting, or if there is no chief executive officer or designated employee.
- 7.5 If, at an election of a chairperson, two or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot.
- 7.6 For the purposes of clause 7.5, the person conducting the election must:
- (a) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and
  - (b) then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.
- 7.7 The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.
- 7.8 Any election conducted under clause 7.3, and the outcome of the vote, are to be recorded in the minutes of the meeting.

### *Chairperson to have precedence*

- 7.9 When the chairperson rises or speaks during a meeting of the council:
- (a) any councillor then speaking or seeking to speak must cease speaking and, if standing, immediately resume their seat, and
  - (b) every councillor present must be silent to enable the chairperson to be heard without interruption.

## 8 Modes of Address

- 8.1 If the chairperson is the mayor, they are to be addressed as 'Mr Mayor' or 'Madam Mayor'.
- 8.2 Where the chairperson is not the mayor, they are to be addressed as either 'Mr Chairperson' or 'Madam Chairperson'.
- 8.3 A councillor is to be addressed as 'Councillor [surname]'.
- 8.4 A council officer is to be addressed by their official designation or as Mr/Ms [surname].
- 8.5 A councillor shall address all remarks or questions, either through or to the chairperson.

## 9 Order of Business for Ordinary Council Meetings

9.1 *The general order of business for an ordinary meeting of the council shall be:*

***01 Acknowledgement of country***

***02 Apologies and applications for leave of absence by councillors***

***03 Confirmation of minutes***

***04 Disclosures of interests***

***05 Public forum and public address***

***06 Items resolved by exception***

***07 Mayoral minute(s)***

***08 Reports to council***

***09 Notices of motions***

***10 Matters of urgency***

***11 Notices of rescission***

***12 Questions with notice***

***13 Responses to questions with notice***

***14 Confidential matters***

9.2 The order of business as fixed under clause 9.1 may be altered for a particular meeting of the council if a motion to that effect is passed at that meeting. Such a motion can be moved without notice.

**Note: Part 14 allows council to deal with items of business by exception.**

9.3 Despite clauses 11.20-11.30, only the mover of a motion referred to in clause 9.2 may speak to the motion before it is put.

## 10 Consideration of Business at Council Meetings

### *Business that can be dealt with at a council meeting*

- 10.1 The council must not consider business at a meeting of the council:
- (a) unless a councillor has given notice of the business, as required by clause 4.11, and
  - (b) unless notice of the business has been sent to the councillors in accordance with clause 4.8 in the case of an ordinary meeting and clause 4.10 in the case of an extraordinary meeting.
- 10.2 Clause 10.1 does not apply to the consideration of business at a meeting, if the business:
- (a) is already before, or directly relates to, a matter that is already before the council, or
  - (b) is the election of a chairperson to preside at the meeting, or
  - (c) subject to clause 10.9, is a matter or topic put to the meeting by way of a mayoral minute, or
  - (d) is a motion for the adoption of recommendations of a committee, including, but not limited to, a committee of the council.
- 10.3 Despite clause 10.1, business may be considered at a meeting of the council even though due notice of the business has not been given to the councillors if:
- (a) a motion is passed to have the business considered at the meeting, and
  - (b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.
- 10.4 A motion moved under clause 10.3(a) can be moved without notice. Despite clauses 11.20-11.30, only the mover of a motion referred to in clause 10.3(a) can speak to the motion before it is put.
- 10.5 A motion of dissent cannot be moved against a ruling by the chairperson under clause 10.3(b).

### *Late items*

- 10.6 In exceptional circumstances reports not listed for consideration on the business paper may be tabled at an ordinary meeting. The chief executive officer is authorised to submit late agenda items.
- 10.7 Late reports should only be brought forward in the case of necessity and urgency, on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council, and are to be forwarded to councillors via email no later than 12 noon on the day prior to the meeting at which the item is to be considered.
- 10.8 For matters not listed on the agenda of meetings and where less than three days' notice has been provided in accordance with clause 4.8, a motion of urgency will need to be passed by the council prior to the matter being considered. The motion of urgency is to include the reason why the matter is considered to be urgent.

### *Mayoral minutes*

- 10.9 Subject to clause 10.12, if the mayor is the chairperson at a meeting of the council, the



mayor may, by minute signed by the mayor, put to the meeting without notice any matter or topic that is within the jurisdiction of council, or of which the council has official knowledge.

- 10.10 A mayoral minute, when put to a meeting, takes precedence over all business on the council's agenda for the meeting. The chairperson (but only if the chairperson is the mayor) may move the adoption of a mayoral minute without the motion being seconded.
- 10.11 A recommendation made in a mayoral minute put by the mayor is, so far as it is adopted by the council, a resolution of the council.
- 10.12 A mayoral minute must not be used to put without notice (in accordance with clauses 4.8 and 4.10) matters that are routine and not urgent, or matters for which proper notice should be given because of their complexity. For the purpose of this clause, a matter will be urgent where it requires a decision by the council before the next scheduled ordinary meeting of the council.
- 10.13 Where a mayoral minute makes a recommendation which, if adopted, would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan, it must identify the source of funding for the expenditure that is the subject of the recommendation. The mayor should liaise with the chief executive officer for assistance in costing a mayoral minute and identifying potential funding sources. If the mayoral minute does not identify a funding source, the council must defer consideration of the matter, pending a report from the chief executive officer on the availability of funds for implementing the recommendation if adopted.

### **Staff reports**

- 10.14 A recommendation made in a staff report is, so far as it is adopted by the council, a resolution of the council.

### **Reports of committees of council**

- 10.15 The recommendations of a committee of the council are, so far as they are adopted by the council, resolutions of the council.
- 10.16 If in a report of a committee of the council distinct recommendations are made, the council may make separate decisions on each recommendation.

### **Questions**

- 10.17 A question must not be asked at a meeting of the council unless it concerns a matter on the agenda of the meeting or notice has been given of the question in accordance with clauses 4.11 and 4.16.
- 10.18 A councillor may, through the chairperson, put a question to another councillor about a matter on the agenda.
- 10.19 A councillor may, through the chief executive officer, put a question to a council employee about a matter on the agenda. Council employees are only obliged to answer a question put to them through the chief executive officer at the direction of the chief executive officer.
- 10.20 A councillor or council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents. Where a councillor or council employee to whom a question is put is unable to respond to the question at the meeting at which it is put, they may take it on notice and report the response to the next meeting of the council.
- 10.21 The councillor must put questions directly, succinctly, respectfully and without argument.

- 10.22 The chairperson must not permit discussion on any reply to, or refusal to reply to, a question, including questions with notice asked in accordance with clause 4.16, put to a councillor or council employee.

## 11 Rules of Debate

### *Motions to be seconded*

- 11.1 Unless otherwise specified in this code, a motion or an amendment cannot be debated unless or until it has been seconded.

### *Notices of motion*

- 11.2 A councillor who has submitted a notice of motion under clause 4.11 is to move the motion the subject of the notice of motion at the meeting at which it is to be considered.
- 11.3 If a councillor who has submitted a notice of motion under clause 4.11 wishes to withdraw it after the agenda and business paper for the meeting at which it is to be considered have been sent to councillors, the councillor may request the withdrawal of the motion when it is before the council. Councillors are encouraged to withdraw their motion prior to public address at the meeting.
- 11.4 In the absence of a councillor who has placed a notice of motion on the agenda for a meeting of the council:
- (a) any other councillor may move the motion at the meeting, or
  - (b) the chairperson may defer the motion until the next meeting of the council at which the motion can be considered.

### *Chairperson's duties with respect to motions*

- 11.5 It is the duty of the chairperson at a meeting of the council to receive and put to the meeting any lawful motion that is brought before the meeting.
- 11.6 The chairperson must rule out of order any motion or amendment to a motion that is unlawful or the implementation of which would be unlawful.
- 11.7 Before ruling out of order a motion or an amendment to a motion under clause 11.6, the chairperson is to give the mover an opportunity to clarify or amend the motion or amendment.
- 11.8 Any motion, amendment or other matter that the chairperson has ruled out of order is taken to have been lost.

### *Motions requiring the expenditure of funds*

- 11.9 A motion or an amendment to a motion which if passed would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the motion. Councillors should liaise with the chief executive officer for assistance in costing notices of motion and identifying potential funding sources in sufficient time to complete the notice of motion and meet the deadline in clause 4.11. If the motion does not identify a funding source, the council must defer consideration of the matter, pending a report from the chief executive officer on the availability of funds for implementing the motion if adopted.

### ***Amendments to motions***

- 11.10 An amendment to a motion must be moved and seconded before it can be debated.
- 11.11 An amendment to a motion must relate to the matter being dealt with in the original motion before the council and must not be a direct negative of the original motion. An amendment to a motion which does not relate to the matter being dealt with in the original motion, or which is a direct negative of the original motion, must be ruled out of order by the chairperson.
- 11.12 The mover of an amendment is to be given the opportunity to explain any uncertainties in the proposed amendment before a seconder is called for.
- 11.13 If an amendment has been lost, a further amendment can be moved to the motion to which the lost amendment was moved, and so on, but no more than one motion and one proposed amendment can be before council at any one time.
- 11.14 While an amendment is being considered, debate must only occur in relation to the amendment and not the original motion. Debate on the original motion is to be suspended while the amendment to the original motion is being debated.
- 11.15 If the amendment is carried, it becomes the motion and is to be debated. If the amendment is lost, debate is to resume on the original motion.
- 11.16 An amendment may become the motion without debate or a vote where it is accepted by the councillor who moved the original motion.

### ***Foreshadowed motions***

- 11.17 A councillor may propose a foreshadowed motion in relation to the matter the subject of the original motion before the council, without a seconder during debate on the original motion. The foreshadowed motion is only to be considered if the original motion is lost or withdrawn and the foreshadowed motion is then moved and seconded. If the original motion is carried, the foreshadowed motion lapses.
- 11.18 Where an amendment has been moved and seconded, a councillor may, without a seconder, foreshadow a further amendment that they propose to move after the first amendment has been dealt with. There is no limit to the number of foreshadowed amendments that may be put before the council at any time. However, no discussion can take place on foreshadowed amendments until the previous amendment has been dealt with and the foreshadowed amendment has been moved and seconded.
- 11.19 Foreshadowed motions and foreshadowed amendments are to be considered in the order in which they are proposed. However, foreshadowed motions cannot be considered until all foreshadowed amendments have been dealt with.

### ***Limitations on the number and duration of speeches***

- 11.20 A councillor who, during a debate at a meeting of the council, moves an original motion, has the right to speak on each amendment to the motion and a right of general reply to all observations that are made during the debate in relation to the motion, and to any amendment to it at the conclusion of the debate before the motion (whether amended or not) is finally put.
- 11.21 A councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.
- 11.22 A councillor may speak only once on a motion or an amendment for a maximum of five

minutes at any one time unless the consent of council has otherwise been given.

11.23 Despite clause 11.22, the chairperson may permit a councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment and for longer than five minutes on that motion or amendment to enable the councillor to make a statement limited to explaining the misrepresentation or misunderstanding.

11.24 Despite clause 11.22, the council may resolve to shorten the duration of speeches to expedite the consideration of business at a meeting.

**Note: Council resolved on 28 May 2019 (Resolution 170/19) that as a matter of efficiency in Council meetings, there be a standing reduction applied to all councillor speeches from five minutes to three minutes with the option of an additional two minutes to conclude a speech where resolved by Council.**

11.25 Despite clauses 11.20 and 11.21, a councillor may move that a motion or an amendment be now put:

- (a) if the mover of the motion or amendment has spoken in favour of it and no councillor expresses an intention to speak against it, or
- (b) if at least two councillors have spoken in favour of the motion or amendment and at least two councillors have spoken against it.

11.26 The chairperson must immediately put to the vote, without debate, a motion moved under clause 11.25. A seconder is not required for such a motion.

11.27 If a motion that the original motion or an amendment be now put is passed, the chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised their right of reply under clause 11.20.

11.28 If a motion that the original motion or an amendment be now put is lost, the chairperson must allow the debate on the original motion or the amendment to be resumed.

11.29 All councillors must be heard without interruption and all other councillors must, unless otherwise permitted under this code, remain silent while another councillor is speaking.

11.30 Once the debate on a matter has concluded and a matter has been dealt with, the chairperson must not allow further debate on the matter.



## 12 Voting

### *Voting entitlements of councillors*

- 12.1 Each councillor is entitled to one vote.

**Note: Clause 12.1 reflects section 370(1) of the Act.**

- 12.2 The person presiding at a meeting of the council has, in the event of an equality of votes, a second or casting vote.

**Note: Clause 12.2 reflects section 370(2) of the Act.**

- 12.3 Where the chairperson declines to exercise, or fails to exercise, their second or casting vote, in the event of an equality of votes, the motion being voted upon is lost.

### *Voting at council meetings*

- 12.4 A councillor who is present at a meeting of the council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.
- 12.5 Voting at a meeting, including voting in an election at a meeting, is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system). However, the council may resolve that the voting in any election by councillors for mayor or deputy mayor is to be by secret ballot.
- 12.6 All voting at council meetings, (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded.

### *Voting on planning decisions*

- 12.7 The chief executive officer must keep a register containing, for each planning decision made at a meeting of the council or a council committee (including, but not limited to a committee of the council), the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.
- 12.8 Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document.
- 12.9 Clauses 12.7–12.8 apply also to meetings that are closed to the public.

**Note: Clauses 12.7–12.8 reflect section 375A of the Act.**

## 13 Committee of the Whole

- 13.1 The council may resolve itself into a committee to consider any matter before the council.

**Note: Clause 13.1 reflects section 373 of the Act.**

- 13.2 All the provisions of this code relating to meetings of the council, so far as they are applicable, extend to and govern the proceedings of the council when in committee of the whole, except the provisions limiting the number and duration of speeches.

**Note: Clauses 11.20-11.30 limit the number and duration of speeches.**

- 13.3 The chief executive officer or, in the absence of the chief executive officer, an employee of the council designated by the chief executive officer, is responsible for reporting to the council the proceedings of the committee of the whole. It is not necessary to report the proceedings in full but any recommendations of the committee must be reported.
- 13.4 The council must ensure that a report of the proceedings (including any recommendations of the committee) is recorded in the council's minutes. However, the council is not taken to have adopted the report until a motion for adoption has been made and passed.

## 14 Dealing with Items by Exception

*[Amended]* 14.1 The council or a committee of council may, at any time, resolve to adopt multiple items of business on the agenda together ~~by way of a single resolution~~.

*[insert new] clause [14.2 - new]:* **Notices of motion submitted by councillors in accordance with clause 4.11 may, at any time, be resolved together and will require a mover (as required by clause 11.2) and a seconder for each notice of motion.**

*[Amended]* 14.[2] Before the council or committee resolves to adopt multiple items of business on the agenda together under clause 14.1, the chairperson must list the items of business to be adopted and ask councillors to identify any of the individual items of business listed by the chairperson that they intend to vote against the recommendation **or notice of motion** made in the business paper or that they wish to speak on.

*[Amended]* 14.[3] The council or committee must not resolve to adopt any item of business under clause 14.1 that a councillor has identified as being one they intend to vote against the recommendation **or notice of motion** made in the business paper or to speak on.

- 14.4 Where a councillor wishes to commend council staff on an item of business due to be adopted under clause 14.1 a notation in the minutes can be included at the discretion of the chief executive officer. If councillors wish to include specific wording this must be submitted to the chief executive officer by 12 noon on the working day following the meeting.
- 14.5 Where the consideration of multiple items of business together under clause 14.1 involves a variation to the order of business for the meeting, the council or committee must resolve to alter the order of business in accordance with clause 9.2.
- 14.6 A motion to adopt multiple items of business together under clause 14.1 must identify each of the items of business to be adopted and state that they are to be adopted as recommended in the business paper.
- 14.7 Items of business adopted under clause 14.1 are to be taken to have been unanimously adopted.
- 14.8 Where a councillor has declared a pecuniary or significant non-pecuniary conflict of interest in a report that councillor should remove themselves from the council chamber and not vote on the resolution to adopt the reports by exception.

## 15 Closure of Council Meetings to the Public

### *Grounds on which meetings can be closed to the public*

- 15.1 The council or a committee of the council may close to the public so much of its meeting as comprises the discussion or the receipt of any of the following types of matters:
- (a) personnel matters concerning particular individuals (other than councillors),
  - (b) the personal hardship of any resident or ratepayer,
  - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
  - (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret,
  - (e) information that would, if disclosed, prejudice the maintenance of law,
  - (f) matters affecting the security of the council, councillors, council staff or council property,
  - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,
  - (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land,
  - (i) alleged contraventions of the council's code of conduct.

**Note: Clause 15.1 reflects section 10A(1) and (2) of the Act.**

- 15.2 The council or a committee of the council may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.

**Note: Clause 15.2 reflects section 10A(3) of the Act.**

### *Matters to be considered when closing meetings to the public*

- 15.3 A meeting is not to remain closed during the discussion of anything referred to in clause 15.1:
- (a) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
  - (b) if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret – unless the council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

**Note: Clause 15.3 reflects section 10B(1) of the Act.**

- 15.4 A meeting is not to be closed during the receipt and consideration of information or advice referred to in clause 15.1(g) unless the advice concerns legal matters that:

- (a) are substantial issues relating to a matter in which the council or committee is

involved, and

- (b) are clearly identified in the advice, and
- (c) are fully discussed in that advice.

**Note: Clause 15.4 reflects section 10B(2) of the Act.**

- 15.5 If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in clause 15.2), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting other than consideration of whether the matter concerned is a matter referred to in clause 15.1.

**Note: Clause 15.5 reflects section 10B(3) of the Act.**

- 15.6 For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:

- (a) a person may misinterpret or misunderstand the discussion, or
- (b) the discussion of the matter may:
  - (i) cause embarrassment to the council or committee concerned, or to councillors or to employees of the council, or
  - (ii) cause a loss of confidence in the council or committee.

**Note: Clause 15.6 reflects section 10B(4) of the Act.**

- 15.7 In deciding whether part of a meeting is to be closed to the public, the council or committee concerned must consider any relevant guidelines issued by the chief executive of the Office of Local Government.

**Note: Clause 15.7 reflects section 10B(5) of the Act.**

### ***Notice of likelihood of closure not required in urgent cases***

- 15.8 Part of a meeting of the council, or of a committee of the council, may be closed to the public while the council or committee considers a matter that has not been identified in the agenda for the meeting under clause 4.23 as a matter that is likely to be considered when the meeting is closed, but only if:

- (a) it becomes apparent during the discussion of a particular matter that the matter is a matter referred to in clause 15.1, and
- (b) the council or committee, after considering any representations made under clause 15.9, resolves that further discussion of the matter:
  - (i) should not be deferred (because of the urgency of the matter), and
  - (ii) should take place in a part of the meeting that is closed to the public.

**Note: Clause 15.8 reflects section 10C of the Act.**

### ***Representations by members of the public***

- 15.9 The council, or a committee of the council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.



**Note: Clause 15.9 reflects section 10A(4) of the Act.**

- 15.10 A representation under clause 15.9 is to be made after the motion to close the part of the meeting is moved and seconded.
- 15.11 Where the matter has been identified in the agenda of the meeting under clause 4.23 as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under clause 15.9, members of the public must first make an application to the council in the approved form. Applications must be received by 12 noon on the day before the meeting at which the matter is to be considered.
- 15.12 The chief executive officer (or their delegate) may refuse an application made under clause 15.11. The chief executive officer or their delegate must give reasons in writing for a decision to refuse an application.
- 15.13 No more than two speakers are to be permitted to make representations under clause 15.9.
- 15.14 If more than the permitted number of speakers applies to make representations under clause 15.9, the chief executive officer or their delegate may request the speakers to nominate from among themselves the persons who are to make representations to the council. If the speakers are not able to agree on whom to nominate to make representations under clause 15.9, the chief executive officer or their delegate is to determine who will make representations to the council.
- 15.15 The chief executive officer (or their delegate) is to determine the order of speakers.
- 15.16 Where the council or a committee of the council proposes to close a meeting or part of a meeting to the public in circumstances where the matter has not been identified in the agenda for the meeting under clause 4.23 as a matter that is likely to be considered when the meeting is closed to the public, the chairperson is to invite representations from the public under clause 15.9 after the motion to close the part of the meeting is moved and seconded. The chairperson is to permit no more than two speakers to make representations in such order as determined by the chairperson.
- 15.17 Each speaker will be allowed three minutes to make representations, and this time limit is to be strictly enforced by the chairperson. Speakers are to confine their representations to whether the meeting should be closed to the public. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.

***Expulsion of non-councillors from meetings closed to the public***

- 15.18 If a meeting or part of a meeting of the council or a committee of the council is closed to the public in accordance with section 10A of the Act and this code, any person who is not a councillor and who fails to leave the meeting when requested, may be expelled from the meeting as provided by section 10(2)(a) or (b) of the Act.
- 15.19 If any such person, after being notified of a resolution or direction expelling them from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary restrain that person from re-entering that place for the remainder of the meeting.

***Information to be disclosed in resolutions closing meetings to the public***

- 15.20 The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting. The grounds must specify the following:

- (a) the relevant provision of section 10A(2) of the Act,
- (b) the matter that is to be discussed during the closed part of the meeting,
- (c) the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

**Note: Clause 15.20 reflects section 10D of the Act.**

### ***Resolutions passed at closed meetings to be made public***

- 15.21 If the council passes a resolution during a meeting, or a part of a meeting, that is closed to the public, the chairperson must make the resolution public as soon as practicable after the meeting, or the relevant part of the meeting, has ended, and the resolution must be recorded in the publicly available minutes of the meeting.
- 15.22 Resolutions passed during a meeting, or a part of a meeting, that is closed to the public will be made public by the chairperson under clause 15.21 by displaying the resolutions on the public screens during the meeting and on the livestream of the meeting webcast.

## 16 Keeping Order at Meetings

### *Points of order*

- 16.1 A councillor may draw the attention of the chairperson to an alleged breach of this code by raising a point of order. A point of order does not require a seconder.
- 16.2 A point of order cannot be made with respect to adherence to the principles contained in clause 2.1.
- 16.3 A point of order must be taken immediately it is raised. The chairperson must suspend business before the meeting and permit the councillor raising the point of order to state the provision of this code they believe has been breached. The chairperson must then rule on the point of order – either by upholding it or by overruling it.

### *Questions of order*

- 16.4 The chairperson, without the intervention of any other councillor, may call any councillor to order whenever, in the opinion of the chairperson, it is necessary to do so.
- 16.5 A councillor who claims that another councillor has committed an act of disorder, or is out of order, may call the attention of the chairperson to the matter.
- 16.6 The chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the council.
- 16.7 The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

### *Motions of dissent*

- 16.8 A councillor can, without notice, move to dissent from a ruling of the chairperson on a point of order or a question of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.
- 16.9 If a motion of dissent is passed, the chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been rejected as out of order, the chairperson must restore the motion or business to the agenda and proceed with it in due course.
- 16.10 Despite any other provision of this code, only the mover of a motion of dissent and the chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

### *Acts of disorder*

- 16.11 A councillor commits an act of disorder if the councillor, at a meeting of the council or a committee of the council:
  - (a) contravenes the Act or any regulation in force under the Act or this code, or
  - (b) assaults or threatens to assault another councillor or person present at the meeting, or
  - (c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the council or the committee, or addresses or attempts to address the council or the committee on such a motion, amendment or matter, or

- (d) insults or makes personal reflections on or imputes improper motives to any other council official, or alleges a breach of the council's code of conduct, or
- (e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the council or the committee into disrepute.

16.12 The chairperson may require a councillor:

- (a) to apologise without reservation for an act of disorder referred to in clauses 16.11(a) or (b), or
- (b) to withdraw a motion or an amendment referred to in clause 16.11(c) and, where appropriate, to apologise without reservation, or
- (c) to retract and apologise without reservation for an act of disorder referred to in clauses 16.11(d) and (e).

### ***How disorder at a meeting may be dealt with***

16.13 If disorder occurs at a meeting of the council, the chairperson may adjourn the meeting for a period of not more than fifteen minutes and leave the chair. The council, on reassembling, must, on a question put from the chairperson, decide without debate whether the business is to be proceeded with or not. This clause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of councillors.

### ***Expulsion from meetings***

- 16.14 All chairpersons of meetings of the council and committees of the council are authorised under this code to expel any person other than a councillor, from a council or committee meeting, for the purposes of section 10(2)(b) of the Act. Councillors may only be expelled by resolution of the council or the committee of the council.
- 16.15 Clause 16.14, does not limit the ability of the council or a committee of the council to resolve to expel a person, including a councillor, from a council or committee meeting, under section 10(2)(a) of the Act.
- 16.16 A councillor may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for having failed to comply with a requirement under clause 16.12. The expulsion of a councillor from the meeting for that reason does not prevent any other action from being taken against the councillor for the act of disorder concerned.
- 16.17 A member of the public may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for engaging in or having engaged in disorderly conduct at the meeting.
- 16.18 Where a councillor or a member of the public is expelled from a meeting, the expulsion and the name of the person expelled, if known, are to be recorded in the minutes of the meeting.
- 16.19 If a councillor or a member of the public fails to leave the place where a meeting of the council is being held immediately after they have been expelled, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the councillor or member of the public from that place and, if necessary, restrain the councillor or member of the public from re-entering that place for the remainder of the meeting.

### ***Use of mobile phones and the unauthorised recording of meetings***

- 16.20 Councillors, council staff and members of the public must ensure that mobile phones are turned to silent during meetings of the council and committees of the council.
- 16.21 A person must not live stream or use an audio recorder, video camera, mobile phone or any other device to make a recording of the proceedings of a meeting of the council or a committee of the council without the prior authorisation of the council or the committee.
- 16.22 Any person who contravenes or attempts to contravene clause 16.20, may be expelled from the meeting as provided for under section 10(2) of the Act.
- 16.23 If any such person, after being notified of a resolution or direction expelling them from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place for the remainder of the meeting.



## 17 Conflicts of Interest

- 17.1 All councillors and, where applicable, all other persons, must declare and manage any conflicts of interest they may have in matters being considered at meetings of the council and committees of the council in accordance with the council's code of conduct. All declarations of conflicts of interest and how the conflict of interest was managed by the person who made the declaration must be recorded in the minutes of the meeting at which the declaration was made.

## 18 Decisions of the Council

### *Council decisions*

- 18.1 A decision supported by a majority of the votes at a meeting of the council at which a quorum is present is a decision of the council.

**Note: Clause 18.1 reflects section 371 of the Act.**

- 18.2 Decisions made by the council must be accurately recorded in the minutes of the meeting at which the decision is made.

### *Rescinding or altering council decisions*

- 18.3 A resolution passed by the council may not be altered or rescinded except by a motion to that effect of which notice has been given under clause 4.11.

**Note: Clause 18.3 reflects section 372(1) of the Act.**

- 18.4 If a notice of motion to rescind a resolution is given at the meeting at which the resolution is carried, *or up to 12 noon on the working day following the meeting*, the resolution must not be carried into effect until the motion of rescission has been dealt with.

**Note: Clause 18.4 reflects section 372(2) of the Act (excluding italics text).**

- 18.5 Unless resolved otherwise, it is council's practice not to implement decisions of the council until 12 noon on the working day following the council and/ or committee meeting.

- 18.6 If a motion has been lost by the council, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with clause 4.11.

**Note: Clause 18.6 reflects section 372(3) of the Act.**

- 18.7 A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been lost by the council, must be signed by three councillors if less than three months has elapsed since the resolution was passed, or the motion was lost.

**Note: Clause 18.7 reflects section 372(4) of the Act.**

- 18.8 If a motion to alter or rescind a resolution has been lost, or if a motion which has the same effect as a previously lost motion is lost, no similar motion may be brought forward within three months of the meeting at which it was lost. This clause may not be evaded by substituting a motion differently worded, but in principle the same.

**Note: Clause 18.8 reflects section 372(5) of the Act.**

- 18.9 The provisions of clauses 18.6–18.8 concerning lost motions do not apply to motions of adjournment.

**Note: Clause 18.9 reflects section 372(7) of the Act.**

- 18.10 A notice of motion submitted in accordance with clause 18.7 may only be withdrawn under clause 4.12 with the consent of all signatories to the notice of motion.

- 18.11 A motion to alter or rescind a resolution of the council may be moved on the report of a committee of the council and any such report must be recorded in the minutes of the meeting of the council.

**Note: Clause 18.11 reflects section 372(6) of the Act.**

- 18.12 Subject to clause 18.8, in cases of urgency, a motion to alter or rescind a resolution of the council may be moved at the same meeting at which the resolution was adopted, where:
- (a) a notice of motion signed by three councillors is submitted to the chairperson, and
  - (b) a motion to have the motion considered at the meeting is passed, and
  - (c) the chairperson rules the business that is the subject of the motion is of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.
- 18.13 A motion moved under clause 18.12(b) can be moved without notice. Despite clauses 11.20–11.30, only the mover of a motion referred to in clause 18.12(b) can speak to the motion before it is put.
- 18.14 A motion of dissent cannot be moved against a ruling by the chairperson under clause 18.12(c).

### ***Recommitting resolutions to correct an error***

- 18.15 Despite the provisions of this Part, a councillor may, with the leave of the chairperson, move to recommit a resolution adopted at the same meeting:
- (a) to correct any error, ambiguity or imprecision in the council's resolution, or
  - (b) to confirm the voting on the resolution
- 18.16 In seeking the leave of the chairperson to move to recommit a resolution for the purposes of clause 18.15(a) the councillor is to propose alternative wording for the resolution.
- 18.17 The chairperson must not grant leave under clause 18.16, unless they are satisfied that the proposed alternative wording of the resolution would not alter the substance of the resolution previously adopted at the meeting.
- 18.18 A motion moved under clause 18.15 can be moved without notice. Despite clauses 11.20–11.30, only the mover of a motion referred to in clause 18.15 can speak to the motion before it is put.
- 18.19 A motion of dissent cannot be moved against a ruling by the chairperson under clause 18.15.
- 18.20 A motion moved under clause 18.15 with the leave of the chairperson cannot be voted on unless or until it has been seconded.

## 19 Time Limits on Council Meetings

- 19.1 A short break of not less than 10 minutes is to be taken within the first three hours at each ordinary and extraordinary meeting of council and committees of the council.
- 19.2 Meetings of the council and committees of the council are to conclude no later than 11.00pm.
- 19.3 If the business of the meeting is unfinished at 11.00pm the council or the committee of council may by resolution extend the time of the meeting by one 30 minute interval for the purpose of dealing with the remaining items on the agenda. If at 11.30pm the business of the meeting is not concluded an automatic extension will occur to enable the completion of debate and voting on the current matter (where the matter under consideration has already been moved and seconded).
- 19.4 If the business of the meeting is unfinished at 11.00pm and the council does not resolve to extend the meeting or at the conclusion of any extensions in accordance with clause 19.3, the chairperson must conclude debate and voting on the current matter (where the matter under consideration has already been moved and seconded), then either:
- (a) defer consideration of the remaining items of business on the agenda to the next ordinary meeting of the council, or
  - (b) adjourn the meeting to a time, date and place fixed by the chairperson.
- 19.5 Clause 19.4 does not limit the ability of the council or a committee of the council to resolve to adjourn a meeting at any time. The resolution adjourning the meeting must fix the time, date and place that the meeting is to be adjourned to.
- 19.6 Where a meeting is adjourned under clause 19.4 or 19.5, the chief executive officer must:
- (a) individually notify each councillor of the time, date and place at which the meeting will reconvene, and
  - (b) publish the time, date and place at which the meeting will reconvene on council's website and in such other manner that the chief executive officer is satisfied is likely to bring notice of the time, date and place of the reconvened meeting to the attention of as many people as possible.

## 20 After the Meeting

### *Minutes of meetings*

- 20.1 The council is to keep full and accurate minutes of the proceedings of meetings of the council.

**Note: Clause 20.1 reflects section 375(1) of the Act.**

- 20.2 At a minimum, the chief executive officer must ensure that the following matters are recorded in the council's minutes:
- (a) details of each motion moved at a council meeting and of any amendments moved to it, including:
    - (i) motions which are validly moved, but which lapsed for the want of a seconder,
    - (ii) motions that are ruled out of order by the mayor/chairperson because they are:
      - a) not considered urgent,
      - b) are considered unlawful,
      - c) are considered to be outside of council's jurisdiction.

Note: The wording of motions ruled out of order by the mayor/chairperson will not be included in the minutes (in this case only the mayor's ruling will be included).

- (b) the names of the mover and seconder of the motion or amendment,
  - (c) whether the motion or amendment was passed or lost, and
  - (d) such other matters specifically required under this code.
- 20.3 Notations in minutes requested by individual councillors, except those identified in clause 14.4, will only be included following a resolution of council approving their inclusion.
- 20.4 The minutes of a council meeting must be confirmed at a subsequent meeting of the council.

**Note: Clause 20.4 reflects section 375(2) of the Act.**

- 20.5 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.
- 20.6 When the minutes have been confirmed, they are to be signed by the person presiding at that subsequent meeting.

**Note: Clause 20.6 reflects section 375(2) of the Act.**

- 20.7 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.
- 20.8 The confirmed minutes of a council meeting must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of its meetings on its website prior to their confirmation.



### ***Access to correspondence and reports laid on the table at, or submitted to, a meeting***

- 20.9 The council and committees of the council must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.

**Note: Clause 20.9 reflects section 11(1) of the Act.**

- 20.10 Clause 20.9 does not apply if the correspondence or reports relate to a matter that was received or discussed or laid on the table at, or submitted to, the meeting when the meeting was closed to the public.

**Note: Clause 20.10 reflects section 11(2) of the Act.**

- 20.11 Clause 20.9 does not apply if the council or the committee resolves at the meeting, when open to the public, that the correspondence or reports are to be treated as confidential because they relate to a matter specified in section 10A(2) of the Act.

**Note: Clause 20.11 reflects section 11(3) of the Act.**

- 20.12 Correspondence or reports to which clauses 20.10 and 20.11 apply are to be marked with the relevant provision of section 10A(2) of the Act that applies to the correspondence or report.

### ***Implementation of decisions of the council***

- 20.13 The chief executive officer is to implement, without undue delay, lawful decisions of the council.

**Note: Clause 20.13 reflects section 335(b) of the Act.**

## 21 Council Committees

### *Application of this Part*

21.1 This Part only applies to committees of the council whose members are all councillors.

### *Council committees whose members are all councillors*

21.2 The council may, by resolution, establish such committees as it considers necessary.

21.3 A committee of the council is to consist of the mayor and such other councillors as are elected by the councillors or appointed by the council.

21.4 The quorum for a meeting of a committee of the council is to be:

- (a) such number of members as the council decides, or
- (b) if the council has not decided a number – a majority of the members of the committee.

### *Functions of committees*

21.5 The council must specify the functions of each of its committees when the committee is established, but may from time to time amend those functions.

### *Notice of committee meetings*

21.6 The chief executive officer must send to each councillor regardless of whether they are a committee member, at least three days before each meeting of the committee, a notice specifying:

- (a) the time, date and place of the meeting, and
- (b) the business proposed to be considered at the meeting.

21.7 Notice of less than three days may be given of a committee meeting called in an emergency.

### *Attendance at committee meetings*

21.8 A committee member (other than the mayor) ceases to be a member of a committee if the committee member:

- (a) has been absent from three consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences, or
- (b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.

21.9 Clause 21.8 does not apply if all of the members of the council are members of the committee.

### ***Non-members entitled to attend committee meetings***

21.10 A councillor who is not a member of a committee of the council is entitled to attend, and to speak at a meeting of the committee. However, the councillor is not entitled:

- (a) to give notice of business for inclusion in the agenda for the meeting, or
- (b) to move or second a motion at the meeting, or
- (c) to vote at the meeting.

### ***Chairperson and deputy chairperson of council committees***

21.11 The chairperson of each committee of the council must be:

- (a) the mayor, or
- (b) if the mayor does not wish to be the chairperson of a committee, a member of the committee elected by the council, or
- (c) if the council does not elect such a member, a member of the committee elected by the committee.

21.12 The council may elect a member of a committee of the council as deputy chairperson of the committee. If the council does not elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson.

21.13 If neither the chairperson nor the deputy chairperson of a committee of the council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting chairperson of the committee.

21.14 The chairperson is to preside at a meeting of a committee of the council. If the chairperson is unable or unwilling to preside, the deputy chairperson (if any) is to preside at the meeting, but if neither the chairperson nor the deputy chairperson is able or willing to preside, the acting chairperson is to preside at the meeting.

### ***Procedure in committee meetings***

21.15 Subject to any specific requirements of this code, each committee of the council may regulate its own procedure. The provisions of this code are to be taken to apply to all committees of the council unless the council or the committee determines otherwise in accordance with this clause.

21.16 Whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee is to have a casting vote as well as an original vote unless the council or the committee determines otherwise in accordance with clause 21.15.

21.17 Voting at a council committee meeting is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system).

### ***Closure of committee meetings to the public***

- 21.18 The provisions of the Act and Part 15 of this code apply to the closure of meetings of committees of the council to the public in the same way they apply to the closure of meetings of the council to the public.
- 21.19 If a committee of the council passes a resolution, or makes a recommendation, during a meeting, or a part of a meeting that is closed to the public, the chairperson must make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended, and report the resolution or recommendation to the next meeting of the council. The resolution or recommendation must also be recorded in the publicly available minutes of the meeting.
- 21.20 Resolutions passed during a meeting, or a part of a meeting that is closed to the public must be made public by the chairperson under clause 21.19 during a part of the meeting that is webcast.

### ***Disorder in committee meetings***

- 21.21 The provisions of the Act and this code relating to the maintenance of order in council meetings apply to meetings of committees of the council in the same way as they apply to meetings of the council.

### ***Minutes of council committee meetings***

- 21.22 Each committee of the council is to keep full and accurate minutes of the proceedings of its meetings. At a minimum, a committee must ensure that the following matters are recorded in the committee's minutes:
- (a) details of each motion moved at a meeting and of any amendments moved to it,
  - (b) the names of the mover and seconder of the motion or amendment,
  - (c) whether the motion or amendment was passed or lost, and
  - (d) such other matters specifically required under this code.
- 21.23 All voting at meetings of committees of the council (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded.
- 21.24 The minutes of meetings of each committee of the council must be confirmed at a subsequent meeting of the committee.
- 21.25 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.
- 21.26 When the minutes have been confirmed, they are to be signed by the person presiding at that subsequent meeting.
- 21.27 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.
- 21.28 The confirmed minutes of a meeting of a committee of the council must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of meetings of committees of the council on its website prior to their confirmation.

## 22 Irregularities

22.1 Proceedings at a meeting of a council or a council committee are not invalidated because of:

- (a) a vacancy in a civic office, or
- (b) a failure to give notice of the meeting to any councillor or committee member, or
- (c) any defect in the election or appointment of a councillor or committee member, or
- (d) a failure of a councillor or a committee member to disclose a conflict of interest, or to refrain from the consideration or discussion of, or vote on, the relevant matter, at a council or committee meeting in accordance with the council's code of conduct, or
- (e) a failure to comply with this code.

**Note: Clause 22.1 reflects section 374 of the Act.**



## Appendix One – Procedural Motions

Motion	Moved without Notice	Requires Secunder	Speakers / Debate Permitted	Right of Reply
(i) Change the Order of Business	Yes	Yes	Mover of motion only	No
(ii) Business without Notice (matter of urgency) (clause 10.3)	Yes	Yes	Mover of motion only	No
(iii) Dissent from Chairperson's ruling on Point of Order	Yes	Yes	Mover and chairperson only may speak	No
(iv) Adjournment of Meeting	Yes	Yes	No debate permitted	No
(v) Limitation to number of speakers (motion be now put)	Yes if the mover of the motion or amendment has spoken in favour of it and no councillor expresses an intention to speak against it, or if at least 2 councillors have spoken in favour of the motion or amendment and at least 2 councillors have spoken against it.	No	No debate permitted. Motion must be put immediately after mover of original motion/amendment has right of reply	No
(vi) Deferment of a Matter	Yes	Yes	Yes	Yes
(vii) Motion be dealt with in seriatim	Yes	Yes	Mover of motion only	No

## Version Control

Revision	Date	Change	Ref
1	22/11/2016	Northern Beaches Council Code of Meeting Practice adopted	2016/299769
2	22/05/2018	Northern Beaches Council Code of Meeting Practice adopted	2018/104009
3	28/5/2019	Northern Beaches Council Code of Meeting Practice adopted based on 2018 Office of Local Government Model Code of Meeting Practice	2019/019769
4	TBC	<i>Amendment adopted by Council following public exhibition - Resolution X/2020</i>	