

ITEM 11.10	PLANNING PROPOSAL FOR MANLY CREEK RIPARIAN LANDS IN THE VICINITY OF MERMAID POOL
REPORTING MANAGER	EXECUTIVE MANAGER STRATEGIC AND PLACE PLANNING
TRIM FILE REF	2019/001905
ATTACHMENTS	1 Draft Planning Proposal for submission to the Department of Planning and Environment (Included In Attachments Booklet)

SUMMARY

PURPOSE

To seek Council approval to submit a Planning Proposal to the Department of Planning and Environment to rezone certain land in the vicinity of “Mermaid Pool” from Low Density Residential (R2) to Public Recreation (RE1) under Warringah LEP 2011 and to omit residential development standards and controls that would no longer be relevant for land zoned for Public Recreation.

EXECUTIVE SUMMARY

Council resolved to rezone two parcels of land in the vicinity of “Mermaid Pool” from Low Density Residential (R2) to Public Recreation (RE1) at its Ordinary Meeting on 27 November 2018:

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

In preparing a Planning Proposal to submit to the Department of Planning and Environment for a Gateway determination, Council identified a further two allotments in the vicinity which should also be rezoned in the same manner:

- 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).

It is also proposed to remove development standards for height and minimum lot size for subdivision for this land given residential development will no longer be permitted.

Council’s Environment and Climate Change Division supports the proposal based on the sites’ ecological and scientific values, cultural values (listed Aboriginal Places) and aesthetic and community values. This view is supported by a range of previous studies, investigations and environmental map data.

Council’s Local Planning Panel supports the progression of the Planning Proposal to a Gateway Determination.

Crown Land Office staff have acknowledged the merits of the Planning Proposal but have recommended consultation with the Metropolitan Local Aboriginal Land Council as the lands are subject to claims under the *Aboriginal Land Rights Act 1983*.

It is anticipated that the Department of Planning and Environment will require consultation with the Crown Land Office, Metropolitan Local Aboriginal Land Council and local community stakeholders as a condition of any Gateway approval.

RECOMMENDATION OF GENERAL MANAGER PLANNING PLACE AND COMMUNITY

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.
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REPORT

BACKGROUND

At its Ordinary Meeting on 27 November 2018 Council considered a Notice of Motion (65/2018) in relation to the zoning of various parcels of land around Manly Warringah Memorial Park. As part of Council's resolution (360/18) Council resolved as follows:

That:

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

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

During the preparation of the Planning Proposal a further 2 parcels have also been identified as warranting the same rezoning and are recommended for inclusion into the Planning Proposal:

- 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).

Both these parcels are Crown land in the vicinity of the riparian corridor and zoned Low Density Residential (R2).

The Crown Lands Office and Council's Natural Environment and Climate Change Division have been consulted regarding the inclusion of the parcels in the Planning Proposal and have indicated their support for the proposal.

Figure 1 shows the location of the four parcels of land to be included in the Planning Proposal.

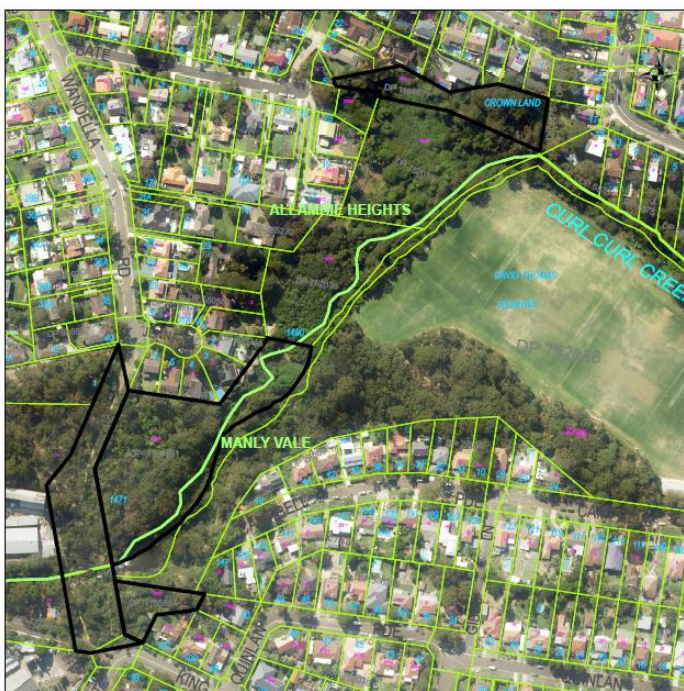


Figure 1: Location of rezoning sites

CONTEXT

The subject lots are located within David Thomas Reserve and surrounding bushland in the vicinity of Manly Creek and Mermaid Pool. The land is part of a creek-line corridor from Manly Dam to Manly Lagoon. While the land is bounded by low density residential development to the north and south, the subject lots and surrounding bushland provide the only vegetative link from Manly Dam to the coast.

The subject lots are zoned R2 Low Density Residential under Warringah LEP 2011 but are included in numerous local and state ecological studies and databases which support the proposed RE1 Public Recreation zoning. Council's Natural Environment and Climate Change Division has identified the following relevant policies and studies:

- Local Habitat Strategy (Warringah Council 2007).
- Warringah Creek Management Study 2000.
- Mapping of Native Vegetation, and Waterways and Riparian Lands Warringah DCP.
- Biodiversity Values Mapping by Office of Environment and Heritage.
- Manly Creek/Mermaid's Pool Restoration Plan (Total Earth Care 2003).

Figure 2 shows the current zoning of the parcels of land and figure 3 shows the proposed zoning of the parcels.

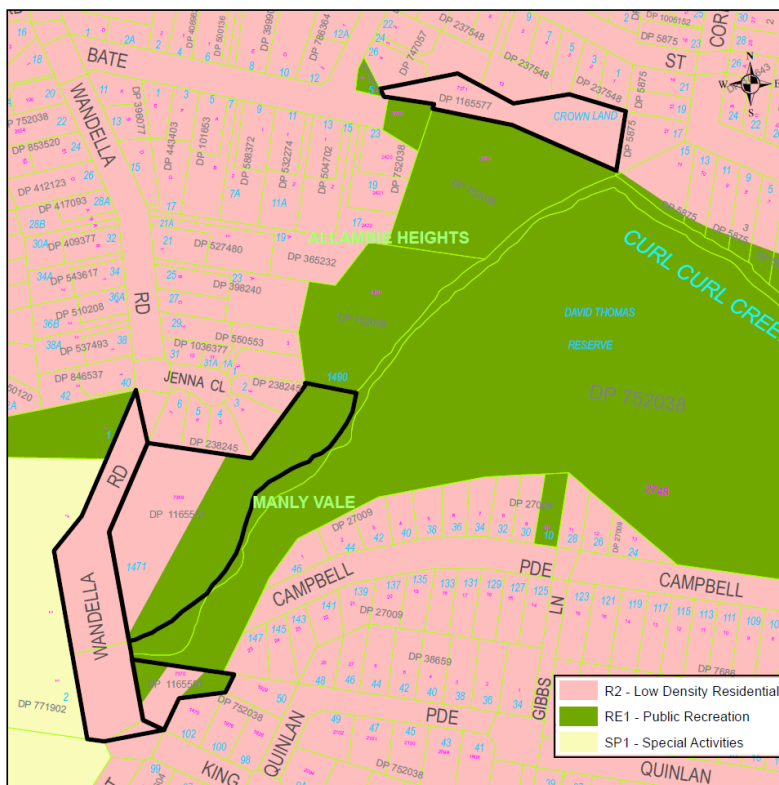


Figure 2: Current zoning under Warringah LEP 2011

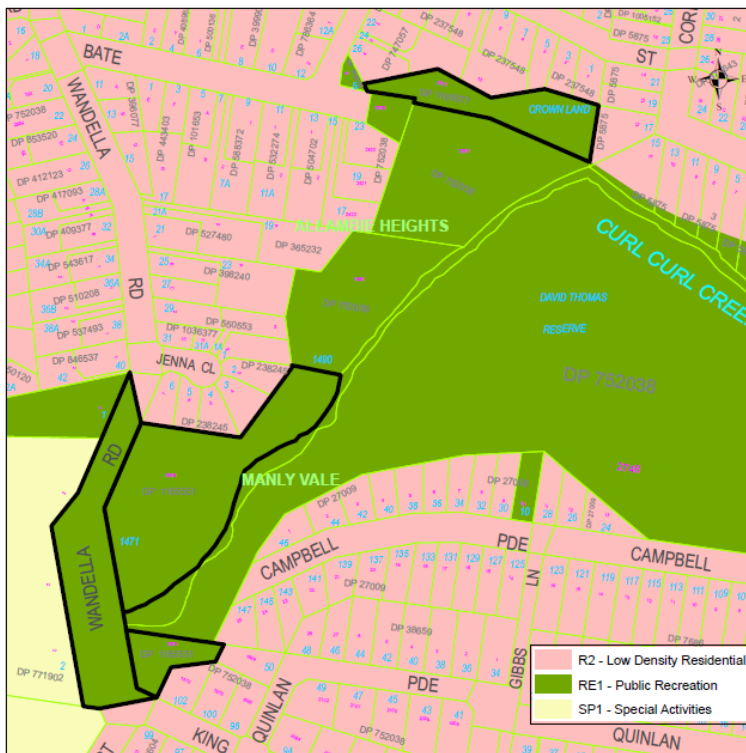


Figure 3: Proposed zoning under Warringah LEP 2011

Planning Proposal

The Planning Proposal (Attachment 1) has been drafted in accordance with the NSW Department of Planning and Environment's Planning Proposals: A guide to preparing planning proposals (2016).

Part 1 of Council's Planning Proposal sets out the Objectives and intended zoning outcomes. In summary, the objectives or intended outcome is to provide planning provisions for certain Crown Land parcels within the riparian corridor of Manly Creek, downstream of Manly Dam, Manly Vale. The land is to be zoned for public open space and recreational purposes and provide for a range of recreational settings, activities and compatible land uses. The planning provisions will better protect and enhance the natural environment and the values of the land.

Part 2 of Council's Planning Proposal provides a detailed explanation of provisions. The Planning Proposal seeks to amend Warringah LEP 2011 by Zoning Map amendments which rezone certain lands from Low Density Residential (R2) to Public Recreation (RE1). It is also proposed that certain residential development standards for height and minimum lot size for subdivision are removed for the subject parcels given residential development will no longer be permitted on the land.

Similarly, it is proposed that a range of residential development controls, including setback and minimum landscaped area controls, are removed from the Warringah DCP for this land.

Part 3 of Council's Planning Proposal justifies the need for the Planning Proposal and identifies that the Planning Proposal is the best means of achieving the objectives or intended outcomes. The Planning Proposal is supported by the objectives and actions contained in the Sydney Region Plan and North District Plan and related strategies. The Planning Proposal is also consistent with Council's local strategies as well as applicable State Environment Planning Policies and Ministerial Directions. In particular, critical habitat or threatened species, populations, or ecological communities, or their habitats, will be positively impacted by the proposal.

There are no likely detrimental environmental, social or economic impacts resulting from the Planning Proposal.

CONSULTATION

Public exhibition of the Planning Proposal will take place following receipt of any Gateway Determination from the Department of Planning and Environment. The Gateway Determination will prescribe the minimum requirements for consultation including the exhibition period and government agency consultation requirements. Council would usually undertake consultation as follows:

- Manly Daily advertisement of the Planning Proposal at the commencement and midway through the exhibition
- Electronic copies of the exhibition material on Council's website
- Hard copies of the exhibition material at Council's Dee Why, Manly and Mona Vale Customer Service Centres
- An email to registered community members who have listed their interest on Council's Community Engagement Register.

The views of State and Commonwealth public authorities would be addressed in consultations undertaken in accordance with the Gateway Determination.

NSW Department of Industry - Lands and Water

Council has consulted the NSW Department of Industry - Lands and Water - Regional Services (Crown Lands Office) in the preparation of the Planning Proposal.

The Crown Lands Office generally confirmed the merits of the Planning Proposal but noted that the lands were subject to Aboriginal Land claims and encouraged consultation with the Metropolitan Local Aboriginal Land Council (MLALC).

Council's Property Assets Team has also advised that part of the land is subject to the Crown Land Negotiation Program involving Crown Lands, Council and MLALC.

Whilst the Department of Planning and Environment has 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', given the possible relationship of the Planning Proposal with these other projects, Council has indicated that the Planning Proposal will be consulted with the Metropolitan Local Aboriginal Land Council.

Other community consultation recommended in the Planning Proposal includes the local environmental conservation group 'Save Manly Dam Catchment Committee' which has been actively involved with the subject land since 2002, including the restoration of Mermaid Pool. This Committee advocates for the establishment of a 'small bird habitat corridor' for the locality and is a relevant community stakeholder in relation to the Planning Proposal.

Local Planning Panel

In accordance with requirements for Planning Proposals introduced by the State government, the report and draft Planning Proposal was submitted to Council's Local Planning Panel meeting on 6 February 2019 for consideration and advice.

The Local Planning Panel supported the progression of the Planning Proposal to a Gateway determination as follows:

Decision of the Panel (unanimous vote 4/0)

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.*

The Local Planning Panel provided a Statement of Reasons for the Decision as follows: The Panel was of the opinion that the planning proposal should proceed as the proposal constitutes the optimal use of the land whilst preserving the environmental integrity of the subject land.

TIMING

It is anticipated that the Planning Proposal will be completed in 6 – 12 months from the date of Council's approval to proceed. Following the issue of a Gateway determination, Council will be required to formally exhibit the Planning Proposal for 28 days. The matter will be reported back to Council for final consideration following that exhibition.

FINANCIAL CONSIDERATIONS

The Planning Proposal process will be undertaken within the existing Strategic and Place Planning budget.

SOCIAL CONSIDERATIONS

The Planning Proposal supports social considerations in relation to rezoning certain land which is well known locally for its beauty and use for public recreation activities including bush walking, and picnics. The local community are invested in the protection and restoration of bushland around Mermaid Pool since a major clean-up of the site in 2002. The site has a long history of human-use and enjoyment for recreational activities. The area also contains listed Aboriginal Places.

ENVIRONMENTAL CONSIDERATIONS

The Planning Proposal supports environmental considerations in relation to rezoning certain land for public open space or recreational purposes and 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 environment and the values of the land.

GOVERNANCE AND RISK CONSIDERATIONS

Rezoning the riparian lands from a residential zone to a public recreational zone will reduce potential risks of this land being developed and compromising its environment qualities.