

Item No: R1 Recommendation to Council
Subject: **DUNARA RESERVE POINT PIPER**
Author: Caitlin Moffat, Team Leader Open Space & Rec Planning
Approvers: Paul Fraser, Manager - Open Space & Trees
Tom O'Hanlon, Director - Technical Services
File No: 15/85263
Reason for Report: Adopted Notice of Motion

Recommendation:

- A. THAT Council prepare a planning proposal to amend Schedule 4: Classification and reclassification of public land in Woollahra Local Environmental Plan 2014 (Woollahra LEP 2014) to reclassify the land known as Dunara Gardens from 'community land' to 'operational land' with the intention of disposing of the land.
- B. THAT a further report be brought to Council on the findings of the public consultation including the public hearing and submissions.

1. Background:

On 10 June, 2014 Council adopted the following Notice of Motion;

That a report be brought to Council within the next three months assessing the land known as Dunara Reserve Point Piper, with a view to rezone the land in order for it to be put up for sale'.

History of the site

On 25 June 1956, Dunara Estate was subdivided into 11 lots. Lot 11 is noted on the deposited plan as, "Public Garden and Recreation Space" and is approximately 400m². The site was transferred unencumbered to Council on 15 July 1957 pursuant to Section 340A of the Local Government Act 1919 as part of the subdivision of the Dunara Estate.



Dunara Gardens – The site

Present situation

The site adjoins 9 Dunara Gardens and 1 Wentworth Street, Point Piper. No. 9 Dunara Gardens has encroached on to part of the site with the construction of a driveway and garage. The remaining portion of the site is unsuitable for use as public open space due its position amongst private dwellings and its topography. It has a small frontage to Wentworth Road of approximately three metres which does not provide appropriate access or passive surveillance into the site. The site presents as part of a private estate rather than public land and member of the public would be hard pressed to recognise it as a public asset, let alone be inclined to enter and use the site for public recreation.

The inaccessibility of the site has resulted in a build-up of vegetation and debris over time, which combined with the slope of the land and the lack of passive surveillance, represents a potential public safety risk and hazard. In addition to this, it has been the location for illegal dumping of domestic waste. Site maintenance to clear the debris and vegetation is a resource burden to Council and is undertaken twice a year. Numerous attempts to replant the site have been unsuccessful.

There are no structures in place that are used by the community and the size and shape of the land restricts the construction of a building for community use. The site currently only offers benefits to the properties immediately adjoining the site.

2. Proposal:

Dunara Gardens provides little to no recreation value for the community. The reclassification of the site would allow Council to dispose of the land, removing the economic burden of managing the site and the potential public safety risk. The funds from the disposal can be used to provide or upgrade other Council services and infrastructure which will benefit the broader community.

Under the Local Government Act 1993 (LG Act) public land must be classified as either community land or operational land. Community land is generally open to the public, for example parks, reserves or sports grounds.

Dunara Gardens is currently classified as community land. Restrictions on community land prevent the site from being disposed of. However, these restrictions do not apply to operational land therefore we propose to recommend the site is reclassified as 'operational land'.

In order to reclassify the land, Council must prepare a planning proposal to amend Schedule 4: Classification and reclassification of public land in Woollahra Local Environmental Plan 2014 (Woollahra LEP 2014). A planning proposal is a document that explains the intended effect of and justification for changes to the LEP planning controls.

The planning proposal would be prepared in accordance with the requirement of the Environmental Planning and Assessment Act 1979 (the Act). Council would forward the planning proposal to the Department of Planning and Environment requesting a gateway determination under section 58(2) of the Act. The Minister, or delegate, will then issue a gateway determination specifying whether the planning proposal is to proceed and if so, in what circumstances. The gateway determination will confirm the information and consultation required before the planning proposal can be publicly exhibited.

Once the conditions of the gateway determination are met, the planning proposal would then be public exhibited, during which time submissions can be made to Council. For planning proposals which reclassify community land to operational, section 29 of the LG Act requires that upon the completion of the public exhibition period Council must hold a public hearing chaired by an independent person. The public hearing allows for further consultation with the community. Consultation is only complete once Council has considered all the submissions made concerning the proposal and the report of the public hearing.

If Council resolves to proceed with the planning proposal, it would be submitted to the Minister requesting a draft LEP that gives effect to the planning proposal. The Minister will then determine whether to finalise and make the LEP under section 59 of the Act.

Should the planning proposal be approved, the Council would then have the opportunity to dispose of the site through Expressions of Interest or Tenders.

3. Conclusion:

It is recommended that Council staff follow the process to reclassify the land known as Dunara Gardens from 'community land' to 'operational land' with the intention of disposing of the land. Dunara Gardens provides little to no benefit to the community and as such is considered a burden for Council to manage.

Annexures

Nil