



PLANNING PROPOSAL

**Proposed amendment to Randwick Local
Environmental Plan 1998 Consolidation:**

*Spot rezoning of Lot 4 DP 809094, Malabar Headland from
2B (Residential B) to 8 (National Park)*

March 2011

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Executive Summary

This Planning Proposal has been prepared in response to the Council resolution of 22 February 2011 that recommends an amendment to the Randwick LEP 1998 (Consolidation) ('RLEP') to rezone Lot 4, Malabar Headland from *2B (Residential B)* to *8 (National Park)* and a Planning Proposal be prepared for a Gateway Determination process.

The Commonwealth Government has recently transferred the ownership of the western edge of Malabar Headland (Lot 4) to the NSW Government for national park and natural reserve purposes. This transfer recognises that Lot 4 will be conserved for its high environmental and recreation values.

The Council has actively pursued the transfer of Malabar Headland to the community for future open space and conservation purposes for many years. This is consistent with the community's aspirations to expand and improve the quality of publicly accessible open space and protect the significant bushland remnants in our City. The draft East Subregional Strategy and Randwick's 20 year City Plan provide specific directions and actions to support and advocate for this.

While the site is currently zoned *2B Residential*, it is proposed to be rezoned *National Park*, consistent with its future intended use. A *National Park* zoning would not only secure the unique natural and cultural heritage values of the subject site but also significantly increase the quantity of publicly accessible open space in Randwick City. The Council recommends that the rezoning should proceed as a matter of priority, given the agreement at all levels of governments on its future use, protection and management as National Park.

This Planning Proposal considers the merits and justification for the proposed rezoning. The proposed *National Park* zoning will then be translated into the equivalent Standard Instrument zone as part of the Comprehensive LEP.

Subject site

Malabar Headland is a valuable community asset with native bushland, native animals and Aboriginal and World War II cultural heritage. The site is predominantly open space containing approximately 23 hectares (ha) of endangered Eastern Suburbs Banksia Scrub (ESBS) (see Figure 1).

Malabar Headland contains three individual lots. Lot 1 (the central lot) is primarily used as a rifle range and provides for a horse riding school. Lot 2 and Lot 4 (the eastern and western lots respectively) are currently listed as a State heritage item and identified as heritage conservation areas under the RLEP.

This Planning Proposal applies to the western section of Malabar Headland, known as Lot 4, DP 809094. Located off Franklin Street, Malabar, the subject site covers a significant area of about 15 ha, with residential areas to the north and west, Pioneers Park immediately to the south and the remaining sections of Malabar Headland to the east. It is currently zoned *2B (Residential B)* under the RLEP (see Figure 2).



Figure 1 ESBS map for Malabar Headland (Source: DECCW)

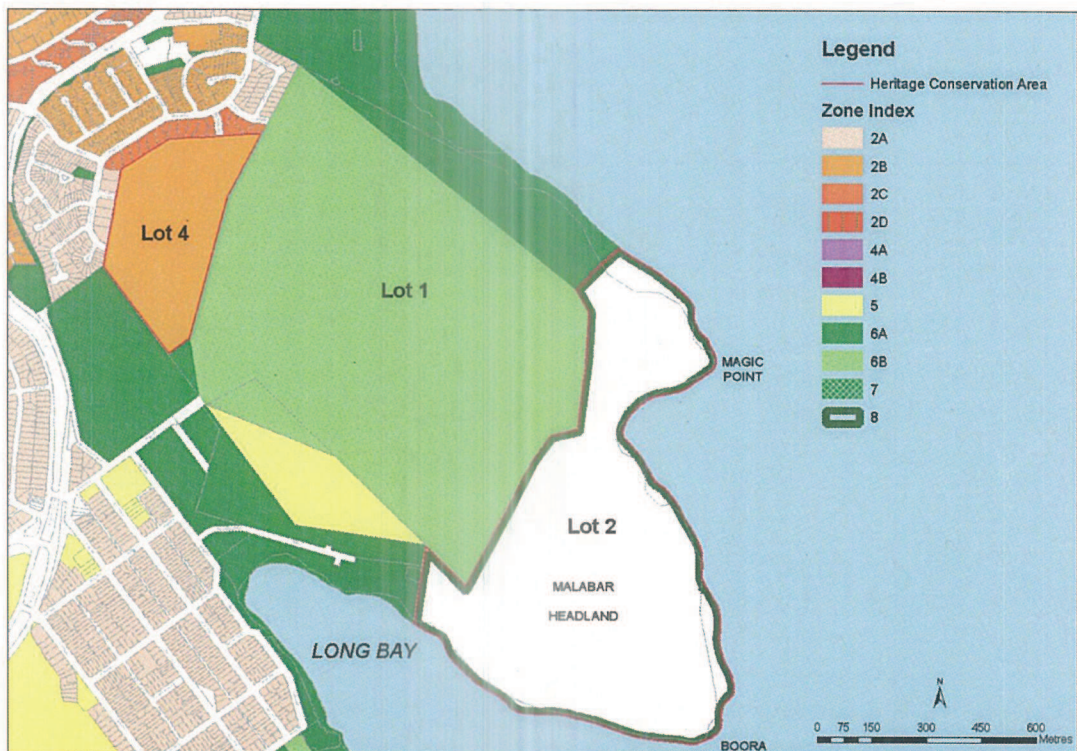


Figure 2 Zoning map under Randwick LEP 1998 (Consolidation)

Planning Proposal

Part 1 – Objectives/ Intended Outcomes

The objectives of the Planning Proposal are to:

- recognise and preserve the significant natural and cultural heritage values of the western edge of Malabar Headland;
- secure and better facilitate its future intended use for national park purposes through a suitable *National Park* zoning; and
- significantly increase the publicly accessible open space in Randwick City.

Part 2 – Explanation of Provisions

The Planning Proposal seeks to change the zoning of the western edge of Malabar Headland, known as Lot 4 of DP 809094, from 2B (*Residential B*) to 8 (*National Park*). It is recommended that this rezoning proceed as an amendment to the RLEP. The Randwick Zoning Map will be amended accordingly to reflect this rezoning proposal, as indicated in Figure 3.

While the land ownership of Lot 4 has recently been transferred from the Commonwealth to the NSW Government for national park and natural reserve purposes, a proposed *National Park* zoning is considered suitable and critical to secure and better facilitate its future use as National Park.

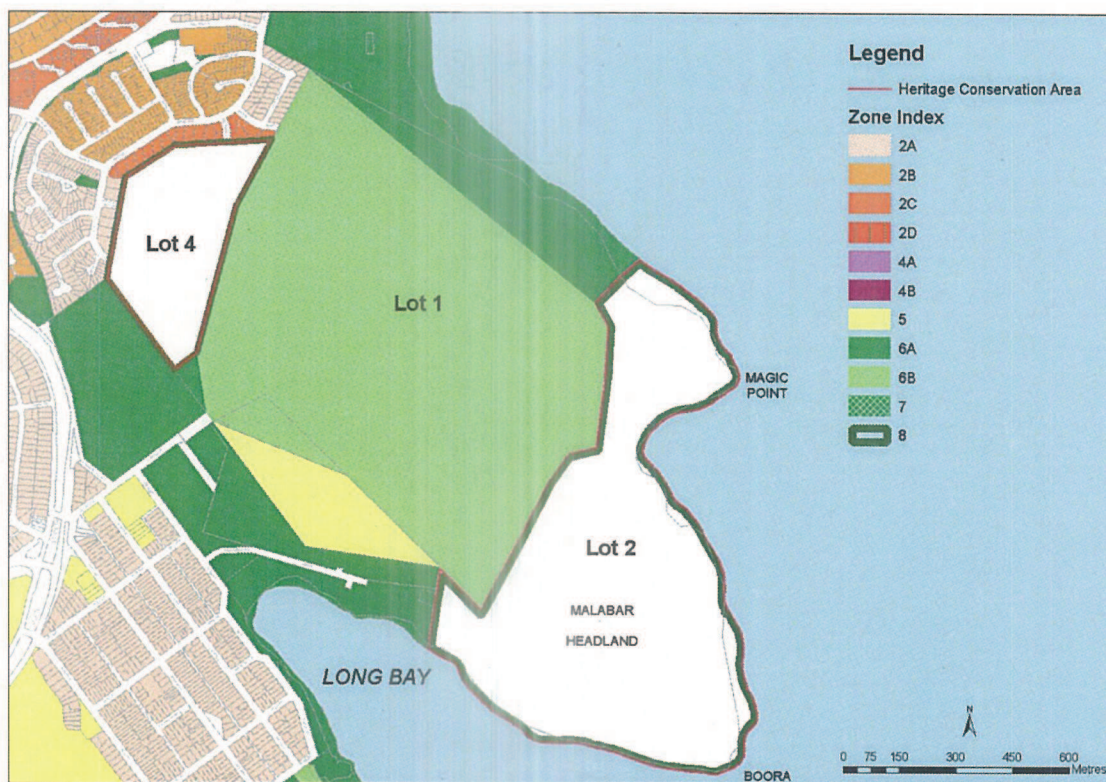


Figure 3 Proposed zoning map

Part 3 – Justification

A1. Is the Planning Proposal the result of any strategic study or report?

While the Planning Proposal is not a direct result of any strategic study or report, it has been prepared in response to a Council resolution dated 22 February 2011 (copy of report attached). The resolution recommends an amendment to the Randwick LEP 1998 (Consolidation) to rezone Lot 4, Malabar Headland from *2B Residential* to *National Park*, requiring the preparation of a Planning Proposal.

Broadly, this Planning Proposal has also been prepared to specifically reflect and respond to the directions and actions relating to the future use and management of Malabar Headland contained in the draft East Subregional Strategy and Randwick's 20 year City Plan (as detailed below in question B1 and B2).

A2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The Council recommends that the rezoning process should commence as a matter of priority, to implement the Commonwealth and NSW Governments transfer and ensure public certainty over the current and future protection of the site.

The rezoning of the site requires an amendment to the RLEP. The best means of amending the RLEP in this circumstance is through a Planning Proposal.

A3. Is there a net community benefit?

It is considered that the Planning Proposal will provide a net positive community benefit. In summary, the Planning Proposal will:

- propose a suitable zoning to better reflect the future use and management of the western Malabar Headland as National Park;
- provide an additional 14.8 ha of publicly accessible open space to the community;
- ensure the long-term protection of the environmental heritage values of the subject site, especially the endangered ESBS ecological community; and
- better facilitate the proposed western walking track to extend Randwick City's coastal walkway from Maroubra beach in the north through to Malabar.

B1. Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Yes. The Planning Proposal is consistent with the vision, land use strategy, policies, outcomes or actions of the Metropolitan Strategy and the draft East Subregional Strategy.

The Metropolitan Strategy is a long-term planning framework to sustainably manage Sydney's growth while enhancing the region's unique lifestyle and environment. Two sub-strategies are relevant and provide directions to this proposal - 'environment and resources' and 'parks and public places'. The Planning Proposal is consistent with the following key objectives:

- Protect Sydney's natural environment
- Achieve sustainable use of natural resources

- Increase access to quality parks and public places
- Provide a diverse mix of parks and public places

The draft East Subregional Strategy sets directions and actions for the implementation of the Metropolitan Strategy at a more detailed local level. The Planning Proposal has been prepared consistent with the following actions:

- Protect Sydney's unique diversity of plants and animals
 - Protect aboriginal cultural heritage
 - Manage the environmental impacts of tourism and visitors
 - Improve access to waterways and links between bushland, parks and centres
 - Improve the quality of local open space
 - Investigate future options for open space provision and management
- State and local governments to work with Commonwealth Government to investigate the long-term use of Malabar Headland for future open space and conservation purposes...*

B2. Is the Planning Proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The Randwick City Plan (adopted in 2006 and updated in 2010) establishes a strategic framework for the next 20 years. The Planning Proposal is consistent with three themes in the Randwick City Plan, including 'Places for People', 'Moving Around' and 'Looking After Our Environment' and three relevant key outcomes, being:

- Outcome 5: Excellence in recreation and lifestyle opportunities
Direction 5C: New open space is created as opportunity arise
Four-year delivery program actions: Advocate the return of Malabar Headland to community open space
- Outcome 9: Integrated and accessible transport
- Outcome 10: A healthy environment

B3. Is the Planning Proposal consistent with applicable state environmental planning policies?

This Planning Proposal is consistent with all applicable state environmental planning policies, as detailed in Attachment 1.

B4. Is the Planning Proposal consistent with applicable Ministerial Directions (s.117 directions)?

This Planning Proposal is consistent with all applicable s.117 directions (refer to Appendix 1). The relevant directions are:

- *Direction 2.3 Heritage Conservation*
The Planning Proposal proposes a *National Park* zoning for the western Malabar Headland, which is considered critical and more suitable (compared to its current *2B* zoning) in recognising and conserving the environmental heritage significance of the subject site.
- *Direction 7.1 Implementation of the Metropolitan Strategy*

The Planning Proposal is consistent with the vision, land use strategy, policies, outcomes or actions of the Metropolitan Strategy and the draft East Subregional Strategy.

C1. 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?

The subject site contains a significant amount of ESBS, listed as endangered under the *Threatened Species Conservation Act 1995* and the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999*.

Rezoning the western Malabar Headland from *2B Residential* to *National Park* will not adversely affect the endangered ESBS ecological community. In fact, its natural heritage values will be further protected through this Planning Proposal.

C2. Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

The Planning Proposal is not considered to result in any adverse environmental impacts. The land will be managed in accordance with the *National Parks and Wildlife Act 1974* (the Act) and any environmental issues will be addressed suitably by the State Government as the new owner following the strict requirements of the Act.

C3. How has the Planning Proposal adequately addressed any social and economic effects?

Social effects

It is expected that the Planning Proposal will bring the following positive social effects:

- to significantly increase the publicly accessible open space in Randwick City;
- to better facilitate the future western walking track; and
- to preserve the endangered bushland remnants.

Economic effects

It is considered that the Planning Proposal will not generate any significant economic effects. The State Government is now responsible for the management of the site. Randwick Council is working with the Commonwealth and State Governments in the Malabar Headland interagency group to jointly plan and fund the proposed western walking track.

D1. Is there adequate public infrastructure for the Planning Proposal?

It is considered that existing infrastructure has sufficient capacity to facilitate the future use of the western Malabar Headland as National Park.

The subject site will have minimal requirements in terms of utilities (i.e. water, electricity, sewer, etc). Public transport and access to the site is reasonable either by bus, road or in the future via the extended coastal walkway track. The site is currently fenced, which is intended to continue to allow controlled access only through the proposed western walking track and provide a continuing protection of the endangered bushland remnants.

D2. What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the Planning Proposal?

The Commonwealth Government provided advice relating to Lot 4 on 20 January 2011 (see attached), indicating support for a future *National Park* zone.

This section will be completed following further consultation with relevant State and Commonwealth Public Authorities as identified in the Gateway Determination. Any proposed variations to the Planning Proposal would be addressed in the submission following the consultation period.

Part 4 – Community Consultation

Council proposes that the Planning Proposal will be exhibited in accordance with the requirements of section 57 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and/or any other requirements as specified by the Gateway Determination process under section 56 of the EP&A Act.

This Planning Proposal is considered a 'low impact Planning Proposal', which requires an exhibition period of 14 days, consistent with the Department of Planning's guidelines for preparation of local government plans and Planning Proposals.

Public exhibition of the Planning Proposal will include:

- an notice in the local newspaper;
- exhibition of the Planning Proposal, Gateway Determination and other relevant documentation at the Council's Administration Building, libraries and on Council's website; and
- written notification to adjoining landowners advising of the proposed rezoning.

The community consultation process will not be completed unless the Council has considered any submissions received concerning the proposed rezoning during the exhibition period.

Appendix 1 State Environmental Planning Policies (as at 2 March 2011)

Policy	Comment
SEPP (Infrastructure) 2007	Consistent. The Planning Proposal considers the specific planning provisions contained in Division 12 – Parks and other public reserves of the Infrastructure SEPP.
SEPP No.19 – Bushland in Urban Areas	Consistent. The Planning Proposal aims to protect and preserve the high natural heritage values of the western part of Malabar Headland which is consistent with the essential directions of SEPP 19.
SEPP No. 55 - Remediation of Land	Consistent. The Planning Proposal has considered SEPP 55 and accompanying guidelines. We understand that the Commonwealth and State Governments have addressed any remediation requirements as part of the transfer.
SEPP No. 71 - Coastal Protection	Consistent. The subject site is located within the coastal zone of Randwick City as identified under SEPP 71. The SEPP outlines key matters for consideration for coastal planning and management. One of the key issues, which has been considered in this Planning Proposal is 'maintaining and providing opportunities for public access to and along the coastal foreshore'.

Appendix 2: Section 117 (2) Directions (at February 2011)

Direction	Comment
1. <i>Employment and Resources</i>	
1.1 Business and Industrial Zones	N/A
1.2 Rural Zones	N/A
1.3 Mining, Petroleum Production and Extractive Industries	N/A
1.4 Oyster Aquaculture	N/A
1.5 Rural Lands	N/A
2. <i>Environment and Heritage</i>	
2.1 Environment Protection Zones	N/A
2.2 Coastal Protection	N/A
2.3 Heritage Conservation	Consistent
2.4 Recreation Vehicle Areas	N/A
3. <i>Housing, Infrastructure and Urban Development</i>	
3.1 Residential Zones	N/A
3.2 Caravan Parks and Manufactured Home Estates	N/A
3.3 Home Occupations	N/A
3.4 Integrating Land Use and Transport	N/A
3.5 Development Near Licensed Aerodromes	N/A
4. <i>Hazard and Risk</i>	
4.1 Acid Sulfate Soils	N/A
4.2 Mine Subsidence and Unstable Land	N/A
4.3 Flood Prone Land	N/A
4.4 Planning for Bushfire Protection	N/A
5. <i>Regional Planning - Not applicable to the Randwick City LGA</i>	
6. <i>Local Plan Making</i>	
6.1 Approval and Referral Requirements	N/A
6.2 Reserving Land for Public Purposes	N/A
6.3 Site Specific Provisions	N/A
7. <i>Metropolitan Planning</i>	
7.1 Implementation of the Metropolitan Strategy	Consistent

Mayoral Minute No. MM19/11



Subject: Malabar Headland - securing the proposed National Park

Folder No: F2004/06759

Author: Councillor Matson, Mayor

Introduction

I am pleased to note that the Commonwealth and NSW Governments have recently agreed to transfer the ownership of the western part of Malabar Headland (known as Lot 4) from the Commonwealth to the NSW Government for National Park purposes, noting that this will occur on or before 28 February 2011. This transfer is required as National Parks in NSW are actually a state responsibility for ownership and management.

This transfer recognises that Lot 4, which is currently zoned for 2B Residential (allowing low to medium density housing), will be conserved for its environmental and recreation values. Lot 4 contains significant areas of ESBS. The Lot will also need to be rezoned to 'National Park and Nature Reserve'. I am recommending that this rezoning should take place as soon as possible and am seeking the Council's support to commence a one-off spot rezoning for this Lot.

The Council has also been investigating the potential for a western walking track, in conjunction with both the Commonwealth and NSW Governments, which extends through Lot 4 and the western part of Lot 1, which also contains some ESBS. I am recommending that it would be environmentally beneficial for the part of Lot 1 containing the ESBS to be included in a boundary modification to Lot 4.

Issues

Lot 4 rezoning.

I have previously raised this matter with the Council in a Mayoral Minute of 23 November 2010, noting that the rezoning of Lot 4 (see attached map) should occur prior to the Council's preparation of the Comprehensive LEP via a one-off spot rezoning. I noted that the significance of this location warrants a rezoning as soon as possible. The Council agreed and resolved to write to the local Federal Member, Mr Peter Garrett, to seek his Government's support for the one-off spot rezoning. The Commonwealth has separately written and advised, as part of the Comprehensive LEP preparations, that Lot 4 should be rezoned to 'National Park and Nature Reserve'.

I am concerned that this should commence as soon as possible given uncertainty about any conditions of the Commonwealth and NSW transfer and whether these will be sufficient to guarantee that the land is returned to the community as national park.

The Council can commence a rezoning process (now called a 'planning proposal'), to amend the Council's Randwick LEP 1998 (Consolidation), which must be reported to and agreed by the NSW government to proceed, through a process known as the 'Gateway determination'.

Modification of Lot 4

The proposed western walking track would traverse Lot 4 and extend our City's coastal walkway from Maroubra beach in the north through to Malabar. Lot 4 contains substantial areas of Eastern Suburbs Banksia Scrub (ESBS), an endangered

ecological community, which would be respected in a walking track route while also providing a unique bushland walking experience. This ESBS extends north of Lot 4 into the western part of Lot 1 (see the attached map). Lot 1 remains in the Commonwealth ownership as it is used mostly for the rifle range, yet part of Lot 1 must also be traversed for walking track access from Maroubra Beach via the Council's Arthur Byrne Reserve.

I am seeking the Council's endorsement to request the Commonwealth to modify the Lot 4 boundary to also include that western part of Lot 1 which contains the ESBS and the potential locations for a western walking track to link to Maroubra Beach. This would assist in future sustainable management of the ESBS and in progressing dialogue on the proposed walking track, with a view to consulting with the community shortly on the proposal.

Conclusion

These two key issues and actions are consistent with the Council's directions for ensuring the Malabar Headland is returned to the community for open space and conservation purposes.

Recommendation

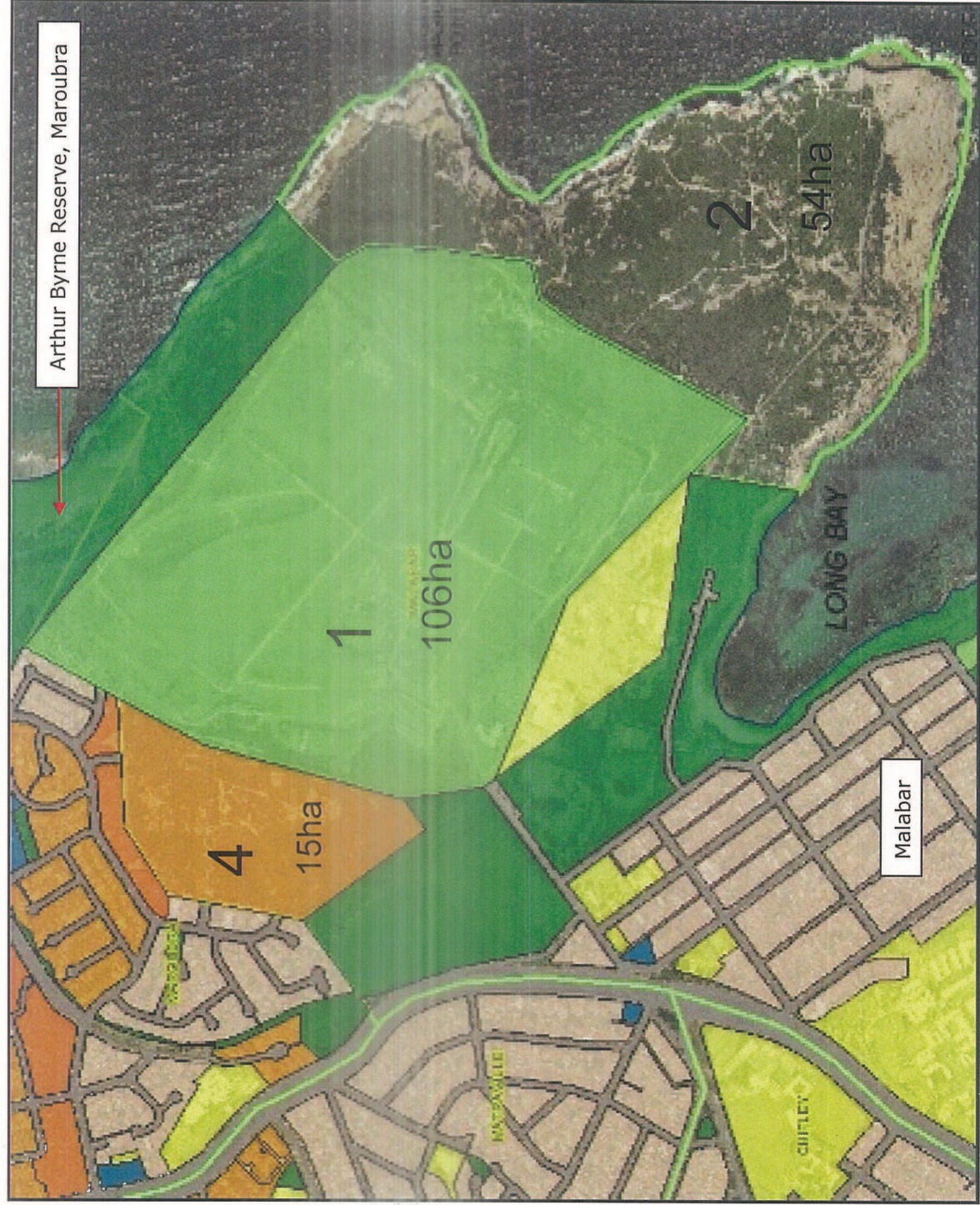
That:

- a) Council resolve to commence preparation of a local environmental plan as an amendment to the Randwick LEP 1998 (Consolidation) to rezone Lot 4, Malabar Headland, from 2B Residential to National Park, in accordance with S54 of the Environmental Planning and Assessment Act 1979;
- b) a planning proposal to this effect be prepared in accordance with S55 and forwarded to the Minister for Planning requesting a Gateway determination in accordance with S56 of the Act;
- c) the Member for Maroubra be requested to facilitate achieving the Gateway determination; and
- d) Council seek the Commonwealth's urgent modification of the boundary of the Headland's Lot 4 to include that western part of Lot 1 that covers the ESBS and the potential locations of a western walking track.

Attachment/s:

1. Map of Malabar Headland - Lots 1, 2 and 4

Map of Malabar Headland (Lots 1, 2 and 4)





Australian Government
Department of Finance and Deregulation

Reference: DPG10/ 00248
Contact: Kristy Graham
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Karen Armstrong
Manager
Strategic Planning
Randwick City Council
DX 4121 Maroubra Junction

Randwick City Council

- 1 FEB 2011

Records Received

Dear Ms Armstrong

Rezoning of Lot 4 Malabar Headland to E1 National Park and Nature Reserve

I am writing to advise that on 1 August 2010, the Prime Minister Julia Gillard and the then Minister for Environment Protection, Heritage and the Arts, the Hon Peter Garrett, AM MP, announced that around 70 hectares of additional National Park and conservation reserve will be created at Malabar Headland following a decision to transfer the site to the NSW Government for conservation. The Gillard Government indicated that it would move to transfer the north-western edge of the headland (known as Lot 4) as soon as possible. The eastern edge of the headland (known as Lot 2) would also be transferred following further investigation, remediation and subject to the development of appropriate access restrictions.

Finance Officers and the Department of Environment, Climate Change and Water (NSW) have been working together to progress the transfer of Lot 4. Following transfer to the NSW Government, Lot 4 must be designated as a National Park and managed in accordance with the *National Parks and Wildlife Act 1974 (NSW)*. I have been advised that Randwick City Council (RCC) is undertaking a review of the Randwick Local Environment Plan (LEP) 1998 and is currently seeking public comment. It is understood that the revised LEP will adopt the NSW 2006 standard instrument approach and subsequent zoning structure. Kristy Graham, Senior Heritage Advisor liaised with Joanna Hole, the Coordinator of Strategic Planning at RCC, at which time it was suggested that Finance formally write to inform RCC of likely upcoming changes in the ownership of Commonwealth land at Malabar Headland and upcoming need to amend the current zoning. Given the impending change of tenure on Lot 4 Malabar, the Department of Finance and Deregulation (Finance) notes that Lot 4 is currently zoned Residential B and recommend that the zoning is amended to E1 National Park and Nature Reserve to reflect the impending use and management of the site.

In addition, Malabar Headland (Lots 4 and 2) is included on the current Randwick LEP as a Heritage Conservation Area. Finance supports the retention of Malabar Headland as a scheduled Heritage Conservation Area, as it provides important recognition of the place's significant heritage values. Ongoing recognition of heritage significance of Lot 4 through the LEP will further compliment the protection afforded under the *National Parks and Wildlife Act 1974* and ensure consistency across the both the state and local planning regimes.

I hope that this information is of assistance to RCC in reviewing the LEP. Please do not hesitate to contact Kristy Graham on (02) 6215 1308 should you require any additional information. We would be most appreciative if you could please confirm that the information outlined above is sufficient to meet your requirements for inclusion in the revised LEP.

Yours sincerely



Daniel Bailey
Director
Divestment, Heritage & Environment
Property Branch
20 January 2011