

# FOR ACTION

**ORDINARY COUNCIL**

**29/09/2020**

**Subject:** Planning Proposal (PEX2018/0007) to Rezone Land within the Manly Warringah War Memorial State Park

**Target Date:** 24/11/2020

**Notes:**

**TRIM Reference** C002720 2020/489622

225/20 **RESOLVED**

**Cr Ferguson / Cr Harrison**

That Council:

1. Note that remediation works have commenced on the properties owned by Crown Lands, being Lots 76 and 77 of DP 504237 and Lot 2 of DP 710023, and Council as a Planning Proposal Authority, is satisfied that once these land parcels have been remediated they will be suitable to be used for the purposes of Public Recreation (RE1).
2. Review the zoning that applies to the Sydney Water operational reservoir site (Lot 1 DP 835123) and adjoining lot with unclear ownership (Lot 1 DP 1200869) as part of the LEP review.
3. Submit the attached Manly Warringah War Memorial State Park Planning Proposal to the Department of Planning, Industry and Environment for Gateway Determination to amend Warringah Local Environment Plan 2011 to:
  - A. Rezone three land parcels owned by Crown Lands (Lots 76 & 77 of DP 504237 and Lot 2 of DP 710023) at Wakehurst Parkway, Seaforth from R2 (Low Density Residential) to RE1 (Public Recreation).
  - B. Amend the Height of Building Map and Minimum Lot Size Map to remove the residential development standards for height and minimum lot size from Lots 76 & 77 of DP 504237 and Lot 2 of DP 710023, at Wakehurst Parkway, Seaforth.
  - C. Request approval to exercise the function of 'Local Plan Making Authority' from the Department of Planning, Industry and Environment via Gateway Determination for the Manly Warringah War Memorial State Park Planning Proposal.
  - D. Prepare and exhibit consequential amendments to Warringah Development Control Plan 2011 to remove residential development controls, including setback and minimum landscaped area controls; from land covered by Manly Warringah War Memorial State Park Planning Proposal.

**RESOLVED BY EXCEPTION**

<b>ITEM 12.1</b>	<b>PLANNING PROPOSAL (PEX2018/0007) TO REZONE LAND WITHIN THE MANLY WARRINGAH WAR MEMORIAL STATE PARK</b>
<b>REPORTING MANAGER</b>	<b>EXECUTIVE MANAGER STRATEGIC &amp; PLACE PLANNING</b>
<b>TRIM FILE REF</b>	<b>2020/489622</b>
<b>ATTACHMENTS</b>	<b>1 Planning Proposal (Included In Attachments Booklet)</b> <b>2 Preliminary Site Investigation Report (Cardno) (Included In Attachments Booklet)</b> <b>3 Letter - James Griffin MP regarding land owned by Sydney Water (Included In Attachments Booklet)</b> <b>4 Letter - Transport for NSW - Wakehurst Parkway temporary construction site (Included In Attachments Booklet)</b> <b>5 Property Investigation &amp; Title Rectification Status Report - Public Works Advisory (Included In Attachments Booklet)</b>

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## SUMMARY

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### PURPOSE

To seek Council's approval to resubmit a Planning Proposal to the Department of Planning, Industry and Environment (DPIE) to rezone land within the Manly Warringah War Memorial State Park from R2 (Low Density Residential) to RE1 (Public Recreation).

The amended planning proposal removes one small triangular parcel of land 82m<sup>2</sup> in area (Lot 1, DP 1200869) from the Planning Proposal as land ownership of this parcel is not clear, and landowners consent cannot be provided.

### EXECUTIVE SUMMARY

On 27 November 2018, Council resolved as follows:

*That:*

- A. *Council prepare a Planning Proposal to rezone the five lots owned by Sydney Water and the Crown at the north east corner of the intersection of Wakehurst Parkway and Kirkwood Street in Allambie Heights/Seaforth, from Low Density Residential (R2) to Public Recreation (RE1) under the Warringah Local Environmental Plan 2011. The five lots consist of:*
- a. *Three Crown land lots:*
    - i. *Lot 76 DP 504237*
    - ii. *Lot 77 DP 504237*
    - iii. *Lot 2 DP 710023.*
  - b. *Two Sydney Water lots:*
    - i. *Lot 1 DP 710023 – bushland site (surplus land)*
    - ii. *Lot 1 DP 835123 – with water tower (reservoir).*

In accordance with the above decision, a Planning Proposal was prepared and reported to Council on 28 May 2019 wherein it was resolved as follows:

*That Council:*

- A. *Submit the attached Manly Warringah War Memorial State Park Planning Proposal to the Department of Planning and Industry for a Gateway Determination to amend Warringah Local Environmental Plan 2011 to:*
  - a. *Rezone the following lots from R2 (Low Density Residential) to RE1 (Public Recreation):*
    - i. *Lot 76 DP 504237 (Crown Land)*
    - ii. *Lot 77 DP 504237 (Crown Land)*
    - iii. *Lot 2 DP 710023 (Crown Land)*
    - iv. *Lot 1 DP 1200869 (Crown Land)*
    - v. *Lot 1 DP 710023 (Sydney Water - Surplus Bushland Site).*
  - b. *Rezone Sydney Water Lot 1 DP 835123 (Water Tower - Reservoir) from R2 (Low Density Residential) to SP2 (Infrastructure) - 'Water Supply System'.*
  - c. *Amend the Height of Building Map and Minimum Lot Size Map to remove the residential development standards for height and minimum lot size from all of the subject lots.*
- B. *Request approval to exercise the function of 'Local Plan Making Authority' from the Department of Planning and Industry via the Gateway Determination for the Manly Warringah War Memorial State Park Planning Proposal.*
- C. *Prepare and exhibit consequential amendments to Warringah Development Control Plan 2011 to remove residential development controls, including setback and minimum landscaped area controls, from land covered by the Manly Warringah War Memorial State Park Planning Proposal.*
- D. *Seeks approval from Sydney Water and the Department of Planning and Industry (Water, Property and Housing) to rezone land for a public purpose (RE1 (Public Recreation)) following a Gateway Determination being issued by the Department of Planning and Industry (Planning and Places).*
- E. *Writes to the relevant Minister to advocate for the inclusion of Sydney Water Lot 1 DP 710023 (Surplus Bushland Site) and Crown Land (Lot 1 DP 1200869) into the Manly Warringah War Memorial State Park.*

Prior to issuing a Gateway Determination, the Department of Planning, Infrastructure and Environment (DPIE) required Council to consult with Sydney Water. Sydney Water advised that their support for rezoning the subject property is conditional upon the land being acquired at market value. A valuation of the site was been obtained. The valuation obtained, as at 18 October 2019 was significant. Funds have not been allocated within Council's property fund for the acquisition of Lot 1 DP 710023. Accordingly, on 17 December 2019 Council resolved as follows:

*That Council:*

1. *Withdraw Lot 1 in DP 710023 from the Manly Warringah War Memorial State Park Planning Proposal previously submitted to the then Department of Planning and Environment.*
2. *Not proceed with acquisition of Lot 1 DP 710023 (Sydney Water – Surplus Bushland Site) at current market value.*
3. *Proceed with Phase 1 contamination report for the remaining lots.*

4. *Subject to a favourable outcome from the Phase 1 contamination report, progress the Planning Proposal to a Gateway Determination.*
5. *Revisit the status of Lot 1 DP710023 once the requirements of the Beaches Link Tunnel are known.*
6. *Writes to the State Member for Manly, James Griffin MP and Federal Member for Warringah Zali Steggall MP to negotiate and have Lot 1 DP 710023 transferred back into the park.*

In accordance with the December 2019 resolution, a Phase 1 contamination report was prepared which identified contamination on the sites which can be addressed via various mitigation actions including removal of contaminated material.

Council wrote to James Griffin MP and Zali Steggall MP on 20 December 2019 in accordance with Council's previous resolution. In responding (Attachment 3), James Griffin MP provided an update on the temporary Wakehurst Parkway construction site for the Beaches Link tunnel project and provided the following commitment:

*"Following construction, land used in the temporary Wakehurst Parkway construction site (option B) will be handed to the Manly Warringah War Memorial State Park (Manly Dam Reserve) for the community to enjoy".*

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## RECOMMENDATION OF DIRECTOR PLANNING AND PLACE

That Council:

1. Note that remediation works have commenced on the properties owned by Crown Lands, being Lots 76 & 77 of DP 504237 and Lot 2 of DP 710023, and Council as a Planning Proposal Authority, is satisfied that once these land parcels have been remediated they will be suitable to be used for the purposes of Public Recreation (RE1).
  2. Review the zoning that applies to the Sydney Water operational reservoir site (Lot 1 DP 835123) and adjoining lot with unclear ownership (Lot 1 DP 1200869) as part of the LEP review.
  3. Submit the attached Manly Warringah War Memorial State Park Planning Proposal to the Department of Planning, Industry and Environment for Gateway Determination to amend Warringah Local Environment Plan 2011 to:
    - A. Rezone three land parcels owned by Crown Lands (Lots 76 & 77 of DP 504237 and Lot 2 of DP 710023) at Wakehurst Parkway, Seaforth from R2 (Low Density Residential) to RE1 (Public Recreation).
    - B. Amend the Height of Building Map and Minimum Lot Size Map to remove the residential development standards for height and minimum lot size from Lots 76 & 77 of DP 504237 and Lot 2 of DP 710023, at Wakehurst Parkway, Seaforth.
    - C. Request approval to exercise the function of 'Local Plan Making Authority' from the Department of Planning, Industry and Environment via Gateway Determination for the Manly Warringah War Memorial State Park Planning Proposal.
    - D. *Prepare and exhibit consequential amendments to Warringah Development Control Plan 2011 to remove residential development controls, including setback and minimum landscaped area controls; from land covered by Manly Warringah War Memorial State Park Planning Proposal.*
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**REPORT**

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**BACKGROUND**

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- E. *Writes to the relevant Minister to advocate for the inclusion of Sydney Water Lot 1 DP 710023 (Surplus Bushland Site) and Crown Land (Lot 1 DP 1200869) into the Manly Warringah War Memorial State Park.*

Prior to issuing a Gateway Determination, the Department of Planning, Infrastructure and Environment (DPIE) required Council to consult with Sydney Water. Sydney Water advised that their support for rezoning the subject property is conditional upon the land being acquired at market value. A valuation of the site was been obtained. The valuation obtained, as at 18 October 2019 was significant. Funds have not been allocated within Council's property fund for the acquisition of Lot 1 DP 710023. Accordingly, on 17 December 2019 Council resolved as follows:

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- 2. *Not proceed with acquisition of Lot 1 DP 710023 (Sydney Water – Surplus Bushland Site) at current market value.*
- 3. *Proceed with Phase 1 contamination report for the remaining lots.*
- 4. *Subject to a favourable outcome from the Phase 1 contamination report, progress the Planning Proposal to a Gateway Determination.*
- 5. *Revisit the status of Lot 1 DP710023 once the requirements of the Beaches Link Tunnel are known.*
- 6. *Writes to the State Member for Manly, James Griffin MP and Federal Member for Warringah Zali Steggall MP to negotiate and have Lot 1 DP 710023 transferred back into the park.*

## **Context**

The six (6) lots subject to the Planning Proposal are located within or surrounding the south-west boundary of the Manly Warringah War Memorial State Park (State Park) and are generally surrounded by the Wakehurst Parkway and Garigal National Park to the west, the State Park including the Wakehurst Golf Club and Manly Dam to the north and east, and the Seaforth Bowling Club, and low density residential development to the south.

All of the six (6) lots are currently zoned R2 Low Density Residential under WLEP2011. These parcels of land were zoned as various forms of open space reservation from the Warringah Shire Planning Scheme 1963 until Warringah LEP 2000. Under WLEP2000 these sites were managed within the locality of G3 Manly Lagoon Suburbs locality characterised as detached style housing. With the Warringah LEP2011, these parcels became R2 zoning, reflecting land use within the broader locality under the WLEP2000 scheme.



### Summary of lots considered during this project

In total, six lots with R2 (Low Density Residential) zoning have been considered during the history of this project (see Figure 1 & 2). These include:

- **Three Crown Land Lots that are included in the Planning Proposal** (Attachment 1) that sit within the boundary of the State Park. These include:
  - Lot 76 DP 504237
  - Lot 77 DP 504237
  - Lot 2 DP 710023
- **Sydney Water owned Surplus Bushland Site** (Lot 1 DP 710023) was removed from the proposal as per Council resolution on 17 December 2019 (above). Council has been unable to obtain landowner consent to rezone this lot and it is now subject to plans by Transport for NSW as outlined below in this report. Correspondence from MP James Griffin (Attachment 3) and Transport for NSW (Attachment 4) identify this lot as a support site for the Beacheslink tunnel project and make commitments to give surplus bushland to the Manly Warringah War Memorial State Park at the conclusion of the Beaches Link Tunnel project.
- **Sydney Water Reservoir Site** (Lot 1 DP 835123) Council has received a formal request from Sydney Water on 26 September 2019 requesting Council consider 50 operational sites across the Northern Beaches, including this lot for SP2 (Infrastructure) zoning. This was previously outlined in a previous report to Council
- **Small Triangle Lot 1 DP 1200869** was included in the Planning Proposal supported by Council at its meeting on 28 May 2019 as it is also zoned R2 (Low Density Residential). This lot was identified as Crown Land at the time in line with the title search. A lengthy investigation into this lot (Attachment 5) has uncovered a number of inaccuracies recorded on the land title and uncertainties around ownership by either Public Works or Sydney Water which need to be resolved before landowner consent can be provided.



Figure 1 - Six Lots, all with R2 (Low Density Residential) zoning have been considered through this history of this project



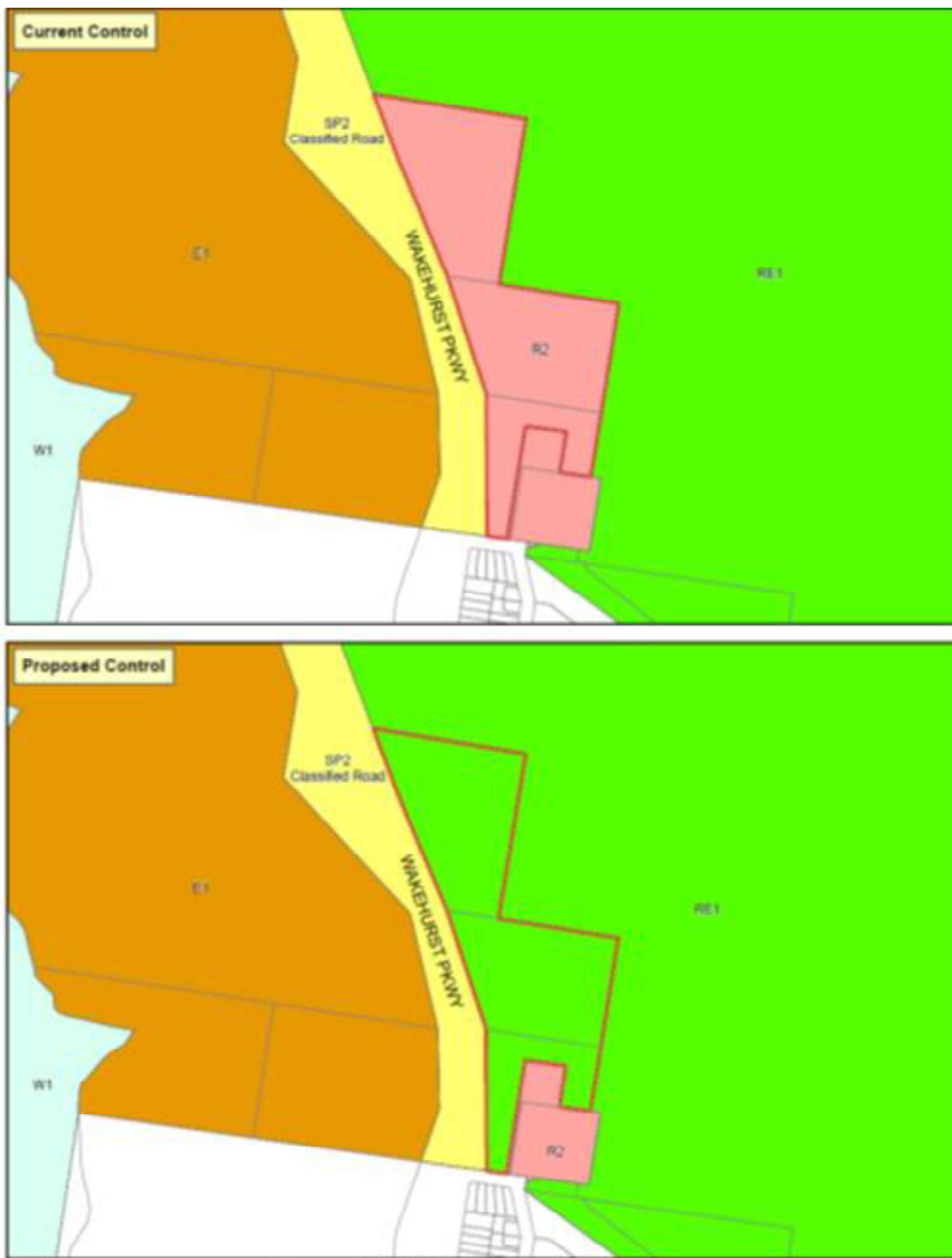


Figure 2 – Current and Proposed zones

## **Issues**

### **Preliminary Contamination Investigation**

In accordance with Council's resolution on 17 December 2019, Council appointed a contamination specialist (Cardno) to undertake a Preliminary Site Investigation Report (Attachment 2) in accordance with the requirements of Ministerial Direction 2.6 and the contaminated land planning guidelines under the Environmental Planning and Assessment Act 1979.

The Preliminary Site Investigation report identified the following:

1. Fly-tipping of hazardous materials and builder's rubble via Kirkwood Street and a fire trail accessed off Wakehurst Parkway under the power lines. Non-fibrous asbestos was detected in a small fly-tipped builder's rubble stockpile via Kirkwood Street and it presents low

potential risk of inhalation to users. This impacts Crown Land owned Lot 2 of DP 710023 and Lot 77 of DP 504237.

2. Historical restricted land fill of building materials and excavation material under the Golf Course indicated in yellow in Figure 3. In some spots capping material is visible as topsoil and turf have eroded over time on Lot 77 of DP 504237 and Lot 76 DP of 504237 in the area marked orange along the edge of the tree line in Figure 3.
3. The historical laydown area within the Sydney Water site could present low potential risk of impacted surface soils, however there is currently no risk to receptors as this portion of the land is fenced and not accessible to the public.

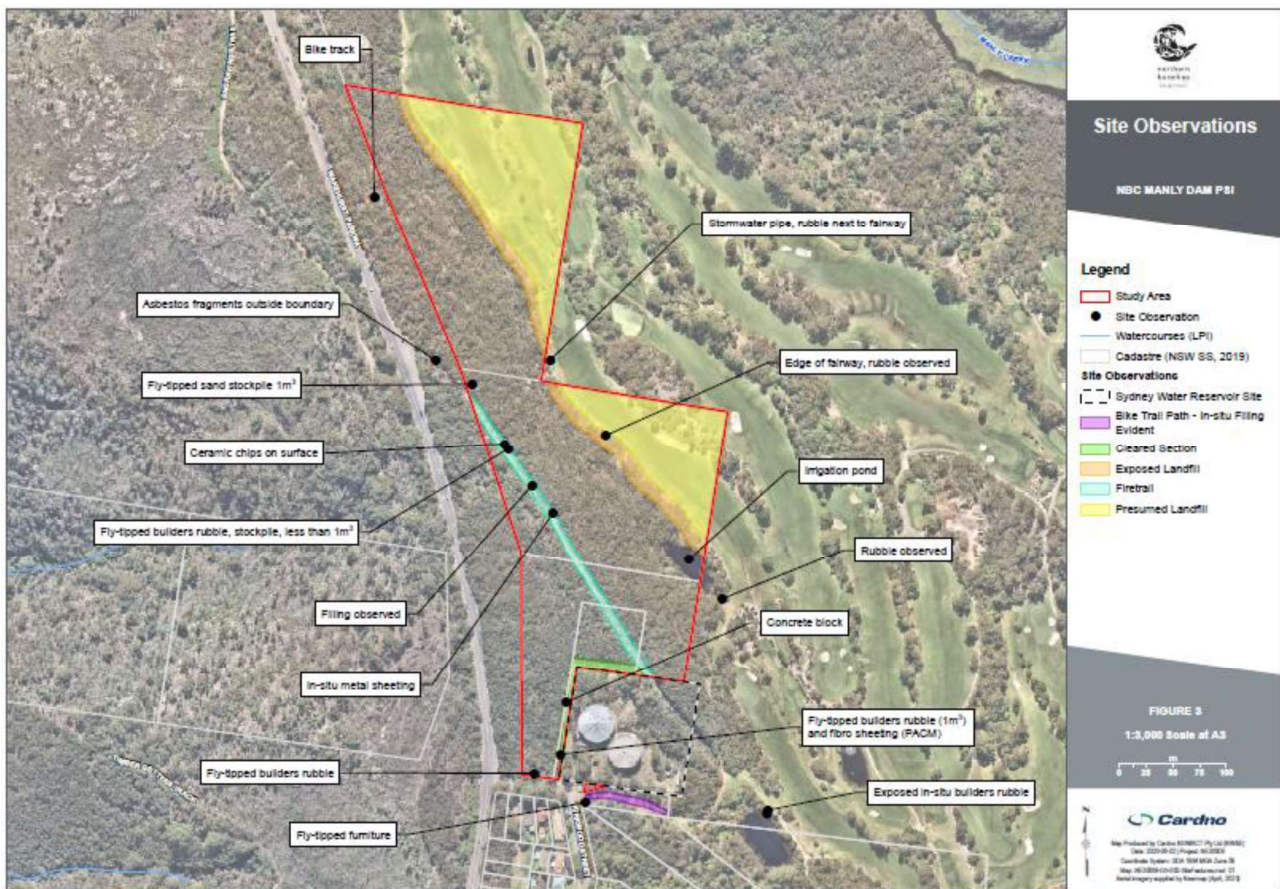


Figure 3 - Clean up works areas - Provided by Cardno 2020 Preliminary Site Investigation

For the purposes of satisfying [Ministerial Direction 2.6](#), Council, as the Planning Proposal Authority, must be satisfied that the land will be remediated to be made suitable for any purpose for which the land in that zone is permitted to be used, before any change in land use occurs.

Cardno's recommendations to manage the potential risks at the site and validate the suitability of the site for the land use change include:

1. Removal of fly-tipped material including asbestos fragments by a suitably qualified person and have the areas validated suitable for use
2. While the cap is currently in place this poses minimal risk to golfers and intrusive maintenance staff of Wakehurst Golf Club. Cardno recommend replenishment of top soil and turf to protect the landfill cap from further erosion.

3. Access to the historical materials laydown area is currently fenced off from the public access, therefore the potential exposure pathway is deemed negligible. Upon change of land use, further ground investigation may be necessary to assess the suitability of the Site.

Northern Beaches Council has care, control and maintenance responsibility for Manly Warringah War Memorial State Park. The three lots requiring rectification works are owned by Crown Land, managed by the Manly Warringah War Memorial Park (R68892) Reserve Trust. Northern Beaches Council manages the affairs of the Trust and carries out the day-to-day management of the Park on behalf of the Trust under the provisions of the Crown Land Management Act 2016.

Council's Parks and Recreation team have proactively commenced the process of removing the materials to ensure the land is suitable for Public Recreation (RE1) uses and to improve the quality of the bushland environment for the community to enjoy. An indicative costing by Cardno suggests it will cost \$25,597 (excluding GST) for this rectification work to be undertaken. Council's Parks and Recreation team have advised that the cost of these works can be accommodated within the existing operational budget. The fire trail has been gated in recent years to discourage further illegal dumping on the fire trail.

With regards to the Golf Course, while the capping material is in place there is limited risk to ground staff or users of the course. To prevent further issues in the future, Council's parks and Recreation team have notified Wakehurst Golf Club of the Cardno findings and made recommendations to the Club to replenish top soil and turf along the top edge of the fairway to protect the landfill cap.

Sydney Water and Crown Land have both been notified and provided with a copy of the Cardno report.

#### **Update on Lot 1 DP 710023 with regards to the Beaches Link Tunnel Project**

Council wrote to James Griffin MP and Zali Steggall MP on 20 December 2019 in accordance with Council's previous resolution. In responding (Attachment 3), James Griffin MP provided an update on the temporary Wakehurst Parkway construction site for the Beaches Link tunnel project and provided the following commitment:

*"Following construction, land used in the temporary Wakehurst Parkway construction site (option B) will be handed to the Manly Warringah War Memorial State Park (Manly Dam Reserve) for the community to enjoy".*

Further to this, Council received correspondence from Transport for NSW on 17 August 2020 (Attachment 4) from the Program Director for the Western Harbour Tunnel and Beaches Link projects, advising as follows:

*"Once construction is complete, we are planning to rezone the land to RE1 – Public Recreation and transfer the surplus land (i.e. land that Sydney Water does not require for its operations) to the Manly Warringah War Memorial State Park for the community to enjoy".*

The updated construction support site map shows an intention to use two lots owned by Sydney Water which both sit outside the Manly Warringah War Memorial State Park boundary. These include the surplus bushland site (Lot 1 of DP 710023) which Sydney Water proposed to sell to the private market in 2015, and Sydney Water's operational water reservoir site (Lot 1 DP 835123). An access road on Crown Land will connect the construction support site directly to the Wakehurst Parkway, minimising impacts on nearby residents.

Verbal conversations with both Sydney Water and the Transport for NSW project team confirmed that the acquisition process is yet to commence and will occur after the Beaches Link Environmental Impact Statement has been on Public Exhibition. Sydney Water has not changed its position to oppose Council's proposed rezoning of the land that it owns, being Lot 1 DP 710023. As such the previous resolution of Council on 17 December 2019 stands.



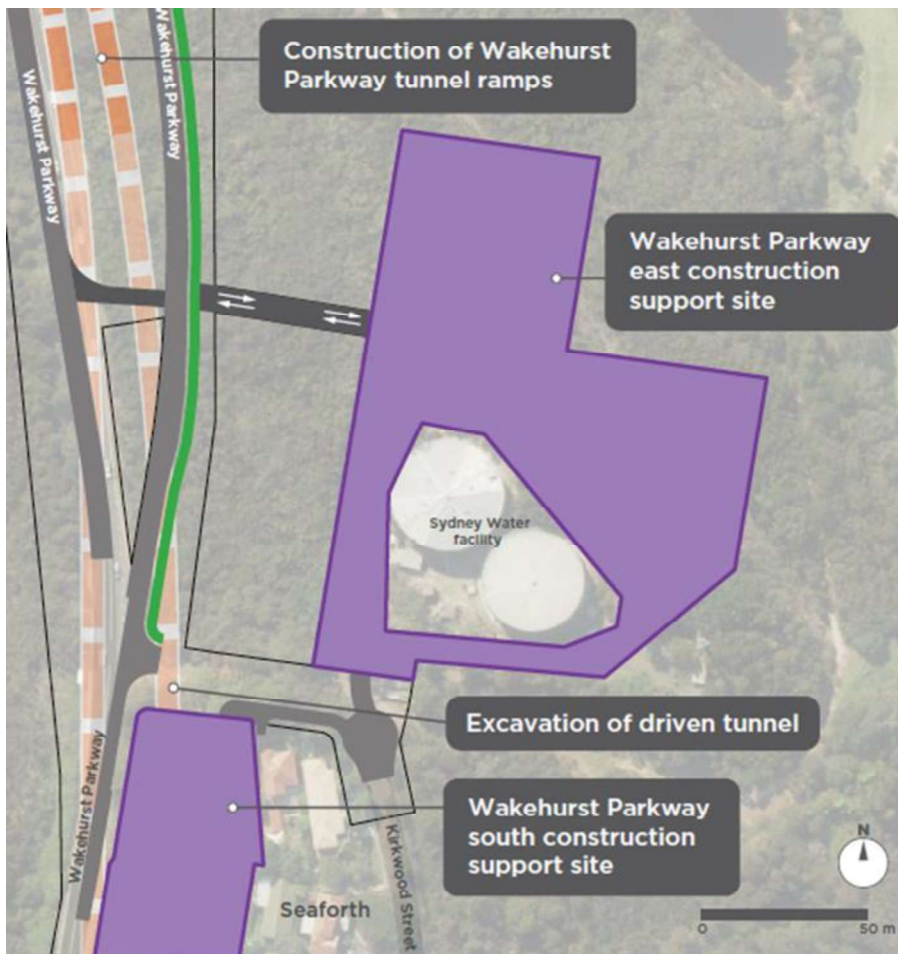


Figure 4 - Temporary Wakehurst Parkway Construction Site

#### **Lot 1 DP 1200869 (Small Triangular Lot), Kirkwood Street, Seaforth**

Ownership of this small 82sqm lot at Kirkwood Street, Seaforth (refer to Figure 5) is unclear. Public Works Advisory have undertaken a comprehensive investigation on the ownership history of the subject Lot in response to enquiries by Council officers (Attachment 5). Information contained in the title search is incorrect as the parcel is not affected by S25A of the Crown Lands Consolidation Act 1913 and was not added to reserve R68892. Crown Lands has referred Council to the appendix of Crown Plan 19276-3000, which shows that Lot 1 DP 1200869 is not included in the schedule of lands outlined in the Government gazettes. There does not appear to be a vesting notice, which vests Lot 1 DP1200869 to any other agency, or Council, therefore the title remains in the name of Minister for Public Works.

Sydney Water may have beneficial ownership of this lot as on physical inspection it sits within the fence line of the adjoining operational water reservoir site (Lot 1 DP 835123) owned by Sydney Water (refer to Figure 5). Public Works acquired the land in 1892 for the purpose of authorised work for the supply of water to Manly Village where the Minister for Public Works was the Constructing Authority. While Public Works Authority have been unable to find any documentation supporting Sydney Water's beneficial ownership of the small triangle Lot 1 DP 1200869, it sits within the Sydney Water fence line and advice from Sydney Water indicates it contains a 375 water main. Sydney Water has requested the adjoining Reservoir site be considered for SP2 zoning as part of the LEP review process. It would therefore be appropriate for this small triangle lot to also be considered as part of Council's Local Environmental Plan (LEP) review.

It will take some time and resources for Sydney Water and Public Works to resolve ownership of this lot. Neither organisation were aware of having an interest prior to recent contact from Council.

Public works advisory does not have delegated authority at officer level to provide consent for a rezoning and would need to refer the matter to the Minister administering the Public Works Act to obtain consent. Council has been advised that this is a lengthy process, which may take many months.

Further, the Department of Planning, Industry and Environment are unlikely to require landowner consent for rezoning if the proposal comes about through the LEP review process which determines an appropriate zone based on zone criteria and objectives.

Accordingly, it is recommended that Lot 1, DP 1200869 be removed from current Planning Proposal.



Figure 5 - Location of Lot 1 DP 1200869 indicated in red cross-hatching



Figure 6 - Photograph at Kirkwood St, Seaforth showing small triangle lot (Lot 1 DP1200869) immediately behind trailers.

### **Proceed with the planning proposal to rezone the three Crown Land owned lots**

Council is now in a position to re-submit the attached Planning Proposal to the Department of Planning, Industry and Environment, given that:

- Crown Lands have provided written support for the proposal to rezone three lots from R2 (Low Density Residential) to RE1 (Public Recreation).
- Council as the Planning Proposal Authority can be satisfied that the three Crown Land owned lots, under the day to day management of Northern Beaches Council, are currently being remediated and made suitable to be used for the prescribed land uses that are permitted under the Public Recreation RE1 zone.



Council has previously approved this proposal, noting that the following updates have been made to the attached version since it was submitted to Council on 28 May 2019, including the following:

- Removal of Lot 1 of DP 835123 Sydney Water reservoir operational site;
- Removal of Lot 1 of DP 710023 Surplus Bushland site
- Removal of Lot 1 of DP 1200869, a 82sqm small triangle parcel with unclear ownership
- Inclusion of Preliminary Contamination Investigation findings and attachment of the report prepared by Cardno
- Inclusion of the letter from Crown Lands providing written support for the rezoning of three lots that they own from R2 (Low Density Residential) to RE1 (Public Recreation).
- Updated responses to reflect the latest ministerial directions, State Environmental Planning Policies (SEPPs) and strategic documents including the Local Strategic Planning Statements (LSPS).

## CONSULTATION

Public Exhibition of the Planning Proposal will take place following receipt of a Gateway Determination from DPIE to proceed with the Planning Proposal. 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:

- Notification in writing to affected and adjoining landowners;
- Notification of key stakeholders, including but not limited to the 'State Park Advisory Committee' and the local environmental conservation group 'Save Manly Dam Catchment Committee';
- Electronic copies of the exhibition material made available on Council's website;
- An email to registered community members who have listed their interest on Council's Community Engagement Register.

The following State Government Agencies are identified as requiring consultation following Gateway Determination to proceed with the Planning Proposal:

- Crown Land – the landowner of three Crown Land lots that are proposed to be rezoned from R2 to RE1. Crown Lands have provided written support for this proposal;
- Sydney Water – Adjoining landowner
- Heritage NSW – the subject land has been identified as Aboriginal Potential Area 1 and within 100 metres of an Aboriginal Site
- Local Planning Panel – Council's Local Planning Panel considered the Planning Proposal at its meeting on 1 May 2019 and resolved to support the officer's recommendations.
- Commissioner of the NSW Rural Fire Service as required under Ministerial Direction 4.4 Planning for Bushfire Protection.

**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 the public exhibition period.

**LINK TO STRATEGY**

This report relates to the Community Strategic Plan Outcomes of:

- Protection of the Environment - Goal 1: Our bushland, coast and waterways are protected to ensure safe and sustainable use for present and future generations.
- Protection of the Environment - Goal 2: Our environment and community are resilient to natural hazards and climate change.
- Protection of the Environment - Goal 3: Our community is well-supported in protecting the environment.
- Places for People - Goal 9: Our community is healthy, active and enjoys a broad range of creative, sporting and recreational opportunities.

**FINANCIAL CONSIDERATIONS**

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

Remediation works to remove fly-tipped material to ensure that the subject lots are suitable for Public Recreation use will be undertaken by the Parks and Recreation team and will be funded within the teams existing budget.

**SOCIAL CONSIDERATIONS**

The subject land is valued socially for public recreation, as a bushland environment for its aesthetic/scenic beauty, ecological and scientific value as well as providing habitat for threatened species. The subject land has Aboriginal heritage significance, identified as Aboriginal Potential Area 1 and within 100 metres of an Aboriginal site.

The proposed RE1 zoning of the subject land will support ongoing use for a range of recreational settings, activities and land uses that are compatible with and protect the environmental, recreational, aesthetic and cultural values of the State Park and the water quality of Manly Dam.

**ENVIRONMENTAL CONSIDERATIONS**

Council's Bushland & Biodiversity team has assisted in the preparation of the Planning Proposal and confirms that the likely environmental effects of the Planning Proposal will be to better protect manage and restore the public lands ecological, scientific, cultural or aesthetic values.

**Scenic Protection**

The State Park is highly valued for the scenic beauty of its natural bushland environment. The proposed RE1 zone would preclude future residential development on the subject land which would intrude into the Park's visual catchment and/or skyline, detracting from the Parks natural aesthetic appeal.

## **Water Quality of Manly Dam**

The subject land drains into Manly Dam, which is valued by the community for its high water quality and recreational uses. The proposed RE1 Public Recreation zone would minimise potential for residential development impacts such as fertiliser use and uncontrolled or polluted stormwater runoff from affecting the water quality of Manly Dam.

## **GOVERNANCE AND RISK CONSIDERATIONS**

The following Governance and Risk considerations have been identified with regard to the Planning Proposal:

### **Delegation of Plan Making Authority**

As the Planning Proposal is considered of local significance only, it is recommended that Council requests delegation to exercise the function of local plan making authority for the Planning Proposal from the Department of Planning, Industry and Environment.

### **State Government Approvals**

The approval of Crown Land and the Department of Planning, Industry and Environment is required to rezone land for a public purpose (i.e. proposed RE1 (Public Recreation)) as per Ministerial Direction 6.2 – Reservation of Land for Public Purposes) and Clause 12 of the Environmental Planning and Assessment Regulations 2000.

### **Contaminated Land**

A Preliminary Contamination Investigation was undertaken for the purposes of satisfying Ministerial Direction 2.6. Council, as the Planning Proposal Authority, is required to be satisfied that the land will be remediated to be made suitable for any purpose for which the land in that zone is permitted to be used, before the land is used for that purpose.

The Manly-Warringah War Memorial State Park was established on 7 April 2017 and is under the care, control and management of the Manly Warringah War Memorial Park (R68892) Reserve Trust. Northern Beaches Council manages the affairs of the Trust and carries out the day-to-day management of the Park on behalf of the Trust under the provisions of the Crown Lands Act 1989.

The findings of the Preliminary Contamination Investigation are outlined above and the report prepared by Cardno is attached to the Planning Proposal. Council's Parks and Recreation team have initiated works to remediate this land to make it suitable for public recreation use in accordance with recommendations from the Cardno report.

### **Landslip Risk**

Warringah Local Environmental Plan 2011 identifies the subject land as 'Area A – slopes less than 5 degrees' and 'Area B – Flanking Slopes from 5 to 25 degrees' in terms of landslip risk. Council must therefore consider risk associated with landslides and their impact on both property and life when assessing development applications. Furthermore such development must not cause significant detrimental impacts because of storm water discharge from the development site or impact on or affect the existing subsurface flow conditions.

### **Bush Fire Prone Land**

The land is Bush Fire Prone Land in close proximity to Garigal National Park and dense bushland of the State Park. The proposed rezoning from R2 (Low Density Residential) to RE1 (Public Recreation) would serve to protect life and property from potential bush fire hazards by

discouraging the establishment of incompatible residential land uses in the bush fire prone area. It would also protect native flora and fauna from land clearing pressure to create bush fire asset protection zones along the Park's boundaries.