

Attachment 3: List of Speakers and Summary of Submissions

Public hearing into the reclassification of land at Dunara Reserve, Point Piper

Public hearing minutes of registered speakers

ID #	Time	Minutes
-	2.00pm – 2.05pm	<i>Chair Intro</i>
1	2.05pm – 2:20pm Name: Hylda Rolfe	<p>I live in Watsons Bay, not near the site, but at 41 Cove Street, Watsons Bay.</p> <p>I did make a submission to the exhibition. I will provide a copy which is brief.</p> <p>I am here because it is 61 years since the site was handed to the Council.</p> <p>My original submission asked why the reserve was dedicated in the first place. What is the answer? And why has the reserve been carried forward since that time? Are the reasons for the reserve still valid?</p> <p>Why was the reserve originally dedicated as community land? Are those reasons still valid? The archive should provide the information.</p> <p>I found no response in the documentation.</p> <p>Those matters need to be explored and explained. [2.11 minutes]</p>
2	2.20pm – 2.35pm Name: Robert Krochmalik	<p>I live at 38 Kambala Road, Bellevue Hill.</p> <p>I am going to talk to my written submissions.</p> <p>What concerns me is that this proposal is to sell a public reserve.</p> <p>I want Council to note my objections to this decision.</p> <p>A public reserve under the stewardship of the Council should remain open to all of the residents of the LGA, in accordance with the original rationale of this reserves existence.</p> <p>I have particular concern noting Councils statement that there may be a trust affecting the site, and there is a proposal to discharge this trust.</p> <p>I was a chartered accountant, and am familiar with the obligations of a trust and its trustee. It poses heavy responsibilities to act in accordance with the terms of the trust. The land that is the subject of the trust must have been created to reserve and maintain as a public reserve.</p> <p>Given this concern, I could not find any reasons which would justify the Council discharging this trust.</p> <p>Should council do so, it will receive heavy community action, and possibly legal action. I am surprised that Council would wish to discharge any such trust.</p> <p>Also, the proposed sale price is inflated given its limitations, and only 2 potential purchasers.</p> <p>Given Councils assets and liability, I am most surprised that any financial gain would be put forward as the rationale for the sale of the reserve.</p> <p>To suggest that the biannual maintenance are a drain on resources is ridiculous. Not only can these not be onerous, but maintenance of public reserves forms part of our rates. It can't be the basis to justify sale.</p> <p>The reclassification is misconceived, flawed, and does not stand any reasonable scrutiny.</p> <p>Woollahra Council is not a private organisation, or company free to act on its interests, subject to public scrutiny. It must act in the public interest.</p> <p>To terminate the reserve without justification is a breach of its legal and moral responsibility. [6.16 minutes]</p>

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3	2.35pm – 2.50pm Name: Victoria Papadakis	<p>Address: 2 Dunara Gardens, Point Piper.</p> <p>I am a concerned resident, not just of Dunara Gardens, but of Point Piper and of the Woollahra Municipal Council area. The proposal will result in a loss of 402m² of open space in a highly densely populated area.</p> <p>The creation of the reserve was a forward thinking idea of the Council to preserve green open space for the residents and in determining whether or not the proposal is in the public interest, both the wider public interest and the local public interest must be taken into consideration.</p> <p>It would be a complete distrust to reclassify and sell.</p> <p>Council showed foresight at the time to classify land as public space. Council were a trustworthy owner, for future generations to enjoy.</p> <p>Councils must retain the land as public gardens, with no intentions that this public land should be sold off.</p> <p>Now 60 years later, the public want more open space in today's concrete jungle.</p> <p>Dunara Reserve is part of the relief to provide calm in today's stressful life.</p> <p>Approvals for DA in the areas often include stipulation to provide open space and greenery. Yet reclassifying the land, Council is doing the opposite of what it is requesting everyone else to do.</p> <p>One of the reasons we bought our property, is because of the reserve in a very dense area.</p> <p>The reserve is the garden, referred to in Dunara Gardens, which is why it is called Dunara Gardens.</p> <p>If this is to be sold, the gardens and the heart and soul of Dunara Gardens will be lost.</p> <p>The purchaser would be allowed to build a 1.8m high fence. Unsightly and undesirable both inside and outside the reserve.</p> <p>The reserve is enjoyed by people outside the area, with children regularly coming to play from outside, including children that don't currently have a back garden.</p> <p>There is only 1 other reserve in the area, which is far away.</p> <p>Historical groups come to look at the reserve and Dunara House. The groups can enjoy the amenity of the space, rather than looking at a 1.8m brick fence.</p> <p>There are residents of Point Piper who enjoy the reserve for fitness/dog walking.</p> <p>There are a number of mature trees, including 2 heritage listed trees. This area should be cherished and protected, not reclassified to be sold off.</p> <p>The financial burden would not be 1 full days work a year. The cost of attending is not a burden to Council's finances.</p> <p>Instead of selling the reserve, Council should be helping to preserve the reserve, as per the original dedication.</p> <p>I note the motion from Councils meeting for the reserve to be heritage listed. This is a step towards what was envisaged in 1956.</p> <p>But it must remain as public land. Not be heritage listed and then sold off. Keep the reserve as it is, if anything improve the reserve. [7.44 minutes]</p> <p>Stuart then spoke regarding the Notice of Motion from Monday night. He stated that it will follow its own course.</p> <p>But the reclassification will continue on its own, the Notice of Motion won't influence today's discussion.</p>

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4	<p>2.50pm – 3:05pm Name: Robert Lowy</p>	<p>Address: 16a/23 Thornton Street, Darling Point. Prior address: 2/4 Marathon Road, Darling Point.</p> <p>Here regarding Councils approach to a parcel of land in Darling Point. Some of the circumstances are similar. A block of land which ultimately became a case in the Supreme Court. Largely, due to the inability of Woollahra Council and a claim of adverse possession. A block of land which for 200 years was property of Woollahra Council, and after certain representations were made to staff, Woollahra Council decided that Council had no fee simple title, and made no claim to the land. As a result, it went to court, hundreds of thousands of dollars were spent. The judge was scathing in his response to Woollahra Council. The property officer maintained his view. Unaware that the strip was dedicated as public land. His letter dated July 2012 applied to the wrong land. This reserve is similar to that block of land which had a land value of \$800,000 to \$1,000,000. The notion that Woollahra Council is now concerned with its finances, and maintenance costs is ridiculous No proper explanation has been provided. You must protect the trust, and cant' pretend that it doesn't exist. Council shouldn't be abandoning a trust for monetary benefit.</p> <p>[4.26 minutes]</p>
5	<p>3.05pm – 3.20pm Name: Peter Ryba</p>	<p>Address: 3 Dunara Gardens, Point Piper.</p> <p>I object to the proposal.</p> <p>First objection is that a long time ago, Woollahra Council adopted a policy to have 2.86ha per 1000 residents. My understanding is that we now have less than a 3rd of that.</p> <p>Now Woollahra Council has one of the highest population densities/against green space.</p> <p>There was a problem with Duff Reserve and other small reserves. I appreciate these are costly to maintain.</p> <p>Second objection – Council obtained the land from the developer by dedication, free of charge, in exchange for granting approval. Which was poorly planned and executed. It is overcrowded and there are problems.</p> <p>Third objection – Council acquired the land to protect the trees and the land, and the amenity to Dunara Estate, and the heritage listed Dunara House and to provide some minimum play area for children, and resting area for older residents. Woollahra Council claim there are no children on the estate.</p> <p>There were more than 20 small children on the estate at 1 time. Children have now grown up, but may come back.</p> <p>There are 2 disabled adult children on the estate, who welcome the green area for them to sit in as they can't get far.</p> <p>No one can remember what the estate looked like before it was subdivided. I was introduced to it in the 50s when it was called the <i>Wise Centre? (Young Mens' Hebrew Association)</i> and run by a not-for-profit group. It was rented out for weddings etc.</p>

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		<p>I was impressed by the architecture of the house, and the green aspect of the gardens. It was a wonderful place and a good spot.</p> <p>When I found out it was subdivided I bought my lot 3, which didn't sell at the auction. I can only assume the only reason it didn't sell is the concrete Dunara Gardens 4m retaining wall which is the boundary of the land.</p> <p>My land has no access to Wunulla Road, because there was a reservation for road widening on the land. I am now in negotiation with Council to get a frontage to Wunulla Road. My property was called 12 Wunulla Road originally.</p> <p>Dunara roadway is on land which has been attached to 2 properties, the advantage of this is that Council completely denies any responsibility for the road, and never maintained it.</p> <p>For 3 years we have to drag dust bins up to Wentworth Street. Why did they divide the road like that?</p> <p>I came to the conclusion that it enhanced those 2 properties for FSR, so the houses could be made bigger.</p> <p>Whilst there were covenants on the property, including height limits to avoid views, Council has permitted masonry walls along the edge of the concrete wall with no greenery in front.</p> <p>There is now a covenant that there is no parking along Dunara Gardens anywhere.</p> <p>Subdivision was done for the developer, with no regard to the consequence. Now, for Council to reclassify and rezone to sell the property for additional residences is immoral.</p> <p>[11.46 minutes]</p>
6	3.50pm – 4:05pm Name: Alan Murray	<p>11 Dunara Gardens, Point Piper.</p> <p>My family have been here for 3 or 4 years, with 2 daughters who play in the gardens with their bikes.</p> <p>They are often in and around the trees. The trees are very important as we have no trees on our land. The Mayor went to the land yesterday to see the trees.</p> <p>It is as much about the trees as it is the land. They can be seen from afar.</p> <p>We can make that land accessible to the public.</p> <p>It would be useful to have plaques, as the trees are heritage listed and very important – perhaps an information board?</p> <p>Reclassification is okay in principle, as they will still be heritage listed, however, there will be less ability to protect them when it is private land.</p> <p>There are too many examples of heritage listed trees being damaged on private land.</p> <p>We don't support losing the protection of the trees, which will put them at risk. Once it is private land, and we lose those trees we will never get them back.</p> <p><i>Stuart asked</i> – you mention your children using the land. The reserve has a narrow access, do members of the public use the private road way to access the reserve?</p> <p><i>Alan Murray</i> – yes they do, but that's not a problem. No other way as it's so narrow. Which is why a plaque explaining what the trees are would help.</p> <p>[3.39 minutes]</p>

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7	<p>4:05pm – 4:20pm Name: Freda Cassen</p>	<p>I live at 3a Wentworth Street, Point Piper - which goes down to Dunara Gardens. I have lived there for 30 years.</p> <p>It is wonderful living so close to the city, as I can hear birds singing.</p> <p>I love the trees in Dunara Gardens, I can see them from my kitchen.</p> <p>It is much nicer to look at trees. They are so tall – they are probably well over 100 years old.</p> <p>The person who wants to buy this land, has already poisoned 1 tree.</p> <p>I worry about the trees if someone should buy the land – as there isn't much that can be done with the land. It is beautiful, green and in a place like Point Piper with hardly any trees, as the pieces of land are so small. You can have a few shrubs, but trees are better.</p> <p>Woollahra Council has said Dunara is a drain on the resources. I am sure that the houses in the area bring in enough money for two times a year to fix up the land.</p> <p>If someone bought the land then they can cut down the trees, and we don't want them to do that. My friends have asked me to appeal on behalf of the piece of land, because they enjoy it so much.</p> <p>Public land should not be sold off, otherwise the public wont be able to use it.</p> <p>You can see all those trees from Rose Bay and from the water on the ferry.</p> <p>Once something has been made for people to use, you shouldn't take it away from them. I remember seeing it in 1959 when it was bulldozed. Years later, we ended up living there.</p> <p>We all get on well – mostly – and hope that nothing will be done to destroy this land. It is wild, and not something you see much around Sydney. It is small but beautiful.</p> <p>We hope that the Council does something really nice with it and save Dunara Gardens.</p> <p>[7.05 minutes]</p>
8	<p>4.20pm – 4:35pm Name: Penny Broekhuizen</p>	<p>I live at 1 Wentworth street with my husband and 3 children.</p> <p>My north boundary is along the wall of the reserve.</p> <p>I have made detailed submissions on a number of grounds. Including fundamental flaws in the justification to the reclassification e.g. it only benefits the immediately adjoining properties.</p> <p>My concern is the consequence of the reserve, and the impacts on the trees.</p> <p>I want to restate 3 important points:</p> <ul style="list-style-type: none"> • the original reasons for the reserve, • the trees, and • what is reclassification of the reserve. <p>The reserve was created in 1957 acquired by Woollahra Council when the estate was subdivided. Since then Point Piper has become even more developed. We need a buffer against that development.</p> <p>Woollahra Council doesn't address why we don't need that balance against development. It's because there is no reasonable reason.</p> <p>I have a serious concern for what this means for the trees. We have a serious problem with tree preservation in this suburb, especially in this area.</p> <p>In recent years we have lost a 20m high Sydney Blue Gum and Camphor Laurel within the vicinity. 3 significant trees lost in Wunulla Road.</p> <p>On my property we have a significant Moreton Bay Fig tree which has been poisoned twice in the last 10 years, and severely lopped within the last 6 months by trespassers.</p>

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		<p>The pocket is therefore particularly important. I have attached an arborist report which summarises the trees on the reserve. An additional tree that probably justifies listing.</p> <p>This pocket of trees is unique and make a considerable contribution to the site and the neighbourhood.</p> <p>I believe we have something which deserves protection, not abandonment via a private sale.</p> <p>Taken advice from Robert Gough on the cost of the land – the only way that buying the land for those kind of financial gains – is if the land is redeveloped.</p> <p>Accordingly, Council is envisaging partial redevelopment. This is not possible without the removal of trees. This alarms me.</p> <p>The TPO is regularly flouted - so it wouldn't protect the trees. Redevelopment will ignore the trees, and if Council doesn't give permission for the removal of trees, the trees will be removed anyway. People are willing to take the risk.</p> <p>Whilst keeping it in public hands doesn't guarantee the trees, it stops them taking their own action as they would if they wanted to develop the land.</p> <p>The third point is that much of the justification to reclassify the land, is that the reserve is not public open space or accessible. To suggest this somehow negates a public benefit is misunderstood.</p> <p>Land doesn't have to be "open" or publicly accessible to be classified as community land.</p> <p>Classification of public land must reflect its use and or special features. This land has historic trees, green space in urbanity, original remnants and its importance as shared community gardens. This public benefit justifies its retention as community land.</p> <p>If open and accessible is the only justification, our local environment will lose its diversity. Playing fields are important, but so are pockets of trees.</p> <p>Council has missed this in its planning proposal.</p> <p>[10.11 minutes]</p> <p>Stuart clarified that Council hasn't resolved to sell the land. But it is an option. Council hasn't made that decision.</p>
9	4.35pm – 4:50pm Name: George Farkas	<p>Address is 10 Dunara Gardens, Point Piper.</p> <p>The Councillors who in 2015 voted on the planning proposal, did so with incorrect information.</p> <p>I will concentrate on 5 specific areas.</p> <p>History of the site and the subdivision:</p> <p>It wasn't foresight of Council, it was a requirement under the <i>Local Government Act 1919</i>. Under the <i>Local Government Act</i>, specific sections required the provision of public space. Council had to embrace public reserves and spaces – it had to take into account the amount of public open space and recreational space.</p> <p>Council not only insisted on a larger public space, but insisted it was entrusted to Council for perpetuity. Which is held in the high court, in similar cases.</p> <p>The residents and the rate payers are the beneficiaries.</p> <p>Whilst Council can legally discharge the trust, it shouldn't morally do so.</p> <p>It works similarly to the S94 contributions.</p> <p>Heritage:</p>

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		<p>The heritage Council has recommended that Council investigates the state listing of the site.</p> <p>Councils own heritage officer in 2005 reviewed the site, and recommended listings of the trees on the site.</p> <p>Dunara Gardens has my state listed house, and an additionally listed house. Justification is appalling public policy.</p> <p>A neighbouring carport encroaches onto the site, and Council took no action. Council failed to enforce the action. Council decided to “wash its hands” with the express intention of selling the land. Result is to reward the offender with the purchase of the land.</p> <p>The other justification was the dumping on the land.</p> <p>Instead of taking legal action, Woollahra Council is looking to sell the land to the offender. This is an appalling precedent.</p> <p>Lastly, public usage:</p> <p>The evidence is clear that the land is well used by a number of different groups and various other people.</p> <p>The whole process is invalid as the minister was provided with a report which was legally invalid. There are a number of cases where inaccuracies can result in a Ministers decision being challenged.</p> <p>Submitter then listed the “inaccuracies” in the planning proposal.</p> <p>Had the minister been provided with accurate information, there is no way the gateway would have been issued in the first place. Everything that followed is therefore legally invalid.</p> <p>It is in breach of Section 55 of the <i>Environmental Planning and Assessment Act</i> and section 56.</p> <p>In particular the identification of the trust, and that the planning proposal would discharge the trust. This is an omission.</p> <p>The Council resolution which proposes the planning proposal is invalid.</p> <p>The resolution is to reclassify Dunara Gardens – which is private property. Not Dunara Reserve.</p> <p>These matters can’t be rectified. The whole process would need to be started again, a waste of rate payer’s funds.</p> <p>This process is prohibited by section 44 of the <i>Local Government Act</i>.</p> <p>If there is no plan of management for community land, you cannot change its usage. There is no plan of management – but a local plan of management for the area. Dunara Reserve is not listed. Dunara Gardens is listed in the document.</p> <p>[9.40 minutes]</p>
10	4.50pm – 5.05pm Name: Renee Ferster Levy	<p>Address - 72A Drumalbyn Road, Bellevue Hill</p> <p>I am a Zoologist, Ecologist and long term resident. I bring a different perspective based on my background and speciality.</p> <p>With continued habitat loss, it isn’t all lost with some healthy habitats still here.</p> <p>Woollahra Council have created the visionary Biodiversity Conservation strategy.</p> <p>Surprise of no mention of the strategy in the planning proposal, omission which invalidates the whole process.</p> <p>Value of the space and flora/fauna of natural areas, including Dunara Reserve which has significant value e.g. regulating flood, noise abatements, and educational values.</p>

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		<p>In the strategy there are maps of wildlife corridors, which include corridors over Point Piper and the reserve.</p> <p>There is an endangered species, the powerful owl, it flies over this area. It is a threatened species and has a limited distribution across the east coast of Australia. It has limited roosting opportunities.</p> <p>Possums and birds also use this reserve.</p> <p>Satellite tracking of owls shows the actual track of one powerful owl on the 21st May 2016, and whose flight path was within 100m of Dunara Reserve. There is a very good chance though, that it potentially landed at the reserve.</p> <p>Retaining random patches of vegetation in urban areas is vital to retain, as illustrated by the biodiversity conservation strategy.</p> <p>There is an isolated population of fairy wrens at the tip of Point Piper. No connectivity of patches further on. Getting rid of patches which are providing opportunities, is not the way to do it.</p> <p>Submitted then identified a series of "issues"/errors with the contents of the planning proposal.</p> <p>Woollahra Council fails to address biodiversity values.</p> <p>The land has many important values which will be lost, which Council under its own strategy must protect.</p> <p>[10.45 minutes]</p>
11	<p>5.05pm – 5.20pm Name: Stephen Davies (NSW Heritage Council)</p>	<p>I am hear as Chair of the NSW Heritage Council – not in a consultant role.</p> <p>Not here on any financial basis other than individual interest.</p> <p>Also as a former Councillor of Woollahra Council, and previous employee.</p> <p>Dunara House had a permanent conservation order from 1987 – it is important aesthetically and socially.</p> <p>Two key issues which come out of the submission.</p> <p>The vegetation was associated with the original estate.</p> <p>Remnant vegetation marked major estates, and their location and importance. The vegetation isn't just a reserve nearby, but an important remnant of the estate with a strong social and historical connection to Dunara House.</p> <p>Heritage is often associated with curtilage. It can be the original curtilage, or the curtilage of the house estate – but there is also a broader curtilage. Where you see significance – not just on the site – but in the context of that place. This reinforces the context of Dunara House.</p> <p>The landscaping associated with the house is still part of the curtilage of the property. Which all reinforces the appreciation of the house, notwithstanding the subdivision which was in many ways unsympathetic.</p> <p>I don't think that selling this land, and putting something on it is realistic, it will diminish this site.</p> <p>I don't think that associating it with another lot and hoping it will be retained is a sensible option when Woollahra Council currently owns the site and it has such historic associations.</p> <p>This reserve is a piece of open space which relates specifically to the site. Both the trees, and the vegetation, and the way that you view the site.</p> <p>[8.43 minutes] (including additional questions from Stuart)</p> <p><i>Stuart</i> – the Moreton Bay Fig and the Cook Pine collectively on the site are on 1 Wentworth. There are significant trees in heritage terms that already exist on private property. Is your concern that the heritage significance – would be or may be diminished if the land was not owned publicly?</p>

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		<p><i>Stephen</i> – The pressures would be very significant on it, if it was in private ownership. The opportunities to develop it would be very low considering the trees on it. So the best way to keep it is as public land for the community, and Point Piper, rather than a private owner looking to do something with the land.</p> <p>It is quite rare. It is an opportunity – the reserve shouldn't be reduced any further.</p>
-	5:20pm – 5:30pm	<i>Chair close</i>