

PLANNER'S REPORT

Reclassification of Dunara Reserve

Prepared February 2018

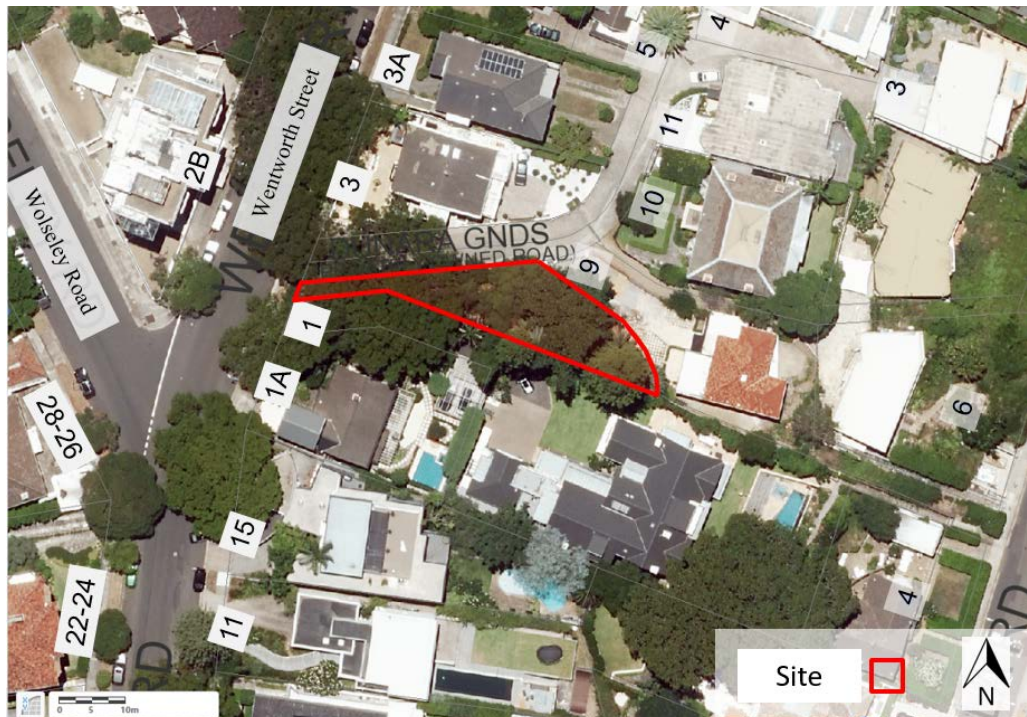


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ANNEXURES:

- 1. Redacted copies of submissions received in response to exhibition and re-exhibition**

Part 1 – The planning proposal

1.1 Background

The planning proposal applies to Lot 11 in DP 27451 which is known as Dunara Reserve (the site). The site was transferred 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.

The site is public land owned by Council and is classified as Community Land under the Local Government Act 1993 (LG Act).

The site is dedicated as a public reserve under Section 50(5) of the LG Act.

The land is zoned R2 Low Density Residential under Woollahra Local Environmental Plan 2014 (Woollahra LEP 2014). It is not proposed to change the zoning of the land.

In 2010 staff identified a partial encroachment into the site. In response, Council adopted the following Notice of Motion on 10 June 2014:

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 rezoning the land in order for it to be put up for sale.

On 10 August 2015 the Community and Environment Committee (C&E Committee) considered a report on options for the future use of the site. The report provided the history of the site, identified the extent of the encroachment from No. 9 Dunara Gardens and recommended the reclassification of the site to allow its sale. Having considered the recommendation from the C&E Committee, on 24 August 2015 Council resolved (see Appendix 3):

- 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.

1.2 Purpose of the planning proposal

A planning proposal is a document that explains the intended effect of and the justification for a proposed local environmental plan (LEP). An LEP is a legal instrument that zones land and includes standards and controls to regulate the use and nature of development and the management of land.

The site is public land, owned by Council. For management purposes, public land is classified as either community land or operational land under the *Local Government Act 1993* (LG Act).

The planning proposal seeks to reclassify the site from community land to operational land. Section 27(1) of the LG Act requires that the reclassification of public land is made by an LEP. Reclassifying the land to operational will provide various options for its management. This will include an option to sell the land.

As this matter relates to the reclassification of public land, Council did not seek authorisation to use its delegation under section 59 of the *Environmental Planning and Assessment Act 1979* from the Greater Sydney Commission.

The land is a public reserve under the LG Act. Should the reclassification proceed, it is intended that under Section 30(1) of the LG Act the local environmental plan will include a provision to the effect that the land will cease to be a public reserve on the commencement of the plan. If the LEP is approved and published, all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land are discharged.

1.3 The site

The site known as 'Dunara Reserve' comprises Lot 11 in DP 27451, and is located between 1 Wentworth Street and 9 Dunara Gardens in Point Piper. The private road known as 'Dunara Gardens' adjoins the Northern boundary of the site (see **Figure 1** and **Figure 2** below).

The site has an area of approximately 402m² and is irregular in shape with a slope which falls approximately 4m to the southeast. It contains no structures, and the size, shape and topography of the land restricts the construction of a building for community use.

The site contains a range of exotic and native trees including a mature Cook Pine which is local heritage item No 277 in Woollahra LEP 2014. There are no threatened species, populations or ecological communities.

The small frontage to Wentworth Street (see **Figure 2**) provides limited access, and from the public domain it does not visually present as a piece of public land.



Figure 1: Aerial photograph of Dunara Reserve (Lot 11, DP 27451)

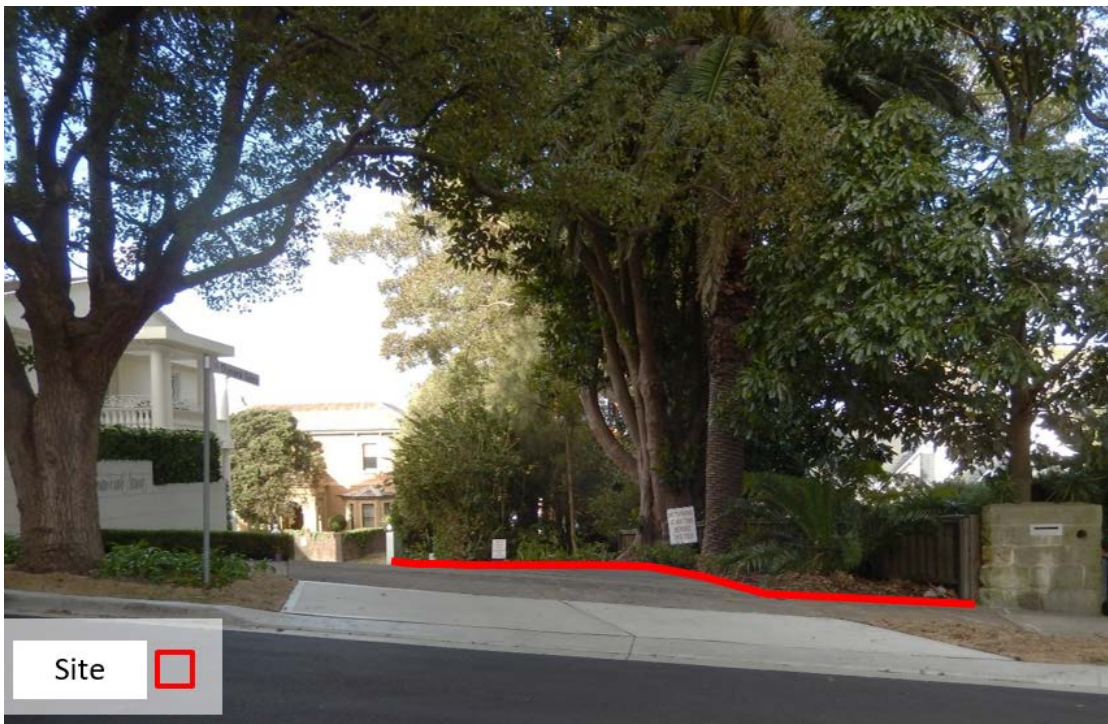


Figure 2: Photograph of Dunara Reserve taken from its entrance at Wentworth Street (looking east)

Part 2 – Gateway determination

On 5 July 2017 the Dunara Reserve planning proposal was submitted to the Department of Planning and Environment (DPE) requesting a gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (the Act).

The DPE (as delegate of the Greater Sydney Commission) approved public exhibition of the planning proposal and issued a gateway determination dated 20 July 2017. The determination identified that the planning proposal could proceed subject to the following conditions:

1. *Community consultation is required under Sections 56(2)(c) and 57 of the Act as follows:*
 - a. *the planning proposal must be made publicly available for a minimum of **28 days**; and*
 - b. *the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in Section 5.5.2 of A guide to preparing local environmental plans (Department of Planning and Environment 2016).*
2. *No consultation is required with public authorities/organisations under Section 56(2)(d) of the Act.*
3. *A public hearing is not required to be held into the matter by any person or body under Section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).*
4. *The timeframe for completing the LEP is to be **9 months** following the date of the Gateway determination.*

Part 3 – Public exhibition of the planning proposal

3.1 Original Exhibition

Public exhibition of the planning proposal was held from *Wednesday 9 August 2017 to Friday 8 September 2017*.

Details of the exhibition were notified in the *Wentworth Courier* editions of 9 August, 16 August, 23 August, 30 August and 6 September 2017. We notified 125 property owners about the proposal (see **Figure 3**).

The exhibition took place at Woollahra Council Chambers in Double Bay, in the Customer Service area during business hours.

A copy of the planning proposal and associated documentation were placed on Council's website for the duration of the exhibition period. During the exhibition, the website page was visited by 64 external customers.

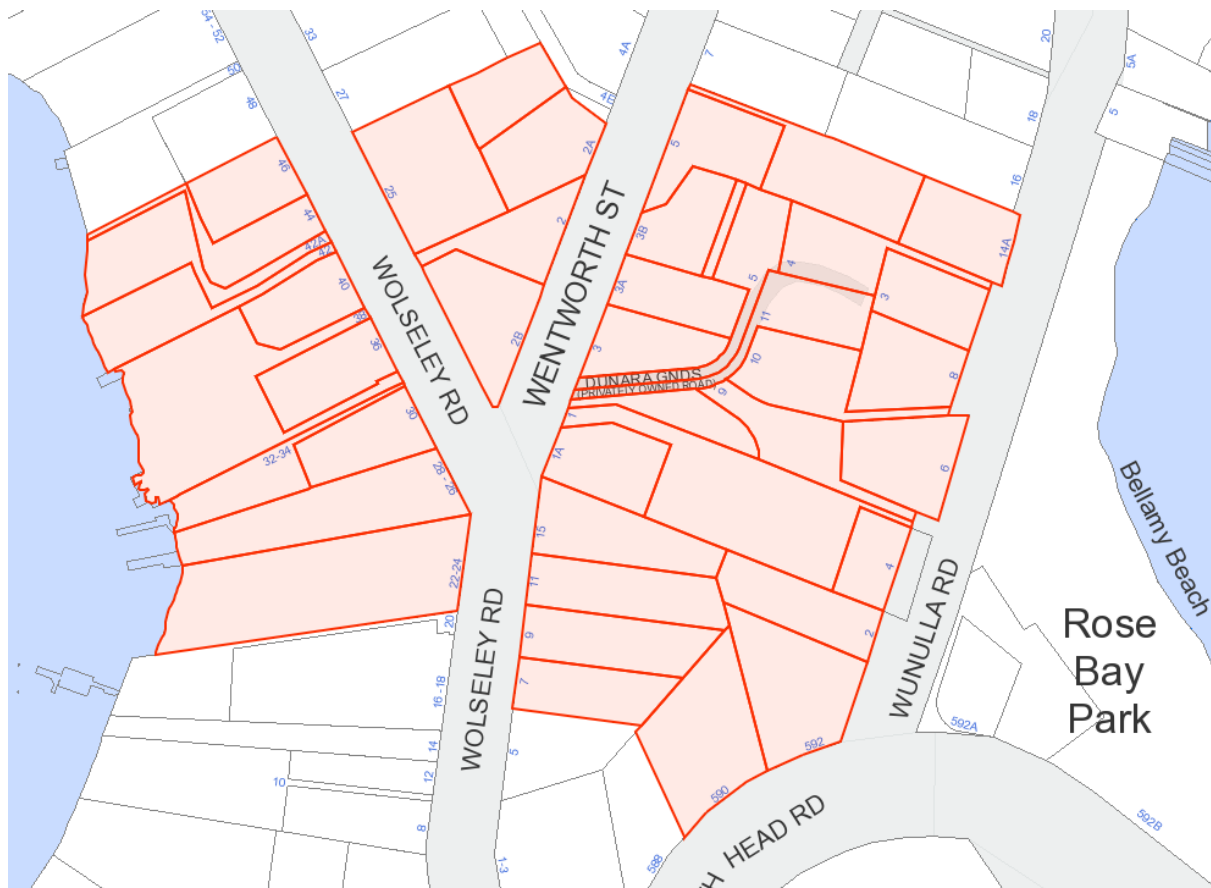


Figure 3: Extent of notification area for the public exhibition of the planning proposal

3.2 Exhibition material

The exhibition material comprised of two parts:

Part 1 - Planning proposal and information required by the gateway determination

- Correspondence from the Department of Planning and Environment including the Gateway Determination
- Planning proposal
 - Appendix 1 - Information checklist for proposals to classify or reclassify public land through an LEP taken from practice note 16-001
 - Appendix 2 – Report to the Community and Environment Committee of 10 August 2015
 - Appendix 3 – Council resolution of 24 August 2015

Part 2 – Reference material

- A guide to preparing local environmental plans (DPE 2016)
- Woollahra LEP 2014 (written instrument & maps)
- List of state environmental planning policies (SEPPs) and regional environmental plans (REPs)
- Directions under section 117 of the Act

3.3 Public re-exhibition of the planning proposal

Having considered the matters raised in submissions, re-exhibition of the planning proposal was held from *Wednesday 25 October 2017 – Friday 24 November 2017*.

Re-exhibition occurred to clarify the location and description of the site and the fact that there may currently be a trust affecting the site which is proposed to be discharged if the reclassification proceeds.

Details of the re-exhibition were notified in the Wentworth Courier editions of 25 October, 1 November, 8 November, 15 November and 22 November 2017.

The re-exhibition took place at Woollahra Council Chambers in Double Bay in the Customer Service area during business hours.

A copy of the planning proposal and associated documentation were placed on Council's website for the duration of the re-exhibition period. During the re-exhibition, the website page was visited by 58 external customers.

Part 4 – Submissions

Council received a total of 68 submissions from 56 individual submitters during the original exhibition and the re-exhibition period. This includes submissions from the:

- Darling Point Society, and
- Heritage Council of NSW.

One submission raised no objection. The remaining submissions were objections.

Figure 4 below identifies the location of 18 residents who made submissions who live within 500m of Dunara Reserve.

A redacted copy of all the submissions is in Annexure 1 (17/208494).



Figure 4: Map identifying the location of submitters in Point Piper

4.1 Summary of submissions

A summary of the issues raised in the submissions is provided below. The issues are grouped into the following categories:

- A. Provision of easily accessible green space
- B. Impacts of potential future development of the site
- C. Merit of the proposed sale of public land
- D. Process information and process
- E. Process for discharging any trusts, estates, interests, dedications, conditions, restrictions and covenants that may affect the land
- F. Preservation of local heritage
- G. Site is not presented as a public reserve
- H. Other matters

A. Provision of easily accessible public green space

Fifty-two submitters object to the proposed closure of the park and the resulting reduction in local public open space. On general principle, any potential reduction in community land or public open space was objected to by 55 of the 56 submitters.

Submitters identified that the Point Piper area has an insufficient amount of public open space, compared to the residential density. The importance of providing easily accessible open space for both current and future residents was highlighted in submissions.

The reserve

Submitters report that the reserve is enjoyed by:

- residents and visitors walking around the area, noting that it provides shade and protection from wind and traffic noise,
- children who play in the reserve, noting that a swing has been set up,
- residents of surrounding properties who have views of the trees in the reserve,
- elderly and less-mobile residents who find it difficult to walk up and down the steep slope to larger open spaces in Rose Bay,
- residents of surrounding properties who have little or no private backyard garden space.

Many submitters feel a strong sense of community ownership toward the reserve and report that residents help to maintain the reserve.

Trees

Submitters identified that there are a lack of trees in the Point Piper area, and that Dunara Reserve provides trees and vegetation that are significant for contributing to:

- the leafy and highly desirable visual character of the Point Piper area,
- the view of the area from public spaces, vehicles on the water, and buildings that look towards Point Piper,
- local biodiversity and providing habitat for wildlife such as local birds.

B. Impacts of potential future development of the site

Thirty-two submitters object to any future development on the land for private use (including a dwelling house, driveway or fencing) because this will:

- increase density in an already densely developed and overcrowded residential area,
- impact on the privacy, views and amenity of surrounding residential properties,
- impact on local traffic, parking, and road safety,
- reduce local green space,
- result in the removal of mature trees and other vegetation on the site. In this regard, submitters noted the number of trees in the area has been reduced in recent years due to development, tree poisonings and inappropriate tree lopping.

C. Merit of the proposed sale of public land

Fifty-five submitters object to the sale of Council land, on principle. Concerns were raised that there is insufficient strategic merit and justification for the proposal, particularly with regard to the following:

- the misuse of the reserve and the encroachment are unresolved and not a suitable reason for sale,
- the site can be accessed for maintenance and maintenance costs are minimal,
- the sale will not result in a significant financial benefit or public benefit and will not result in sufficient funding to provide replacement open space in Point Piper,
- the value and purpose for dedicating the reserve to Council as part of the 'Dunara Gardens' subdivision has not changed and the open space it provides is still needed for the amenity of surrounding property and local residents,
- the reserve currently provides community value both aesthetically and as passive open space.

Additionally, submitters were concerned that the proposal will set a precedent for the future sale of other parcels of community land.

D. Exhibition information and process

Sixteen submitters raised concerns querying the adequacy of the exhibition documentation and questioned whether Council has complied with relevant legal requirements for the reclassification of community land.

Concerns included:

- that insufficient information was provided about the financial benefit to the potential private owner, which could be much higher the land value that Council could sell the reserve for,
- the planning proposal is inconsistent with planning strategies, State Environmental Planning Policies (SEPPs), and other legislative planning requirements applicable to managing public land,
- the reasons for the re-exhibition were unclear. Specifically, information about a trust applying to the reserve was confusing,
- due to intermittent receipt of the Wentworth Courier, some submitters were unaware of the proposal until re-exhibition.

Several submissions queried the exhibition process including:

- was a public notice placed on the reserve?
- were notification letters sent to all residents of Point Piper?

E. Process for discharging any trusts, estates, interests, dedications, conditions, restrictions and covenants that may affect the land

Twenty-four submitters object to the removal of a trust applying to Dunara Reserve and seek its retention so that Council is required to maintain the reserve for community use.

Concerns were raised that:

- information relating to applicable trusts and their removal was inadequate,
- the proper process to discharge a trust has not been followed given that it was only brought to public attention at re-exhibition,
- the proposed reclassification will set a precedent for the future discharge of other trusts to facilitate development or sale of public land.

F. Preservation of local heritage

Eleven submitters object to potential adverse impacts on items of local heritage significance. It was also noted in several submissions that the reserve is a point of interest for local heritage tours.

The site contains a mature Cook Pine which is local heritage item No 277 in Woollahra LEP 2014. Other nearby items of heritage significance include:

- Cook Pine and Moreton Bay Fig at 1 Wentworth Street - local heritage item No. 285 in Woollahra LEP 2014
- House, interiors and grounds at 4 Dunara Gardens - local heritage item No. 275 in Woollahra LEP 2014
- "Dunara" house and interiors at 10 Dunara Gardens - heritage item No. 276 in Woollahra LEP 2014, which is also listed on the Heritage Act - State Heritage Register.

Submitters are concerned that the private sale of the land will adversely impact on the protection of the heritage listed Cook Pine tree. Concerns were also raised about the potential detrimental impact on nearby Dunara House which submitters state derives some of its heritage benefit from the reserve [the subdivision 'Dunara Gardens' being named for the gardens that historically surrounded the estate].

The Heritage Council of NSW recognises the heritage value of Dunara Reserve because of the heritage listed tree on the land and for its contribution to the heritage significance of Dunara House. Additionally, the NSW Heritage Council has suggested that the entire reserve may be of heritage significance as a remnant of the gardens of Dunara House.

G. Site is not clearly identified as a public reserve

Six submissions object to Council not clearly identifying the site as a reserve.

Submitters report that:

- 'Dunara Reserve' is not included on Council's website in the list of public reserves in the LGA,
- signage on the reserve is inadequate to clearly identify it as a public reserve to pedestrians on Wentworth Street.

H. Other matters

One submitter expressed an interest in purchasing the property if the proposed reclassification proceeds.

One submitter raised concerns that there is no Point Piper community or residents group.

Part 5 – Conclusion

The planning proposal was prepared and exhibited in the manner required by the Act, and the gateway determination. In response to both the original and re-exhibition, we received submissions from 56 submitters; 18 of which live within 500m of the reserve. The submissions raised a number of issues which have been grouped into eight themes being:

- A. Provision of easily accessible green space
- B. Impacts of potential future development of the site
- C. Merit of the proposed sale of public land
- D. Process information and process
- E. Process for discharging any trusts, estates, interests, dedications, conditions, restrictions and covenants that may affect the land
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**ANNEXURE 1:
Redacted copies of submissions received in response to exhibition
and re-exhibition**

The General Manager
Woollahra Municipal Council

records@woollahra.nsw.gov.au

Dear Sir,

SC3794 Submissions: Proposed changes to land management controls of Dunara Reserve, Point Piper

With the formal mechanism for disposal of the Dunara Gardens reserve land parcel now in train, a note of caution seems well warranted. I mention two issues that (belatedly) occur to me:

- I attach a high degree of relevance to the ***purpose*** of the original reservation for *public garden and recreation* space, and the vision that it presumably entailed. It is hard to imagine that it was reserved carelessly, without recognition of its landform and accessibility. Sixty-odd years later, it may still be a valid and feasible vision. I'd like to see it explored and re-visited.
- Similarly, the (later) classification of the Reserve as ***community land*** was, I imagine, not done carelessly either. That classification has stood for some time now. I wonder whether – and, if so how and why – its rationale is now seen to be deficient. That, too, could use some explanation.

The background thinking on those two matters seems especially important given the ultimate aim of the Council to sell the land. I note that I never was impressed by the notion that its continued upkeep would involve expenditure; that is not unusual for any or all public land, whether held under community classification or otherwise. It's one – entirely valid - reason why we pay our rates!

So, might we have some information and analysis to address the two matters in the next round of documentation, please?

Yours sincerely,
Hylde Rolfe

■ Cove Street Watsons Bay NSW 2030
13 August 2017

From: [Richard Manning](#)
To: [Records](#)
Cc: [Richard Manning](#)
Subject: Dunara Reserve, Point Piper. Change of Use. Adjoining Owner EOI to purchase and keep in close communication
Date: Monday, 14 August 2017 5:17:04 PM
Attachments: [Change of Council Land adjoining my property. 2bWentworth St Point Piper 14.08.17 Council Notice.pdf](#)
Importance: High

**Re: Dunara Reserve, Point Piper. Change of Use.
Adjoining Owner EOI to purchase and keep in close communication**

I refer to the attached correspondence.

1. I have no objection to the change of use.
2. I am interested to be kept in close communication with this process and the potential direction of this property. I would like council and any other relevant authority to please communicate with me on this.
3. I express my interest to purchase this property should it be re- classified and zoned for new development.

Thank you

Regards

Richard Manning

[REDACTED]

[REDACTED]

Post: [REDACTED] Balmain 2041

From: [Virginia Rundle](#)
To: [Records](#)
Subject: SC3794 Submissions
Date: Tuesday, 22 August 2017 9:54:24 AM

The General Manager
Mr Gary James

Dear Gary,

I note that there is a proposal to rezone the area known as Dunara Reserve. I live in Point Piper and regard the entire area as over developed and crowded with very few trees left in public spaces apart from Rose Bay Park, Duff Reserve and the grassy verges that line some parts of the roads.

I object whole heartedly to this proposal, which will mean it will be sold off for more housing and concrete.

If only more areas in Point Piper had a treed area to give some respite to the concrete and brick area it has become.

I am interested to know if the residents of Point Piper are being written to, as this would be probably the only democratic way that they could be informed.

Is there a sign going up at Dunara Reserve?

I would appreciate an answer to these questions. Thanks.

It is also concerning that Point Piper has no residents association that can be helpful in times like these. I will be calling on Darling Point Society and the Double Bay Residents Association to represent the residents of Point Piper.

Yours sincerely,
Virginia Rundle

From: [Virginia Rundle](#)
To: [Records](#)
Subject: Fwd: SC3794 Submissions
Date: Friday, 17 November 2017 10:49:43 AM

Dear Gary,

I see that there is a "Re-exhibition of Dunara Gardens" on page 10 of this week's Wentworth Courier. I was filled in about the "error" and whilst amusing, it is very annoying to have to write again. I wondered if all the other residents who wrote before can have their submissions included, like my own, below, and used as "unchanged" ? My opposition to this proposal to sell off precious Council Land is unchanged, no matter if it is regarded as a small and unkept parcel of land that could be turned into \$\$ for WMC, to benefit one resident.

I am extremely worried about mature trees on this Reserve, and worry about the potential for illegal lopping or poisoning - not an unusual worry in Point Piper at all, I should add.

Please see my opposition letter below. Can you please submit this as my objection to the "new" proposal, now that the roadway has been excluded from sale.

Kind regards
Virginia Rundle

Begin forwarded message:

From: Virginia Rundle [REDACTED]
Subject: SC3794 Submissions
Date: 22 August 2017 at 9:54:14 am AEST
To: records@woollahra.nsw.gov.au

The General Manager
Mr Gary James

Dear Gary,

I note that there is a proposal to rezone the area known as Dunara Reserve. I live in Point Piper and regard the entire area as over developed and crowded with very few trees left in public spaces apart from Rose Bay Park, Duff Reserve and the grassy verges that line some parts of the roads.

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Is there a sign going up at Dunara Reserve?

I would appreciate an answer to these questions. Thanks.

It is also concerning that Point Piper has no residents association that can be helpful in times like these. I will be calling on Darling Point Society and the Double Bay Residents Association to represent the residents of Point Piper.

Yours sincerely,
Virginia Rundle

From: [lawrence mike](#)
To: [Records](#)
Subject: SC3794 Submission - Reclassification of Dunara Reserve Point Piper
Date: Friday, 1 September 2017 3:00:15 PM

Dear Sir/Madam:

My wife and I write to strongly oppose the reclassification and sale of Dunara Reserve. Small parcels of land like this may look unused but that is a reflection of Council's lack of attention to defining the best use of the land and its development for the defined purpose.

With the escalating price of land and strained Council budgets, purchasing land for a new reserve will be next to impossible. Once sold off the Reserve is lost forever. Thus we maintain that no Reserve should ever be sold off but treasured as a wonderful legacy from our past community minded men and women.

With increasing numbers of people living in apartments, the need for reserves for children play areas is ever more vital.

Michael and Sarah Lawrence
■ Wiston Gardens
Double Bay 2028

Phone ■■■■■■■■

From: [Patty](#)
To: [Records](#)
Subject: Reference SC3794
Date: Monday, 4 September 2017 3:20:15 PM

To whom it may concern

The Dunara so called Gardens area but there is no longer a garden area it is just a concrete jungle of houses has no other Green area apart from the little patch of land you are now wanting to sell.

I am appalled at the idea that council wants to do this .

This will mean there will be absolutely no greenery in this area .

This means that those magnificent trees will be cut down .

At present I utilise this area I enjoy walking down and being amongst the greenery.

I see some children play in there as well.

I see those magnificent trees from New South Head Rd driving up to Vaucluse from down in Double Bay beautiful green foliage amongst the sky they are visible from many points .

But yet council would rather see concrete structures ??

Fencing and concrete structures all the way down the driveway then where it widens another huge concrete building all those trees cut down to make way for more concrete.

Please council this would be detrimental for the area.

Please rethink this.

Warm Regards

Patty Bloom

Sent from my iPad

From: [Ili Pelletier](#)
To: [Records](#)
Subject: Dunara reserve
Date: Monday, 4 September 2017 6:10:46 PM

Re: SC3794 Dundara Reserve

Dear council,

I have only recently purchased my home in Wolseley Road Point Piper. The Dunara reserve located close to my home is significantly one of the only reserves within an easy walk of my home that does not form the watery fringe around our peninsula. It is in fact the only reserve that would service the needs of an increasingly elderly community that cannot walk the down hill and consequently uphill walk to Rose Bay or Double Bay to access green space suitable for sitting outside away from Harbourside winds.

Could the council seriously reconsider the rezoning and consequent sale of this property.

As a former resident of Woollahra, it is noticeable how few green spaces are retained In comparison to other suburbs. I appreciate the value of land is a serious attraction for councils, but this is the last area, and once it is sold it will never be return. Outside space is essential for quality of like. The many apartments within the walk to the Dunara reserve NEED this space.

Please reconsider,

Ili Pelletier

Sent from my iPad



Level 6, 10 Valentine Avenue
Parramatta NSW 2150
Locked Bag 5020
Parramatta NSW 2124
DX 8225 PARRAMATTA

Telephone: [REDACTED]
Facsimile: [REDACTED]
www.heritage.nsw.gov.au

CID007

File No: EF14/5899

Mr Gary James
General Manager
Woollahra Municipal Council
P.O. Box 61
Double Bay NSW 1360

By email: records@woollahra.nsw.gov.au

Dear Mr James

RE: SC3794: Dunara Reserve, Lot 11 DP 27351, land between 1 Wentworth Street and 9 Dunara Gardens– Planning Proposal: objection to proposed reclassification.

I write regarding the proposal to reclassify this reserve as 'operational' and whether there is potential for future impacts on this State Heritage Register item.

I note that the Heritage Council of New South Wales has received representation on this matter, and I would welcome the opportunity to discuss this matter with Woollahra Municipal Council.

Woollahra Municipal Council would know that Dunara, 10 Dunara Gardens is listed on the NSW State Heritage Register (SHR). Its statement of significance notes:

Dunara is the oldest remaining house in Point Piper. It is historically significant particularly for its associations with Dorothea McKellar - as her birthplace and for its association with the influences on her artistic development, including her education, cultural environment and the surrounding landscape. Architecturally the house is an excellent example of a well-crafted Victorian residence of the period (built c 1883). It is a two-storey stuccoed brick house with slate roof and fine cast iron verandah and balcony, retaining much of its original detail intact and which past and present owners have maintained in a sympathetic manner. (Heritage Branch report, 1987).

The stables have been partially demolished and the servants' wing likewise has been separated from the house and converted into another dwelling. The entrance hall is particularly fine, having delicately carved shell motif cedar door head trims to doors opening off it and with Minton tiles.

The SHR listing derived from gazettal of a permanent conservation order over Dunara on 10 July 1987. Dunara House was built by Dorothea's father, Sir Charles Kinnaird Mackellar, physician and parliamentarian, on then five acres of land in c1883. The estate in its day was known for its magnificent gardens. Even its name, *Dunara* is an Aboriginal word meaning *gunyah on the slope of a hill*, suggesting some of the site's former character. A 1987 (then) Heritage Branch report noted the estate was subdivided in 1954, alienating most of its grounds, adding that bushland used to lead to the (Rose Bay) foreshores. Such estates once graced many of the peninsulae in Sydney Harbour's east and are now very rare indeed.

Dunara Reserve is almost directly adjacent to, and forms the southern 'edge' of the post-1950s street approach to, Dunara house. I understand that the reserve was vested in Council in 1957 as part of the subdivision of the original Dunara estate, in which Dunara was the only house. I gather this open space was marked in the subdivision Deposited Plan as Public Garden & Recreation Space and on vesting in Council became a Public Reserve.

I understand that the five acre Dunara Estate was subdivided into 11 tightly knit properties, many with little or no gardens, with the public reserve created to ensure green space with trees and vegetation for all. The Reserve continues to have that function, providing a sympathetic vegetated frame to the entrance to Dunara Gardens and the approach to Dunara House.

I note the large mature trees in and near the Reserve, including a Moreton Bay fig (*Ficus macrophylla*) and Cook's pine (*Araucaria columnaris*) individually heritage-listed (item 285) at 1 Wentworth Street and another Cook pine (item 277) individually-listed on Woollahra Local Environment Plan 2014, the pines being visible from Rose Bay. These and its vegetated character suggest Dunara Reserve may have local heritage value as well as contributory value to the Dunara SHR item.

I would welcome discussion with Council over its consideration for additional Local Environmental Plan listing of the Reserve as a landscape heritage item and consideration of possible State Heritage Register listing as an extension of Dunara's existing, limited SHR curtilage.

Dunara once had five acres of magnificent gardens as a Victorian gentry estate (cf a 1950s-suburban house, hemmed in by other such houses, with little or no gardens). Given the reduction of this estate to Dunara Reserve in 1957, a more positive outcome such as heritage listing and ongoing conservation seems more appropriate than reclassification, sale, possible tree removals, infill and loss of this last, small estate remnant.

I note the objectives for Heritage Conservation in section 5.10(1) of Woollahra LEP include:

- (a) to conserve the environmental heritage of Woollahra;
- (b) to conserve the heritage significance of heritage items ... including associated fabric, settings and views.

If you have any questions regarding the above matter please contact Mr Tim Smith, Director, Operations at the Heritage Division, Office of Environment and Heritage on telephone [REDACTED] or by e-mail at [REDACTED].

Yours sincerely



Mr Stephen Davies
Chair
Heritage Council of NSW
4 September 2017

From: [Tom O'Connor](#)
To: [Records](#)
Subject: SC3794 Dunara Reserve
Date: Tuesday, 5 September 2017 1:40:45 PM

I note with grave concern the proposal to reclassify Dunara Reserve , publicly owned park land, and sell it off for development. I have resided in Woollahra for 40 years and as our Mayor said she "respects the natural beauty, heritage and leafy character of Woollahra" and so do I and Dunara Reserve meets all these characters. Having recently moved to Point Piper I recognised there is very little open green space. Dunara Reserve has some magnificent mature trees and these should be preserved.

I would like to attend any public meeting on this proposal. My details are Thomas John O'Connor of [REDACTED] Wolseley Rd, Point Piper 2027. Mobile [REDACTED]

Sent from my iPhone

From: [Nina Calvisi](#)
To: [Records](#)
Subject: Dunara Reserve - Reference SC3794
Date: Tuesday, 5 September 2017 1:57:15 PM

Objection to Woollahra Council proposal to reclassify Dunara Reserve Point Piper in order to sell the land.
Point Piper loses too many mature trees due to poisoning, construction sites, etc.
It is a precious public asset and should remain available for all to enjoy.

Nina Calvisi

 Wentworth Street Point Piper 2027

5/9/2017

Dr Shane Connolly
Dunara Gardens Wunulla Rd
Ph: [REDACTED]
email: [REDACTED]

ATTENTION: WOOLLAHRA COUNCIL

RE: REFERENCE SC3794

I note that the council are proposing to sell off a section of land in relation to the subdivision of Dunara Estate.

This area functions as a green space with an open garden that myself and neighbours regularly enjoy.

I feel that this would be a completely inappropriate thing to do, for the council to decrease green space in the area where there is limited green space already available.

I note that this area is enjoyed by neighbours and people walking around the area and I also think development there would be detrimental to the impact of the houses in the area, particularly Dunara House.

All the residents in Dunara Gardens do and are happy to help maintain this area and I have seen council workers in there maintaining the site.

I would be most distressed if the trees in the reserve were cut down in the future and feel that if the council lost control of the site, this would not be able to be controlled.

I would feel it would be completely inappropriate for the council to sell a public reserve and would call on the council not to proceed further with this option.

Yours sincerely,


Shane Connolly

Woolakra Municipal Council
Customer Service Department

7 SEP 2017

Received

Walsley Rd
Peint Pipot

7/9/17

General Manager
Woolakra Council

SC3794 Submission

Dear Sir

I have lived in Peint Pipot for 45 years. In that time I have watched a suburb of homes with trees + gardens sacrificed to overdeveloped massive concrete mansions devoid of almost all that is nature.

Danara "Gardens" - has not been so for many years - a sample of overdevelopment permitted by Council. Its last saving grace is Danara Reserve - a tiny sample of what must have been - giving pleasure to us all from both intimate & distant views. NO financial gain can be worth this sacrifice.

Yours Faithfully.

(Mrs) *[Signature]*

P.S. What about climate change k. etc. etc.

Elections in two days

— NO!

Wentworth Place
Point Piper
6/9/2017

Submission to Woollahra Council in relation to Dunara Reserve Point Piper . Reference: SC3794.

We write to object to the removal of these trees from the Dunara Reserve. The trees are large, old and precious. They were planted very close to my great uncles home Woniora, which was demolished and was downhill from No 1 Wentworth Street . Similar trees might have been in their garden also.

The Cook pine of the Araucaria family would have been planted at the same time as other members of that family of plants at other family properties such as Elaine and Fairwater on New South Head Road. These remain.

Please do not denude this little patch of remaining history to be replaced with building and concrete, which prevents healthy plants producing oxygen and soil to absorb rain, rather than overloaded drains and floods.

From:

Mrs S.White

and


Mr. G. White



Submission: Woollahra Council Proposed Changes to the Land Management Controls of Dunara Reserve, Point Piper

Reference SC3794 Submissions

By email to: The General Manager, Woollahra Council
records@woollahra.nsw.gov.au

Submission Made By: Penny Broekhuizen
Address: [REDACTED] Wentworth Street, Point Piper, NSW 2027
Email: [REDACTED]
Telephone: [REDACTED]
Date: Thursday 7 September 2017

The Planning Proposal

In August 2017 Woollahra Council published a planning proposal (the **Planning Proposal**) to reclassify Lot 11, DP 27451, which it identifies as “*known as Dunara Reserve*” from Community to Operational land in order to sell the land. Submissions have been invited during the period 9 August 2017 – 8 September 2017.

My Interest in the Planning Proposal

I am the owner of [REDACTED] Wentworth Street, Point Piper (an Arts and Craft style house built in approximately 1910) where I live with my husband and three teenage children. My property adjoins the entire southern boundary of Dunara Reserve (approximately 60 metres).

This Submission

I disagree strongly with Council’s justification of the need for the Planning Proposal and submit, for the reasons set out below, that Dunara Reserve should not be reclassified from Community to Operational Land to allow for its sale. (Extracts quoted in this submission in italics are extracts from the Planning Proposal unless otherwise stated, references to sections, parts or appendices are to sections etc of the Planning Proposal, and the *Local Government Act 1993* is referred to as the *LG Act*.)

Executive Summary

Dunara Reserve is a much loved pocket of vegetation and significant mature trees within a suburb which is increasingly denuded of vegetation and has suffered the devastating loss of a number of mature trees recently to poisoning. It was created as part of the Dunara Estate subdivision and remains an important

amenity to the residents of Dunara Gardens and members of the wider public. A sale and enclosure of the Reserve would have substantial impact on the two heritage listed houses found on Dunara Gardens. A sale also raises the possibility of the future redevelopment of at least part of the Reserve, and the potential loss of trees and vegetation on it.

1. Dunara Reserve's creation as part of, and continuing importance to, the subdivision of the Dunara Estate

Dunara Reserve was transferred to Council in 1957 as "*public garden and recreation space*" (Appendix 1: *Reason Council acquired an interest in the land*) as part of the subdivision of the Dunara Estate, and as a condition of Council's approval to the subdivision. It is easy to see why designation of this space for public garden and recreation was made a condition of Council's approval of the subdivision. Dunara Gardens comprises 11 separate residential properties accommodating (at present) approximately 30 residents. These properties are substantial in size but have very little outdoor space and garden, and the Reserve presents a counter-balance to this, providing a garden, trees and greenery for the enjoyment and benefit of (amongst others) the entire Dunara community. Dunara Reserve occupies a prominent position at the entrance to Dunara Gardens (adjoining 36 metres of its access road), and all residents pass by and enjoy its open aspect every time they enter and leave their properties. I understand from one of the residents of Dunara Gardens who has lived there since the original subdivision in the 1950s that there was originally a public bench on the Reserve which was used by both the residents of Dunara Gardens and the wider public, but that this fell into disrepair a number of years ago and was removed (and never replaced) by Council. Some of my neighbours have young children who play on the Reserve: an inspection will reveal their tracks. In the absence of gardens of their own this is a safe place, close to home, where they can play outdoors.

If the Reserve is sold and enclosed this would represent a substantial loss of amenity to all residents of Dunara Gardens. Rather than an open garden running the length of the main section of the access road to Dunara Gardens, Dunara residents face the prospect of a 1.8 metre high fence, which any subsequent purchaser of the land would be entitled to erect without Development Approval. Given that there has been no change to the original subdivision since the 1950s, and creation of a public garden was at that time a condition of the subdivision for very understandable reasons, I see no justification for the current proposal which would take this amenity away from the residents of Dunara Gardens and the wider public.

2. Impact on heritage and unique local characteristics

- "*Reclassification of the land will not impact on the significance of [heritage items in the immediate vicinity]*" (schedule 1, Liveability priority 7)

Dunara Reserve presents as an open garden on the road leading into Dunara Gardens where 2 of the 11 homes are heritage listed: the magnificent Dunara House (state heritage listed) and McGrath House at 4 Dunara Gardens built in 1957 by Peter Muller. As noted at paragraph 1 above, the Reserve is an important amenity to all homes on Dunara Gardens, including these two heritage items, and provides them with an open, leafy aspect. If this land is reclassified and sold, its purchaser would be entitled to erect a 1.8 metre high fence for the 36 metres along which the Reserve adjoins Dunara Gardens. Contrary to Council's assertion in the Planning Proposal, this would have a very significant impact on the heritage properties in Dunara Gardens. Rather than enjoying views over, and access to, an open public garden they will be looking at a long fence. In addition, at present any member of the public pausing on Wentworth Street to look into Dunara Gardens at historic Dunara House is met with a lovely view of this heritage building, framed on the right by the greenery of Dunara Reserve. A fence (should the land be sold and enclosed) would present a dramatically different aspect. The impact, contrary to Council's assertion in the Planning Proposal, is direct and significant.

There is a heritage listed Cook Pine on the Reserve and at least one other tree worthy of heritage listing. At present these trees are available to the public to visit and enjoy. Sale and enclosure of the land would remove public access to these important trees (see paragraph 8 below). There is also the potential impact of the land being developed following a sale, which would have a significant and immediate impact on both the heritage tree and Dunara House.

3. The Planning Proposal asserts that site is not used as a "public open space" and is not "accessible open space".

- *"The site is a public reserve, but it is not used as public open space or as a public facility. Visually, it appears as a heavily vegetated space".* (section 2.1)
- *"The site is a public reserve, yet it does not function as accessible open space due to its configuration, topography and heavy vegetation"* (schedule 1, sustainability priority 5)
- *"Dunara Gardens provides little or no recreational value for the community."* (Appendix 2, paragraph 2).
- *"The remaining portion of the site is unsuitable for use as public open space due to its position amongst private dwellings and its topography. It has a small frontage to Wentworth [Street] of approximately three metres which does not provide appropriate access or passive surveillance into the site."* (Appendix 2, paragraph 1)

These statements in the Planning Proposal suggest that in order to be considered of public benefit (and therefore justify classification as community land) public land must be open space and readily accessible. This argument is not supported by the *LG Act*, which makes it clear that community land can take many forms including *"natural area, sports ground, park or for general community use"* (section (4)(a)-(d) *LG Act*), nor by the

Department of Local Government's Practice Note No 1 (Public Land Management) which states as an overarching principle that "*classification as community land reflects the importance of the land to the community because of its use or special features*" (paragraph 2.2).

Whilst Dunara Reserve is not large (albeit 402 square metres) and contains many trees and shrubs, this does not detract from its value to the community, nor preclude its enjoyment and use by members of the public for all the reasons set out elsewhere in this submission. Indeed, one of the "*special features*" of Dunara Reserve is its trees, dense vegetation and shady peaceful environment and Council is not justified in suggesting that this is inconsistent with classification as Community land. There is a strong argument for diversity in public spaces and Dunara Reserve has a valuable contribution to make to this within the Woollahra municipality.

4. The Planning Proposal asserts that the site does not present as a public reserve

- "*The site presents as part of a private estate rather than public land and member of the public would be hard pressed to recognize it as a public asset, let alone be inclined to enter and use the site for public recreation.*" (Appendix 2, paragraph 1).

I accept that there is nothing to let passing members of the public know that the site is public land and that members of the public who are not aware that it is public land may therefore be reluctant to enter and enjoy the Reserve. However this is entirely due to the inactivity of Council in failing to make it clear to the general public that the Reserve exists, and this should not be used as a means of justifying reclassification and sale of the land.

The Planning Proposal states "*the site is dedicated as a public reserve under section 50(5) of the LG Act*" (Appendix 1: Public Reserve status). However, it is not included in the list on Woollahra Council's website of "*Parks, reserves and playgrounds listed by suburb*" (which lists only Duff Reserve in Point Piper) and there is no public signage on the site to indicate that it is a public reserve. Council could easily remedy this by erecting a "Dunara Reserve" sign at the entrance to the Reserve on Wentworth Street, and by amending its website to include Dunara Reserve on the list of reserves in Point Piper.

5. The Planning proposal asserts that the site is underutilized, does not benefit the wider community, and only benefits the immediately adjoining properties

- "*The site is an underutilized piece of public land that does not benefit the wider community*" (section 6.1)
- "*The site currently only offers benefits to the immediately adjoining properties.*" (section 2.1)

Dunara Reserve is not underutilized. There are 11 houses on Dunara Gardens, home to approximately 30 residents. These residents, and their guests, pass and enjoy the Reserve every time they enter or leave their homes. Add to that the fact that many of the houses on Dunara Gardens enjoy views directly into the Reserve, and the sense of space and openness that this brings to an otherwise dense residential development.

Other neighbouring properties directly benefitting from an open aspect into Dunara Reserve include my property (1 Wentworth Street), 1A Wentworth Street, 15 Wolseley Road and the large block of apartments opposite at 2A Wolseley Road (comprising 11 apartments), which has no garden of its own. As noted at paragraph 1 above, local children play on the Reserve. It is also noted that Council is currently considering a development application to demolish an existing dwelling at 2 Wentworth Street (opposite the Reserve) and replace it with a 6 storey building containing 5 large units (DA 369/2017/1). The proposed development has no garden of its own but, if approved, will enjoy views over, and access to, Dunara Reserve.

In addition to the benefit that the Reserve brings to residents in its immediate vicinity, it is also visited regularly by other members of the public, including walking tours of the area and people interested in the history and heritage of the properties in Dunara Gardens and the heritage listed trees on and in the immediate vicinity of the Reserve (see paragraph 8 below).

It is simply not correct to say that the Reserve *“only offers benefits to the immediately adjoining properties”* (section 2.1). The immediately adjoining properties are: 9 Dunara Gardens, my property at 1 Wentworth Street, and 11 Dunara Gardens which owns the portion of the private road in Dunara Gardens which adjoins the Reserve. There is no doubt that the Reserve offers benefits to all of these properties, but, for the reasons given above and elsewhere in this submission, it also benefits other neighbouring residents, as well as members of the wider community.

It is also noted that, as referred to in paragraph 4 above, Council has failed to advertise the existence of the Reserve to the wider community, and there is no doubt that it would enjoy more visitors if its existence were more widely known, or if Council took better care of the Reserve and visited it more regularly for maintenance (see paragraph 6 below).

6. The Planning Proposal asserts historical problems managing the site

- *“Despite numerous attempts to manage the site, its inaccessibility and lack of passive surveillance have resulted in the build up of vegetation and debris over time.”* (section 2.1)
- *“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.” (Appendix 2, paragraph 1)

Dunara Reserve is no less accessible than many other public reserves in the Woollahra Municipality, including Duff Reserve in Point Piper (accessed via 98 steep steps) and many parts of Cooper Park (which are steep and heavily vegetated). By its own admission Council only undertakes site maintenance at Dunara Reserve twice a year, and from my own observance as an adjoining property owner, time spent by the Council conducting this maintenance is brief. As a consequence, some neighbouring residents, at our own expense, regularly undertake maintenance of the Reserve (including removal of accumulated dead branches, leaves and other vegetation) and have (with knowledge of Council) undertaken planting on the Reserve in keeping with its current vegetation.

The Planning Proposal attributes the “*build up of vegetation and debris over time*” on the Reserve to the site’s “*inaccessibility and lack of passive surveillance*” (section 2.1). I disagree. The Reserve is heavily vegetated, but is not difficult to access, and no part is inaccessible. When neighbours have conducted our own maintenance of the Reserve (see above) we have had no difficulties accessing it. If debris and vegetation has accumulated on the site this is, in part, a natural consequence of it being heavily vegetated and the fact that Council only visits twice a year to clear up (but see paragraph 11 below about misuse of the Reserve which is, in fact, the bigger issue.).

7. The Planning Proposal is made with the intention of a sale of the site, and raises the possibility of future development on the site

- “*Reclassifying the land to operational would allow the sale of the site*” (section 1.2)
- “*As at July 2015 the Valuer General placed a value of \$245,000 on the land. The estimated financial gain from the land being appended to an adjoining owner’s lot would be between \$2000 and \$5000 per square metre (based on comparable land sale values in the area)*” (Appendix 1: *potential financial gain to Council through reclassification*)

If the site is reclassified and offered for sale it does not present as a stand-alone development opportunity because of its shape, topography and the fact that it is heavily vegetated with substantial trees, including a heritage listed Cook Pine and at least one other tree which is worthy of heritage listing (see paragraph 8 below). For this reason it is likely that if Council proceeds to reclassify the land and offer it for sale, the only interest in purchasing this land will be from adjoining landowners (of which I am one). Two factors may motivate an adjoining landowner to make an offer to buy the land either:

- an interest in preserving this important pocket of vegetation and trees as a garden; or

- in order to increase the potential FSR of any future redevelopment of the existing home on an adjoining site, or with a view to the development of at least part of the land formerly comprising the Reserve.

Given that only the second option is likely to deliver the kind of “*financial gain*” to a purchaser referred to in the Planning Proposal (amounting to, on Council’s estimation, a financial gain of between \$804,000 and \$2,010,000 for this 402 square metres piece of land), a prospective buyer of the Reserve who is attracted by the development potential of the site is likely to be motivated to pay a higher price (and therefore be successful) in any competitive sale process involving a competing buyer simply interested in preserving the space as a garden. I have no interest in the development potential of the site and believe, as a point of principle, that its value to the community as a public garden far outweighs its potential value to a prospective private developer. In any event I have been advised that, given my large parcel of land, acquisition of this site will not (contrary to assertions in the Planning Proposal) add to the value of my property, but that it could add significantly to the value of the other developed property adjoining the Reserve.

Despite what Council has said in the Planning Proposal about the proposal not altering the development potential or tree preservation on the site, the estimated “*financial gain*” to a prospective purchaser it refers to could not be achieved without some development on or in the immediate vicinity of the Reserve, and I am deeply concerned that in referring to such large potential financial gains to a purchaser, Council is foreshadowing the possibility of future development on the aggregated site. As referred to elsewhere in this submission, this part of Point Piper is already densely developed and any additional development in this area would be to the detriment of everyone in its vicinity, especially if this were to involve the loss of vegetation or trees from the land comprising the Reserve.

8. Concerns about the preservation of trees on Dunara Reserve and tree poisonings in the area

- *“The reclassification does not alter the development potential of the site. Should the site be sold, any future development would need to address chapter E3 Tree Management in the Woollahra Development Control Plan 2015. One of the key objectives is to promote, maintain and conserve the leafy character of Woollahra Municipality. Woollahra Council’s Street Tree Master Plan (2014) also applies. One of the key objectives of the Street Tree Master Plan is to maintain and increase the number of trees and overall canopy coverage.”* (schedule 1, Sustainability Priority 7: Protect, enhance and extend the urban canopy).
- *“Although the site is located on a ridgeline, the planning proposal does not alter the development potential of the site. Any development on the site would need to address the controls identified in Sustainability Priority 7*

above.” (schedule 1, sustainability Priority 8: Improve protection of ridgelines and scenic areas)

As noted at paragraph 7 above, I am very concerned that reclassification and sale of the land will result in a future application to Council for approval to develop at least part of the site, and for approval to prune and/or remove trees on the site. I am also concerned that some of the vegetation on the Reserve is not covered by Council’s *Tree Management Development Control Plan* and could therefore be removed by a purchaser of the land without the need for approval.

Dunara Reserve is home to a number of substantial and significant trees. William Home, Level 5 Arborist, conducted a survey of trees on the Reserve on 4 September 2017, and a copy of his report is attached in the Schedule to this Submission. This report identifies 10 mature trees, 4 semi-mature trees, and 2 large mature shrubs on Dunara Reserve, including:

- a 28 metre high heritage listed Cook Pine
- two 14 metre high Moreton Bay Fig trees
- a 14 metre high Camphor Laurel tree; and
- four Canary Island Date Palms, which are particularly noteworthy as all are pest and virus free (this species being prone to pest and virus).

I have been advised by two of Woollahra Council’s tree officers that the tallest of the four Canary Island Date Palms on the Reserve (which dates back to approximately 1890) is of heritage significance and should be considered for inclusion as a heritage item on Council’s LEP. On 7 February 2017 I was advised by Ms Anne White (Strategic Planning, Woollahra Council) that Council is proposing to commence a Council-wide project to assess significant trees to add to its register in 2017/2018 and that it will consider the largest Canary Island Date Palm on Dunara Reserve as part of that process. As noted at the end of this paragraph, I believe that an assessment of the heritage significance of the Canary Island Date Palms and other trees on Dunara Reserve should be carried out immediately and taken into account as part of this Planning Proposal.

Point Piper is increasingly denuded of vegetation, and especially mature trees, as development and views of the harbor are valued more highly than preservation of our arboreal heritage. In particular, we have suffered the devastating loss of a number of substantial trees in the immediate vicinity of Dunara Reserve to poisoning in recent years. This includes the poisoning of a very large (20.5 metres) and significant Sydney Blue Gum adjacent to the Reserve in 2006, which resulted in its death and removal, and the poisoning of a large camphor laurel tree on a private property adjoining the Reserve in 2008, which also resulted in the tree’s death and removal. Council recorded this latter poisoning as constituting a breach of the Tree Preservation Order (breach reference 379/2008/1) and wrote to the owner of the land concerned on 24 December 2008 requiring that a replacement canopy tree

be planted within that property with a minimum size of 10 x 8 metres. No replacement tree has been planted, and despite Council advising in its letter of 24/12/2008 that an inspection would be made in early 2009 to ensure that a replacement tree had been planted, Council has taken no enforcement action in relation to this matter.

A magnificent heritage listed Moreton Bay Fig tree on my own property has also been poisoned twice within the last 12 years. Both attacks were severe and have required substantial and sustained treatment to save the tree, which, although it has survived is still showing signs of trauma

This prolific history of tree poisoning in the area makes Dunara Reserve and its trees all the more precious. Because of its prominent position on a ridgeline, some of the trees on the Reserve can be seen from Rose Bay and beyond. There are only four heritage-listed trees in the whole of Point Piper. Two are on my property and one is on the Reserve. The fact that three of the four trees deemed worthy of heritage listing in Point Piper are found within the immediate vicinity of, or on, Dunara Reserve, highlights the importance of this small pocket of land both within Point Piper and as part of what Woollahra Council recognizes as the "*important contribution*" that "*our rich heritage*" of trees makes "*to the beauty, character and history that continues to make our area such a desirable place to live.*" (Council's website: Trees).

I believe that the significance of the trees on Dunara Reserve, and the counter-balance that the Reserve's vegetation offers to the over-development of Point Piper, make it a precious public asset that should be preserved as such. I also believe that given the high risk of trees in Point Piper being unlawfully pruned, removed or poisoned (based on the alarming increase in such incidents in this part of Point Piper in recent years, including in the direct vicinity of the Reserve) it is imperative that the trees on Dunara Reserve are immediately assessed to determine whether further heritage listings should be made on the Reserve (including, but not limited to, the Canary Island Date Palms) and that these important trees are afforded the extra layer of protection that remaining in public hands provides. I acknowledge that public ownership does not preclude a tree from being poisoned. However, the transfer of land containing important trees from public to private ownership increases the risk of those trees being poisoned if the land was acquired with a view to its redevelopment. I would also note that no one has been prosecuted in relation to any of the recent tree poisonings in Point Piper. This drastically undermines the effectiveness of tree preservation legislation in operating as a deterrent to prevent the unlawful treatment of trees by a determined individual.

9. Financial burden of site maintenance and risk of managing the site

- "*The ongoing site maintenance to clear the debris and vegetation is a poor use of Council's resources, particularly as there is no tangible and obvious community benefit*" (section 2.1)

- The Planning proposal has the effect of *“removing the risk of maintaining, managing and making the site safe for public use”* (section 6.3)

By its own admission Council only conducts maintenance at the Reserve twice a year, and from my own observations any such maintenance is brief and conducted within one day only, or part of a day. The financial burden this involves can only be relatively small and, given the importance of Dunara Reserve to this community and its enjoyment by the wider public, it is inaccurate for Council to assert that there is no tangible and obvious benefit to this use of Council’s resources.

10. Use by the Council of the sale proceeds

- *“The sale of the site would allow Council to use the funds to improve services and infrastructure in the LGA, including existing usable open space in the vicinity.”* (section 2.1)
- *“Should the site be sold or leased long-term, the revenue generated could be used for public open space upgrades in the LGA such as the Redleaf foreshore upgrade, Rose Bay Pedestrian Trail and Guilfoyle Park upgrade. These facilities are in proximity to the residents of the whole of Point Piper.”* (schedule 1, Liveability Priority 5)

The Planning Proposal states that the proceeds of a sale of Dunara Reserve could be used to improve *“public open space”* and *“useable open space”* in the vicinity. As noted at paragraph 3 above, the fact that Dunara Reserve is heavily vegetated does not diminish its worth as a public asset and there is no justification for Council determining that space which is *“open”* is a more worthy recipient of public funds. Furthermore, there are a number of residents in Dunara Gardens who, because of their age, mobility, or other circumstances (as to which see their individual submissions) are not in a position to easily enjoy the alternative public spaces suggested in the Planning Proposal, and who would suffer a significant loss of amenity if their local public space is taken away.

Rather than selling Dunara Reserve, and inflicting a significant loss on both the community in its immediate vicinity and the wider public, Council should consider investing the modest amount of funds it would take to make sure that all members of public are aware that this beautiful space is available, and are able to enjoy it safely. This could be achieved by Council’s maintenance visiting the Reserve a little more regularly than twice a year and by erecting signage so that the public knows the Reserve exists.

11. Reasons for Council making the Planning Proposal: Misuse of Dunara Reserve

- *“In 2010 staff identified a partial encroachment into the site. In response, Council adopted the following Notice of Motion...That a report be brought to council...assessing the land known as Dunara Reserve Point Piper, with a*

view to rezoning the land in order for it to be put up for sale.” (section 1.1 Planning Proposal).

- *[The site] has been the location for illegal dumping of domestic waste”* (para 1, Report 10 August 2015)
- *“Numerous attempts to replant the site have been unsuccessful”* (para 1, Report 10 August 2015)

Despite justifications based on lack of public benefit put forward in the Planning Proposal, it seems that Council’s real motivation in proposing to reclassify and sell the Reserve is the protracted history of its misuse. Council and neighbours in the vicinity of Dunara Reserve are very familiar with the details of this history. This has been discussed in public meeting at Council on a number of occasions, including a DCC meeting on 17 August 2009 at which Council heard concerns from a number of residents about an encroachment onto the Reserve, the use of the Reserve to store household items and garbage bins, the dumping of household and garden rubbish on the Reserve, the unlawful removal of vegetation and the poisoning of a mature and very substantial camphor laurel tree on the boundary of the Reserve and an adjoining property (see paragraph 8 above).

Wherever possible, neighbouring residents have promptly provided Council with information about incidents of misuse of the Reserve, and have sought, at their own expense, to ameliorate its effects. This has included neighbours removing unlawfully deposited garden debris, domestic and building waste from the Reserve and planting to replace unlawfully removed vegetation at their own expense (and with Council’s knowledge). On two occasions this replanting has been deliberately vandalized: Council was informed and inspected the damage. Council has also inspected garden waste (including tree branches) unlawfully dumped on the Reserve, and was able to clearly identify its source.

In these circumstances, and given that by Council’s own admission it adopted the Notice of Motion to investigate a possible reclassification and sale of the Reserve *“in response”* to an encroachment into the site by an adjoining landowner, it is hard not to see this decision as, in effect, Council “washing its hands” of a difficult situation brought about by one resident’s refusal to respect the Reserve as public property. Whilst it is possible to understand Council’s frustration at the fact that its staff has spent many hours in recent years dealing with complaints about the ongoing misuse of Dunara Reserve, it is also manifestly unfair to members of the public that the unlawful behavior of one individual threatens to remove this much loved garden from public enjoyment. Making a proposal to sell public land in these circumstances (through a process which will inevitably involve inviting the individual who has misused the Reserve for so many years to participate) also sets an extremely worrying precedent, the consequences of which I do not need to spell out. Frustrating as it must be for Council to deal with the misuse of a public asset by one individual, this does not warrant Council selling this asset as a means of removing the problem.

Schedule

Dunara Reserve Tree Report by William Home, Level 5 Arborist, 4 September 2017

Client: Penny & Neil Brookhuizen
 Quotation Number: 61936
 Page number: 1 / 2

1.0 Tree Assessment Survey Sheet

Location : Dunara Reserve, Point Pipier

Weather : Fine 4 / 9 / 2017

| Tree # | Species Botanical name Common name | Trunk Diameter @1.4m | Height | Width | Age | SULE | Health 1 = Poor 5 = Excel | Structure 1 = Poor 5 = Excel | Canopy Cover % | Crown Class | Tree Surgery | Suitability for Preservation | Comments |
|--------|---|----------------------|--------|-------|-----|------|---------------------------|------------------------------|----------------|-------------|--------------|------------------------------|--|
| 1 | <i>Phoenix canariensis</i> Date Palm | 60 | 7 | 8 | M | | 5 | 5 | 95% | C | 1 | High | Group of 4 mature palms which are pest and virus free |
| 2 | <i>Araucaria columnaris</i> Cook Pine | 110 | 28 | 8 | M | | 5 | 5 | 95% | D | | High | Heritage listed |
| 3 | <i>Phoenix canariensis</i> Date Palm | 90 | 8 | 8 | M | | 5 | 5 | 70% | C | 1, 9 | High | Group of 4 mature palms which are pest and virus free |
| 4 | <i>Ficus macrocarpa</i> Merton Bay Fig | 130 | 14 | 10 | M | | 5 | 5 | 70% | C | | High | Root has been cut along private driveway to 9 Dunara Gardens by unknown person |
| 5 | <i>Streitzia nicolai</i> Bird of Paradise | 7x12 | 5.5 | 5 | M | | 5 | 5 | 70% | I | | High | Good understory planting |
| 6 | <i>Phoenix canariensis</i> Date Palm | 70 | 12 | 8 | M | | 5 | 5 | 95% | C | 1 | High | Group of 4 mature palms which are pest and virus free |
| 7 | <i>Liquidambar styraciflua</i> Sweetgum | 30 | 10 | 6 | SM | | 5 | 4 | 50% | I | | High | Semi-mature |
| 8 | <i>Olea africana</i> Wild Olive | 20 40 | 9 | 10 | M | | 5 | 4 | 60% | C | | Moderate | Mature tree with unusual shape and interesting trunk configuration |
| 9 | <i>Elaeocarpus reticulatis</i> Blueberry Ash | 15 | 6 | 4 | SM | | 5 | 5 | 85% | C | | High | |
| 10 | <i>Cassia glauca</i> Cardentia | 20 | 12 | 6 | M | | 5 | 4 | 75% | C | | Moderate | Has inclusion at 4m mark |

Tree surgery:

1. Deadwood.
2. Reshape crown.
3. Wound repair.
4. Insect control.
5. Improve soil conditions (mulch, fertility, aeration etc).
6. Investigate cavities.
7. Thin crown, consider installation of cabling/bracing and or retain and fence off for public safety.
8. Line clearance of structures or service wires.
9. Remove attached plant.
10. Root girdling.
11. Remove.
12. No tree surgery required.
13. Requires tree protection measures.
14. Refer to accompanying report.
15. Fungal or bacterial damage.
16. Monitor.

Age classification:

- Y - Young
- SM - Semi Mature
- M - Mature
- OM - Overmature

Crown Class

- D - Dominant
- C - Co-Dominant
- I - Intermediate
- S - Suppressed

Safe Useful Life Expectancy

- L = Long Remaining life span greater than 40 years
- M = Medium remaining life span from 15 to 40 years
- Sh = Short remaining life span from 5 to 15 years
- R = Remove Should be removed within 5 years
- Sm = Small Young or regularly pruned; trees that can readily be moved or replace
- U = Unstable Unstable in the ground or have significant trunk damage rendering them structurally hazardous



WILLIAM HOME
 Asst. Institute of Horticulture
 International Society of Arboriculture
 Member Number 100000000



Tree Surgeon / Transplantation Garden Design & Maintenance

FOR FURTHER ENQUIRIES, PLEASE CONTACT WILLIAM HOME: 0418 979 922

1.0 Tree Assessment Survey Sheet

Cilent: Penny & Neil Broekhuizen
 Quotation Number: 61936
 Page number: 2 / 2

Location : Dunara Reserve, Point Pipier

Weather : Fine 4 / 9 / 2017

| Tree # | Species Botanical name Common name | Trunk Diameter @1.4m | Height | Width | Age | SULE | Health 1 = Poor 5 = Excal | Structure 1 = Poor 5 = Excal | Canopy Cover % | Crown Class | Tree Surgery | Suitability for Preservation | Comments |
|--------|---|----------------------|--------|-------|-----|------|---------------------------|------------------------------|----------------|-------------|--------------|------------------------------|---|
| 11 | <i>Araucaria heterophylla</i> Norfolk Island Pine | 15 | 6 | 5 | SM | | 5 | 5 | 100% | C | | High | Young tree |
| 12 | <i>Hibiscus</i> Tropical Hibiscus | Multi 5 to 10 | 6 | 6 | M | | 5 | 4 | 100% | C | | High | Gives screening along road to all houses |
| 13 | <i>Casuarina glauca</i> Swamp She-oak | 15 | 8 | 3 | SM | | 5 | 5 | 90% | C | | Moderate | |
| 14 | <i>Cinnamomum camphora</i> Camphor Laurel | 150 | 14 | 10 | M | | 5 | 4 | 70% | C | | High | |
| 15 | <i>Ficus macrocarpa</i> Morton Bay Fig | 40 | 14 | 10 | M | | 5 | 4 | 30% | C | | Moderate | Growing with tree 14 |
| 16 | <i>Phoenix canariensis</i> Date Palm | 90 | 10 | 4 | M | | 5 | 5 | 70% | C | | High | Group of 4 mature palms which are pest and virus free |
| | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | |

Tree surgery:
 1. Deadwood. 2. Reshape Crown. 3. Wound repair. 4. Insect control. 5. Improve soil conditions (mulch, fertility, aeration etc).
 6. Investigate cavities. 7. Thin crown, consider installation of cabling/bracing and or retain and fence off for public safety.
 8. Line clearance of structures or service wires. 9. Remove attached plant. 10. Root gridding. 11. Remove. 12. No tree surgery required.
 13. Requires tree protection measures. *Refer to accompanying report. 14. Borer damage. 15. Fungal or bacterial damage. 16. Monitor.

Age classification:

| |
|------------------|
| Y - Young |
| SM - Semi Mature |
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Crown Class

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SULE

| | |
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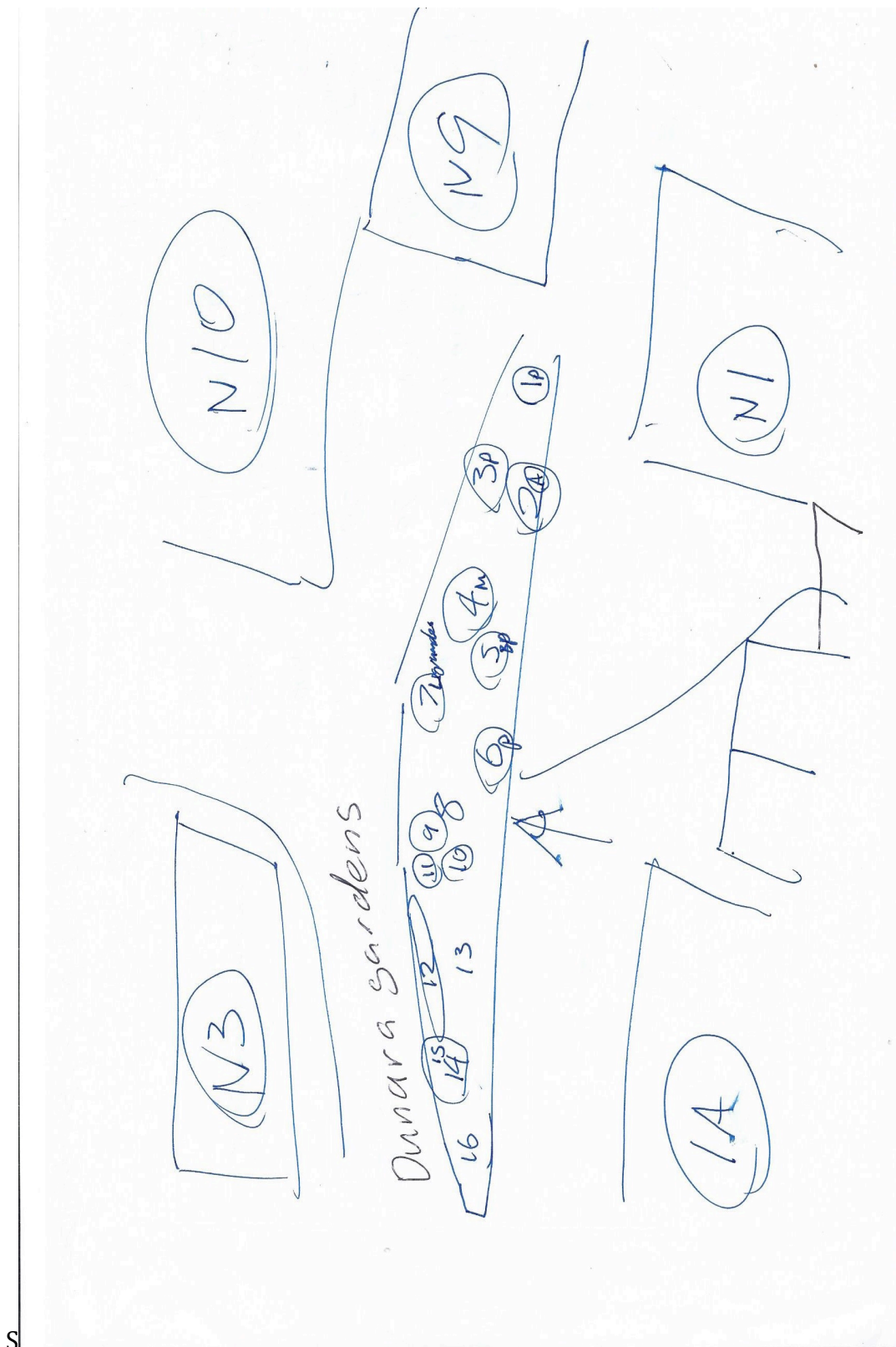
Sub Useful Life Expectancy



WILLIAM HOME
 Aust. Institute of Horticulture
 International Society of Arboriculture
 Member Number: 1000000000

Tree Surgeon / Transplantation Garden Design & Maintenance

FOR FURTHER ENQUIRIES, PLEASE CONTACT WILLIAM HOME: 0418 979 922



Site plan of trees on Dunara Reserve
 William Home, 4 September 2017

From: penny_broekhuizen
To: [Records](#)
Subject: SC3794 Submissions
Date: Monday, 6 November 2017 11:23:54 PM

To: The General Manager, Woollahra Council,
From: Penny Broekhuizen, [REDACTED] Wentworth Street, Point Piper

I have received notification of Woollahra Council's re-exhibition of proposed changes to the land management controls of Dunara Reserve, Point Piper.

I made a submission on 7 September 2017 raising a number of very serious concerns I have about this proposal, and wish that my submission of 7 September be taken into account in its entirety in relation to this re-exhibition.

However, I would also like to note that I am extremely perturbed that Council has decided to re-exhibit this proposal without giving a clear explanation as to why it has made this decision. The only explanation given by Council in the notice of re-exhibition is that it is occurring to **"clarify the location and description of the site and the fact that there may currently be a trust affecting the site which is proposed to be discharged if the reclassification proceeds."**

From what I can see in the public exhibition material no further explanation is given as to either:

- why clarification of the location and description of the site was necessary, and how this clarification has been made; and
- what the **"trust affecting the site"** may be, who the beneficiaries of the trust are, and how they will be affected by its discharge.

The latter point about the trust is particularly significant. Council cannot satisfy its legal obligation to consult with the public about this proposal if it does not disclose sufficient details about the proposal and its potential legal consequences so as to enable the public to make an informed view. What is this potential trust? To what does the trust relate? How was the trust created? When was it created and why was it created? Who are its beneficiaries? What are the potential consequences to those beneficiaries of the discharge of that trust? Why does Council consider it appropriate to discharge that trust?

There is a gaping void in the planning proposal and public exhibition material as to the answers to every one of these questions, and without this information both are incomplete and cannot constitute either a planning proposal or a valid community consultation pursuant to the *Environmental Planning and Assessment Act 1979*. In particular, section 55 of that act requires that the planning proposal must include a statement of the objectives or intended outcomes of the proposed instrument, an explanation of the provisions that are to be included in the proposed instrument, the justification for those objectives, outcomes and provisions and the process for their implementation. As none of these requirements have been met as regards the **"trust affecting the site"** Council has failed to meet the legal requirements for a valid planning proposal and the current process is thereby invalidated.

Yours Faithfully
Penny Broekhuizen

Our family lives in Dunara Gardens. One of the reasons we purchased our property in Dunara Gardens was because of the open space provided by Dunara Reserve. On driving into Dunara Gardens there is a sense of greenery and openness in an area where there is dense residential development including the presence of high density units across the road. The Dunara Reserve is the garden referred to in Dunara Gardens and this is the reason that the area is called Dunara Gardens. If this reserve were to be sold the garden of Dunara Gardens would be lost – you could say that the heart and soul of Dunara Gardens would be lost. The purchaser of the 402 sqm area would be entitled to build and likely would build a 1.8 meter high fence along the edge of the property including the 3 metres section abutting the footpath which would be unsightly and undesirable both from inside Dunara Gardens and from outside Dunara Gardens.

Certainly Dunara Reserve is enjoyed by the residents of Dunara Gardens and their visitors. Children living in Dunara Gardens regularly play in Dunara Reserve. However Dunara Reserve is also enjoyed by residents living outside Dunara Gardens.

Children living outside of Dunara Gardens regularly come to play at Dunara Reserve. In some of the unit developments nearby there are no back yards and Dunara Reserve is the only outdoor space available for these children to play. There is only one other reserve in Point Piper and this is some distance away.

In addition historical groups come to look at the two Heritage listed properties in Dunara Gardens, particularly the property “Dunara” which was the original home on the Dunara Estate. The house “Dunara” is directly opposite the Dunara Reserve. These groups of people coming to look at significant historical houses are able to enjoy the amenity of the open space offered by Dunara Reserve - rather than looking at a 1.8 Brick wall fence - and they often stop and enter Dunara Reserve on their way to or from the heritage homes.

Further there are residents of Point Piper (outside of Dunara Gardens) and surrounding suburbs who themselves walk or walk their dogs as exercise along the streets nearby – these people also enjoy the amenity of Dunara Reserve and often come into the reserve to enjoy the pocket of greenery and open space.

Dunara Reserve is a very important area of open space and greenery in an area of high development. There are a number of mature trees in the reserve including a heritage listed Cook Pine and a Date Palm – both over 110 years old. This reserve is an area we now have because of the foresight of the Council in 1956 and an area that should be cherished and protected – definitely not an area to be reclassified with a view to selling it off resulting in the loss for ever of an important area of public open space.

The Council argues that there is a burden on Council finances by having to come to Dunara Reserve two times a year – probably both visits would not even add to one

full day per year. With an annual income of over \$115 million the cost of attending to the reserve results in no burden on Council's finances.

Instead of Council trying to sell this reserve which will then not be enjoyed by all generations to come it should be helping Dunara Gardens residents to promote its use. Better prominent signage is needed on Wolseley Rd as well as small sign under the Wolseley street sign on the corner of New South Head Road and Wolseley Rd.

In conclusion we strongly oppose the sale of Dunara Reserve, it is not a burden on Woollahra Council and would result in loss open space and greenery for all generations to come in an age when such recreational areas are becoming extinct.

P + V Papadakis

Drs Peter and Victoria Papadakis

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Peter Papadakis

Drs Peter and Victoria Papadakis

From: papadakis@westnet.com.au
To: [Records](#)
Cc: [papadakis](#)
Subject: SC374 Submissions: Dunara Reserve Point Piper
Date: Tuesday, 21 November 2017 7:10:05 AM

RE-EXHIBITION

To General Manager, Woollahra Council

Reference: SC374 Submissions: Dunara Reserve Point Piper

On 11 November 2017 we made a submission objecting to the proposed Dunara Reserve reclassification and sale

Please find following a further submission -

We note in your letter to us dated 25 October 2017 you state that "Re-exhibition is occurringthe fact that there may currently be a trust affecting the site which is proposed to be discharged if the reclassification proceeds"

That there may be a trust affecting the site is further evidence that the creation of Dunara Reserve when subdivision occurred was a forward thinking idea of the then Council to preserve this area of public land – for the benefit of the public and Dunara Gardens residents. Having a trust for the site was a way of ensuring that this land continued as public land

In our opinion it would be a breach of trust for Council to now have it cease as public land and we strongly object to the proposal to reclassify Dunara Reserve and then sell the land

Drs Peter and Victoria Papadakis

■ Dunara Gardens Point Piper

Postal Address: [REDACTED]

PS Please confirm receipt of this email

From: [Justin Richmond](#)
To: [Records](#)
Cc: [Nikki Richmond](#)
Subject: Public Reserve - Dunara Gardens - SC3794 Submissions
Date: Friday, 8 September 2017 9:42:49 AM

Woollahra Municipal Council

By email records@woollahra.nsw.gov.au

Reference: SC3794 Submission

This email is a formal submission on behalf of Justin, Nikki, Sarah Rose (16 years old) and Daniel Richmond (15 years old) of [REDACTED] Wentworth St, Point Piper, and it relates to the Council's consideration of whether to sell the public reserve at Dunara Gardens and Wentworth St, Point Piper.

We object to the proposal in the strongest of terms. We request that the Council leave the public reserve in the ownership and control of Council.

As background, our family home is within Dunara Gardens (but also has frontage to Wentworth St) and is located near to the public reserve which you are currently considering selling. Our reasons for our objection are as follows:

1. The public reserve is beautiful and adds significantly to the amenity of Wentworth St and Dunara Gardens. The trees within the public reserve are a pleasant green space that constitute a historic part of the area. These are best left in the ownership and control of the Council, and not in private ownership and control where they may be poisoned or destroyed as private property.
2. The properties within Dunara have limited gardens and open space and so the public reserve is particularly precious.
3. The Council is considering a (multi-level) development across Wentworth St (from Dunara Gardens), so with a significant increase in the number of people in the area, maintaining existing green space is important.
4. When the Council, permitted the subdivision to form Dunara Gardens, it decided to do so, on the basis that this land should be public reserve. It made that decision having considered the needs of the area for public space and those reasons have not changed other than the increase in the number of people, which makes the original reasons all the more prescient.
5. We have seen Councils over the years sell off public reserves in different parts of Sydney, only to regret it later.
6. In applications for development in the municipality, Council looks at open space and setbacks as part of enabling development but maintaining the amenity of an area. A decision to sell the public reserve is at odds with the Council's own policies and conditions it imposes on developments to ensure open space.
7. When we go on walks in the morning and on weekends, we stop to look at the public reserve and its trees. We do not want this greenery replaced with a garage, wall or fence. When we go on walks with our parents and friends, they often comment that the public reserve is so pleasant, and it provides an open entry into Dunara Gardens.

8. Our daughter, Sarah Rose, is interested in green conservation and enjoys the public reserve with its huge trees and greenery. We told her that the Council was considering selling the public reserve and she was disappointed as she enjoys the public space. She considers any such decision as a “sell-out” to development rather than maintaining Point Piper as a “cool” place to live and for people to visit.

9. Our son, Daniel is autistic but really enjoys the public reserve. He likes to look at the greenery and play in it. We request that if you are considering progressing the proposal of a sale of the public reserve that you first observe him playing in it, so that you properly consider the benefit of the public reserve to him.

10. The public reserve is on the southern part of Dunara Gardens and provides protection from winds coming from the south, and given the proximity of busy New South Head Road, it provides an excellent natural noise break for properties on Wentworth St and the northern parts of Point Piper.

11. The Council has expressed concern that the benefit of the public reserve is limited to a small number of adjoining land owners. We have lived in Dunara Gardens for over 6 years, and we observe many people in the area enjoying the public reserve particularly as part of walks. We request that you consider how many people will benefit from the public reserve if it is sold to one private land owner.

12. We do not believe that the projected financial proceeds justifies the significant public detriment of selling the property. If the Council is considering progressing the proposal, it is important for the decision makers to spend time at the public reserve to see its beauty. We request that you project into the future and consider the growing importance of the public reserve as there is further development in the area, and more people. We believe that a sale will be viewed as short sighted in the future given the historic importance of some of the trees.

We are available to meet at the public reserve, and if you wish to observe Daniel playing in the public reserve, please call us on [REDACTED]

Yours sincerely

Justin and Nikki Richmond

Freda Cassen
[REDACTED] **Wentworth Street**
Point Piper
NSW 2027
Ph: [REDACTED]

The General Manager
Woollahra Council
PO Box 61
Double Bay
NSW 1360

Woollahra Municipal Council
Customer Service Department

8 SEP 2017

Received

8 September 2017

Dear Sir/Madam,

SC3794 Submissions
Proposed Changes to Dunara Reserve Point Piper

I have am the owner of [REDACTED] Wentworth Street, Point Piper, and have lived here for 30 years. Whilst my address is Wentworth Street, the main access that I use to my property, both pedestrian and vehicular, is via Dunara Gardens. My property was part of the original subdivision of the Dunara Estate in the 1950s, and is as affected by the proposed changes to Dunara Reserve as all the other properties in Dunara Gardens.

I strongly object to Woollahra Council's proposal to reclassify Dunara Reserve from Community to Operational land in order to allow a sale of the land.

Dunara Reserve is an extremely precious amenity to all of us who live in its vicinity. It was designated as pubic garden and recreation space when the original Dunara Estate was subdivided in the 1950s because this is a tightly packed subdivision and most Dunara properties have only small outdoor spaces of their own. Dunara Reserve is a shared garden which compensates for this, and which we can all enjoy. It is home to some beautiful and significant trees: not only the magnificent heritage listed Cook Pine, but also four Canary Island Date Palms, and a large Moreton Bay fig tree. A closer look will also reveal a number of beautiful shrubs and bushes, including a lovely large hibiscus on the boundary of the Reserve and the road leading into Dunara Gardens. These trees and plants give me huge pleasure every time I access or leave my property, and when I am home I can hear birds singing in the Reserve through my open windows. Kookaburras and lorikeets have made that their home.

Dunara Reserve a very important amenity to me, and all residents of Dunara Gardens and it is not accurate for Council to suggest otherwise. It is our beautiful green space in an otherwise increasingly over-developed Point Piper. It is also not accurate for Council to suggest that the Reserve does not benefit the wider

community. I regularly see members of the public stop by and admire the sweep of its trees and shrubbery as they lead down to the lovely and historic Dunara House, which is state heritage listed.

Council has suggested in its Planning Proposal that if Dunara Reserve is sold it could use the funds on other public space elsewhere in the Woollahra Municipality, including Redleaf, Rose Bay Pedestrian Trail and Guilfoyle Park. However, because of my age these are not public spaces that I can readily enjoy in the same way as I enjoy Dunara Reserve, which I do every day. I also disagree with Woollahra Council's assessment that public places like peaceful, leafy, quiet Dunara Reserve are somehow less worthy of recognition and protection than playing fields and open space.

As to Council saying its maintenance is a drain on resources, the fact is that Council for years have neglected it and have rarely maintained it.

If Dunara Reserve is sold a buyer will fence it in and Dunara Residents will lose their view into the Reserve. This would have a dramatic impact on all Dunara Residents, and the impact on Dunara House would be particularly devastating. I am also extremely concerned that a buyer will seek to remove shrubs and trees on the Reserve to make way for development. I have been horrified to see two beautiful large mature trees poisoned in Dunara Gardens in recent years. Tree preservation laws are simply not enough to protect our important trees when someone is intent on getting rid of them, and it is pertinent to note that no one was ever prosecuted for the recent Dunara tree poisonings. Clearly this sends a message to anyone contemplating buying the Reserve: the trees are protected, but if they are poisoned punishment is unlikely to follow. For this reason, and in order to keep our neighbourhood trees safe and out of the hands of private landowners who may want their removal, I believe in the strongest possible terms that Council should not reclassify Dunara Reserve. Indeed I feel that in these circumstances, and given the known history of tree poisonings in this area, it would be irresponsible of Council to countenance a sale which would put our surviving trees at risk.

Yours Faithfully

A handwritten signature in cursive script, appearing to read 'F. Cassen', written in black ink.

Freda Cassen

Freda Cassen

█ **Wentworth Street**

Point Piper

NSW 2027

Ph: █

Mobile: █

The General Manager

Woollahra Council

PO Box 61

Double Bay NSW 1360

18 November 2007

Dear Sir/Madam

SC 3794 Submissions

Proposed Changes to Dunara Reserve Point Piper

I am horrified to see that Council is re-exhibiting this disgraceful proposal, especially as it seems to be an attempt to rectify its mistakes in the original exhibition. I do not understand why Council is so hell bent on proceeding with it.

I draw your attention to my previous submission dated 8 September which you should take into account again.

It seems that Council now acknowledges the correctness of my neighbour Mr Farkas' submission about the fact that Council holds that land in trust for the public, and in particular the residents of Dunara Gardens. It is appalling that Council should even consider breaking that trust, both in a legal and a moral sense. If we can't trust Council to honour that legal trust, then

what faith can we place in Council to do the right thing in other respects.

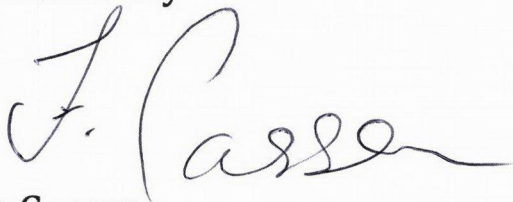
Council is supposed to look after the interests of ratepayers, not act against their interests.

Council set that land aside as part of the original subdivision , to provide a leafy green space with numerous large trees , especially given the density of the subdivision and the lack of trees in it., and the lack of gardens in the houses. It is Council's duty to retain and maintain that land as a public reserve in accord with its original creation.

I have already described its value to me personally as well as the other residents. I and others will be extremely upset if this proposal proceeds. I expect there will be a court case challenging it if Council proceeds to a reclassification.

I regard this proposal as irresponsible and a breach of faith with the public

Yours faithfully

A handwritten signature in cursive script, appearing to read 'F. Cassen', written in black ink.

Freda Cassen

Charles Handler
■ Dunara Gardens,
Point Piper, NSW 2027

6/09/17

Woollahra Council
PO Box 61
Double Bay NSW 1360

TO WHOM IT MAY CONCERN

Woollahra Council Ref: SC3794 Submissions-Proposed changes to the land management controls of Dunara Reserve, Point Piper

We are one of the residences at Dunara Gardens. We are disappointed to hear that the Council is planning to reclassify Lot 11, DP 27451 which also known as Dunara Reserve from Community to Operational land in order to sell the land.

My wife and I who are both in our 70s and decreasing in our physical ability for more active activities have been walking our dog and strolling in the Dunara Reserve as our daily routine since it is the closest outdoor space from our home that offers trees and greenery for our enjoyment. As we have very limited outdoor garden space in our house that is part of the already overcrowded Dunara Gardens, the Reserve provides a stress relief space for our daily health routine. The Reserve also serves as a meeting place and common venue for us to socially catching up with our neighbours and friends in the Community who are co-using the space like us.

The reclassification of the Reserve that may consequence to the potential of private ownership of the land will result in the loss of our daily recreational and social venue hence our limited physical and social activities as well. Therefore, we would like Council to reconsider the proposal of the reclassification.

Thanking you in advance.

Yours sincerely,



Charles Handler

Charles Handler
■ Dunara Gardens,
Point Piper, NSW 2027

23/11/17

Woollahra Council
PO Box 61
Double Bay NSW 1360

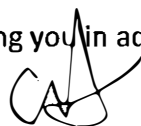
TO WHOM IT MAY CONCERN

Woollahra Council Ref: SC3794 Further Submissions-Proposed changes to the land management controls of Dunara Reserve, Point Piper

We refer to the above mention reclassification of Dunara reserve and our submission dated 6/9/17, we are hereby writing to re-iterate our previous submission.

We understand the Council's statement that there may be a trust affecting the site which is proposed to be discharged. We are disappointed with the decision as the trust is to preserve the reserve as public land for the benefit of Dunara Gardens' residents in particular and the public generally and it is a breach of trust for Council to have it cease as public land. We would like to emphasise our strong desire for the reserve to remain as it is and continuing serving the adjacent residents and benefit the general public in its original form.

Thanking you in advance.



Yours sincerely,



Charles Handler

GEORGE FARKAS
B.A LL.B
[REDACTED] Dunara Gardens
POINT PIPER NSW 2027
Ph: [REDACTED]
M: [REDACTED]
Email: [REDACTED]

7 September 2017
The General Manager
Woollahra Council
536 New South Head Rd
DOUBLE BAY NSW 2028

Dear Sir

**SC 3794 SUBMISSION RE PROPOSED RECLASSIFICATION OF DUNARA
RESERVE, POINT PIPER**

I am the owner of “Dunara” [REDACTED] Dunara Gardens , Point Piper , which is Heritage Listed on the State Register, being the birthplace of the famous Australian poet, Dorothea McKellar and the oldest standing house in Point Piper. This was the original house in the original Dunara Estate which comprised all of what is currently Dunara Gardens , before its subdivision in 1956.

I strongly object to the proposed reclassification of the subject land and submit that it should remain as community land owned by Council.

My Submissions are set out as follows:

- EXECUTIVE SUMMARY
- DETAILED SUBMISSIONS

EXECUTIVE SUMMARY:

- 1A. The Council Resolution authorizing the Planning proposal is invalid.
See Paragraph 64 and succeeding paragraphs.
1. The expressed rationale for selling the land is both scandalous and reflects appallingly on Council and further is no longer relevant.
2. The alleged reasons advanced in support of doing so are manifestly incorrect. In particular, the land does provide a community amenity and the public do use the land.
3. Any proposal to sell the land is also based on a fundamental misconception of the reasons and circumstances of its creation and its continuance. The setting aside of that land as Public Garden & Recreation Space was part of the conditions of consent to the subdivision of the Dunara Estate into 11 small lots , many without any gardens and was transferred to Council as part of the subdivision to ensure that it remained garden & recreation space in perpetuity.

4. The proposal is misconceived both in law and in fact.
5. Appendix 1 to the Planning Proposal (Required Information checklist for proposals to classify or reclassify public land through an LEP in accordance with the Dept of Planning & Environment's LEP Practice Note PN 16-001) contains incorrect information and thus does not contain the information required by that document and the Dept of Planning.
6. The information supplied to NSW Planning & Environment resulting in a Gateway determination was incorrect and thus the Gateway determination is based on incorrect information.
7. The Planning Proposal contains incorrect information and accordingly the recommendation contained therein cannot validly stand.
8. The original Council Notice of Motion of 10.6.14, on Council's own admission, was a response to its failure to legally enforce a legally binding condition of consent to No 9 Dunara Gardens' DA as imposed by the Land & Environment Court to remove the significant encroachment by No 9 on the subject land and should never have been passed, being an abrogation of Council's duty to enforce Court Orders.
9. The proposal sets a bad example of public policy.
10. Council's Resolution of 10.8.15 to prepare a Planning Proposal was based on incorrect information in a Report provided to it and further is similarly an abrogation of its duty and constitutes bad public policy.
11. The Proposal fails to meet Goals of and is inconsistent with the relevant requirements of " A Plan for Growing Sydney (2014) and the Draft Central District Plan (2016) in material respects.
12. The Proposal is inconsistent with State environmental planning policies.
13. The Planning Department's agreement to the reduction of land for public purposes was based on incorrect information put forward by Council as a justification for the proposal. Further the proposal is inconsistent with s.117 Direction 62 (Reserving Land for Public Purposes).
14. There is such little public garden space in Point Piper, which is already overdeveloped, that the land should remain community land, rather than being sold for potential further development, especially in such a confined area as Dunara Gardens.
15. Further there is a towering Heritage listed Cook Pine on the land, which is prominent from both the Rose Bay foreshore and as far away as Darling Point, whose survival can only be ensured if the land remains in Council's hands, especially given tree death by poisoning on private property in Dunara Gardens .
16. The Proposal is detrimental to my Heritage Listed property as well as the Heritage Listed No 4 Dunara Gardens.

DETAILED SUBMISSIONS:

- 1A. After para 12 hereafter, please read paras 64 onwards re invalidity.
1. In 1955, the original Dunara Estate (comprising the whole of the land in the current subdivision which is Dunara Gardens) was subdivided into 11 lots.
 2. The subject land , being Lot 11 in the subdivision , was marked as and dedicated on the subdivision deposited plan as “ Public Garden and Recreation Space”.
(See Annexure 1 hereto , being Plan of Subdivision DP 27451)
 3. Council acquired the land by transfer under s. 340A LGA 1919
(now s 50(2)(a) LGA 1993) as part of the subdivision, which provided:
“Where in the subdivision of land provision is made for public garden and recreation space, such space shall be conveyed or transferred to the council if the council at any time so requires”.
 4. The land became a Public Reserve under the LGA 1993, but it is interesting to note that the only listing in Point Piper on Council’s website of public reserves is Duff Reserve, with Dunara Reserve not included.
 5. It is instructive to note the requirements imposed on Council for a subdivision (as it applied to Dunara Gardens) under LGA 1919, eg
 - (1) Under s 326, in fixing the number of lots, ie in ascertaining the area for the purpose of fixing the number of houses permitted in the subdivision, Council had to “ *embrace public reserves, open spaces and the like*” .
 - (2) Under s 327(2), where the subdivision did not provide for the opening of a public road (as is the case with Dunara Gardens, the actual road being a private road) , Council had to have regard to the plan of subdivision (which had to embrace the other sections relating to garden and open space).
 - (3) Under s 333(g) Council had to take into consideration in respect of the application for approval of the subdivision “ *the amount of public garden and recreation space to be provided in the land to be subdivided*”.
 6. It is therefore clear that inherent in the approval by Council of the subdivision and in particular the determination of the number of lots , and as a condition of the subdivision . the subject land (Dunara Reserve) was an essential pre-requisite. It is easy to see why, given the tight knit and closely adjoining houses provided, leaving little or no room for gardens.
 7. The name “ Dunara Gardens” itself embodies that essential element of trees, gardens and open space.
 8. The fact that Council directed in 1957 as part of the subdivision, pursuant to s. 340A LGA 1919, that the garden space be transferred to it (at a time when there was no provision for such to be vested in it , purely on registration of a Deposited Plan) is indicative of the

importance Council placed on there being such garden and recreation space as part of the subdivision of the Dunara Estate, realizing as it did that the subdivision made little or no provision for garden and trees, given the tight allocation of numerous houses, each on a small parcel of land.

9. That is further reinforced by the fact that the entity seeking the subdivision originally sought to provide a smaller garden & recreation space and Council required that a larger space be allocated
10. The acquisition of the land and the requirement for a minimum area, was Council's way of guaranteeing in perpetuity the preservation of that space as open land with gardens and foliage **as part of Dunara Gardens**. Nothing has changed since. It is submitted that its inclusion as part of Dunara Gardens is the proper yardstick of evaluating its continuance, not the extent to which the public at large utilize it (putting aside the fact that the public in fact do so).
11. Council are in effect the Trustees of that land, as part of the subdivision of the Dunara Estate and under a duty to keep its classification as Community land as is and to ensure its preservation as such and not to deal with it in a manner inconsistent with its current classification.
12. It is further submitted that the land is subject to a " trust for public purpose" as explained by the High Court in Bathurst City Council v PWC Properties Pty Ltd (1998) HCA 59, (1998) 195 CLR 566

At [48] of the Judgment, the Court stated " *In relation to the obligations imposed on local government authorities with respect to land vested in them, the phrase has had a lengthy history. This involves the use of "trust" in a (broad) sense*".

At [67] : " *The term "trust" in 6(2)(b) of Schedule 7 (LGA) is apt to include those governmental responsibilities which.... may fairly be described as a " statutory trust" which bound the land and controlled what otherwise would have been the freedom of disposition enjoyed by the registered proprietor of an estate in fee simple. The trust was " not a trust for persons but for statutory purposes"*.

In PWC the trust for a public purpose arose from the terms of a condition of a development consent.

Whilst Council, under s 30 can discharge the land from a trust, there has to be a very cogent reason for it to do so, and it is submitted that Council has not met that very high bar in this case.

13. Council is in error in using the inability to construct a building for community use on the land or its ability to be used by the community as the yardstick for its existence and continuance. It was never intended as a potential site for construction of a community building or indeed community use, but as an essential component of the subdivision.

14. There is no guarantee that if that land is sold , as is Council’s expressed intention in its reclassification, it will remain as garden space with trees and extensive foliage , some of it providing a beautiful canopy over the entrance to Dunara Gardens.
15. In fact the opposite is likely. The only real party who would have an interest in purchasing it is No 9 Dunara Gardens, immediately adjoining it which would result in their
 - (A) Increasing by 2/3rds their landholding, such acquisition thereby increasing its value and development potential. In fact Council notes the Valuer General has stated that the estimated gain from the land being sold to an adjoining landholder would be between \$800,000 and \$2 Million.
 - (B) By consolidating it with their current land, increasing its FSR , thereby enabling a s96 Application to their currently approved gross overdevelopment DA , resulting in increase in building bulk etc
 - (C) Even without consolidation, developing it , especially in light of the fact that Council, after years of inaction, finally took legal action to force No 9 to remove their carport , the majority of which encroached on Council land, which they refused to do contrary to Orders of the Land & Environment Court.
16. No 9 had already indicated a wish to buy that Council land in 2008.
17. It is further submitted , that given the history of No 9 cutting down trees on its property , illegally poisoning the largest gumtree in the Woollahra LGA on my property, and denuding the vegetation on the subject land, there is a concern and fear that , once purchased, the trees and vegetation will not remain (to be dealt with hereafter in greater detail) noting in particular that there is a towering heritage listed Cook Pine on the subject land which is prominent from both the Rose Bay foreshore and as far away as Darling Point.
18. It is trite for Council to state that there are enforceable tree preservation orders to prevent such, given Council’s complete lack of enforcement in this regard, in spite of repeated complaints to it by Dunara Gardens residents.
19. There is such little public garden space in Point Piper , which is already overdeveloped, that the land should remain Community land, especially in such a confined area as Dunara Gardens.
20. It is instructive to examine Council’s purported reasons for this Proposal, which it clearly states is for the sole purpose of selling the land.
21. It is hugely significant to note the principal reason advanced for the initiation of the reclassification, as stated on p.1 in “1.1 Background ” of the Planning Proposal being :

*“ In 2010 staff identified a partial encroachment into the site. **In response** , Council adopted the following Notice of Motion on 10 June 2014:*

That a report be brought to Council... assessing the land known as Dunara Reserve, Point Piper, with a view to rezoning the land in order for it to be put up for sale”.

22. It is incorrect for Council to state that the encroachment was identified in 2010. On 14.6.2005, Condition of Consent 46 to No 9's , DA Approval noted that “ *The survey has identified a significant encroachment of the existing carport on Council's property on the SW side of the development. This is to be removed with the proposed development not encroaching beyond the boundaries of the site. Following removal of the carport and parking platform the disturbed areas of Council's property are to be restored to match the existing to the Council's satisfaction*”.
23. The encroachment referred to was that 2/3rds of No 9's carport was on the subject Council land. Council failed to take any action to obtain its removal, in spite of repeated complaints by neighbours and residents of Dunara Gardens. (See Annexure 2 hereto).
24. On 10 January 2008, the Land & Environment Court confirmed and reiterated by Order that requirement (See Annexure 3 hereto).
25. In spite of the Court's Order, Council, still repeatedly neglected and failed to enforce that legal requirement, in spite of repeated representations by myself and others for it to do so.
26. Council then , abrogated its legal obligations , and on its own admission, “ ***in response to the encroachment*** “ decided to wash its hands of the subject land by commissioning a report with the expressed purpose of selling the land ie if No 9 (identified by Council in the Planning Proposal as a likely purchaser) purchased it, the encroachment would remain , and if someone else purchased it, it would be their problem to remove the illegal encroachment.
27. Council's attempt to reclassify the land to sell it for this principal reason is absolutely scandalous and reflects poorly on Council. Council has identified No 9 and the other adjoining property, No 1 Wentworth St as the only real likely purchasers. As No 1 Wentworth has indicated it has no real interest in doing so, that leaves No 9 as the only likely purchaser, thereby rewarding it for its own longstanding illegal refusal to demolish its encroaching carport, (in fact repairing it , further in breach of the Court Order) thereby profiting by its own breach.
28. That sets an appalling and unacceptable precedent for other landholders adjoining Council land to make life difficult for Council in the proven expectation that Council will cave in and they will benefit from their behaviour.
29. That and the matters mentioned below constitutes bad and unacceptable public policy.

Council also seeks to nullify its failure to meet the Objectives and Performance Targets set out in 3.4 of its Plan of Management applicable to Dunara Reserve (Plan of Management 1996 – Local Parks) ie “ *Encroachment : To discourage private property boundaries extending into public open space and the dumping of rubbish*” (see later submission re dumping of rubbish) by its sale. S. 35 LGA states that community land is required to be used and managed in accordance with the plan of management applying to the land. Council seeks to nullify its non compliance with that section of the Act, by its sale.

30. Further, that ground is no longer valid, as once Council finally very recently took legal enforcement proceedings, No 9 finally demolished the encroachment.
31. A further reason advanced by Council for the proposed sale is: “ the debris and rubbish left on the site” (which is illustrated in Figures 6 & 8), inter alia, “ owing to its inaccessibility” “ with the potential public safety risks and hazards”.
32. The fact is that it is not its inaccessibility that has led to “a build -up of vegetation and debris over time” but No 9 Dunara Gardens who has regularly dumped debris and rubbish from its land onto the Council land and Council has done nothing to either penalize such or prevent future recurrence, despite numerous complaints to it and it being shown evidence of such taking place on numerous occasions.
33. Annexure 4 hereto contains photographs of Mr Wang (the husband of Yan P Gu, the owner of No 9).
- (A) Dragging a huge branch which fell from the huge camphor laurel tree on that property (before its death by poisoning) onto and dumping it on the Council land ; and
- (B) Sweeping a large amount of vegetation and debris which had accumulated on the roof of the (illegally encroaching) carport , onto the Council land.
- Annexure 4 also shows a large dead branch originally on No 9’s property, having been dumped on Council’s land.
34. I have also personally observed Mr Wang dumping large palm fronds (of the type pictured in Figures 6 & 8) on that Council land.
35. Again Council . in justifying the reclassification in order to sell the land, washes its hands of the problem, and is likely to knowingly reward No 9 for its dumping of debris, rubbish and vegetation on Council land, setting an appalling precedent and principle and such constituting appalling public policy.
36. There would not be any such “ public safety risks and hazards” were Council to fulfill its responsibilities, in prosecuting the perpetrator, with the full knowledge of their identity and having been presented with evidence of such.
37. Further, Council states, as a further justification for the sale of the land, the necessity for it to “ undertake site maintenance to clear the debris and vegetation twice a year” and that such attendance “ is a resource burden to Council” (See ‘ Present Situation” , on p.16 of Appendix 2 to the Planning Proposal , being the Report to Council dated 10.8.15 commissioned in order to reclassify the land).

38. It is submitted that

- (A) Twice yearly is neither an onerous or financial burden on Council ;
- (B) Had Council taken any action over many years against No 9 in respect of the dumping, the necessity to clear the debris would not occur;
- (C) Twice yearly maintenance is insignificant in Council's Expenses on Community land in 15/16 of \$ 121,422.000 (Council having an asset maintenance ratio of 0.99, as against the target of greater than 1.00).
- (D) Since Council finally, after years of failing to do so, demarcated its boundary with No 9 by planting bushes, the dumping has ceased, so that ground is no longer valid.
- (E) Council has not made numerous attempts to manage the site. To the contrary, it has consistently neglected the site, even when complaints have been made by Dunara Gardens residents as to its state, principally caused by No 9.

39. Council also seeks to justify the proposed reclassification and sale of the land on the basis that it is not used as public open space and that the site currently only offers benefits to the immediately adjoining properties (being no 9 and No 1 Wentworth).

40. Council, on its own admission only attending the site twice a year, is in no position to make any statements as to its usage.

41. It is submitted that:

- (A) Irrespective of usage , the land provides a general public amenity in Point Piper by reason of its foliage, vegetation, large trees, canopy and garden, in an already overdeveloped suburb, which has only one other public reserve, some distance away.
- (B) It provides a significant amenity to all the residents of Dunara Gardens, enhancing the ambiance of Dunara Gardens, a small cul de sac, such being the original raison d'etre for its creation in the original subdivision.
- (C) It provides significant amenity to my Heritage Listed property, in its immediate vicinity.

42. Further, it is in fact used by the public

- (A) Children of a number of the properties in Dunara Gardens, in particular those without garden space, use the land to play and have picnics. Swings have been erected thereon (precisely the purpose of its original creation in the subdivision)
- (B) Non resident children also use the land to play on.
- (C) Walkers in Point Piper take advantage of its space and shade provided by the tree canopy to rest , before continuing their walk

- (D) Point Piper residents walking their dogs have taken advantage of the space for their dogs to relieve themselves, instead of in the street
- (E) The regular organized local heritage walks ,comprising a significant number of people, which come to Dunara Gardens , by reason of its 2 Heritage Listed properties, take advantage of the land's amenity and its shade, garden & canopy.
- (F) Those heritage walks also go onto the land to view at close hand the significant Heritage Listed Cook Pine dating from the 1890s.

43. The land therefore does benefit the wider community and should not be reclassified.

44. The note to Part 2 of the LGA states that:

- (A) Community land must not be sold (except in the limited circumstances referred to in s 45(4)) (which do not here apply); and
- (B) Operational land (the category to which the land is sought to be reclassified) would ordinarily comprise land held as a temporary asset or as an investment, land which facilitates the carrying out by a Council of its functions or land which may not be open to the general public, such as a works depot or a Council garage.

Clearly the land does not fall into any of those categories which the Act itself contemplates as comprising Operational land. It is clear that the sole purpose of reclassifying it as Operational, notwithstanding that it does not qualify for that category, is its sale.

The stated reasons for its sale are both wrong and in many instances, no longer valid.

45. The Plan of Management 1996 - Local Parks, which applies to Dunara Gardens, Cl 29 states that:
“ Open space is essential for the general health and vitality of the community through the provision of natural elements in a built environment. In higher density residential areas, parks also provide a release from city living, a sense of place and are also a vital resource”

That is why the land was originally created, it has been specifically included and named in Council's Local Parks Plan of Management , and is still relevant and essential.

46. Further 2.10 of that Plan “ Heritage Significance” states:
“ There are few items of heritage significance in the local parks any item of significance should be conserved, maintained and enhanced in an appropriate manner”.

The only way in which the towering significant heritage listed Cook Pine on the Land can be conserved and maintained with certainty, is for it to remain in public ownership.

47. The land has been valued at \$245,000. Council contends that the sale proceeds can be better expended elsewhere. It is submitted that

- (A) \$245,000 is insignificant, given Council's total assets in 15/16 being \$901 Million.

- (B) Is insignificant, given Council's gross income in 15/16 being \$115.36 Million and Net Profit of \$14.3 Million.
- (C) Council is unlikely to realise even that, given there being only realistically 1 potential purchaser, being No 9 Dunara Gardens.
- (D) Accordingly there will not be any maximum or real financial benefit to the general ratepayers, contrary to the valuation and assertions by Council, and therefore such sale will not fulfill the objectives of Council's "Policy for Sale of Council Land".
- (E) It is insignificant, given that Council had cash reserves in 15/16 of \$19.49 Million.
- (F) The sale proceeds cannot compensate for the permanent loss of public community amenity of gardens and trees, of which there is a dearth in Point Piper.
48. The reclassification and subsequent sale will have severe detrimental consequences to "Dunara" my significant State Heritage listed property, the birthplace of Dorothea McKellar and the oldest standing house in Point Piper, which was the sole house of the original Dunara Estate, which it owned.
49. I understand that the NSW Heritage Council intends submitting its strong opposition to the reclassification and advocating the land's retention in public ownership. It is submitted that its views carry considerable weight and cannot lightly be dismissed.
50. Council's own Heritage Officer, Kate Higgins, in the Development Application Assessment Report to the DCC on 7.2.05 (re No 9's DA) reviewed the historical basis for the Dunara Gardens subdivision, referring to it as "*the breaking up of a larger lot into a subdivision pattern allowing for relatively close suburban development*", and stated that "*the creation of the special lot for public garden and recreation should be preserved*".
51. Accordingly Council's assertion in Schedule 1 "Consistency with A Plan for Growing Sydney and the Draft Central District Plan" of the Planning Proposal, (Liveability Priority 7 : Conserve heritage and unique local characteristics) that reclassification of the land will not impact on the significance of the listed heritage items (Dunara, No 4 and the Cook Pine) is not correct.
52. The Council Resolutions for the reclassification to accommodate the sale of the land was based on incorrect and/or insufficient information ie:
- That the public didn't use it
 - That the site doesn't benefit the wider community
 - That the site only offers benefits to the immediately adjoining properties
 - That the site provides no public amenity
 - That the Planning Proposal does not impact on heritage and unique local characteristics and will have no impact on the heritage items in Dunara Gardens and on the land
 - The Planning Proposal is minor in nature
 - That the site's maintenance is a resource burden on Council
 - In failing to mention that the principal reason for the Proposal ie "in response" to the encroachment by No 9 was no longer relevant, the encroachment having been finally

removed and/or that the proper manner of dealing with the site was the enforcement of the Court's Order , rather than a sale.

- In failing to state that the buildup of debris and rubbish was because of the dumping thereof by No 9 (the likely purchaser)
- That the proposed classification reflects the use of the site
- That the site requires ongoing maintenance , when in reality at most Council attend twice a year
- That there are no likely negative environmental effects associated with the planning proposal.

It is submitted that had full Council had the full and correct picture, it is unlikely that it would have considered selling the land and accordingly there would have been no need for a Planning Proposal to reclassify it for that purpose.

53. Appendix 1 to the Planning Proposal (Information checklist for proposals to classify or reclassify public land through an LEP taken from practice note 16-001) contains similar errors.
54. Similarly the Gateway determination by the Dept of Planning & Environment, being based on documents containing incorrect information cannot stand, nor can its conclusion, based on that information, “ that the planning proposal's inconsistency with S 117 Direction 6.2 Reserving Land for Public Purposes is of minor significance”.
55. The Proposal is also inconsistent with the Aims of the LEP 2014 ie
- 1.2(2)(c) to provide for an appropriate balance and distribution of land for recreation and open space;
 - (g) to protect amenity and the natural environment
 - (f) to conserve natural environmental heritage
56. In Paragraph 17, I submitted that there is a concern and fear that, should no. 9 purchase the land, the trees and vegetation will not remain . This is a legitimate matter to be taken into account, ie the possible and/or likely consequences of a sale, given that Council has identified no 9 as one of only 2 adjoining properties likely to have such an interest , and particularly as the other (1 Wentworth) has indicated it will not improve their land value).

That concern is based on the following:

(1) The poisoning of a large bluegum tree exclusively on my property by Mr Wang (the husband of Yan P Gu, the registered owner of No 9) on 18 May 2006 and its death:

1. Council's approval of No 9's DA contained a number of Conditions to protect this tree, which was the largest gum tree in the Municipality eg
The necessity for hand excavation within the 6m tree root zone; conditions on footings for any structure within 6m of the tree; existing tree roots with a diameter of 50mm (or larger) had to be bridged; piers to be constructed so that they are not severed .
2. Thereafter, on 18 May 2006, the roots were hacked into and poisoned, resulting in the death of the tree and its necessary removal. The estimated value of the tree by an Arborist was \$ 140,000.

3. In Farkas v James Wang & Y Ping Gu (2006) , His Honour Magistrate Bartley in the Local Court Downing Centre , delivered a Judgment on 11.6.2010 in which he accepted the following:

- (1) Mr Wang said the gum tree would “go” (p. 16.36).
- (2) Mr Wang said “ I make things happen, We are builders. We’ve done this before” (p. 16.8).
- (3) Woollahra Council imposed numerous onerous conditions on the DA to protect that tree and that once the tree died and was removed, Mr Wang benefited from his development not having to comply with such conditions (p. 17.22-25).
- (4) Mr Wang had a motive to have it killed (p.17.28) and that he wanted the Bluegum gone and he would procure its elimination (p.17.30).
- (5) Mr Wang admitted to Ms Moreland [a neighbour] that he procures the elimination of trees that impede a development (p. 17.30).
- (6) Mr Wang had the opportunity to procure a fatal attack on the Bluegum (p. 17.31). That opportunity (Mr Farkas’ absence at court) was known, on the evidence, only to Mr Wang (and Ms Gu) (p. 17.32).

4. His Honour , at p. 17.38-42 stated:

“ I find that it is more probable than not that Mr Wang procured the attack on the tree and it’s consequence death. The conduct is criminal”.

5. Mr Wang & Ms Gu appealed that Judgment. On appeal, His Honour Judge North of the NSW District Court delivered Judgment on 20.5.11 , in which , at p. 14.7 he stated:

“ I am satisfied on the balance of probabilities that the magistrate was correct in finding that Mr Wang procured the attack on the tree and its consequent death “.

6. Copies of the Judgments can be supplied, if required.

7. Annexure 5 hereto shows photographs of

- (A) The gum tree when alive
- (B) The dead gum tree
- (C) Its removal, requiring numerous workmen, over a number of days and the necessity to use a crane

8. The NSW Heritage Council required that a replacement blue gum be planted, “ to ensure compatibility with the existing heritage qualities of the (heritage) item (being No 10 Dunara).

(2) The cutting down of trees in No 9’s rear garden in contravention of the Land & Environment Court’s imposed Conditions of DA Consent:

1. Council determined, contrary to no 9's request in their DA, that approval was not granted to the removal of 2 Willow Myrtle trees in their rear yard, which were referred to in the Assessment Report of 6.6.05 to be significant landscape elements.
 2. In a 2nd s.96 Application in 2006, No 9 sought removal of the condition requiring their retention on the ground that they "are not in good condition and are slightly deformed".
 3. The reason they were not in good condition and deformed, is that No 9 had illegally hacked at those trees, in breach of Council's refusal and in breach of Council's Tree Preservation Orders, resulting in their disfiguration.
 4. That removal was refused in 2007
 5. In an appeal to the Land & Environment Court, the Court on 10.1.08 allowed their removal but specified that they had to be retained until 2 weeks prior to the construction of the rear wall
 6. Those trees were completely cut down in contravention of the Court's condition (the rear wall not having been built to date)
 7. Annexure 6 hereto shows photographs of
 - (A) The trees in their original condition in April 2006
 - (B) After their partial mutilation (April 2006)
 - (C) The stumps left after they had been cut down (Nov 2008)
- (3) Mr Wang hacking at the vegetation and trees on Council Land:

Mr Wang has on a number of occasions gone onto that land and hacked at the vegetation and trees and left the cuttings there

Annexure 7 hereto shows photographs of him doing so. In particular, it shows him on 7.1.14 cutting down a tall tree on Council's land with a saw and dumping it elsewhere on Council's land.

The Poisoning & death of a large Camphor Laurel on No9's property

1. No 9's DA in 2003 sought approval for the removal of a large Camphor Laurel at the front of their property to facilitate the development.
2. The DA Approval denied approval for its removal and imposed numerous Conditions to ensure its survival, including no excavation within tree root zones, paving in its vicinity, protective fences, mulch and irrigation, and protection barricades for earthworks
3. The tree subsequently died and was removed
4. Council's tree officer, on inspection on 18.7.08, determined that the tree had been poisoned after having up to 40 holes drilled into its base.
5. Whilst there is no evidence as to the perpetrator, what can be said is that its death advantaged the proposed development.
6. Annexure 8 shows photographs of
 - (A) The live Camphor Laurel
 - (B) The dead Camphor Laurel
7. Council by letter dated 24.12.08 to No 9 required replacement tree planting pursuant to s. 6 of Council's Tree Preservation Order, such replanting required within 3 months ie by 31.3.09.
(See Annexure 9 hereto).

To date, ie 8 ½ years later, no replacement tree planting has been done by No 9 in contravention of Council's Tree Preservation Order.

57. " Sustainability Priority 7: Protect, enhance and extend the urban canopy" in Schedule 1 " Consistency with a Plan for Growing Sydney and the Draft Central District Plan" to the Proposal under the " Comment on Consistency" states that

" Should the site be sold, any future development would need to address Chapter E3 Tree Management in the Woollahra Development Control Plan 2015. One of the key objectives is to promote, maintain and conserve the leafy character of the Woollahra Municipality".

58. It is submitted that should the site be sold to No 9, the probabilities are that this key objective would not only not be met, but that it would be defeated , given two Court Judgments having found that Mr Wang is prepared to and did procure the death of a significant tree that impeded his development . Added to this is the evidence that the 2 Willow Myrtles sought to be removed for their proposed development, were removed in contravention of the Land & Environment Court's imposed Condition of Consent, and the non compliance with Council's Tree Preservation Order requiring replanting of the dead Camphor Laurel.
59. There is no point in imposing Conditions of Consent (eg to preserve trees) to any development of the Council land, if a purchaser has a track record of flouting (with impunity) such Conditions.

60. Council has over the years failed to take any action in regard to such matters as regards No 9 and one could have little confidence that such would change.
61. Once trees have gone, they are gone, and penalties (if even imposed) cannot bring them back.
62. Accordingly it is a legitimate matter for Council to take into consideration, the consequences of a sale.
63. For all of the above reasons, the land should under no circumstances be reclassified as Operational land and should remain Community land to fulfill its original purpose which is still as operative and relevant today as it was at its original creation.
64. Council's Resolution authorizing the Planning Proposal is Invalid:
- (1) As can be seen from the original DP, and Figure 1 : Local Area Map (p.2 of the Proposal) the public reserve is only 1 lot (Lot 11) in the subdivision known as “ Dunara Gardens “.
 - (2) Dunara Gardens is all, with the exception of Lot 11 , privately owned property ie 11 houses , the roadway and the public reserve.
 - (3) Figure 1 referred to correctly notes the road into and part of Dunara Gardens is a “ Privately Owned Road”.
 - (4) The street sign says “ Dunara Gardens” being a reference to the enclave/cul de sac of all of the abovementioned houses. The houses have a (street) number by reference to Dunara Gardens .
 - (5) The Planning Proposal purports to be authorized by
 - (A) The recommendation on 10.8.15 of the Community & Environment Committee ; and
 - (B) The resolution of Council on 24.8.15.
 - (6) The Recommendation to Council of the C&E Committee of 10.8.15 is as follows:
*“ That Council prepare a planning proposal to Amend Schedule 4 : Classification and reclassification of public land in Woollahra LEP 2014 , to reclassify **THE LAND KNOWN AS DUNARA GARDENS [emphasis is mine]** from community land to operational land with the intention of disposing of the land”*
 - (7) The Council Resolution of 24.8.15 (which it is also noted was passed without debate on the basis of incorrect and/or inadequate information in the Report to the Committee) was in identical terms ie to reclassify **THE LAND KNOWN AS DUNARA GARDENS with the intention of disposing of the land”**.
 - (8) As Dunara Gardens is private land, neither the Committee , nor Council had the power to respectively make the Recommendation or pass its Resolution and accordingly acted without authority ie it purported to exercise powers it did not have ie acted ultra vires to

- (A) Prepare a planning proposal to amend Schedule 4 of the Woollahra LEP to reclassify the land known as Dunara Gardens;
 - (B) Reclassify Dunara Gardens, as it is not capable of reclassification
 - (C) Have the intent to dispose of the land known as Dunara Gardens
 - (D) Dispose of the land
 - (E) Regard it as community land
 - (F) Deal with the land at all.
- (9) This is not simply a matter of semantics or a typographical error. It is one of significant legal substance, in that the Resolution authorizing the Planning Proposal purports to authorize a Proposal for the reclassification of private land , as well as its ultimate disposal. The Planning Proposal accordingly has been brought into existence pursuant to an invalid Council Resolution and therefore can neither stand nor proceed.
- There is numerous case law dealing with Council resolutions purporting to classify and/or deal with land, declared by the Courts to be invalid.
- (10) Equally the Planning Proposal purporting to deal with the public reserve has been brought into existence without valid authorization or Resolution by Council.
- (11) Similarly the Gateway Determination cannot stand for the same reasons.



GEORGE FARKAS

Annexure 3



Land and Environment Court
of New South Wales

CITATION : Wang v Woollahra Municipal Council [2008] NSWLEC 3

PARTIES : APPLICANT
James Wang

RESPONDENT
Woollahra Municipal Council

FILE NUMBER(S) : 10645 of 2007

CORAM: Hussey C

KEY ISSUES: Section 96 Modification :- Dwelling house modification, height/bulk, excavation, setback, heritage, amenity

LEGISLATION CITED: Environmental Planning and Assessment Act 1979
Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
Woollahra Local Environmental Plan 1995

DATES OF HEARING: 09/11/2007, 13/11/2007 and 14/12/2007

DATE OF JUDGMENT : 10 January 2008

LEGAL REPRESENTATIVES: APPLICANT
Mr J. Wang, litigant in person

RESPONDENT
Mr R. O'Gorman-Hughes, barrister
instructed by Mr J. P. Merlino
of Home Wilkinson Lowry

PUBLICATION RESTRICTION:

Appeal No: 10645 of 2005

43. Public footpaths

A safe pedestrian circulation route a minimum of 1.5m wide and with a pavement free of trip hazards must be maintained at all times on or adjacent to the public footpaths fronting the construction site. Where the footpath is damaged, repair works must be carried when directed by Council officers and in accordance with the relevant clauses of the current edition of AUS-SPEC.

Where circulation is diverted on to the roadway clear directional signage and protective barricades must be installed in accordance with Aust AS1742-3 1998 "Traffic Control Devices for Work on Roads".

If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may carry out remedial works and deduct the cost from the Damage Security Deposit.

44. Completion of infrastructure work

All infrastructure works must be completed and be certified by the accredited certifier as meeting all Council requirements and as-built drawings are to be submitted to Council's Development Engineer, prior to the release of the Infrastructure Works Bond. Works generally must be in accordance with the relevant clauses of the current edition of AUS-SPEC.

45. Repair of Damaged Infrastructure

If Council's infrastructure is damaged during the course of works, Council's Development Engineer must be notified and necessary repairs must be undertaken within the time stipulated by Council, to Council's specifications, and at no cost to Council. Works generally must be in accordance with the relevant clauses of the current edition of AUS-SPEC.

If work is not undertaken to the satisfaction of the Development Engineer with regard to time or quality, Council may carry out remedial works and deduct the cost from the Damage Security Deposit.

46. Encroachments

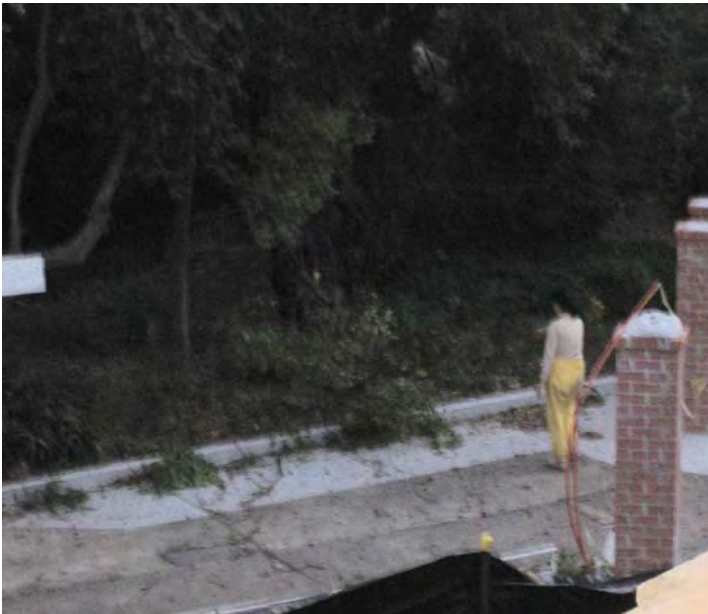
The survey plan has identified a significant encroachment of the existing large carport on Council's property at the SW side of the development. This encroachment is to be removed with the proposed development not encroaching beyond the boundaries of the site. Following removal of the carport and parking platform the disturbed areas of Council's property are to be restored to match the existing asset to Council's satisfaction.

Annexure 4 (para 33)

Large dead branch originally on No.9's property having been dumped on reserve 10/08



Mr Wang dragging large branch onto reserve 02/09/06



Mr Wang sweeping carport roof debris onto reserve 07/12/08











Annexure 5 (para 56)

Live Gum Tree



Dead Gum Tree



Removal of Dead gum tree 09/03/07

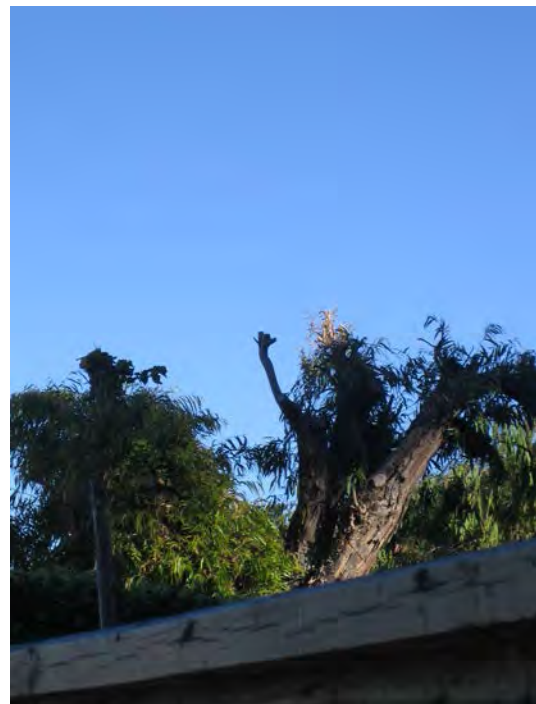


Annexure 6 (para 56)

Willow myrtles in no. 9's rear garden in original condition 04/06



After their partial mutilation 04/06





The stumps after they had been cut down 11/08



Annexure 7 (para 56)

Mr Wang hacking at vegetation on reserve 30/04/06



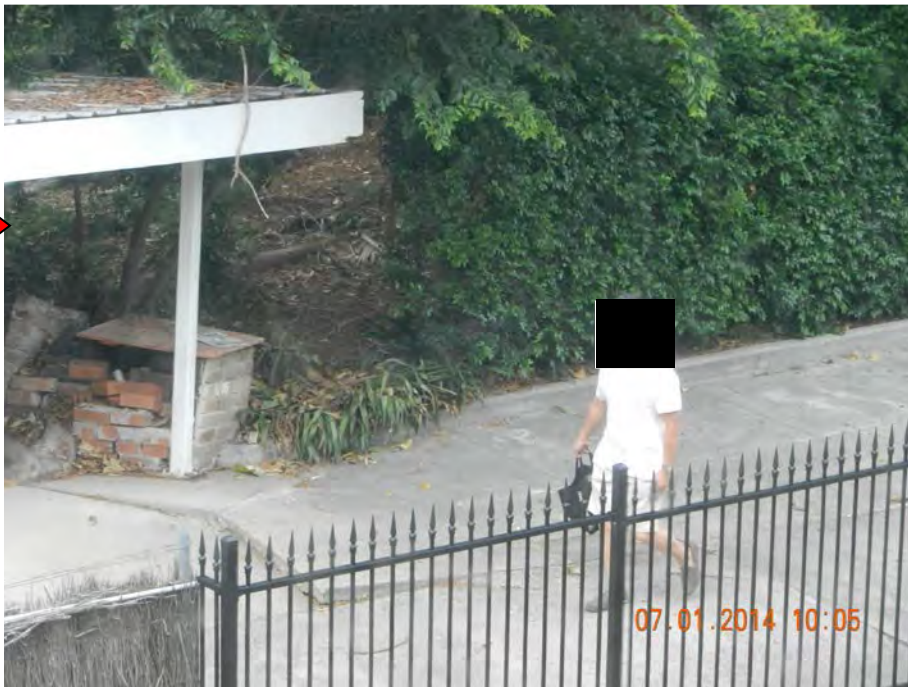
Mr Wang cut down tree on reserve with a saw and then dumped it on Reserve 07/01/14







Picture of original tree 12/13 and 01/14



Annexure 8 (para 56)

Live camphor laurel 04/06



Dead Camphor Laurel 08/08



Annexure 9

Council Ref: TPO Breach 379/2008/1: 516.9
Public Open Space, Technical Services Division

24 December, 2008

FILL

Mrs Gu & Mr Wang
9 Dunara Gardens
Point Piper NSW 2027



ABN 32 216 483 245

Redleaf Council Chambers
536 New South Head Road
Double Bay NSW 2028

Correspondence to

General Manager
PO Box 61
Double Bay NSW 1360

DX 3607 Double Bay
records@woollahra.nsw.gov.au
www.woollahra.nsw.gov.au

Telephone: 61 2 9391 7000
Facsimile: 61 2 9391 7044

TPO Breach: 379/2008/1
Property: 9 Dunara Gardens POINT PIPER 2027

I confirm that the *Cinnamomum camphora* Camphor Laurel tree located on your property and subject to an investigation of alleged poisoning under Council's Tree Preservation Order has now been removed. As per my correspondence to you dated 22nd October 2008 removal of dead trees is exempt works under section 6.1(a) of Council's Tree Preservation Order.

Further, section 6 of Council's Tree Preservation Order requires replacement planting be undertaken. Following are the specification and conditions that Council requires you to meet in regard to replanting.

Replacement Planting

Replanting is to be undertaken within the boundary of the subject site and completed within three (3) months, being 31 March 2009, in accordance with the specifications below.

| Replacement Tree Species | Location | Minimum container size at purchase | Minimum Size at Maturity |
|---------------------------|---------------------|------------------------------------|--------------------------|
| 1 x suitable canopy trees | Within the property | 75 litres | 10 metres x 8 metres |

- Any replacement plant is to be maintained in a healthy and vigorous condition until it attains a height of 5 metres or spread of 3 metres, whereby it will be protected by Council's Tree Preservation Order.
- If the replacement plant is found to be faulty, damaged, dying or dead before it attains a size whereby it is protected by Council's Tree Preservation Order, it shall be replaced with another of the same species which complies with the criteria outlined above.

A Council tree officer will organise to inspect the site after 31st March 2009 to ensure the replacement planting has been installed. If you have any questions regarding this matter I can be contact on 9391 7192 from Monday 5th January 2009.

Yours sincerely,

Nick Williams
Tree Officer

GEORGE FARKAS

B.A LL.B

[REDACTED] Dunara Gardens

POINT PIPER NSW 2027

Ph: [REDACTED]

Fax: [REDACTED]

M: [REDACTED]

Email: [REDACTED]

8 September 2017

The General Manager
Woollahra Council,
records@woollahra.nsw.gov.au

Dear Sir,

**SC 3794 - FURTHER SUBMISSION RE PROPOSED
RECLASSIFICATION OF DUNARA RESERVE, POINT PIPER**

I refer to my Submission dated 7 September, and wish to make the further following Submissions:

1. The Plan of Management 1996 – Local Parks , being the only Plan of Management purporting to be applicable to Dunara Reserve, in
 - (A) “Appendix A - Parks (Local) “ identifies and includes “ Dunara Gardens” (which is to be compared to 26 “Reserves” therein named) ; and
 - (B) “ Local Parks Area Key” identifies “ Dunara Gardens” as L53
2. It cannot do so , as “ Dunara Gardens” is all private property (except Lot 11) and its inclusion is invalid.
3. Thus there is no Plan of Management in existence for “ Dunara Reserve”

4. This is not a matter of semantics or typographical error, but one of significant legal substance
5. S 35 LGA states that “ *community land is required to be used and managed in accordance with ...the plan of management applying to the land*”
6. Council, in having no Plan of Management for “ Dunara Reserve” is in breach of ss. 35, 36 and 43 of the Act
7. Further and most importantly, s 44 LGA states that

“ Pending the adoption of a plan of management for community land , the nature and use of the land must not be changed”.
8. As there is no Plan of Management for “ Dunara Reserve” , it is submitted that Council is legally prohibited from reclassifying the land from Community to Operational land.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'G. Farkas', with a horizontal line underneath the name.

GEORGE FARKAS

GEORGE FARKAS

B.A LL.B

[REDACTED] Dunara Gardens

POINT PIPER NSW 2027

Ph: [REDACTED]

M: [REDACTED]

Email: [REDACTED]

17 November 2017

The General Manager
Woollahra Council,
records@woollahra.nsw.gov.au

Dear Sir,

**SC 3794 - FURTHER SUBMISSION RE PROPOSED
RECLASSIFICATION OF DUNARA RESERVE, POINT PIPER**

Inexplicably , in spite of

- (A) Numerous submissions against the proposal received to its recent public exhibition
- (B) Council now admitting that there may currently be a trust affecting the land (obliging it to retain it as public land) which Council now proposes be discharged by the land's reclassification
- (C) Receiving a submission from the Chair of the Heritage Council of NSW against the proposal
- (D) Receiving submissions that there are legal impediments to it proceeding with the reclassification, with the process legally flawed from its inception

Council seems determined on ultimately selling this public reserve by re-exhibiting its flawed proposal, with the re-exhibition not only failing to cure the legal invalidity but resulting in new additional legal impediments to any reclassification.

I accordingly make the following further submissions:

1. I re-iterate my previous submissions contained in my letters dated 7 September and 8 September 2017.
2. In particular, the legal impediments stated in
 - (A) Paragraph 64 of my letter of 7 September; and
 - (B) My letter of 8 September
 still apply rendering the process invalid and legally prohibiting the reclassification of the land from Community to Operational.
3. One of the purported justifications for the re-exhibition is “ to clarify the location and description of the site”.
4. If Council considers such clarification as being required so as to justify re-exhibition, it has failed to do so.
5. I have carefully compared line by line the documents exhibited in both the original and re-exhibition and they are identical in all respects with no change whatsoever as regards the location or description of the site. If Council considers the description and location of the site as having been defective and/or needing clarification, that same defect remains in the public exhibition material re-exhibited.
6. Further Council has completely misunderstood the issue and legal defects as regards the description of the site to be purportedly reclassified. One of the legal defects was Council’s misdescription of the site to be reclassified in Council’s Resolution authorizing the Planning Proposal which rendered both the process and the Planning Proposal invalid and which still renders it invalid, which a re-exhibition cannot cure. It is worth setting out that submission again (as set out in Para 64 of my letter of 7 September):

“ 64. Council’s Resolution authorizing the Planning Proposal is Invalid :

- (1) As can be seen from the original DP, and Figure 1 : Local Area Map (p.2 of the Proposal) the public reserve is only 1 lot (Lot 11) in the subdivision known as “ Dunara Gardens “
- (2) Dunara Gardens is all, with the exception of Lot 11 , privately owned property ie 11 houses , the roadway and the public reserve.
- (3) Figure 1 referred to correctly notes the road into and part of Dunara Gardens is a “ Privately Owned Road”
- (4) The street sign says “ Dunara Gardens” being a reference to the enclave/cul de sac of all of the abovementioned houses. The houses have a (street) number by reference to Dunara Gardens .
- (5) The Planning Proposal purports to be authorized by
 - (A) The recommendation on 10.8.15 of the Community & Environment Committee ; and
 - (B) The resolution of Council on 24.8.15.
- (6) The Recommendation to Council of the C&E Committee of 10.8.15 is as follows:

*“ That Council prepare a planning proposal to Amend Schedule 4 : Classification and reclassification of public land in Woollahra LEP 2014 , to reclassify **THE LAND KNOWN AS DUNARA GARDENS** [**emphasis is mine**] from community land to operational land with the intention of disposing of the land”*
- (7) The Council Resolution of 24.8.15 (which it is also noted was passed without debate on the basis of incorrect and/or inadequate information in the Report to the Committee) was in identical terms ie to reclassify **THE LAND KNOWN AS DUNARA GARDENS with the intention of disposing of the land”**
- (8) As Dunara Gardens is private land, neither the Committee , nor Council had the power to respectively make the Recommendation or

pass its Resolution and accordingly acted without authority ie it purported to exercise powers it did not have ie acted ultra vires to

- (A) Prepare a planning proposal to amend Schedule 4 of the Woollahra LEP to reclassify the land known as Dunara Gardens;
 - (B) Reclassify Dunara Gardens, as it is not capable of reclassification
 - (C) Have the intent to dispose of the land known as Dunara Gardens
 - (D) Dispose of the land
 - (E) Regard it as community land .
 - (F) Deal with the land at all.
- (9) This is not simply a matter of semantics or a typographical error. It is one of significant legal substance, in that the Resolution authorizing the Planning Proposal purports to authorize a Proposal for the reclassification of private land , as well as its ultimate disposal. The Planning Proposal accordingly has been brought into existence pursuant to an invalid Council Resolution and therefore can neither stand nor proceed.

There is numerous case law dealing with Council resolutions purporting to classify and/or deal with land, declared by the Courts to be invalid.

- (10) Equally the Planning Proposal purporting to deal with the public reserve has been brought into existence without valid authorization or Resolution by Council.
- (11) Similarly the Gateway Determination cannot stand for the same reasons.”

7. No public exhibition or re-exhibition can cure that invalidity .

8. The second legal defect legally prohibiting the reclassification , which the re-exhibition cannot cure , was set out in my submission dated 8 September, which again bears repeating:
- (1) “The Plan of Management 1996 – Local Parks , being the only Plan of Management purporting to be applicable to Dunara Reserve, in
 - (A) “Appendix A - Parks (Local) “ identifies and includes “ Dunara Gardens” (which is to be compared to 26 “Reserves” therein named) ; and
 - (B) “ Local Parks Area Key” identifies “ Dunara Gardens” as L53
 - (2) It cannot do so , as “ Dunara Gardens” is private property and its inclusion is invalid.
 - (3) Thus there is no Plan of Management in existence for “ Dunara Reserve”
 - (4) This is not a matter of semantics or typographical error, but one of significant legal substance
 - (5) S 35 LGA states that “ *community land is required to be used and managed in accordance with ...the plan of management applying to the land*”
 - (6) Council, in having no Plan of Management for “ Dunara Reserve” is in breach of ss. 35, 36 and 43 of the Act
 - (7) Further and most importantly, s 44 LGA states that

“ Pending the adoption of a plan of management for community land , the nature and use of the land must not be changed”.
 - (8) As there is no Plan of Management for “ Dunara Reserve” , it is submitted that Council is legally prohibited from reclassifying the land from Community to Operational land.”

9. Thus, in spite of the re-exhibition, the same legal impediments remain, preventing the proposed reclassification and the Planning Proposal proceeding
10. The other purported justification for the re-exhibition has raised what I submit is a further fatal legal issue invalidating the entire process from the Report to the Community & Environment Committee dated 10 August 2015 (Appendix 2 to the Planning Proposal) and that Committee's recommendation, to the Gateway Determination and the Planning Proposal.
11. That is Council's concession that it is a "**fact that there may currently be a trust affecting the site which is proposed to be discharged if the reclassification proceeds.**" (no doubt an acknowledgement of the validity of my previous submission that Council are the Trustees of the subject land and that the land is subject to a "trust for public purpose" as explained by the High Court in the Bathurst City Council case , in similar circumstances to the creation of the Dunara Reserve - see paras 1 – 12 on pp 3 & 4 of my submission dated 7.9.17).
12. Notwithstanding Council's acknowledgement regarding the possibility of a trust in the notice in the Wentworth Courier and in it's renotification by letter dated 25 October 2017, Council has failed to comply with the essential requirements regarding the contents of the Planning Proposal as required by s. 55 of the EP&A Act.
13. S. 55 is as follows:

*RELEVANT PLANNING AUTHORITY TO PREPARE
EXPLANATION OF AND JUSTIFICATION FOR PROPOSED
INSTRUMENT – THE PLANNING PROPOSAL*

*(1) Before an environmental planning instrument is made under this Division, the relevant planning authority is required to prepare a document that explains the intended effect of the proposed instrument and sets out the justification for making the proposed instrument (the "**planning proposal**")*

(2) The planning proposal is to include the following:

- (a) *a statement of the objectives or intended outcomes of the proposed instrument,*
- (b) *an explanation of the provisions that are to be included in the proposed instrument,*
- (c) *the justification for those objectives , outcomes and provisions and the process for their implementation (including whether the proposed instrument will comply with relevant directions under section 117)*

14. The fact that there may currently be a trust affecting the site which is proposed to be discharged if the reclassification proceeds is an essential matter under s.55 that must be stated as part of the Minister's [now Greater Sydney Commission] consideration under s 56 .
15. Under s.56 EPA the Minister is to review the Planning Proposal and determine, inter alia, whether the matter should proceed.
16. The necessary s.56 Gateway determination, without which the process simply cannot commence or proceed, is defective and invalid as the Planning Proposal submitted to the Commission did not contain a statement that
 - (A) There may currently be a trust affecting the site and further that it is proposed that it be discharged if the reclassification proceeds ; and
 - (B) If the LEP is approved , all trusts , estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land are discharged (in accordance with s.30 Local Govt Act 1993 which deals with the reclassification of community land as operational)
17. The above is not simply a desirable inclusion but a necessary inclusion under the Acts.

18. It is submitted that the Greater Sydney Commission (which stands in the place of the Minister) was in the absence of the inclusion of this highly relevant, significant and necessarily required statement
- (a) Unable to review the Planning Proposal ; nor
 - (b) Properly make its determination
- under s. 56
19. It is accordingly submitted that there has not been the appropriate valid Gateway determination under s.56 and the purported Gateway determination dated 20.7.17 is therefore ineffective and invalid. Everything that followed pursuant to that determination is therefore similarly invalid.
20. The determination under that Gateway “ that the matter should proceed” (as per s.56) is equally invalid.
21. S 55(2)(c) EPA requires, inter alia , that the planning proposal must include “ *whether the proposed instrument will comply with relevant directions under s.117*”
22. In the absence of the necessary required information of the possible existence of a trust which will be discharged if the planning proposal is implemented, it is submitted that the delegate’s conclusion that “ *the planning proposal’s inconsistency with s. 117 Direction 6.2 Reserving Land for Public Purpose, is of minor significance* “ cannot stand and is invalid . The delegate may have and it is submitted undoubtedly would have come to a different conclusion in this regard. A determination made in the absence of required information under the Act is not legally valid. Courts have repeatedly so held.
23. Given that s.55 requires the inclusion of the statement about the trust and its discharge on re-classification in the Planning Proposal , it is instructive to review the material re-exhibited .

24. The necessary trust information has not been included in any of the material . As previously observed, the re-exhibited material is identical in every respect with the originally exhibited material.

(A) The Planning Proposal :

(1) Page 1: 1.2. Description of this planning proposal

The 3rd para states : “ *The land is a public reserve under the LG Act. Should the reclassification proceed, it is intended that under s. 30(1) of the LG Act the local environment plan will include a provision to the effect that the land will cease to be a public reserve on the commencement of the plan*”.

There is no mention, as is required of “ *the fact that there may currently be a trust affecting the site which is proposed to be discharged if the reclassification proceeds*” and that under s.30(1) the LEP will include a provision to the effect that the trust will be discharged on the commencement of the plan. - a clear breach of s.55 EPA.

(2) Page 6: Part 5 Explanation of Provisions:

That states that the proposed amendments to Schedule 4 , Part 2 of the Woollahra LEP 2014 are identified in Column 3 as

“ *Any trusts etc **not discharged*** “

That is not only an incorrect statement , but a positively misleading and false statement, given that it is Council’s intention that any existing trust will be discharged - a further clear breach of s.55

(3) It is incorrect to state at p.7 , 6.2.6 that the Planning Proposal is consistent with applicable Ministerial Directions (s. 117 directions) , given that such direction is invalid for the reasons previously submitted

(4) P.25: Compliance with s. 117 directions: 6.2 . All that is stated is that the land is a public reserve and should the reclassification **proceed , it is intended under s. 30(1) of the LG Act the LEP**

will include a provision to the effect that the land will cease to be a public reserve on the commencement of the plan.

There is similarly no mention that there may be a trust affecting the site which is proposed to be discharged if the reclassification proceeds and that under s.30(1) LG Act the LEP will include a provision that the trust will be discharged on commencement of the plan.

This a further breach of s 55

(B) Appendix 1 - Information Checklist for proposals to classify or reclassify public land through an LEP taken from practice note 16-001

(1) Page 1: Para 4: “ Reasons for the planning proposal” :

Again the reason is confined to the fact that the land is a public reserve and that should the reclassification proceed, it is intended that under s.30 (1) LG Act the LEP will include a provision that the land will cease to be a public reserve on the commencement of the plan

There is no mention of the required information about the possible existence of a trust affecting the land which it is proposed be discharged if the reclassification proceeds - a further breach of s.55.

(2) Page 2: “ **Details of interest in the land proposed to be extinguished** “:

This is confined to the cessation of the land as a public reserve

There is no mention whatsoever of the fact that there may be a trust affecting the land which will be extinguished .

This is not only a clear breach of s 55 but a false and misleading statement .

(3) Page 2: “ Reasons why such interests are to be extinguished”

The reason advanced is “ *The public reserve status restricts the future sale and use of the site*”.

Not only is it confined to the extinguishing of the public reserve, but there is the omission of the fact that the possible trust status also restricts the future sale and use of the site.

This constitutes a further breach of s.55

25. Accordingly the Planning Proposal neither

- (A) Validly explains the intended effect of the proposed Planning Proposal , nor sets out the justification for making it, as required by s. 55(1) ;
- (B) Includes a statement of the objectives or intended outcomes of the Proposal as required by s. 55(2)(a) ;
- (C) Provides an explanation of the provisions that are to be included in the proposed LEP as required by s.55(2) (b) ;
- (D) Provides the justification for those objectives, outcomes and provisions and the process for their implementation (including whether the Planning Proposal will comply with relevant directions under s 117) as required by s.55(2)(c).

26. Further the bland statement that there may currently be a trust affecting the site is completely insufficient to fulfill either the requirements of s 55 or , even if made to the Greater Sydney Commission, the necessary information required to be submitted under s 56.

27. There is no information supplied as to this possible trust : ie
- (A) The nature of the trust
 - (B) The date of its creation
 - (C) The manner of its creation
 - (D) The reason for the trust
 - (E) The terms of the trust
 - (F) The identity of the Trustee
 - (G) The identities of the beneficiaries
 - (H) The likely and/or potential consequences to the beneficiaries upon the discharge of the trust
 - (I) The reasons Council considers it appropriate to discharge the trust.
28. Given the gross legal deficiencies in the Planning Proposal, the consequent public exhibition and re-exhibition are incomplete and incorrect and in a number of respects misleading and cannot constitute valid community consultations as required by s. 57 EPA and the purported Gateway determination.
29. In fact the whole process is invalid ab initio.
30. Council should also bear in mind that a Trust imposes heavy fiduciary duties on the Trustee to act strictly in accordance with the provisions of the trust and the reasons for its creation and should not be discharged without compelling cogent reasons. No such reasons have been advanced .
31. As Council is a public authority it must fulfill the high and indeed onerous moral and legal standards imposed on such authorities. As the land the subject of the trust is a public reserve and was so set aside at the express requirement of Council and as part of the conditions of consent to the subdivision of the Dunara Estate , Council , as the Trustee, is under an obligation to maintain it as a public reserve.
32. None of the above legal defects can be retrospectively cured. The whole process is legally void and will be held to be so void by the Court

33. Accordingly Council has the following options:

- (1) Persist with its legally flawed invalid Planning Proposal, legally flawed invalid Gateway determination and flawed invalid public exhibition with the cost of appointing the independent person to conduct the public hearing similarly consequentially invalid , all of which will ultimately be held to be invalid in the inevitable legal challenge to any reclassification , the costs of which will far outway the illusory financial gain Council thinks it will achieve in a non competitive sale market, which will really constitute an unnecessary waste of ratepayers' funds , with the inherent consequential publicity regarding such waste ;
- (2) Start the process all over again ab initio by
 - (A) Placing the correct information before the C&E Committee and describing the property to be reclassified correctly;
 - (B) Obtaining the legally valid recommendation from that committee
 - (C) Council passing the necessary legally valid resolution to authorize a correct Planning Proposal
 - (D) Prepare a legally valid Planning Proposal which not only satisfies the legislative requirements under the LG Act and the EPA, but also corrects the information currently contained therein , now proven to be factually incorrect by numerous submissions received by Council;
 - (E) Seek the proper valid necessary prerequisite Gateway determination from the Greater Sydney Commission, by
 - (a) Redrafting the Planning Proposal to comply with all legislation;
 - (b) Resubmitting the Planning Proposal all over again to the Commission

- (F) Re-exhibiting the Planning Proposal via a legally valid public exhibition (for the 3rd time), including the necessary repeated notifications in the Wentworth Courier over the 4 week exhibition period together with letters to numerous residents;

This will involve

- (a) Staff time ;
- (b) Financial cost
- (c) Substantial delay

It is submitted that the above would further be a substantial waste of ratepayers' funds, together with Council having to explain why it got it so legally wrong , in spite of two public exhibitions, which as it transpired were a waste of taxpayers resources, with the inherent publicity that such will attract. To put it mildly, the whole flawed process is an embarrassment to Council

- (3) Abandon the Proposal immediately under s. 58 EPA

Section 58 (4) provides that

“ The relevant planning authority [ie Council] may , at any time, request the Minister to determine that the matter not proceed “.

- 34. It is submitted , that in all the circumstances, the proper prudent and fiscal course of action that Council should follow , indeed the only course reasonable and prudently open to it, especially in light of the volume of submissions received, is for it to now request the Greater Sydney Commission to determine that the matter not proceed

Yours faithfully,



GEORGE FARKAS

GEORGE FARKAS

B.A LL.B

[REDACTED] Dunara Gardens

POINT PIPER NSW 2027

Ph: [REDACTED]

Fax: [REDACTED]

M: [REDACTED]

Email: [REDACTED]

24 November 2017

The General Manager
Woollahra Council,
records@woollahra.nsw.gov.au

Dear Sir,

**SC 3794 - FURTHER SUBMISSION RE PROPOSED
RECLASSIFICATION OF DUNARA RESERVE, POINT PIPER**

I refer to my previous Submissions dated 7 September, 8 September and 17 November and wish to make the further following Submissions:

1. Council states that on a reclassification , the land would be subject to its current zoning (R2) and development controls.
2. The subject land is 400 m2
3. I have just become aware of 2 properties in Edgecliff :
 - (1) One is 157 m2 (ie only 39% of Dunara Reserve) and currently has a Development Approval to build a 3 bedroom house with a garage; and
 - (2) The other is 350 m2 and has Development Approval for a 3 bedroom house

4. Should the land be sold, it is highly likely that the purchaser would do so in order to build on it and in view of the above, would most likely obtain approval for a 3 bedroom house with a garage.
5. That would be incredibly detrimental to the whole of Dunara Gardens, which is currently overdeveloped with closely adjoining properties by reason of the original subdivision in the mid 1950s with complicated Rights of Way .
6. That would be entirely in conflict with the legislative requirements imposed on Council for the subdivision under LGA 1919 and the trust for public purposes to which the land is subject .
7. In particular I draw attention to paragraphs 5, 6 & 8 of my Submission dated 7 September ie
 - (A) That under s. 326 , in **fixing the number of lots, ie in ascertaining the area for the purpose of fixing the number of houses permitted in the subdivision**, Council had to embrace public reserves, open spaces and the like” ;
 - (B) Under s. 327(2) Council had to have regard to the plan of subdivision (which had to embrace the other sections relating to garden and open space); and
 - (C) Under s. 333(g) **Council had to take into consideration in respect of the application for approval of the subdivision** the amount of public garden and recreation space to be provided in the land to be subdivided
8. Clearly under the legislation applying to the subdivision and the respective requirements imposed thereby on Council , approval would not and could not have been given to the subdivision had that lot been available to build a 3 bedroom house with or without a garage (or any development at all).
9. The same principle still applies and in this regard , attention is drawn to paragraph 50 of my Submission of 7 September ie Council’s own Heritage Officer’s description of the historical basis of the Dunara

Gardens subdivision and her conclusion that the creation of the special lot for public garden and recreation should be preserved.

10. In other words, the sale of the land would have consequences that were both never envisaged, indeed were prevented, then and indeed now .

Yours faithfully,

A handwritten signature in black ink, appearing to read 'G. Farkas', with a horizontal line underneath the name.

GEORGE FARKAS

Alan Murray

█ Dunara Gardens,

POINT PIPER

NSW 2027

M: █ Email: █

7 September 2017

The General Manager

Woollahra Council

536 New South Head Rd

DOUBLE BAY NSW 2028

Dear Sir

SC 3794 SUBMISSION RE PROPOSED RECLASSIFICATION OF DUNARA RESERVE, POINT PIPER

I live at █ Dunara Gardens, Point Piper, with my wife Sally and our two schoolage daughters.

I was very disturbed to hear about the proposed reclassification by council of the reserve at the end of the street.

We are very fortunate to live in such a beautiful area as Point Piper however we are not fortunate enough to have any trees on our own property. It seems that the lack of green area was one of the reasons why the land in question was originally reserved way back when the subdivision was effected in 1957.

The reserve is used by a number of children in the neighbourhood, including ours. Indeed my daughters have both used the magnificent trees in the reserve in their school projects.

There are also a number of other children who live in the high rise on the other side of the road (Wentworth St) – and I notice that there is a DA pending for another high rise opposite as well.

Green areas are so important to local communities and once they are lost they are seldom ever reclaimed. Point Piper has a number of large houses but not much public land and as such this reserve at Dunara Gardens is extra special.

A number of the local residents participate periodically in maintaining the reserve as best we can (with our limited green bins!). A bit of gardening never did anybody any harm!

On the reserve are a number of exceptional, unique and beautiful trees; I assume that you have pictures of them. I understand that some of these are amongst the oldest in Point Piper and are heritage listed.

I also understand that there have been some issues with the preservation of trees in Point Piper and particularly around Dunara Gardens in the past. I cannot see how the council transferring the ownership of this land and these special trees away from their safe custody can possibly help this situation.

I strongly object to the proposed reclassification of this green area and submit that it should remain as community land owned by Council.

On a more positive note I think that it would really be of interest and appreciated by the community if the reserve was signposted from Wentworth St by the council to make it more welcoming to the local community.

Yours Sincerely

Alan and Sally Murray

Appendix – a couple of photos of the local kids playing in the park.



redevelopment of the site, this precious greenery will no longer be enjoyed by the community. We have experienced numerous incidents of tree poisoning in the area.

The Council has a duty to protect and preserve these greenery in our community, rather than focusing on wiping their hand off the minimal maintenance work they perform and making a windfall from the sale of the site.

Importance of Signage for the Dunara Reserve

The Planning Proposal asserts that the site provides little or no recreational value for the community and it is under-utilised because it is hardly recognisable as a public reserve. As pointed out before this reserve is playground for neighbouring kids. All is needed is a replacement bench for the public to have a rest under the dense greenery. The Council can easily set up a sign "Dunara Public Reserve" at the entrance of the Dunara driveway to indicate it is a public reserve.

Site Maintenance

The Planning Proposal argues that the cost of cleaning up the site is a misuse of public funds. The council conducts minimal maintenance twice a year. Most of the time our Dunara residents clean up the reserve by removing build-up vegetation on the site. As well, some of the residents planted beautiful flowering shrubs (hibiscus), agapanthus and ferns along the strip making it really appealing as we stroll along the driveway. The Dunara residents paid tens of thousands of council rates every year. We deserve this piece of reserve and the rates we paid would definitely cover the insignificant cost of maintenance of this site.

Proceed from Sale of the site

The Council is looking at a one-off sale proceed from the site versus the permanent loss of this community amenity to Dunara residents and the wider public. Whilst the Council may get a windfall from the sale thus making their books look good for the year, we the Dunara Community suffer a huge loss of open space and heritage tree and greenery. Where is the Fairness?

Over-Development of Dunara Gardens

If the proposed reclassification and subsequent sale of Dunara Reserve were to go ahead, we could potentially see a new construction on the reserve. We already have 11 properties on the subdivision. Cramming in another property by cutting down open public space will devalue all Dunara Gardens properties.

We sincerely hope the Council will consider our serious concerns as above in reviewing the Proposed changes to Dunara Reserve.

Professor Kei Lui and Mrs Ellen Lui

Owners of ■ Dunara Gardens Point Piper NSW 2027

From: [Ellen Lui](#)
To: [Records](#)
Cc: [Kira Green](#)
Subject: Submission re Proposed changes to Dunara Reserve, Point Piper
Date: Friday, 24 November 2017 10:19:45 AM
Attachments: [Proposed reclassification of Dunara Reserve to allow sale of the site - SC3794 Submissions.pdf](#)

To the General Manager

Referring to Woollahra Council's re-exhibition of the proposed re-classification of the Dunara Reserve, we hereby reiterate our submission dated 8 September 2017 as attached.

We strongly oppose Council's move to re-classify then sell the land at Dunara Reserve for a small windfall, in doing so totally ignore the voice of all residents concerned.

We sincerely hope that our concerns are taken into consideration by the Council in reviewing the proposal.

Professor Kei Lui and Mrs Ellen Lui
Owners, ■ Dunara Gardens Point Piper

Peter and Edith Ryba
■ Dunara Gardens
POINT PIPER NSW 2027
PHONE: ■■■■■■■■■■
PETER MOBILE: ■■■■■■■■■■

Your ref: SC3794 Submissions

7th September 2017

The General Manager
Woollahra Municipal Council
PO Box 61
DOUBLE BAY NSW 1360

Dear Sir or Madam

RE: Proposed changes to the land management controls of Dunara Reserve, Point Piper

As a long standing resident of Dunara Gardens I have been offered the opportunity to make a submission on the above noted proposal by 8th September 2017. Having carefully reviewed the council's proposal my wife, Edith, and I strongly oppose it and offer the following comments.

Council approved the subdivision of the heritage listed Dunara Estate in 1954 to 1955, including the demolition of the north wing of Dunara House, which housed a garage and servants quarters. The property was divided into the present eleven (11) residential lots. The subdivision included an irregular shaped 380 metre squared plot of land on the southern boundary which was dedicated to council as a green strip for use of the future residents (possibly 40-50 adults and children) as well as the general public and named Dunara Reserve.

My wife and I bought lot 3 some months after the auction of the 11 lots at which lots number 2 and 3 did not sell. We have lived in the home we built since 1958, some 59 years. Our original postal address council originally designated as 12 Wunulla Road. Unfortunately we did not have access to Wunulla Road as council kept a three metre wide frontage to Wunulla Road, for a proposed road widening which was abandoned some years ago. When part of the old stone wall collapsed into Wunulla Road, council built a four metre high concrete wall at the western side of the pavement to prevent our land slipping. We contributed to the construction cost of the steps in this wall. Our address remained as Lot 3 Dunara Gardens.

We were originally attracted to the land by the number of very old trees and shrubs in Dunara Reserve and the heritage listed Dunara House with its open, formal front garden. Whilst heritage listed Dunara House now has a brush fence obscuring the full view of the gardens we are at least still able to enjoy the greenery and openness afforded by the Dunara Reserve. Covenants allowed only 2 bar fences on all properties have not been insisted on by council resulting in some houses or brick fences being built right to the edge of Dunara Gardens Road.

We visualised with the help of our architect we would create a modest home with a small flat garden and a great view and that our children would be able to play in the council's nature reserve and the secluded cul-de-sac Dunara roadway and enjoy the ambience and position of Point Piper. As time passed there were some 20 school age children playing in this area. Children who live there or will be residents in the future in Dunara Gardens should also be provided the same opportunities.

The strip with its heritage listed old trees accentuates the green appearance of Dunara Gardens and the Dunara heritage listed home. The council placed one park bench on this green strip which was frequently used and the council until recently periodically cut back, cleaned and maintained the area. Some years ago a number of the residents arranged for one light pole to be erected with the power bills and maintenance being paid by residents.

The Dunara Gardens concrete roadway is now about 65 years old. It has suffered many cuts to improve inadequate services and drainage and requires an upgrade. The road slopes down from Wentworth Street and in heavy rain fall water just flows down to an inadequate and damaged grated drain. The original subdivision did not allow for car parking of residents, visitors or tradesman and there is no provision for turning on the private road. The responsibility for the upkeep and maintenance falls to only two owners of property within Dunara Gardens who pay rates and taxes on land used by neighbours and visitors without any help from the council.

We submit that the Dunara Gardens development was poorly planned and executed by the developers and approved by council in 1954. Having insisted on the Dunara Reserve (Lot 11) being dedicated to council as a green strip for the benefit of the community, the council proposes to sell it for financial benefit and create further problems for the residents of Dunara Gardens by increasing the already extensive density of the area and reducing the green ambience. We strongly object to the proposal and will do everything we can to prevent it going ahead.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Peter Ryba', with a stylized flourish at the end.

Peter Ryba

Via mail: records@woollahra.nsw.gov.au

Hard copy to be delivered.

Michael J. Crouch AC

[REDACTED]
[REDACTED].com
[REDACTED]

6th September 2017

Cr Toni Zeltzer
Mayor of Woollahra
Woollahra Municipal Council
PO Box 61
DOUBLE BAY NSW 1360

Dear Mayor

I write to express my dismay, and serious concern, at what, I understand, is an intentional proposal by Council to destroy the public garden known as 'Dunara Reserve'.

Obviously your Council should be increasing green areas, not diminish them.

Yours respectfully,

Michael Crouch

MICHAEL CROUCH

8 September 20178

Ms Anne White
Team Leader – Strategic Planning
Woollahra Municipal Council
DOUBLE BAY NSW 2028

Dear Ms White

Council Ref: SC3794 Submissions

Proposed conversion of public land at Dunara Reserve, Point Piper, for sale to the public


Thank you for notifying us of the proposed change of land management of Dunara Reserve.

We note that Council's intention is to eventually sell the Reserve.

While Council appears to have a rough estimate of the Reserve's value, the eventual buyer will enjoy an overall increase in the value of their own property, when the Reserve becomes part of their existing property.

We would be grateful if you would advise us how this increased value, through the purchase of formerly public land, will be brought to account in the final sale price of the Reserve.

Thanks and regards


Capt & Mrs G Mathias *(for)*
Wentworth Street
POINT PIPER NSW 2027

Received
8 SEP 2017
Customer Service Department
Woollahra Municipal Council

The General Manager
Woollahra Council
PO Box 61
Double Bay
NSW 1360

Albert Morini

Wentworth st
POINT PIPER NSW 2027
Tel [REDACTED]
Email [REDACTED] au

8 September 2017

Dear Sir/Madam,

SC3794 Submissions
Proposed Changes to Dunara Reserve, Point Piper

I am the owner of [REDACTED] Wentworth Street, Point Piper.
I refer to the Recent proposal from Council RE Dunara Gardens

I strongly object to Woollahra Council's proposal to reclassify Dunara Reserve from Community to Operational land in order to allow a sale of the land.

I Have Live Directly opposite the Reserve for the last 6 Years and proud of the area we live in .
I therefore have always made it my personal business to maintain the reserve clean and clear any fallen branches and pick up any rubbish spread by wind or others
We absolutely love living close to nature and the spirit of neighbourly friendship it brings
It is the very reason we chose to buy here in contrast with living in a Waterfront property
With no trees and a true sense of nature

This part of Point Piper is densely developed. There are many apartment blocks, and the houses in the vicinity of Dunara Reserve generally have small gardens and little outdoor space. Its stunning trees and shrubbery provide an important oasis of vegetation in this otherwise tightly developed area.
Therefore it is very important that Dunara Reserve remains a public garden for us all to enjoy.

I am particularly concerned that if Dunara Reserve is reclassified and sold its new owner will fence it in. We will lose access to this lovely public space, and our views into the Reserve will be impeded by a fence. I am also concerned that a sale will inevitably lead to an application to Woollahra Council to develop the land, and the loss of trees and vegetation that will result from this. There have been a number of serious tree poisoning incidents in this part of Point Piper recently, including within Dunara Gardens itself. Council should be taking measures to protect our remaining trees (from which the whole community benefits), rather than selling land like Dunara Reserve which is home to a number of important trees, and putting them at risk of poisoning from a private landowner who may wish to maximize the value of the site by development.

In summary, Dunara Reserve is a very important public amenity to all of us who live nearby, and I very strongly urge Council to ensure that it remains in public ownership and available for us all to enjoy.

Yours Faithfully

Albert Morini



Albert Morini

The General Manager
Woollahra Council
PO Box 61
Double Bay
NSW 1360

■ Wentworth st
POINT PIPER NSW 2027
Tel ■■■■■■■■■■
Email ■■■■■■■■■■

23.11.2017

Dear Sir/Madam,

SC3794 Submissions
Proposed Changes to Dunara Reserve, Point Piper

I am the owner of ■ Wentworth Street, Point Piper.
I refer to the Recent proposal from Council RE Dunara Gardens

I again wish strongly object to Woollahra Council's proposal to reclassify Dunara Reserve from Community to Operational land in order to allow a sale of the land.

I Have Lived Directly opposite the Reserve for the last 6 Years and proud of the area we live in .

I therefore have always made it my personal business to maintain the reserve clean and clear any fallen branches and pick up any rubbish spread by wind or others

We absolutely love living close to nature and the spirit of neighbourly friendship it brings

It is the very reason we chose to buy here in contrast with living in a Waterfront property

With no trees and a true sense of nature

I totally disagree with Councils attempt to try and sell off a beautiful a natural reserve loved and enjoyed by many

This part of Point Piper is densely developed. There are many apartment blocks, and the houses in the vicinity of Dunara Reserve generally have small gardens and little outdoor space. Its stunning trees and shrubbery provide an important oasis of vegetation in this otherwise tightly developed area.

Therefore it is very important that Dunara Reserve remains a public garden for us all to enjoy.

It has always been my understanding that Councils role is to encourage green and maintain nature as much as possible

I am particularly concerned that if Dunara Reserve is reclassified and sold its new owner will fence it in. We will lose access to this lovely public space, and our views into the Reserve will be impeded by a fence. I am also concerned that a sale will inevitably lead to an application to Woollahra Council to develop the land, and the loss of trees and vegetation that will result from this. There have been a number of serious tree poisoning incidents in this part of Point Piper recently, including within Dunara Gardens itself. Council should be taking measures to protect our remaining trees (from which the whole community benefits), rather than selling land like Dunara Reserve which is home to a number of important trees, and putting them at risk of poisoning from a private landowner who may wish to maximize the value of the site by development.

In summary, Dunara Reserve is a very important public amenity to all of us who live nearby, and I very strongly urge Council to ensure that it remains in public ownership and available for us all to enjoy.

Yours Faithfully

Albert Morini

Mr Said ElKhouri

Wentworth Street

Point Piper

NSW 2027

The General Manager
Woollahra Council
PO Box 61
Double Bay
NSW 1360

8 September 2017

Dear Sir/Madam,

SC3794 Submissions
Proposed Changes to Dunara Reserve, Point Piper

I am the owner of, and live at, [REDACTED] Wentworth Street, Point Piper. [REDACTED] is a six storey apartment block containing 11 apartments which is located directly opposite Dunara Reserve, and is home to [x number] residents. All apartments in this block enjoy views directly into Dunara Reserve.

I strongly object to Woollahra Council's proposal to reclassify Dunara Reserve from Community to Operational land in order to allow a sale of the land.

This part of Point Piper is densely developed. There are many apartment blocks, and the houses in the vicinity of Dunara Reserve generally have small gardens and little outdoor space. My apartment block has only a small paved outdoor space, and no garden. Dunara Reserve is a particularly important shared garden space which everyone in its vicinity can enjoy in the absence of gardens of our own. Its stunning trees and shrubbery provide an important oasis of vegetation in this otherwise tightly developed area. I note that Woollahra Council is currently considering a Development Application to demolish 2 Wentworth Street (next door to this apartment block) and replace it with a six storey apartment block containing five apartments (DA 369/2017/1). If approved this will further increase the density of development in this area, and make it all the more important that Dunara Reserve remains a public garden for us all to enjoy.

All residents in this building benefit from open views into the Reserve, and the opportunity to use it as a public space. If Dunara Reserve is sold and enclosed, the nearest public reserve to us in Point Piper will be Duff Reserve, which is on the other side of the Point Piper peninsular, and because of its numerous steep steps is difficult to access, particularly for the elderly or for residents with small children.

I am particularly concerned that if Dunara Reserve is reclassified and sold its new owner will fence it in. We will lose access to this lovely public space, and our views into the Reserve will be impeded by a fence. I am also concerned that a

sale will inevitably lead to an application to Woollahra Council to develop the land, and the loss of trees and vegetation that will result from this. There have been a number of serious tree poisoning incidents in this part of Point Piper recently, including within Dunara Gardens itself. Council should be taking measures to protect our remaining trees (from which the whole community benefits), rather than selling land like Dunara Reserve which is home to a number of important trees, and putting them at risk of poisoning from a private landowner who may wish to maximize the value of the site by development.

In summary, Dunara Reserve is a very important public amenity to all of us who live nearby, and I very strongly urge Council to ensure that it remains in public ownership and available for us all to enjoy. I also ask that Council give very serious consideration to the fact that this locality has already lost a number of substantial trees to poisoning in recent years. These trees cannot be replaced in our lifetime, and it is imperative that Council does not put further trees at risk by transferring Dunara Reserve into private ownership.

Yours Faithfully

Said ElKhouri

Nigel Corne
Benelong Crescent Bellevue Hill
NSW 2023

9th November 2017

The General Manager
Woollahra Council
records@woollahra.nsw.gov.au

Dear Sir

SC 3794 Submissions (Dunara Reserve)

This is the first I have been aware of the proposed reclassification from community to operational to allow its sale and wish Council to note my objection in the strongest terms.

This is land owned by Council as against privately owned for a reason ie to ensure it remains available to the public and it is Council's responsibility and obligation to continue to own it for that purpose. It is alarming that Council wants to reclassify it solely for the admitted purpose of monetary gain .

The public backlash by those ratepayers who become aware of it , noting that I and nearly everyone I know don't regularly get the Wentworth Courier, will be enormous and Council will not be portrayed in a favourable light . In fact the adverse publicity will severely damage Council, and rightly so, when Council is supposed to look after public land for ratepayers rather than selling it off.

There is not enough public land with trees in Point Piper and I am very familiar with the suburb. What little there is should be preserved and not sold

I also note the reference to a trust. Whilst I am not a lawyer, that must mean that Council holds it in trust for the rate payers, which is a very high obligation, which should not be discharged which would be the stated result of the proposal.

I request that his proposal should be terminated immediately

Your faithfully



Nigel Corne

Brian Topper
■ Chamberlain Ave
Rose Bay NSW 2029

The General Manager
Woollahra Council
records@woollahra.nsw.gov.au

8th November 2017

SC 3794 Submission - Dunara Reserve

I read about the proposed reclassification of this public land so that Council can sell it.

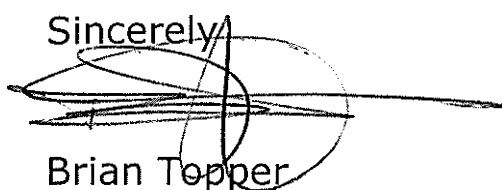
That is objectionable. Public community land has been so designated to preserve it for use by the public and not available to be in private hands to be developed.

Council is in breach of its responsibility to ratepayers by attempting to sell it.

Council's unconscionable action is further compounded by its public admission of the possible existence of a trust, which can only mean that the land is held by Council on trust for the public for its use by the public.

It therefore should legally and morally remain that way

Sincerely,

A handwritten signature in black ink, appearing to be 'Brian Topper', written over a circular stamp or seal. The signature is written in a cursive style with a long horizontal stroke extending to the right.

Brian Topper

ROBERT M. LOWY
[REDACTED] Thornton St
Darling Point NSW 2027
Ph: [REDACTED]

9 November 2017

The General Manager

Woollahra Council

records@woollahra.nsw.gov.au

Dear Sirs,

SC 3794 PROPOSED CHANGES TO THE LAND MANAGEMENT CONTROLS OF DUNARA RESERVE, POINT PIPER

I write in response to the notification in the Wentworth Courier of 25 October. I note this is a re-exhibition, although I was not aware of the previous exhibition.

I am concerned at this proposal to sell a public reserve and wish council to note my objection to this course of action.

A public reserve under the stewardship of council should remain so as a facility open to residents of Woollahra , in accordance with the original rationale of its existence.

I have particular disquiet in noting council's statement that there may be a trust affecting the site which is proposed to be discharged. I am a Chartered Accountant and am very familiar with the obligations of a trust. A trust is a fiduciary relationship which imposes heavy responsibilities on the Trustee to act strictly in accordance with the terms of the trust and its creation. As council is a public authority and the land the subject of the trust is a public reserve, the trust must have been created to preserve and maintain that land as a public reserve.

Given my disquiet , I have taken the time to peruse all the accompanying documentation regarding this matter on council's website. I am unable

to find any compelling reason, indeed unable to find any adequate reason which would justify council discharging the trust and discharging its heavy public obligation to preserve that trust. Should council proceed in doing so, it would face heavy public approbrium , not to speak of possible legal action . I am frankly amazed that council would even contemplate the re-classification , given its admission that there may be such a trust.

It also seems to me that the anticipated sale price is both inflated and illusory given that there is no market for its purchase, with at best only two potential purchasers identified and no market at all, should only one be interested

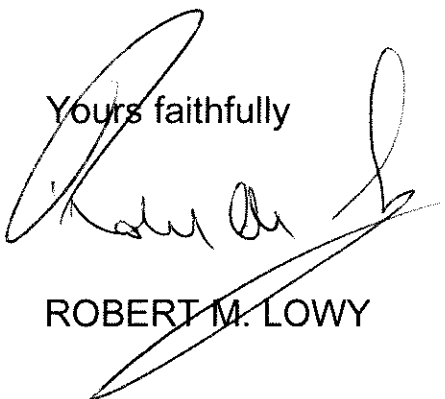
When I look at council's financial accounts, I am staggered , given council's assets and income and expenditure, that this possibly illusory financial gain should be put forward as a purported rationale for the sale of a public reserve.

To suggest that twice yearly maintenance visits is a drain on its resources is laughable. Not only cannot such infrequent visits be onerous, but maintenance of public reserves forms part of the rates levied by council and paid by ratepayers. It cannot be the basis to justify its sale.

The proposal to re-classify is misconceived and flawed and simply does not withstand scrutiny.

Council is not a private organisation or private incorporated company free to act in its own interests. It is a public authority subject to public scrutiny and has an onerous responsibility to act in the public interest . To terminate a public reserve as is here proposed without justification is a breach of its moral and legal responsibility to ratepayers

Yours faithfully

A handwritten signature in black ink, appearing to read 'Robert M. Lowy', written over a horizontal line.

ROBERT M. LOWY

9 November 2017

The General Manager

Woollahra Council

records@ Woollahra.nsw.gov.au

RE: SC 3794 Submissions

I submit that a public reserve should remain a public reserve

I am against Council changing its classification so it can sell it ,
making it possible for future development, rather than it staying as
a valuable public asset.

It was created as a public reserve for a reason . There are too few
in our municipality and it should be preserved.



Barry Joseph

■ Olphert Avenue, Vaucluse 2030

From: [Jaku Family](#)
To: [Records](#)
Subject: SC: 3794: Proposed Changes to Dunara Reserve
Date: Friday, 10 November 2017 11:27:57 AM

The General Manager Woollahra Council

Dear Sir,

We are Woollahra ratepayers owning and residing at [REDACTED] Court Road, Double Bay.

It has been brought to our attention that Council proposes to sell Dunara Reserve currently and historically a public reserve. We believe that transferring this public reserve to private hands would be a retrograde step and are opposed to such action as it would further diminish the public space in an already highly developed part of the eastern suburbs.

Michael and Linda Jaku

[REDACTED] Court Road, Double Bay NSW 2028

Mob.: [REDACTED]



Virus-free. www.avast.com

Stephen Baer

██████ New South Head Road

Rose Bay NSW 2029

10 November 2017

The General Manager

Woollahra Council

records@woollahra.nsw.gov.au

RE: SC 3794 PROPOSED CHANGES TO DUNARA RESERVE

I read with alarm council's notification in the Wentworth Courier of its intention to reclassify the reserve to facilitate its sale.

It is clearly public land owned by council and designated as a public reserve. Under no circumstances should such public land be sold or such land be in private ownership. It is council's responsibility to keep it as land available to the public

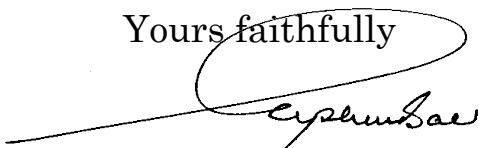
Surely council cannot be so cash strapped so as to necessitate its sale.

I am further alarmed to read that it is council's view that "there may be a trust affecting the site which is proposed to be discharged if the reclassification proceeds".

I would think that the site is kept in trust by council for the public, which makes sense .

While it would appear from the statement in the paper that the trust would be discharged by the reclassification, council should not discharge that trust and should honour that trust and maintain it in public ownership

Yours faithfully



STEPHEN BAER

■ Kambala Road
Bellevue Hill NSW 2023
13 November 201

The General Manager

Woollahra Council

records@woollahra.nsw.gov.au

Re: SC 3794 PROPOSED CHANGES TO THE LAND MANAGEMENT
CONTROLS OF DUNARA RESERVE POINT PIPER

Dear Sir

Even though I am not a resident of Point Piper and not immediately affected by what is proposed, I am nevertheless a ratepayer in the Woollahra Municipality and therefore entitled to make a submission.

Council should note my strong objection in principle to what is proposed.

I note the land is public land owned by Council and a public reserve. It has obviously been declared a public reserve by Council for the benefit of the public and in particular residents in its immediate surrounds as well as those in Point Piper .

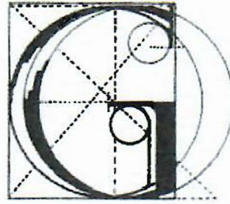
It is a public amenity and should remain that way. It ill behoves Council to deprive those residents of such specially earmarked land. It should never be sold to private interests, with the potential for it to possibly be developed.

I am troubled by Council's admission that there may be a trust affecting the site which will be discharged. The likelihood of a trust existing reinforces my point about preserving it for the public, as that trust would have been created to ensure that that occurred. For Council to consider discharging that trust is a dereliction of its duty and a breach of trust , which is a serious matter. It sets a very bad example. It is bad governance.

The proposal should be abandoned as against the interest of ratepayers and the community generally



Paul Blanket



Lesley & Alan Goulburn

Moncur Street
Woollahra 2025
Sydney, Australia

Telephone: [REDACTED]

13 November 2017

The General Manager

Woollahra Council

records@woollahra.nsw.gov.au

RE SC 3794 SUBMISSION RE DUNARA RESERVE POINT PIPER 2027

Dear Sir,

I wish to strongly express my opposition to Council's proposal to reclassify the above public reserve so that it ceases to be a public reserve which I understand will be ceased as such for the purpose of selling the land.

That land has been categorised by Council as a public reserve for the use of the public and there are no valid reasons put forward to alter that situation, not to mention selling the land to private interests by Council to alter that, not to speak of selling it to private interests.

What Council proposes is the opposite of good public governance.

I also understand that the Council has stated there may be a trust affecting the site which will be discharged if the reclassification proceeds. Given Council's ownership of the land, surely it must be the trustee that should ensure that the land remains in public ownership. To discharge that trust is a further dereliction of good Governance.

The proposed reclassification should be terminated immediately.

I am strongly against the sale of any public property.

Yours Sincerely

Alan Goulburn
Moncur Street
Woollahra 2025

13 November 2007

The General Manager Woollahra Council

records@woollahra.nsw.gov.au

SC 3794 SUBMISSION: DUNARA RESERVE

I note the re-exhibition, not having known of the previous exhibition.

I am not in favour of what is proposed. Indeed I oppose it.

A public reserve is a site that has been set aside by Council specifically for the use by the public and should stay like that. In fact there are not enough reserves.

I don't understand the reference to a trust but can only conclude that council holds it in trust for Woollahra residents. If that be the case, which seems to be acknowledged by council, then that is even more reason not to interfere with its classification, and for it to remain as was intended.

I am surprised that council is even considering changing its status, in view of the above.

Council should not waste ratepayers funds on a public hearing and should discontinue this process immediately.



Peter Hammerman

■ Clarence Place

Double Bay NSW 2028

Isaac and Robin Arbib

■ Rosslyn St Bellevue Hill NSW 2023

General Manager Woollahra Council

records@woollahra.nsw.gov.au

Submission : SC 3794 Dunara Reserve

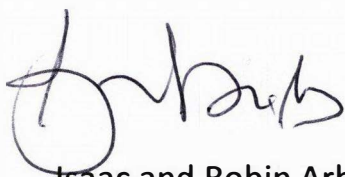
We were not aware of this until we read the Wentworth Courier of 25 October

We do not agree with what council intends , indeed we are against it.

There is not enough green space available to the public in Woollahra and council should not be divesting itself of ownership. If anything, it should be attempting to acquire more such space and dedicate it to public use.

We are aware of Dunara Reserve's existence and regard it as a beautiful space with large trees amongst the density of Point Piper. It should continue to be owned by Council dedicated as a public reserve.

Yours sincerely



Isaac and Robin Arbib

R. Arbib

10 November 2017

The General Manager

Woollahra Council

records@woollahra.nsw.gov.au

Re: SC 3794 Submission

I have become aware of Council's proposed reclassification of Dunara Reserve to sell it.

I am against selling public land .

Public land owned by Council should continue to be owned by Council and not sold to private interests .

The reclassification should not proceed



Liza Evans

■ Balfour Rd

Rose Bay NSW 2029

DR. BRIAN CHURNIN

[REDACTED] Banksia Rd

Bellevue Hill NSW 2023

12 November 2017

The General Manager

Woollahra Council

PO Box 61

Double Bay NSW 1360

Dear Sir

SC 3794 DUNARA RESERVE

I refer to the advice in the paper about the proposed re-classification of Dunara Reserve

I am against what is proposed

Firstly , in principle, I am against the disposal of public land as I regard it as not in the interests of Woollahra ratepayers, who are entitled to expect council to keep that type of land and to keep it in good order.

Secondly , I am against changing the status of that particular site. I am very familiar with it , having visited a patient living in Dunara Gardens frequently over many years. It adds to the amenity and character of Dunara Gardens , noting that it was probably named Dunara Gardens, because of it.

I frequently observed children playing there , which is no doubt what it was intended for, given the density of the houses in Dunara Gardens. It is too dangerous for children to play in the Dunara Gardens driveway .

I also occasionally noted groups of people in the reserve. I was informed they were heritage walking tours.

It was clearly being used by residents and others , in keeping with what a public reserve should be

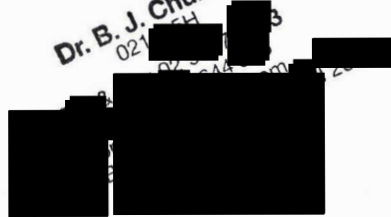
It also provided a leafy canopy to the entrance of Dunara Gardens, which was impressive.

I feel that not only Dunara Gardens, but the area generally would be all the poorer if Council disposed of it . It should remain a public reserve available to all , rather than a privately owned site, with no guarantee that it would remain with its trees and vegetation.

Regards

Ben Hill

Dr. B. J. Churnin
021 544 1113



David and Anna Finkelstein

█ Glendon Road, Double Bay NSW 2028

10 November 2017

The General Manager

Woollahra Council

records@woollahra.nsw.gov.au

BY HAND

Dear Sir

SC 3794 - Submission re Dunara Reserve

I note Council's proposed re-classification from the Wentworth Courier.

I should comment that I seem to not receive the Courier more than I receive it, and it is purely by chance that I have become aware of this matter. Given that, you should be aware that it is likely that many ratepayers are entirely unaware of this proposal. I mention this, not as a criticism of council, but merely to note that the number of submissions objecting to it, is not necessarily representative of the level of opposition to it. Everyone to whom I have mentioned the matter were not only unaware of it, but were opposed to it.

The land in question is public land and the reserve will cease to be a public reserve, should the re-classification occur. That is an outcome with which I am not in agreement.

If the land has been set aside as a public reserve it should remain that way and council should not facilitate a situation where that changes, especially when the rationale seems to be to gain the proceeds of such sale.

Public reserves add to the ambience of a neighbourhood, especially one as highly developed as Point Piper. They add greenery and trees as well, irrespective of their level of usage.

It sets a very bad precedent for council to dispose of public land and it should not do so. This appears to be reinforced by the possibility of there

W

being a trust affecting the land. That trust was probably created to ensure it remained as public land in council's possession and not sold.

Council should not proceed with the proposed changes.

A handwritten signature in black ink, appearing to read 'David Finkelstein', with a long, wavy horizontal line extending to the right.

David Finkelstein

Associate Professor George Pal

■ Boronia Road

Bellevue Hill NSW 2023

The General Manager

Woollahra Council

records@woollahra.nsw.gov.au

RE SC 3794 RECLASSIFICATION OF DUNARA RESERVE

Dear Sir,

I am dismayed by Council's reclassification proposal in order to sell valuable and important public space.

The land is a public reserve dedicated for the use of the public. That is obviously the reason Council owns it ie to preserve it for such use. Whatever the price that could be obtained, it cannot be worth it if the result is to permanently alienate the land to public use.

This is obviously a re-exhibition . As I only seem to get the Wentworth Courier intermittently, I was not aware of the original exhibition, otherwise I would have lodged an objection then.

Public community land should remain public community land, consistent with its original creation and purpose. It is improper of Council to act inconsistently with that charter. Even more so, when there is a dearth of such space in Point Piper.

The fact that there may be or is a trust to which the land may be subject, simply reinforces the point . It is alarming that Council would consider discharging that trust.

This proposal should not proceed

Yours faithfully



Assoc/Prof G Pal

The General Manager

15 November 2017

Woollahra Council

records@woollahra.nsw.gov.au

Dear Sir

Re SC 3794 Proposed changes to the land management controls of Dunara Reserve , Point Piper

I wish to register my strong protest and opposition to the proposed changes, notified in last week's Courier.

Firstly I am opposed to the sale of public land to private interests. There are too few reserves and those that exist have been entrusted to council precisely to ensure that they remain as public reserves .

That is proven by council referring to the existence of a trust affecting the site. In other words, council holds that reserve on trust for residents, ratepayers and the general public. I am dismayed that council intends discharging that trust at all . Even more so, for financial gain. To sell that land , is a breach of that trust.

I am very familiar with Dunara Reserve as I have friends there and visit regularly.

It is a beautiful leafy area with wonderful trees which adds immensely to the character not only of Dunara Gardens but the neighbourhood generally. It is vital to preserve that vegetation. There is no guarantee that this will be preserved in private hands as regrettably council has a dismal record of enforcing its own tree preservation laws.

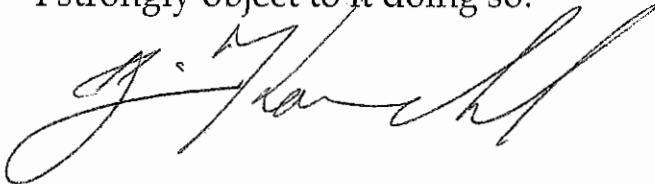
I have also , on my visits noted that it is used , particularly by children who play there, have picnics there and by members of the public. I have seen walking groups on the reserve looking at particular trees.

The tree canopy of the reserve provides a very nice entrance to Dunara Gardens, which to my observation has only 2 trees in a very densely housed cul de sac.

The whole of Dunara Gardens would feel denuded of green if that reserve were developed in any way.

Council would be very ill advised to divest itself of that reserve as it would be detrimental to residents and ratepayers.

I strongly object to it doing so.

A handwritten signature in black ink, appearing to read 'J. Kornmehl', written in a cursive style.

Jim Kornmehl

██████ O'Sullivan Rd

Rose Bay NSW 2029

From: [Victoria Taylor](#)
To: [Records](#)
Subject: SC3794 DUNARA RESERVE POINT PIPER
Date: Friday, 17 November 2017 12:49:07 PM
Attachments: [ATT00001.jpg](#)

Dear General Manager, Woollahra Council: PO Box 61 Double Bay,

We write to you to object to the reclassification of Dunara Reserve Point Piper SC3794.

The site is public land, owned by Council. We understand that for management purposes, public land is classified as either **community land** or operational land under the *Local Government Act 1993* (LG Act). The planning proposal seeks to reclassify the site (Lot 11, DP 27451) from community land to operational land under the LG Act. We object! Section 27(1) of the LG Act requires that the reclassification of public land is made by an LEP which we wish to object.

Reclassifying the land and disabling an existing trust would allow the sale of the site of which we strongly object!

As this matter relates to the reclassification of public land, Council did not seek authorisation to use its delegation under section 59 of the *Environmental Planning and Assessment Act 1979* from the Greater Sydney Commission.

If the LEP is approved and published, Dunara Reserve will cease to be a public reserve and all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land are discharged. THIS IS BAD PLANNING and POOR FORM. THE GARDENS AND OPEN PUBLIC LAND IN WOOLLAHRA COUNCIL AND ARE WHAT MAKE IT OUR AREA VERY SPECIAL AND SO BEAUTIFUL TO LIVE IN. The reserve includes a HERITAGE LISTED COOK PINE and Mature Date Palm from the 1890s. We vigorously object to SC3794.



Sincerely, The Taylor Family of ■■■ Yarranabbe
Rd Darling Point and of Vacluse and Rose Bay.

X

Adrian Skurnik

██████████ New South Head Rd

Rose Bay NSW 2029

The General Manager

Woollahra Council

536 New South Head Rd Double Bay NSW 2028

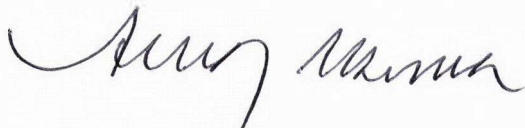
SC 3794 Dunara Reserve Submission

I have just read of what council proposes in relation to the abovementioned land and wish to record my objection

That reserve is a very beautiful public amenity. I regularly run from my place to the city and back , including around Point Piper on the way. Amongst other spots , I have a short rest in the shade of the reserve , which I find very beneficial. In fact, I suggest that Council puts a bench in that small reserve.

There is too little public space generally, but in particular in Point Piper.

That reserve should remain in Council's hands in perpetuity so that it remains open to the public



Adrian Skurnik

P.O. BOX 1131 EDGECLIFF NSW 2027

PHONE [REDACTED]

ABN 88 141 102 701

23 November 2017

Mr Gary James
General Manager
Woollahra Municipal Council
By email

Dear Mr James,

Re: Dunara Reserve sub-division – Point Piper

I write on behalf of the Darling Point Society to object to the proposed development of this valuable reserve in the Woollahra municipality on the following grounds:

- 1. Dunara Estate Sub-division** The Reserve provides valuable green space in a densely built area and is enjoyed and used by the public and particularly by residents in its immediate vicinity. Children living in Dunara Gardens have made a swing on the Reserve and play there most days.
- 2. Tree Protection:** The Reserve, although small, is home to 10 substantial and significant mature trees, Point Piper is becoming increasingly bare of vegetation as development continues at an alarming pace. We believe that the Reserve is a precious public asset which should be kept in public hands in order to best safeguard its trees. A private sale means that a buyer may seek removal of vegetation on the Reserve to make way for development. Council has asserted that reclassification and sale of the land does not alter the development potential of the site, but we believe that it is inevitable that a prospective buyer will seek to maximise its value, and that this puts the trees and other vegetation on the site at risk - including the risk of unlawful removal.
- 3. Heritage Impact:** Dunara Gardens is home to two heritage listed properties: the historic and State heritage listed Dunara House, and the more contemporary McGrath House. A private sale would entitle a buyer to erect a fence depriving residents and visitors from the lovely bushy and woody view and aspect.

3. **Public Benefit:** Council has stated that the Reserve is underutilised and only benefits the immediately adjoining properties (of which there are two) . It is an important amenity to at least 30 residents who live in its immediate vicinity for whom it is a shared garden. It is also of significance to the wider community as a precious pocket of greenery and significant trees, and for providing an open garden setting for the heritage items in its immediate vicinity.
4. **Precedent:** so many “reserves” in Woollahra are being spotted for potential development that granting this DA would create a dangerous precedent to all reserves in the area including the harbour foreshore which is increasingly coveted by hungry developers.
5. **Clarification:** there has been no public disclosure regarding the beneficiaries, or the nature of the trusts and this should be made public.

Regards



Charlotte Feldman
President
Darling Point Society Inc.

David Corrick

██████ Carlisle St Rose Bay NSW 2029

10 November 2017

The General Manager Woollahra Council

records@woollahra.nsw.gov.au

Dear Sirs

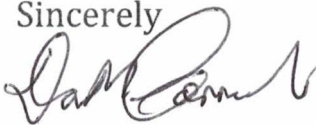
SC 3794 DUNARA

I read that council wants to alter the classification of the reserve to ultimately sell it

The land is a public reserve for the residents of Woollahra and in particular for those in Point Piper

It should remain as a reserve for the enjoyment of those residents and not be changed. It is inconceivable that council would even consider abolishing that reserve , let alone selling it.

Sincerely





The Appropriate Officer
Woollahra Council
By email to records@woollahra.nsw.gov.au

Dear Sir,

**SC 3794 PROPOSED CHANGES TO THE LAND MANAGEMENT CONTROLS OF
DUNARA RESERVE, POINT PIPER**

I am writing in regard to the notification in the Wentworth Courier of 25 October, 2017. I note that this is a re-exhibition, although I was not aware of the previous exhibition. I am concerned at this proposal to sell a public reserve and wish Council to note my objection to this course of action.

A public reserve under the stewardship of Council should remain so as a facility open to all residents of the municipality of Woollahra and the public generally, in accordance with the original rationale of its existence.

I have particular concern in noting Council's statement that there may be a Trust affecting the site which is proposed to be discharged. I am a Chartered Accountant and am very familiar with the obligations of a Trust and its Trustee(s). A trust is a fiduciary relationship which imposes heavy responsibilities on the Trustee to act strictly in accordance with the terms of the trust and its Deed of creation. As Council is a public authority and the land the subject of the Trust is a public reserve, it is reasonable to assume that the Trust must have been created to preserve and maintain that land as a public reserve.

Given my concern, I have taken the time to peruse all the accompanying documentation regarding this matter on Council's website. I am unable to find any compelling reason, indeed unable to find any adequate reason which would justify Council discharging the Trust and discharging its heavy public obligation to preserve that Trust.

Should council proceed in doing so, it would face heavy public condemnation, not to speak of possible legal action. I am frankly amazed that Council would even contemplate the re-classification, given its admission that there may be such a trust.

It also seems to me that the anticipated sale price is both inflated and illusory given that there is no market for its purchase, with at best only two potential purchasers identified and no market at all, should only one be interested

Email [REDACTED]

[REDACTED] Bellevue Hill NSW 2023

T [REDACTED]

F [REDACTED]

M [REDACTED]

A H Krochmalik

When I look at Council's financial accounts, I am most surprised , given Council's assets and income and expenditure, that this possibly illusory financial gain should be put forward as a purported rationale for the sale of a public reserve.

To suggest that twice yearly maintenance visits is a drain on its resources is quite ridiculous.. Not only cannot such infrequent visits be onerous, but maintenance of public reserves forms part of the rates levied by council and paid by ratepayers. It cannot be the basis to justify its sale.

The proposal to re-classify is misconceived and flawed and simply does not withstand scrutiny.

Council is not a private organisation or private incorporated company free to act in its own interests. It is a public authority subject to public scrutiny and has an onerous responsibility to act in the public interest . To terminate a public reserve as is here proposed without justification is a breach of its moral and legal responsibility to ratepayers

Yours faithfully



A H Krochmalik

23 November, 2017

Ahk-Woollahra Council 20171123

Bianca Maserow
■ Newcastle St.
ROSE BAY NSW 2029

The General Manager

Woollahra Council

records@woollahra.nsw.gov.au

SC 3794 SUBMISSIONS

I wish to register my strong objections to Council's intention to reclassify Dunara Reserve to allow its sale.

I believe there are too few public reserves which are a public amenity and should not be sold, especially if making them liable to potential development, as this land would be.

I also note from the Courier that Council states there may be a trust affecting that land which would be abolished by the reclassification. Presumably that must be a trust for residents and the public and for the purpose of keeping it as a public reserve.

The fact that Council intends to both ignore that trust and further to abolish it is a breach of its duty to ratepayers and puts Council in a very bad light.

I believe it will do Council no credit to proceed with the reclassification. It should remain as public land and remain as community land to preserve it as is.

I would appreciate if you could kindly advise that you have received this submission.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Bianca Maserow', written in a cursive style.

Bianca Maserow

Woollahra Council

records@woollahra.nsw.gov.au

SC 3794 DUNARA RESERVE

My attention has been drawn to page 10 of the Wentworth Courier dated 22 November.

As I live literally around the corner, I pass Dunara Reserve daily, either on foot or by car. It has always struck me as being a beautiful addition to the Point Piper landscape with its leafy area and tall trees and a wonderful addition to Dunara Gardens.

It is a used amenity. I have often seen children playing there as well as walkers stopping there.

Point Piper has too little reserves and this piece of land should stay as such.

I am also confused about the statement about the fact there may be a trust affecting the land, without any explanation about it, such as what the trust is for, who is in charge of it, who benefits from it etc. Without such information, the public exhibition is not complete and I regard this as a serious deficiency in the information provided by council.

I very much object to the council proposal and the land should continue as a public reserve.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Laurence Bergman', with a large, stylized flourish at the end.

From: [David Solomons](#)
To: [Records](#)
Date: Friday, 24 November 2017 12:32:58 PM

23 November 2017

The General Manager ,
Woollahra Council

Re: SC 3794 SUBMISSION RE RECLASSIFICATION OF DUNARA
RESERVE

Dear Sir,

I wish to convey my objection to the proposed reclassification on a number of grounds:

Firstly, in principle, Council should not alienate public land because there are too few public reserves which once sold, are forever alienated from the public. In particular , the only reserve in Point Piper that I am aware of is Duff Reserve. Dunara reserve should remain as a public reserve. Such land has no doubt been classified as community land precisely to prevent it being sold and so classified so as to preserve it as a public amenity. Clearly the Council is obligated to explore the use and potential use of the land by the ratepayers prior to any reclassification.

Secondly, I am concerned at a possible trust being discharged by the reclassification. I am familiar with the concept of a trust and the heavy obligations imposed on the appointed trustee vis a vis the beneficiaries. Whilst the public notification contains no details in this regard, which calls into question the supposed public exhibition, one must conclude, given council's ownership of that land, that it is the Trustee and the ratepayers the beneficiaries. In parallel with my first point it seems therefore clear that this trust has been set up to preserve the land as community land. A Trustee has a duty, which cannot simply be discharged lightly to adhere strictly to the terms of the trust and to honour its intent.

Council should abide and adhere to the trust's intent and its terms. Ratepayers are entitled to expect that it do so. Therefore the land should remain as community land in council's ownership.

Given the Council's financial position any disposal of this land would make only an immaterial and transitory financial impact versus the permanent loss of an important amenity and thus this proposal is inimical to ratepayers' interests and should not progress any further.

Sincerely

David Solomons

Dr David Solomons
■ Clairvaux Road,
Vaucluse 2030
NSW Australia

Dr Alex Selby

█ Wentworth St

Point Piper 2027

24 November 2017

The General Manager

Woollahra Council records@woollahra.nsw.gov.au

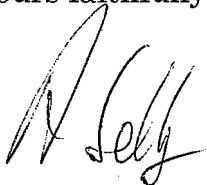
Re: SC 3794 Submission reclassification of Dunara Reserve

I am very concerned at Council's proposed reclassification in order to sell it and am against it.

As you can see from my address, I live not far up Wentworth Street from it and am familiar with it. It is a very nice area, used by walkers who stop there and children who play there.

It would be wrong to deprive local residents of that space which has obviously been set aside for the public's use; and is being enjoyed by the public. The towering pine tree on the reserve can be seen from far away and is impressive. With trees disappearing, especially in Point Piper, it is absolutely essential for the reserve to remain owned by Council to preserve the land and trees from development.

Yours faithfully



Mervyn and Thelma Levin
[REDACTED] Annandale Street
Darling Point NSW 2027

24th November 2017

The General Manager
Woollahra Council
PO Box 61 Double Bay NSW 1360
records@woollahra.nsw.gov.au
SC 3794 Submissions

I wish Council to note my objection to its proposal regarding Dunara Reserve. I am an avid walker and often walk around Point Piper. I know the land in question and admire its trees, canopy, foliage and garden. I, together with my walking group sometimes take respite during a long walk and take advantage of its cool shade, as do other walkers I have observed. It is a beautiful peaceful oasis in a densely populated and developed area. I am horrified that its status would be changed by Council. I am very much of the view that it should always remain as public community land.

I have on my walks often seen children playing there, so it provides a leafy space for childrens' recreation, which is very important.

Open recreation space is vital in our municipality, and should be preserved in Council's hands to ensure it stays that way. I should emphasise that I am not a "Greenie", but strongly believe in the importance of such open spaces in the municipality.

It also provides a wonderful ambience to Dunara Gardens, which apart from that has not many trees.

I am surprised that Council would even consider selling it. The loss of public amenity cannot be undone irrespective of the price obtained.


MERVYN LEVIN

24/11/2017

From: [Renee Ferster Levy](#)
To: [Records](#)
Subject: SC3794 Submissions Dunara Gardens
Date: Monday, 27 November 2017 2:19:44 PM
Attachments: [Woollahra Council wildlife corridors.png](#)
[Powerful Owl flight path near Dunara Reserve.docx](#)
[Brush Turkey mound, Dunara reserve.jpg](#)
[Wildlife corridors \(from Woollahra Council's Biodiversity Conservation Strategy\).png](#)

To the General Manager, Woollahra Council.

I am writing in concern about the proposed sale of Dunara Reserve, Lot 11, DP 27451, and I wish to object in the most strenuous terms.

This is an abysmal and irresponsible plan, showing a complete lack of commitment by Woollahra Council to the importance of open space, of Biodiversity, of habitat connectivity, of natural water holding capacity and of carbon storage. Woollahra Council would be abrogating its responsibility if it sells off this valuable remnant habitat.

Council's own strategy, the Woollahra Biodiversity Conservation Strategy 2015-2025, which, by a glaring omission was not referred to in the papers, clearly states the importance of conserving and maintaining remnant habitats. (Section 11.1). In its maps of wildlife corridor connectivity, corridors are marked right over this part of Point Piper showing the important linkage with the City of Sydney, as well as within Woollahra itself (Fig. 8-2 see attached and explanation 8-3).

Flora

The site has majestic, mature trees including the listed Cook Pine as well as huge Figs and others. These provide beauty, shade, soil and water retention properties, and are needed for their air quality and carbon storage functions as well as sculptural bark with many nooks and crannies important for small creatures to shelter in.

The Blueberry Ash is at its peak of flowering, with masses of beautiful fringed downward-facing flowers, which would attract tiny insects, a crucial part of the food chain, and later provide abundant berries, important to the diet of several birds and flying foxes.

Fauna

The Park has a thick layer of leaf litter, which would be rich in invertebrates and probably lizards and geckos. It seems that no proper study has been carried out to check which species are present, which is a grave oversight.

It may turn out to be vital habitat for remnant populations for example the Pale-lipped Shade skink, which has a limited and disjointed distribution recorded in the Woollahra Council area.

The site would be important for many species, including Flying Foxes, which would feed on the figs and other fruits; and Powerful Owls, Australia's largest owl, which is a threatened species, having "vulnerable" status in NSW.

Satellite tracking from 2016 has shown that they range far, for example a Botanical

Gardens Powerful Owl flew right over this area on its way to Vaucluse and Nielsen Park, stopping in tall trees along the way, just like in this remnant site (see attached image, courtesy of BirdLife Australia's Powerful Owl Project).

Excitingly, a native Brush Turkey has been seen at the Dunara Reserve site this year. The first known record in a hundred years or more in the Woollahra Council area was in December last year, in Bellevue Hill (Charles Darwin had observed one in Rushcutter's Bay on his visit to Sydney in 1836). A Brush Turkey has not only been seen at the site, but built a mound right in the Dunara Gardens Reserve (see photo), showing its importance to this species which needs adequate leaf litter for the mound, and to provide its food of invertebrates, fallen berries and seeds.

I will now respond to specific statements in Council's submission:

Page 3. "its inaccessibility and lack of passive surveillance have resulted in the build-up of vegetation and debris over time"

A build-up of debris is a key natural process, and one of the features which makes the site so important - rich leaf litter is not a negative feature, rather it is nature's recycling, and providing habitat for invertebrates and reptiles, and as mentioned above, material for a Brush Turkey mound.

"The ongoing site maintenance to clear the debris and vegetation ..."

The residents say that Council rarely does anything at the site, and the residents clear rubbish themselves.

"... is a poor use of Council's resources, particularly as there is no tangible and obvious community benefit."

It is obvious that children use the area to play, and that this is a natural area with beauty and natural processes, all of which bring the community benefits. In addition there are important tangible benefits in the roots of vegetation holding the soil and, and absorbing and using rainwater, preventing erosion of the slope and flooding.

"The site is a public reserve, but it is not used as public open space"

Incorrect. Children play here, and opportunities for free play in a natural area are extremely limited. There is much greater value in this sort of experience than in an expensive metal and plastic playground in a bare grassy park. Not all public open space needs to be walked on, in order to bring the community benefit.

"Visually, it appears as a heavily vegetated space."

Yes, and this is exactly part of its importance. Such vistas are rare in our area, and should be retained at all costs.

"The sale of the site would allow Council to use the funds to improve services and infrastructure in the LGA, including existing usable open space in the vicinity."

There is no commitment to using the funds to retain or enhance the very important values this reserve provides.

“to improve services and infrastructure” could mean anything, and it would be irresponsible to use any funds for any purpose other than those values which would be lost by Council’s selling this site off, potentially leading to its being cleared and built on.

“including existing usable open space”

Council does not only have a responsibility to look after places which are “usable” in the sense of people running around in them, or building a structure, it has a vital responsibility to protect remnant habitat sites for their intrinsic natural values, including being part of wildlife corridors as shown in Woollahra Council’s own map (see above).

“Usable” is also how people benefit from green vistas, important in positive mental health.

Page 7.

6.1

“The site is an underutilised piece of public land that does not benefit the wider community.”

Incorrect, as shown above.

6.2

4. “Is the planning proposal consistent with a council’s local strategy or other local strategic plan?”

NO. It is inconsistent with Woollahra Council's own strategy, the Woollahra Biodiversity Conservation Strategy 2015-2025, which, by a glaring omission was not referred to in the papers, and which clearly states the importance of **conserving and maintaining remnant habitats**. (Section 11.1).

In its maps of wildlife corridor connectivity, **a corridor is marked right over this part of Point Piper** showing the important linkage with the City of Sydney, as well as within Woollahra itself (Fig. 8-2 see attached).

This strategy states:

“Update ... Plans of Management for all parks and reserves to include biodiversity conservation provisions ... to align with the objectives and actions within this Biodiversity Conservation Strategy”. Selling this piece of land does not align with these objectives.

6.3

7. “The site does not contain threatened species, populations or ecological communities.”

On what basis is this statement made? There is no reference to any field study to check. On the contrary, the very fact that this is a healthy remnant patch of habitat makes it likely to have important populations which would be threatened if the site is sold and developed. As shown above, an important wildlife corridor passes directly over the site, and the endangered Powerful Owl has been shown by satellite tracking to pass very close and uses tall trees to stop in just like those in this site.

8. “Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?”

No. There are no likely negative environmental effects associated with the planning proposal.”

Incorrect for the reasons stated above, including soil and water holding capabilities which would otherwise cost many times more than the site would bring, to replicate artificially.

Page 10. 3.

“Should the site be sold the revenue generated could be used for public open space upgrades throughout the LGA such as the Redleaf foreshore upgrade, Rose Bay Pedestrian Trail and Guilfoyle Park upgrade.”

None of these potential uses for the funds would in any way remotely compensate for the loss of natural habitats, soil and water holding capabilities, wildlife corridors, aesthetics and intrinsic benefits, which would ensue from development of the site.

4. “The site is a liability for Council as it is not used for recreational or other public purposes or is it discernible as a public space, yet, it requires ongoing maintenance and rubbish removal. The site is not suitable for active or passive recreation, due to the slope, dimensions, size and extensive vegetation.”

These statements are clearly wrong, as shown above, the site is used for active and passive recreation. Hence the very premise of this application is misleading and incorrect, and any approval given has been given on the basis of false information and should be rescinded.

Page 11.

Direction 3.2 Create a network of interlinked, multipurpose open and green spaces across Sydney

“The planning proposal will enable Council to take a strategic approach by broadening the options for the management of the site. Should the site be sold, improvements to other recreation areas can be carried out which will benefit a broader section of the community.”

This is blatantly incorrect. One cannot respond to a directive to create an interlinked network of green spaces by selling off (and potentially decimating most of) part of that very network - a remnant and rare site with potential habitat and other values as stated above.

Central subregion priorities

Protect the natural environment and promote its sustainability and resilience

“There are no specific priorities for the Central sub-region identified for this site.”

This is no response to the priority it addresses. The proposed sale of the site would NOT protect the natural environment, would NOT promote its sustainability NOR its resilience. ON the contrary, it would threaten all of these important priorities.

Page 18

Sustainability Priority 4: Avoid and minimise impacts on biodiversity. Efforts to protect biodiversity values should be based on avoiding and minimising adverse impacts to biodiversity, as far as practicable. Only when impacts cannot be avoided or minimised, should consideration be given to offsetting those impacts.

“The site does not contain any critical habitat areas, threatened species, populations or ecological communities or their habitats. Accordingly, the proposal will not have any impact in this regard.”

This has not been correctly addressed. Priority 4 talks about protecting biodiversity values, not only threatened species. This proposal would achieve the opposite to the stated priority **Avoid and minimise impacts on biodiversity.**

An additional question is:

Page 1 “identified the extent of the encroachment from No. 9 Dunara Gardens and recommended the reclassification of the site to allow its sale”

What penalties, if any, were given to the owners of number 9 Dunara gardens for constructing a carpark and garage on public land? Will they be prevented from purchasing the remainder, and hence potentially benefitting from their own non-permitted activity?

In summary, please do not proceed with this sale.

The land has many important values which would be lost in case of development, and Council is obliged by its own policies, as well as regional ones, to protect these values.

Thank you,

Yours sincerely,

Renée Ferster Levy

■ Drimalbyn Rd, Bellevue Hill



Wildlife Corridors

Wildlife Corridors

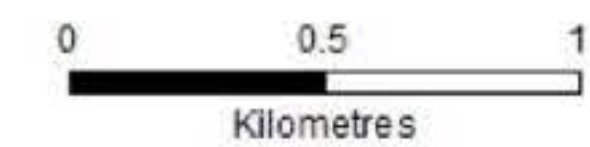
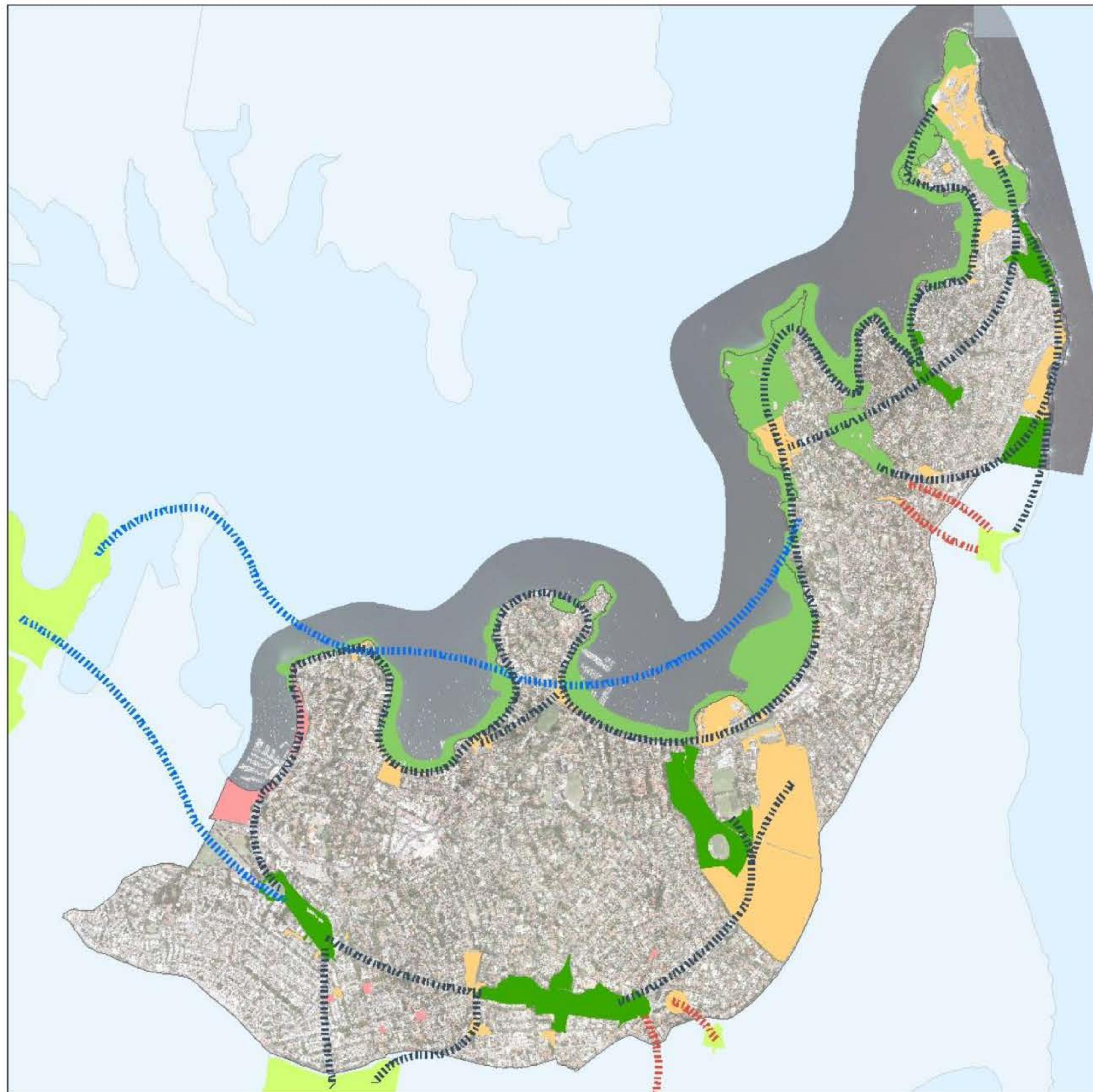
- Wildlife Corridors within Woollahra
- Wildlife Corridors to City of Sydney
- Wildlife Corridors to Waverley

Key Habitat Areas

- Managed by Council
- Not Managed by Council

Local Habitat Areas

- Locally Significant Habitat
- Complementary Habitat
- Habitat areas outside of Woollahra
- LGA Boundary



Woollahra Municipal Council provides this map for information and communication purposes only. No warranty can be given that this map is free from errors or omissions. All users of this map are responsible for assessing the relevance and accuracy of the information. Aerial photo 2014.

Figure 8-2. Habitat Areas and Wildlife Corridors



Satellite track of Powerful Owl from Botanical Gardens 31 May 2016
from BirdLife Australia's Powerful Owl Project

This is one of many examples of the Botanical Gardens Owl passing over the relevant area, and other individuals may use this site as well. Note that readings were made only hourly, sometimes half-hourly, hence there are likely to have been more stopping-off points in the area.



Chris Kalowski
[REDACTED] Greycliffe Ave
Vaucluse NSW 2030
10 November 2017

The General Manager
Woollahra Council
records@woollahra.nsw.gov.au

Dear Sir,
SC_3794 Submission (-Dunara Reserve)

I am very concerned to read of the proposed changes to Dunara Reserve, currently not available for sale, but so available consequent upon the proposed re-classification. The site is public land owned by Council. Council should not be selling public land as it has been set aside for the benefit of the public and there are too few public reserves.

Surely whatever price council could obtain cannot justify depriving the municipality of such a reserve. Council is under a duty to keep and maintain it.

I also note that there may be a trust affecting the site. I can only assume that Council as owner, holds it in trust for the public, which is a responsibility that it should not and I submit it cannot simply discharge.

The proposed changes should not be implemented

Chris Kalowski



From: [Tony Ryba](#)
To: [Records](#)
Subject: SC 3794 -- Proposed Dunara Reserve Reclassification
Date: Sunday, 3 December 2017 2:36:38 PM

To whom it may concern,

Re: reference SC 3794 -- Proposed Dunara Reserve Reclassification.

I have become aware of the intended changes to Dunara Reserve, Point Piper.

I would like to **strongly oppose** the proposed changes to the land management control of Dunara Reserve, Point Piper.

The Dunara Gardens subdivision was divided into 11 residential lots in 1954/55 with a plot of land on the southern boundary dedicated, at no cost, to council as a green strip for use by all future residents and the general public.

My parents Peter and Edith Ryba bought Lot 3 and built our family home in 1958. My parents are still living in the family home they built almost 59 years later. I was born and brought up in Dunara Gardens and was able to make good use of Dunara Reserve playing in a safe environment with siblings and friends over the years.

The Dunara Gardens community has a relatively narrow driveway with almost no parking for visitors for any of the homes within. If Dunara reserve was developed, more traffic would result limiting parking further and potentially resulting in a more dangerous traffic environment and pedestrian access.

With a significant lack of dedicated green space in built up areas and crowded residential areas I therefore strongly object to any land being converted to housing. Dunara Reserve should still serve as a dedicated green strip for all future residents of Dunara Gardens and the general public.

Yours Sincerely

Tony Ryba
Village High Road,
Vaucluse, 2010.

From: [Vicky Ryba](#)
To: [Records](#)
Subject: Reference to SC3794
Date: Monday, 4 December 2017 9:22:55 PM

I would like to strongly oppose the proposed changes to the land management control of Dunara Reserve, Point Piper.

The Dunara Gardens subdivision was divided into 11 residential lots in 1954/55 with a plot of land on the southern boundary dedicated, at no cost, to council as a green strip for use by all future residents and the general public.

My parents Peter and Edith Ryba bought Lot 3 and built our family home in 1958. My parents are still living in the family home they built almost 59 years later. I was therefore brought up in Dunara Gardens and was able to make good use of Dunara Reserve playing with siblings and friends over the years.

With a significant lack of dedicated green space in built up, crowded residential areas I therefore strongly object to any land being converted to housing. Dunara Reserve should still serve as a dedicated green strip for all future residents of Dunara Gardens and the general public.

Yours Sincerely

--

Vicky Ryba

A black rectangular redaction box covering the signature area.

9th December 2017

Dear Council,

Reference – SC3794

I would like to strongly oppose the proposed changes to the land management control of Dunara Reserve, Point Piper.

The Dunara Gardens subdivision was divided into 11 residential lots in 1954/55 with a plot of land on the southern boundary dedicated, at no cost, to council as a green strip for use by all future residents and the general public.

My parents Peter and Edith Ryba bought Lot 3 and built our family home in 1958. My parents are still living in the family home they built almost 59 years later. I was therefore brought up in Dunara Gardens and was able to make good use of Dunara Reserve playing with siblings and friends over the years.

With a significant lack of dedicated green space in built up, crowded residential areas I therefore strongly object to any land being converted to housing. Dunara Reserve should still serve as a dedicated green strip for all future residents of Dunara Gardens and the general public.

Yours Sincerely



Jackie Ryba Hayes



15th December 2017

General Manager,

Re: Vacant land in Dunara Gardens – SC3794

I oppose the proposed changes to the land management control of Dunara Reserve, Point Piper. The Dunara Gardens subdivision was divided into 11 residential lots in 1954/55 with a plot of land on the southern boundary dedicated, at no cost, to council as a green strip for use by all future residents and the public.

My parents Peter and Edith Ryba bought Lot 3 in 1958 built their home which they continue to live in. I was therefore brought up in Dunara Gardens. The vacant parcel of land was used as a playground then, and now its enjoyed as the landscaped gateway into the estate.

With a significant lack of green space in Point Piper I object to the land being used for housing or fenced off and used for private use. Dunara Reserve should still serve as a dedicated green strip for all the residents of Dunara Gardens.

Yours Sincerely


John Ryba

