

PUBLIC HEARING FOR PROPOSED CATEGORISATION OF COMMUNITY LAND AT LYNNE CZINNER PARK, WARRIWOOD

BACKGROUND INFORMATION

15 NOVEMBER 2021



NORTHERN BEACHES COUNCIL

PUBLIC HEARING FOR PROPOSED CATEGORISATION OF LYNNE CZINNER PARK, WARRIEWOOD

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1 INTRODUCTION

1.1 Background

In 1998 the former Pittwater Council first identified a location on the borders of Sectors 8 and 9 in the Warriewood Valley Release Area for development of a Central Local Park to meet an identified need for informal open space for residents in the area (Pittwater Council, 1998). The northern land purchased was dedicated as public reserve in 2008 as a developer contribution. Upon its dedication the park was classified as community land consistent with the *Local Government Act 1993*. The park on the northern side of Fern Creek has been known informally since its inception as Warriewood Valley Playground, or 'Rocketship Park'.

The Sector 8 and 9 Open Space Masterplan – Concept Plan in the Warriewood Valley Strategic Review Addendum Report (Pittwater Council 2014, amended December 2017) designated the southern component of the Central Local Park for Sectors 8 and 9 to be used for public open space. The southern lots were transferred to Council ownership in 2019 and 2020.

Council resolved in February 2021 to name the entire open space area on encompassing both sides of the creek as 'Lynne Czinner Park' after a former Mayor and Councillor of Pittwater local government area.

Lynne Czinner Park is owned by Northern Beaches Council, and is classified as community land under the *Local Government Act 1993*. Community land is required to be categorised under the Local Government Act. It is proposed to categorise Lynne Czinner Park as Park, Natural Area-Bushland and Natural Area-Watercourse consistent with the guidelines for categorisation of the *Local Government (General) Regulation 2021*, and the core objectives for each category in the Local Government Act.

Community land is also required to be subject to a Plan of Management prepared under the Local Government Act. A Draft Plan of Management has been prepared specifically for Lynne Czinner Park to recognise its local status and to facilitate development of informal recreation facilities on the site as shown on the Landscape Concept Plan in the short term.

A public hearing is required under Section 40A of the *Local Government Act 1993* to receive community submissions about categorising community land. Under the Act the public hearing must be chaired by an independent facilitator. Details of the public hearing on Thursday 25 November 2021 and how to make a submission are in Section 1.2.

1.2 Public hearing and submissions

The public hearing for the proposed categorisation of Lyn Czinner Park will be held on Thursday 25 November 2021 from 6:00pm to 7:30pm.

The public hearing will be held via an online conference using Microsoft Teams. Community members will be able to join the public hearing online or call in by telephone.

Registrations are essential before 12 noon on Thursday 25 November 2021 at <https://yoursay.northernbeaches.nsw.gov.au/lynne-czinner-park-warriewood>

Submissions about the proposed categorisation of Lynne Czinner Park can be made:

- ☐ **verbally at the public hearing on Thursday 25 November 2021** by joining the hearing via Microsoft Teams, or by calling in by phone. Prior registration is required (see above)

- ☐ via the **online submission form** on Council's Your Say page:
<https://yoursay.northernbeaches.nsw.gov.au/lynne-czinner-park-warriewood>
from **Friday 29 October until Sunday 12 December 2021**
- ☐ emailing **council@northernbeaches.nsw.gov.au** from **Friday 29 October until Sunday 12 December 2021**
- ☐ **in writing to Council** at 'Lynne Czinner Park Concept Plan and PoM', Northern Beaches Council, PO Box 82 Manly, NSW 1655 from **Friday 29 October until Sunday 12 December 2021**.

The question to address in your submission is:

Do you agree or not with the proposal to categorise community land comprising Lynne Czinner Park in Warriewood as Park, Natural Area-Bushland and Natural Area-Watercourse? Why or why not?

1.3 About this background information document

This background information document sets out the legislative requirements for categorisation of community land in Section 2, particularly:

- ☐ categorisation of community land
- ☐ preparation of Plans of Management for land classified as community land
- ☐ public hearings regarding the categorisation of community land.

Section 3 explains the proposed categorisation of Lynne Czinner Park.

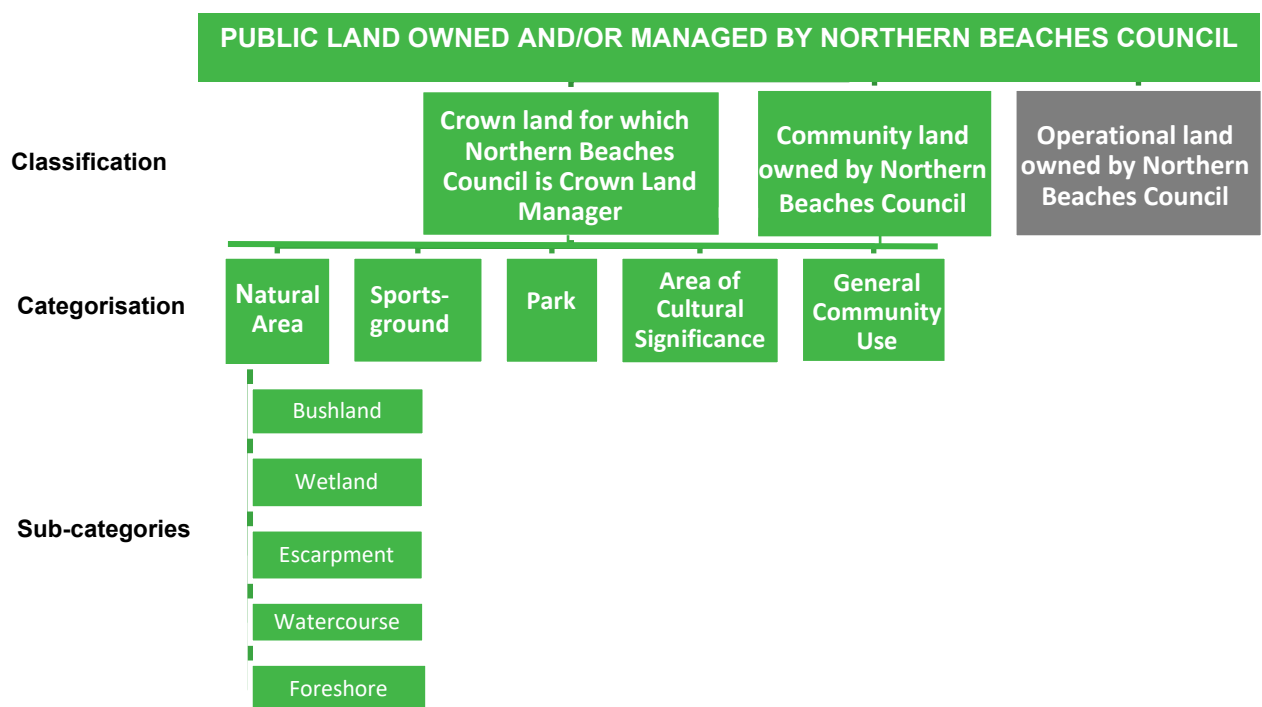
2 COMMUNITY LAND CATEGORISATION

2.1 Community land

The *Local Government Act 1993* sets out a range of requirements that Northern Beaches Council is legally bound to adhere to. These requirements include the management of community land owned by Northern Beaches Council.

Lynne Czinner Park is owned by Northern Beaches Council, and is classified as community land under the *Local Government Act 1993*.

Figure 1 Classification and categorisation of community land



The Local Government Act requires that all land owned by Council must be classified as "community" or "operational" land (Section 26).

Community land is intended to be managed for use by the community for purposes including environmental protection, recreational, cultural, social and educational activities. Community land may only be leased or licensed for up to 21 years without the Minister's consent or up to 30 years with the Minister's consent, it cannot be sold, and its use is restricted to the above purposes.

Conversely, operational land is land that can be used for any purposes deemed fit by Council, may be used for commercial purposes, be leased for a longer period, and can be sold.

2.2 Categorisation of community land

2.2.1 What are the categories for community land?

The *Local Government Act 1993* requires that all land owned by a Council which is classified as community land be categorised.

Community land may be categorised as one or more of the following under Section 36(4) of the Act:

- ☐ natural area.
- ☐ sportsground.
- ☐ park.
- ☐ area of cultural significance.
- ☐ general community use.

Community land that is categorised as a natural area is to be further categorised as one or more of the following under Section 36(5) of the Act:

- ☐ bushland.
- ☐ wetland.
- ☐ escarpment.
- ☐ watercourse.
- ☐ foreshore.
- ☐ a category prescribed by the regulations.

2.2.2 What are the guidelines for categorising community land?

Guidelines for categorising community land as a particular category are in Clauses 102 to 111 of the *Local Government (General) Regulation 2021*.

The Department of Local Government's revised Practice Note on Public Land Management (Department of Local Government, 2000) made general recommendations on the guidelines for categorising community land. The Practice Note stated:

"Council must have regard to the guidelines in determining a category (cl.9) but are not required to adopt any category merely because the land fits the description in the guidelines. Council should look at all the circumstances of the land in making a decision as to categorisation. For example, a piece of land may seem to satisfy the guidelines for more than one category. Council has a discretion in this case to look at the land in context, taking into account all relevant material before determining a category. It is important that Council be able to justify a decision."

Also, Council may have a piece of community land, parts of which may be best managed as different categories, for example a piece of land with remnant bushland in one part and children's play equipment in another. Council is able to categorise land as part 'Natural Area – Bushland' and part 'Park'. It is strongly recommended that the land in each category not overlap. Overlapping categories may cause conflict in management objectives and will create confusion in the minds of Council staff and the community."

2.2.3 Core objectives for managing community land

Each category and sub-category of community land has core objectives that apply to it under the *Local Government Act*. The core objectives outline the approach to management of the land covered by the particular category, and are set out in Sections 36E to 36N of the *Local Government Act 1993*.

The guidelines and core objectives for the proposed Park, Natural Area-Bushland and Natural Area-Watercourse categories are in Table 1.

Table 1 Guidelines and core objectives for proposed categories of community land

| Category | Guidelines ¹ | Core objectives ² |
|---|---|--|
| Park | Land that is, or is proposed to be, improved by landscaping, gardens or the provision of non-sporting equipment and facilities, for use mainly for passive or active recreational, social, educational and cultural pursuits that do not unduly intrude on the peaceful enjoyment of the land by others. | <ul style="list-style-type: none"> - encourage, promote and facilitate recreational, cultural, social and educational pastimes and activities, and - provide for passive recreational activities or pastimes and for the casual playing of games, and - improve the land in such a way as to promote and facilitate its use to achieve the other core objectives for its management. |
| Natural Area | If the land, whether or not in an undisturbed state, possesses a significant geological feature, geomorphological feature, landform, representative system or other natural feature or attribute that would be sufficient to further categorise the land as bushland, wetland, escarpment, watercourse or foreshore under section 36(5) of the Act. | <ul style="list-style-type: none"> - conserve biodiversity and maintain ecosystem function in respect of the land, or the feature or habitat in respect of which the land is categorised as a natural area. - maintain the land, or that feature or habitat, in its natural state and setting. - provide for the restoration and regeneration of the land. - provide for community use of and access to the land in such a manner as will minimise and mitigate any disturbance caused by human intrusion. - assist in and facilitate the implementation of any provisions restricting the use and management of the land that are set out in a recovery plan or threat abatement plan prepared under the <i>Threatened Species Conservation Act 1995</i> or the <i>Fisheries Management Act 1994</i>. |
| Under Section 36(5) of the Act, Natural Areas are required to be further categorised as bushland, wetland, escarpment, watercourse or foreshore based on the dominant character of the natural area. | | |
| Natural Area – Bushland | Land that is categorised as a natural area should be further categorised as bushland under section 36(5) of the Act if the land contains primarily native vegetation and that vegetation: (a) is the natural vegetation or a remainder of the natural vegetation of the land, or although not the natural vegetation of the land, is still representative of the structure or floristics, or structure and floristics, of the natural vegetation in the locality. | <ul style="list-style-type: none"> - ensure the ongoing ecological viability of the land by protecting the ecological biodiversity and habitat values of the land, the flora and fauna (including invertebrates, fungi and micro-organisms) of the land and other ecological values of the land. - protect the aesthetic, heritage, recreational, educational and scientific values of the land. - promote the management of the land in a manner that protects and enhances the values and quality of the land and facilitates public enjoyment of the land, and to implement measures directed to minimising or mitigating any disturbance caused by human intrusion. - restore degraded bushland. - protect existing landforms such drainage lines, watercourses and foreshores. - retain bushland in parcels of a size and |

| Category | Guidelines ¹ | Core objectives ² |
|----------------------------|---|--|
| | | configuration that will enable the existing plant and animal communities to survive in the long term. |
| | | - protect bushland as a natural stabiliser of the soil surface. |
| Natural Area – Watercourse | Land that is categorised as a natural area should be further categorised as a watercourse if the land includes: (a) any stream of water, whether perennial or intermittent, flowing in a natural channel, or in a natural channel that has been artificially improved, or in an artificial channel that has changed the course of the stream of water, and any other stream of water into or from which the stream of water flows, and (b) associated riparian land or vegetation, including land that is protected land for the purposes of the <i>Rivers and Foreshores Improvement Act 1948</i> or State protected land identified in an order under section 7 of the <i>Native Vegetation Conservation Act 1997</i> . | - manage watercourses so as to protect the biodiversity and ecological values of the in stream environment, particularly in relation to water quality and water flows - manage watercourses so as to protect the riparian environment, particularly in relation to riparian vegetation and habitats and bank stability - restore degraded watercourses - promote community education, and community access to and use of the watercourse, without compromising the other core objectives of the category. |
| 1 | <i>Local Government (General) Regulation 2021</i> | |
| 2 | <i>Local Government Act 1993</i> | |

2.3 Plans of Management for community land

Council must prepare a Plan of Management for community land (Section 36(1)). Community land is required to be used and managed according to a Plan of Management applying to the land.

Requirements of the Local Government Act for the contents of a Plan of Management include categorisation of the land.

2.4 Public hearings for categorisation of community land

2.4.1 Why hold a public hearing to categorise community land?

A public hearing is required under Section 40A of the *Local Government Act 1993* if:

- ☐ a Plan of Management proposes to categorise (that is, the Plan has not been previously been prepared and adopted by Council, or has not categorised community land) the community land covered by the Plan of Management

- ❑ a Plan of Management proposes to re-categorise (changing the adopted category) the community land covered by the Plan of Management

Note: Public hearings regarding categorisation or re-categorisation of community land are not related to reclassification. Reclassification is when community land is re-classified as operational land that can then be managed differently and has the ability to be sold by Council. Community land is protected under the Local Government Act and cannot be sold.

2.4.2 Who conducts a public hearing?

An independent chairperson will conduct the public hearing, and provide a report to Council with recommendations on the proposed categorisation of community land.

Under Section 47G of the Act, the person presiding at a public hearing must not be:

- a) A Councillor or employee of the Council holding the public hearing.
- b) A person who has been a Councillor or employee of that Council at any time during the 5 years before the date of his or her appointment.

2.4.3 What happens after the public hearing?

Council must make a copy of the report regarding the outcomes of the public hearing available for inspection by the public at a location within the area of Council no later than four days after it has received the final report from the person presiding at the public hearing.

The public hearing report will be presented to Council for its information when it considers adopting the Lynne Czinner Park Plan of Management, and the proposed categorisation of community land in Lynne Czinner Park.

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3 LYNNE CZINNER PARK

3.1 Location and ownership of Lynne Czinner Park

The locational context of Lynne Czinner Park in Warriewood is in Figure 2.

Figure 2 Location of Lynne Czinner Park



Lynne Czinner Park is owned by Northern Beaches Council.

The land parcels comprising Lynne Czinner Park are shown in Figure 3 and listed below.

| | |
|----------------------------------|-------------------|
| 2-50 Callistemon Way, Warriewood | Lot 8 DP 1092802 |
| 120 Dove Lane, Warriewood | Lot 1 DP 1251955 |
| 110 Dove Lane, Warriewood | Lot 2 DP 1251955 |
| 100 Dove Lane, Warriewood | Lot 3 DP 1251955 |
| 13 Fern Creek Road, Warriewood | Lot 13 DP 1092788 |

Figure 3 Land parcels in Lynne Czinner Park



Images of Lynne Czinner Park are shown in Figure 4.

Figure 4 Images of Lynne Czinner Park



Natural Area-Bushland category



Natural Area-Watercourse category



3.2 Proposed categorisation of Lynne Czinner Park

Lynne Czinner Park has not yet been formally categorised under the *Local Government Act 1993*.

Council proposes to categorise Lynne Czinner Park as Park, Natural Area-Bushland and Natural Area-Watercourse, which would be consistent with the Draft Landscape Concept Plan for Lynne Czinner Park as shown in Figure 5.

Figure 5 Lynne Czinner Park - Draft Landscape Concept Plan



The proposed categorisation of Lynne Czinner Park is shown in Figure 6.

Figure 6 Proposed categorisation of Lynne Czinner Park

