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# PUBLIC HEARING FOR PROPOSED RECATEGORISATION OF PART OF MARSFIELD PARK

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## BACKGROUND INFORMATION

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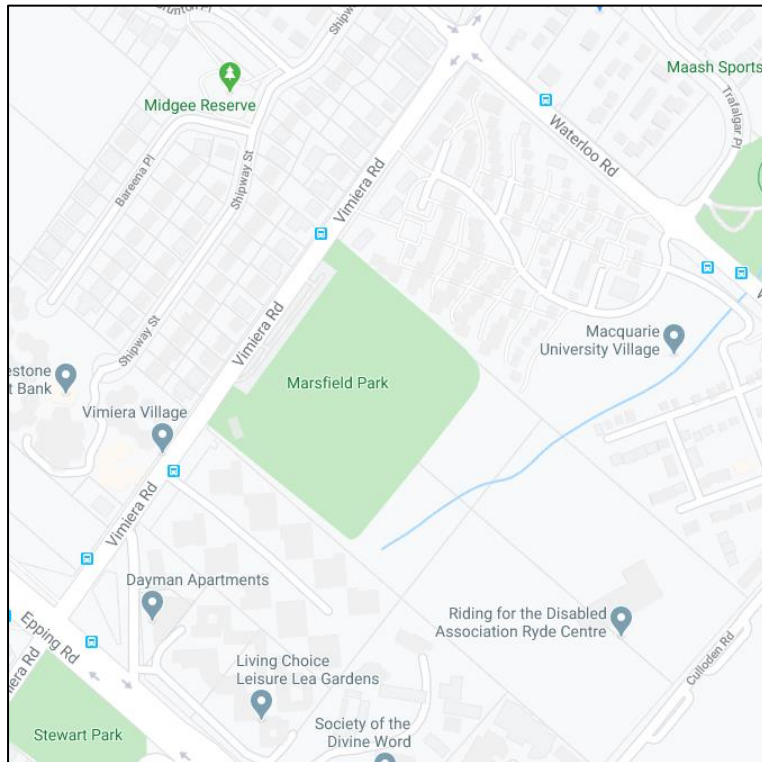
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# 1 INTRODUCTION

## 1.1 Background

The location of Marsfield Park is in Figure 1.

Figure 1 Location of Marsfield Park



City of Ryde has prepared a Draft Generic Plan of Management for Parks and General Community Use land, which proposes to recategorise part of the land in Marsfield Park from the categorisation assigned to it in the current Generic Plan of Management for Parks, Sportsgrounds, Natural Areas and General Community Use which was adopted by City of Ryde in 2001.

In the 2001 Generic Plan of Management Marsfield Park was categorised as Sportsground, Natural Area-Bushland, Park, and General Community Use.

Marsfield Park contains a small area of land on which an amenity block was situated, and was therefore categorised as General Community Use. As the amenity block for the park is no longer on that parcel of land, Council intends to recategorise that area from General Community Use to Park, because the Park category more closely aligns with the guidelines and core objectives for the use of this area under the Local Government Act, and it more closely aligns with the Crown land Purpose of Public Recreation.

The proposed recategorisation to Park is also supported by the Department of Planning, Industry and Environment – Crown Lands.

A public hearing is required under Section 40A of the *Local Government Act 1993* is to recategorise the land. Under the Act the public hearing must be chaired by an independent facilitator.

## 1.2 Draft Plan of Management and public hearing

Council has notified the community of the public exhibition of the Draft Plan of Management and the public hearing on its website.

The Draft Generic Plan of Management for Park and General Community Use land is on public exhibition from 9 March to 19 April 2020, and can be viewed as follows:

- ☐ Online at the City of Ryde Have Your Say website – see the following link [www.ryde.nsw.gov.au/haveyoursay/Home](http://www.ryde.nsw.gov.au/haveyoursay/Home)
- ☐ Customer Service Centre 1 Pope Street, Ryde (Monday to Friday, 8.30am - 5.00pm)
- ☐ All City of Ryde Libraries (during branch hours)

The community is invited to attend a public hearing about the proposed recategorisation of part of Marsfield Park on **Wednesday 1 April 2020 from 6.00pm – 7.30pm at Marsfield Community Centre, 1A Trafalgar Place, Marsfield.**

Submissions about the proposed recategorisation may be made:

- ☐ verbally at the public hearing
- ☐ in writing and given to the Chair at the public hearing; or
- ☐ in writing to Council after the public hearing until 19 April 2020 by Email [cityofryde@ryde.nsw.gov.au](mailto:cityofryde@ryde.nsw.gov.au)
- ☐ Post General Manager, City of Ryde, Locked Bag 2069, North Ryde NSW 1670

## 1.3 About this background information document

This background information document sets out the legislative requirements for recategorisation of Crown land in Marsfield Park.

In particular, this document deals with the preparation of Plans of Management for land classified as community land and for Crown land, categorisation and recategorisation of community and Crown land, and public hearings regarding the categorisation and recategorisation of community and Crown land.

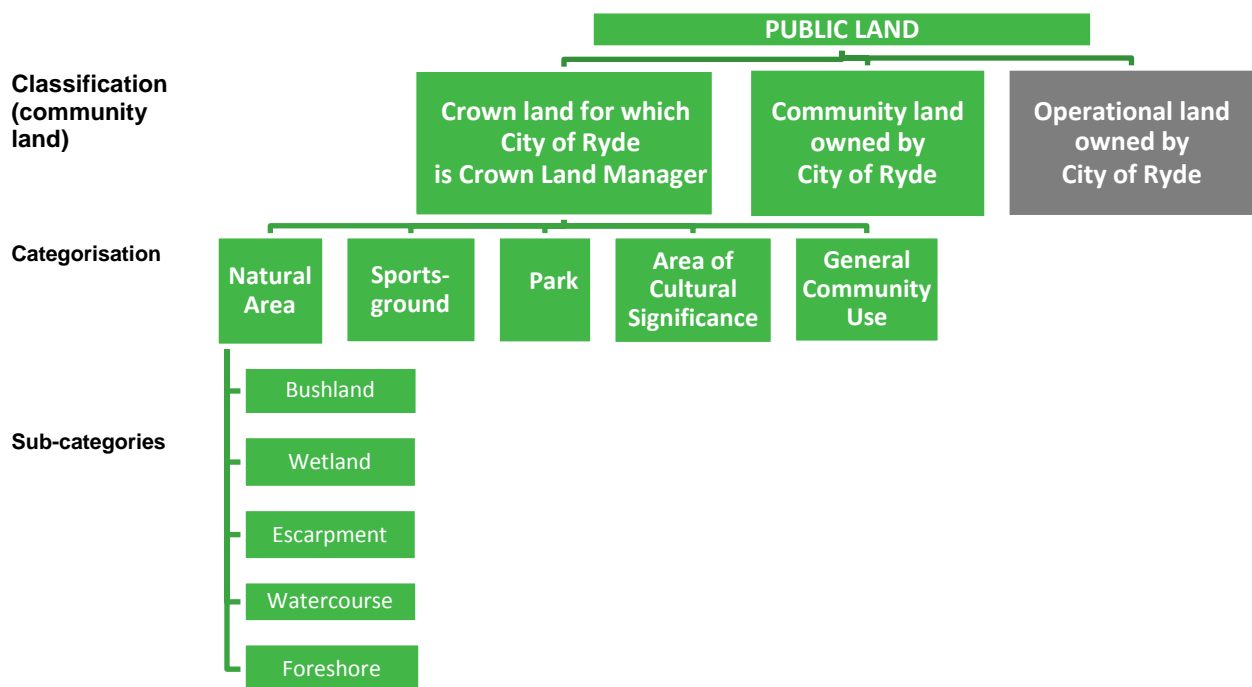
## 2 COMMUNITY LAND AND CROWN RESERVES

### 2.1 Community and Crown land

The *Local Government Act 1993* and *Crown Land Management Act 2016* set out a range of requirements that City of Ryde is legally bound to adhere to. These requirements include the management of public land – refer to Figure 2.

Marsfield Park comprises Crown land. The subject land is part of Crown Reserve R500342 under the *Crown Land Management Act 2016*.

Figure 2 Classification and categorisation of community and Crown land



From 1 July 2018 the *Crown Land Management Act 2016* requires local Councils that are appointed to manage dedicated or reserved area of Crown land (as is the case for Marsfield Park), to manage that land as community land under the *Local Government Act 1993*, including preparing a Plan of Management and categorising the land.

The Local Government Act requires that all public 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 and Crown reserves

### 2.2.1 What are the categories for community land and Crown reserves?

The *Local Government Act 1993* requires that all land owned by the Council which is classified as community land be categorised. The *Crown Land Management Act 2016* provides that the same requirement for categorisation also now applies to Crown reserves under the control of a "Council manager" such as Marsfield Park.

Community land and Crown reserves 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 and Crown reserves that are categorised as a natural area are 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 and Crown reserves?

Guidelines for categorising community land and Crown reserves as a particular category are in Clauses 102 to 111 of the *Local Government (General) Regulation 2005*.

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. The core objectives for each category of community land are set out in Sections 36E to 36N of the *Local Government Act 1993*.

The guidelines and core objectives for the current category of General Community Use and the proposed category of Park are in Table 1.

Table 1 Guidelines and core objectives for current and proposed categories of community land for part of Marsfield Park

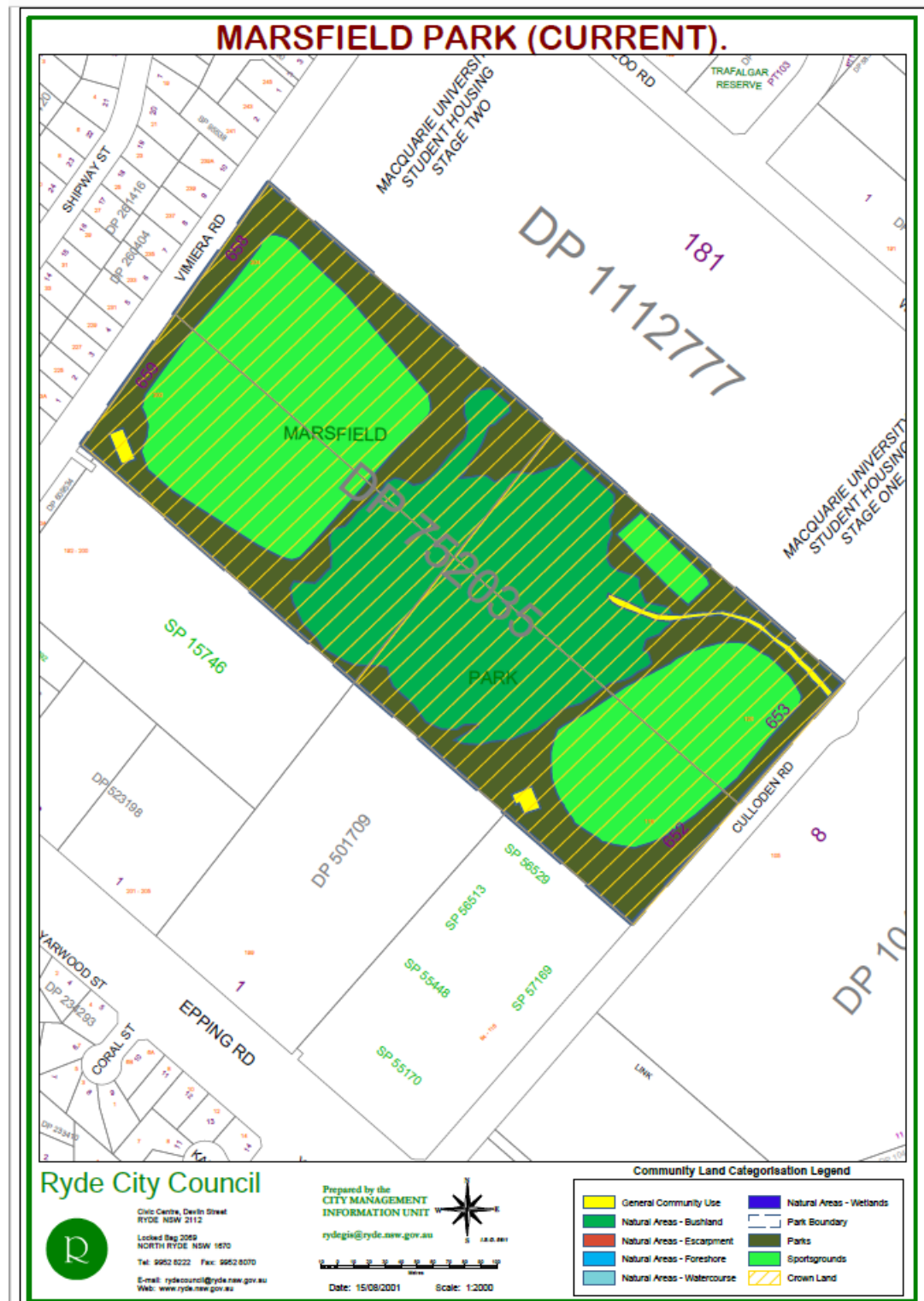
Category	Guidelines	Core objectives
Park	Land that is, or is proposed to be, improved by landscaping, gardens or the provision of non-sporting equipment and facilities, for use mainly for passive or active recreational, social, educational and cultural pursuits that do not unduly intrude on the peaceful enjoyment of the land by others.	<ul style="list-style-type: none"> <li>- encourage, promote and facilitate recreational, cultural, social and educational pastimes and activities, and</li> <li>- provide for passive recreational activities or pastimes and for the casual playing of games, and</li> <li>- improve the land in such a way as to promote and facilitate its use to achieve the other core objectives for its management.</li> </ul>
General Community Use	Land that may be made available for use for any purpose for which community land may be used, whether by the public at large or by specific sections of the public.	<ul style="list-style-type: none"> <li>- promote, encourage and provide for the use of the land, and to provide facilities on the land, to meet the current and future needs of the local community and of the wider public in relation to: <ul style="list-style-type: none"> <li>- public recreation and the physical, cultural, social and intellectual welfare or development of individual members of the public.</li> <li>- purposes for which a lease, licence or other estate may be granted in respect of the land (other than the provision of public utilities and works associated with or ancillary to public utilities).</li> </ul> </li> </ul>



## 2.3 Current and proposed categorisation of Marsfield Park

The current and proposed categorisation of Marsfield Park are in Figures 4 and 5.

Figure 4 Categorisation of Marsfield Park adopted by City of Ryde in 2001





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## 2.4 Plans of Management for community land and Crown reserves

Council must prepare a Plan of Management for community land (Section 36(1)) and for Crown reserves for which it is the Crown Land Manager. Community land and Crown reserves are 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.

## 2.5 Public hearings for categorisation of community land and Crown reserves

### 2.5.1 Why hold a public hearing to categorise community land and Crown reserves?

A public hearing is required under Section 40A of the *Local Government Act 1993* if the proposed Plan of Management is either categorising (that is, the Plan has not been previously been prepared and adopted by Council, or has not categorised community land), or re-categorising (changing the adopted category) the public 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.*

### 2.5.2 Who conducts a public hearing?

An independent chairperson will conduct the public hearing, and provide a report to Council with recommendations on the proposed recategorisation of part of Marsfield Park.

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.

### 2.5.3 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 4 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 their information when it considers recategorising part of Marsfield Park from General Community Use to Park as part of the process of adopting the Draft Generic Plan of Management for Parks and General Community Use Land.

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