

Appendix 1: Historic Context of Bicentennial Reserve and Flat Rock Gully

The Beaches Link EIS (Chapter 14) states the history of the area as follows:

Cammeray and Artarmon to Northbridge

The first land grant in Artarmon was made in 1810, with new settlers establishing farms, market gardens, and orchards in the area during the 1850s. Brick making began in the area in 1828 and laid the foundation for the 1950s establishment of the Artarmon Industrial Area (City of Sydney, 2016b; Fallowfield, 2008).

The Municipality of North Willoughby was formally proclaimed in October 1865 and by the 1880s, several tanneries and brickworks had been established in the area (LandArc Pty Limited, 2002; Willoughby District Historical Society Inc, 2011a). **Land near Naremburn was one of the first areas settled from 1853**, followed by land on the Northbridge Peninsula in the vicinity of Sailors Bay Road in 1855 and 1856 (Willoughby District Historical Society Inc, 2011c).

In the late 19th century and early 20th century, subdivision and development took off first around Artarmon, predominantly driven by the opening of the North Shore Railway (City of Sydney, 2016b; Willoughby District Historical Society Inc, 2011b). Development around Naremburn, Northbridge and Willoughby during the 1920s was driven by the prospective opening of the Sydney Harbour Bridge (Willoughby District Historical Society Inc, 2011c; Willoughby Leisure, n.d.).

More intensive development in the area occurred from the 1960s, and in response, the Willoughby Council initiated the West Artarmon Residential Area Redevelopment Plan to open the way for Omedium and high density buildings, including high-rise residential towers and public housing developments (City of Sydney, 2016b; Willoughby District Historical Society Inc, 2011b). The opening of the Gore Hill Freeway in 1992 separated Artarmon's industrial area in the south from its residential area in the north (Willoughby City Library Services, 2013).

This vastly under-scopes the importance of the Long Bay Catchment (which includes sports fields (Australia's largest Netball Club), the Walter Burley Griffin designed Incinerator, Children's Playgrounds, Henry Lawsons Cave, the Reserve, Flat Rock Gully, Flat Rock Creek, Bush Tracks, Aboriginal Sites, Early "Pioneers" sites and Tunks Park). Information below provides greater context.

1. Willoughby Council's Plan of Management (2021)¹ describe the Bicentennial Reserve as follows:

2.2 Physical description

Bicentennial Reserve occupies the valley between South Willoughby and Naremburn. It is bordered by Flat Rock Drive to the east and Willoughby Road to the west.

The land is predominantly shaped as large purpose built flat areas due to the history of the site as landfill and its subsequent development as public park and sportsgrounds.

Filling of the natural gully and piping of Flat Rock Creek commenced in 1930 and the Willoughby Incinerator was constructed in 1934. Both actions were in response to the management of waste generated by the Willoughby community, namely the need for a garbage destructor and sewage dump site.

Many years after the waste processing ceased, the landfill was levelled to create sportsgrounds in the west (Bicentennial Oval), in the centre (Bicentennial netball courts) and in the east (International Baseball

Diamond). Located along the northern ridge of mainly natural land are the Hallstrom Park Playground, the Incinerator (designed by Walter Burley Griffin) and the Willoughby Leisure Centre.

The land slopes to the south below the sportsgrounds and the Incinerator, and joins a shared path which is part of the commuter / recreational bike path connecting Chatswood CBD to North Sydney.

Vegetation in the reserve is classified as a mixture of Urban Exotic/ Native as per classifications set by the NSW Office of Environment and Heritage. Plantings are indicative of the original native vegetation and reflective of the horticultural limitations imposed by a landfill sub-base. Much of the sub-base is compacted sandstone with a clay topping layer in areas of municipal garbage.

2.3 Uses of the land

The reserve is used for:

1. Organised sport – netball courts for district competitions, also used for basketball and other court-based sports; baseball diamonds for juniors (Bicentennial Oval) and seniors (Flat Rock International Diamond); football and rugby training (Bicentennial Oval). Indoor netball, basketball, volleyball, futsal and badminton (Willoughby Leisure Centre).

2. Informal recreation – large district playground; children’s bike track; accessible shared path for walkers, bike riders, skaters and wheelchairs; picnics and barbeques; level lawn areas; Lawson’s Cave for poetry readings and community performances.

3. Community recreation and leisure – Willoughby Leisure Centre with indoor pools, sport courts and health club. The Centre contains a café, allied health space and swim school, casual childcare / community meeting room, netball administration office; public toilets, change rooms, sports stores and canteen.

The Incinerator – contains indoor/ outdoor café; an art space for exhibitions; storerooms, accessible public toilets.

4. Car parks – the upper car park mainly services the Willoughby Leisure Centre and visitors to the park; the lower car park services the sportsgrounds (netball, baseball and oval); car parks along Small Street service visitors to the Incinerator and the Hallstrom Park Playground. Small Street Reserve is used for overflow car parking when the Winter sports season is underway.

5. Environmental management – natural and recreated bushland provides a protected environment for wildlife linkages, soil conservation and climate amelioration.

6. Active transport route – the route through Flat Rock Gully is increasingly being used as an active transport link between the Gore Hill Cycleway and North Sydney’s Cycleway due to the high vehicle use along Willoughby Road.

The reserve is used during the week and weekends for organised sport and informal recreation. The car parks are used for public park

2. Willoughby Councils Website describes Flat Rock Gully as:

<https://www.willoughby.nsw.gov.au/Residents/Parks-and-Recreation/Parks-Reserves-and-Playgrounds/Flat-Rock-Gully>

Area: 21.1 ha (inclusive of a portion of [Bicentennial Reserve](#))

Flat Rock Gully (FRG) is rich in both natural and cultural heritage. The name originates from the large flat rock where the creek was crossed (now hidden under Flat Rock Bridge, Willoughby Road). Remnant bushland, approximately 14 hectares, occurs within the Flat Rock Creek Catchment Area.

Flat Rock Gully is bounded by Flat Rock Drive to the west and extends beyond the historic Cammeray Bridge to the east, adjacent to Tunks Park. Private property backs on to the remaining boundaries of the Reserve.

FRG contributes to a habitat linkage (non-continuous) that includes Tunks Park, Northbridge Park, Cliff Ave Reserve, Bicentennial Reserve and Artarmon Reserve. The Reserve is classified as a Wildlife Protection Area due to having significant habitats that support a wide range of small birds, reptiles and frogs. It is a major and central part to the east-west ecological linkage between Middle Harbour and Lane Cove River Catchments.

Quarrying of sandstone commenced along Flat Rock Creek in the 1880s. Sandstone retaining walls, including the L-shaped walls and drain line below Market St East, were built during the early Depression (c.1930). Terraced gardens and dry walling can be found near the Henry Lawson Cave. Ruins of a pioneer's cottage exist today

3. Extracts from "THE Naremburn Story"

[The Naremburn Story\(PDF, 22MB\) - Willoughby City Librarylibraries.willoughby.nsw.gov.au › files › public › ecm](#)

History of the Tip

Tipping and burning of rubbish and refuse was already taking place in Kent's Paddock by the owner long before the land was acquired for the incinerator, and Council received many complaints of the annoyance caused by the fires burning the refuse. Most of the complaints came from the Naremburn Progress Association on behalf of the suffering residents. Adjoining Progress - Associations even requested the Naremburn Progress Association to complain for them. It was envisaged that the new incinerator would cope with everything that was flammable, leaving only a mere fraction of the original material as readily disposable cinders. However, rapidly changing lifestyles soon had the incinerator obsolete. Packaging of merchandise and food items changed from almost entirely flammable material to a greater content of metal and glass: the incinerator and conveyor system were not able to cope with the high content of solid materials in the refuse to be burnt. Grates and moving sections became choked and much of the refuse had to be tipped and burnt in the open. Where better to tip than the convenient gully and creek close at hand? And the amount of refuse continued to grow, so wherever possible it was burnt. Then another era came, when less and less materials were reused (later known as recycling). Industrial waste became another component, as did motor vehicle tyres. All these problems were easily overcome: burn whatever can be set alight. Objectionable odours from factory waste were another pollutant, especially when in contact with fire.

Thus began the disaster era for nearby (and not so near) residents. Black tar and soot laden smoke billowed regularly from the tip. Painted house surfaces suffered and became streaked. Furnishings and fabrics were affected; washing days had to be planned according to the direction of the wind. Vile smelling fumes from burning putrefied refuse and the acrid fumes from the chemical waste added to the unpleasantness to which the residents were subjected. Council regularly received complaints from the Naremburn Progress Association. The complaints were received but, probably because the means of refuse disposal was an attractive low cost exercise, the objectionable activities continued. The Association was even advised that fires had to be maintained as they were required to burn quarantined timber, etc., for the Quarantine Department. Someone's face must have been red when Council was informed that such advice was completely in error because one of the members of the Progress Association was the Quarantine Officer who directed such procedures. The tip had never been authorised or registered for such destructions, and never would be considered appropriate for such purpose by the Quarantine Department.

The years rolled on, with nights often disturbed by the roar and clatter of sheets of iron, metal and the like on the tip face collapsing and sliding down into the gully as fires below burnt away supporting materials. Council came to the realisation that this situation was getting out of hand and just could not continue. A huge covered concrete drain was constructed down the gully to take the creek water, and the gully began systematically to be filled in. No more fires . . . and all rubbish was covered with soil, backfilled. Naremburn Progress Association had finally won the day. Some burning did continue but such fires were always 'started by someone else'. The last bushfire, which destroyed a large portion of the bushland on the north side, was started by one of these mystery fires; burning papers were blown into the bush in the late afternoon of a hot windy day, even though the tip was under supervision and surrounded by a security chain wire fence, with gates locked when left unattended. This was when the tip had extended to the eastern side of Flat Rock Drive.

This method of tipping laid the foundations for the ultimately unstable surfaces of playing fields. Strange as it may seem, it was Mr Burley Griffin who first supported a proposal for destruction of bushland to convert the gully to playing fields. On 6 February 1928, a deputation was received by Council to address it on a massive scheme for the resumption of foreshores of Middle Harbour, and for acquisition of land to be converted into playing areas for children, involving extensive destruction of bushland. Mr Burley Griffin was one of the main speakers in the presentation of the far-reaching scheme. Another proposal by the deputation was for the resumption of the valley of Flat Rock Creek, Naremburn as a playing area. It would result in an area of about 15 acres and would become a valuable asset of Council. This was at the time when it had been decided to erect an incinerator and sewerage disposal unit in bushland at the end of Market Street. The scheme espoused by Mr Griffin advocated the destruction of the finest portion of the bushland of Flat Rock Gully, an area fortunately still conserved for posterity, although a portion was lost to Flat Rock Drive as well as by Council's tipping activities. The Griffin recommended project was also to utilise the refuse of the incinerator and sewerage disposal scheme. Fortunately, because that disposal project had to be abandoned, Griffin's proposal was treated likewise. Of course, subsequently Council desecrated the bushland of the gully in an even worse manner, west of the contemptible Griffin-motivated proposition.

The sorry saga continues: After the bisection of the gully in 1968 by the extension of Brook Street which was named Flat Rock Drive, tipping continued east of this road 'to compensate for the lost space taken by the Drive', despite pleas to save the remainder of the gully. Although this was to continue for a few years only, the civic fathers felt the urge to press on with tipping down the gully to about West Street. This would in effect annihilate the gully's bushland character. The appearance of survey pegs and paint markings on rocks was the cue for the Progress Association to investigate the situation. Assurances had been given that tipping on the east side would commence in 1969 and be concluded by 1972. As the tipping and filling spread relentlessly eastward, no concern was evident regarding the appropriate dispersal of surface water from surrounding streets which spilled across the reclaimed area and quickly soaked into the filling.

The result was catastrophic. Because of this water, putrescible material which had been tipped and poorly covered, resulted in a vile stench throughout the neighbourhood. Water soaking into the tipped material also produced an objectionable leachate to ooze into the creek and bushland, further polluting the waterway. Action of water on the tipped material below generated subterranean heat which in turn generated a vile smelling steam. This blew up through the loose rocks at the side of Flat Rock Drive. It was an eerie sight at night in headlight beams as these plumes of steam appeared like geysers.

And then the mystery of the tip pollution along the eastern face and the stench-ridden exudation was solved. With obvious satisfaction the Mayor of that time was able to announce it was caused by ponding. Council's engineer had deduced that the culprit was Flat Rock Drive which held back the soaked-in surface water west of this road, and when this water broke through under the road it caused the problem. Local observers knew otherwise. Naremburn Progress Association, supported by Northbridge Progress Association observers, stated that a considerable volume of surface water from Naremburn streets regularly spilled over the surface of the eastern tip, scouring it and gaining access to the great amounts of buried putrescible material, and then exuding as the vile smelling leachate. This water was completely uncontrolled when it reached the tip.

The Maritime Services Board and the Department of Health regarded the oozing leachate as a pollutant and health hazard as it attracted massive numbers of flies and other vermin, was of obnoxious character and had a lethal effect on adjacent bush. Neutralising chemicals were spread across the face and bank of the tip; a system of hose drip outlets from a central reservoir further reduced the unpleasant situation. The Department

of Health closed the tip for general use and placed strict conditions on Council tipping procedures. A subsurface lineal drain was also constructed to direct the surface water to a southern outlet. This drain reduced the problem considerably and the villainous, and probably nebulous, ponding amazingly disappeared. Local residents knew only too well what had been buried. Olfactory perception ensured a constant awareness. Seepage Emd surface water from a northern surface drain continued unchecked to maintain an offensive presence.

The major result of this 'misdemeanor' was that tipping down the gully had to cease. Despite assurances to observe the direction, tipping did continue, mainly to increase the height of the filled area, until 1985. The area became a repository for concrete pipes, heaps of gravel and cinders, piles of broken bitumen and concrete awaiting recycling. Piles of hospital cinders at one time created a further pollutant; on windy days ash was blown down the gully, entering houses and giving the appearance of billowing smoke from a bush fire. This was the welcoming scene for the public entering the municipality at its southern gateway.

Land values depressed: For nearly half a century, the continuing reception and treatment of the municipality's garbage, pan nightsoil and general rubbish and refuse in the incinerator and Flat Rock Gully, had a serious and depressing effect on land values nearby. As late as 1975 when plans were prepared for the 'Castle Vale' residential development on the Hallstrom factory site, a professional report to Council on that land stated: 'The area has been one of the poorest in Willoughby, being next to the Tip . . . ' *The general area of tip activities was always referred to as 'at Naremburn', probably as Naremburn residents were the section of the community most inconvenienced and the source of most complaints. The entire gully at times was a dense smoke haze, even extending to St Leonards. When the area gained respectability by the development of The Incinerator Restaurant it became 'at Willoughby'.

From Mirvac Pty Ltd. Application for suspension of existing zoning.

Report by E. A. Shead Pty Ltd and R. T. Forsyth Pty Ltd.

'Solution for pollution':

This is the title of an early Warner Bros 45 rpm record by Charles Wright. It is a question that Wright poses: he is surrounded by pollution and it concerns him for future generations. He also recognises the financial cost. In Naremburn we have pollution that has so often and for so long offended in Flat Rock Creek.

In early times the stream was one of clear water that drained the area west of Willoughby Road, popular haunts for cranes, water hens and other waterfowl, water rats, tortoises, water dragons and so on. Two streams met at Flat Rock Bridge, one from Artarmon, the other commencing close by St Leonards Station. Both have become convenient disposal units. Most of the coarse materials appear to predominate in the one from Artarmon. Liquefied pollutants appear to originate mainly from the other tributary. During the early post-war years there were regular complaints to Council from the Progress Association regarding liquid waste entering this drain from what was referred to as The Prune Factory. Stagnating, this effluent became particularly objectionable. There appeared to be oils and greases improperly disposed of, and at times a heavy grey slurry entered that creek. Vile smelling chemical types were also regularly present.

Because of the commercial building developments near the source of this creek in the vicinity of the railway station, the stream appears to run its commencing course under some of the buildings, hence it is difficult to trace the source of pollutants and to ascertain whether the problem is a deliberate act. The lower reaches of the main creek bear mute but offensive testimony to an inconsiderate section of the community upstream. Of course leachate originating from the tip contributed to the pollution of the creek but this was gradually reduced as tipping of source material ceased.

Besides the oily rocks and gravel, ugly sludge in the pools and a general smell of chemicals 'gone wrong', one sees every kind of refuse imaginable. Supermarket bags are strung everywhere, containers of all types, tree loppings, garden refuse, furniture and furnishings, plastic sheeting, building refuse, metal items — name it and it is there. Motor cycles, toys, supermarket trollies, even a motor car adorn the waterway; all ultimately finds its repose in Long Bay, after a final journey under Tunks Park. And to think that the series of clear, beautiful and enticing pools were once the pride and joy of children who regularly swam and played there.

Until a few years ago, after a good flushing from a flash flood, tiny fish were observed a few hundred metres upstream from the Suspension Bridge, having negotiated shallow rapids, to perish in a day or so from a heavily polluted surge. But not today: pollution is constant. As is obvious, there appears no easy solution for pollution.

It was envisaged that the new incinerator would cope with everything that was flammable, leaving only a mere fraction of the original material as readily disposable cinders. However, rapidly changing lifestyles soon had the incinerator obsolete. Packaging of merchandise and food items changed from almost entirely flammable material to a greater content of metal and glass: the incinerator and conveyor system were not able to cope with the high content of solid materials in the refuse to be burnt. Grates and moving sections became choked and

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4. THE NEW PLAYING FIELDS AND THE BICENTENNIAL COMMITTEE

"As tipping progressed at Flat Rock and reclaimed areas were regarded as consolidated, playing fields were developed. However, the settling process continued, and as a result of this, depressions formed which became shallow lakes in wet weather so that large numbers of swamp frequenting birds migrated to the area; there was a recommendation to develop the site as a wetlands project. This situation caused surprised and deep concern to the municipal leaders but not to the local residents who, over the years, had witnessed the nature of materials which had been dumped without effective compaction.

Then, in 1983, the Willoughby Bicentennial Community Committee was formed to plan the Municipality's bicentennial activities. Many sub-committees were formed, comprising dedicated residents and others...

5. HENRY LAWSON

Henry Lawson is rightly regarded as one of Australia's leading writers of poetry and prose. Many collections of his work have been published, as have biographies by leading writers. However, few indeed of his biographers have included mention of his brief stays in Naremburn.

Several residents have recalled his presence, have indicated where he lived and even recalled a little of his lifestyle. He was forty years old when he first lived in Naremburn and was apparently not received into the community with any great enthusiasm owing to his sorry reputation for alcoholic addiction and related inability to maintain his financial obligations. Hence detailed recollections are sparse but invaluable.

His first stay was from June 1906 to January 1907 when he was able to maintain the sympathetic concern of Mrs Isabel Byers who occupied an iron-roofed cottage with a tall poplar tree at one end, at 58 Market Street. His stays were never long in any one place. In February 1910 he stayed with Mrs Byers again at 'Thelma', Bellevue

In March 1917, Lawson wrote from Leeton to George Robertson of Angus & Robertson who was preparing a selection of his verse for publication:

'Above Crow's Nest' was written in '06-'07 in an unusual little cottage in a little paddock of its own in Market Street, Naremburn, belonging to a Mrs M 'Gill; and just at the head of a deep rocky gully running into Middle Harbour. A Catholic school is opposite. Anyone round there could tell you where I lived. (Ask the grocer or butcher in the street behind for Mrs McGill's cottage — but y o u 'd know it.) Away to the west the Blue Mountains, to the east the (then) bare sky-line heights of the near shores of Middle Harbour. Down round some solid stone houses, built for sieges with almost flat roofs and some unfinished — on a level with flat-top roofs above. I raised kitchen stuff, hens, and Muscovy ducks there (and at other homes) in those years — and they kept us in groceries sometimes. Only one or two bohemians who came week-ends knew anything about my home life. (I had another place at Cammaray Park — Cammaray was the aboriginal name of North Sydney vegetables only.) Talk about 'high lights' I think 'Above Crow's Nest' is a better bit of scene-painting than ever an artist painted. It would be well worth your time to go to Naremburn about sunset some fine autumn day and wait till the afterglow. You'll see it all, and, if you have the imagination I believe you have, you 'll see the 'Rider on the Skyline' too. That and several good companion pieces (not disposed of) for the Bulletin were written there and then.

Everything on that skyline is magnified and brought nearer — man, horse, and dray; but I never could make out what that solitary horseman was, though of course he must have been something real and mundane. My Horseman on the Skyline is riding hard tonight.

(From Henry Lawson, Letters 1890-1922, Colin Roderick (ed.), Angus & Robertson, Sydney 1970.) George Robertson wrote to Lawson in 1917: 'Twenty years hence " Above Crows Nest" may be considered the greatest of your warning prophecies.'

A number of years later, soon after World War I, Lawson returned to Naremburn for a short period to a spartan room in the same general vicinity. He was very conscious of his own drink problem and how it also affected his associates, as some of his writings portray. (See his prose work 'The Boozers' Home'. Lawson had been in 'Rest Haven', formerly 'Echo Farm', a home for inebriates on Echo Point, Roseville, in 1898.) There are some, not so young, who can recall being told by older folk who enjoyed the convivial atmosphere of the local pub at that time, how Henry would join their assemblies in the hotel at Crows Nest, with pockets empty and famished for the dire need of a drink. He recognised his own ability of expression and would offer to compose a topical verse or two in return for a drink. Henry was always able to relieve his parched condition in this way. What a pity that those compositions of his were never recorded. Many were down-to-earth, descriptive, spontaneous and effortless creations, most of which were lost with the passing of that day.

Henry Lawson's cave in the Bicentennial Reserve

Lawson was anxious not to be too offensive to benefactors and acquaintances, so when he had had a few too many, as often was the case, he would not go straight home after leaving the tram near Garland Road but weave his way down to the bush at the end of Gaza Road. East along the edge of the bush he'd reach a cave like a large overhang-

ing rock, in the rear of which was a long narrow protected crevice which readily accommodated his tall frame. Here, with his beloved pipe as his only company, he'd dry out in temporary retirement from society. This cave

which can be regarded as his alternate residence in Naremburn, overlooked Flat Rock Creek where the steep banks sloping down to the stream formed a ravine of considerable beauty. Just upstream were the Naremburn Falls. These Falls were of unparalleled beauty and no doubt the splash of the falling water must surely have been soothing and inspiring to Henry. His cave really was in a grand setting and we will never know the profound influence it must have had on him.

Posterity, however, is fortunate that the cave still exists today and deserves to be tended and preserved as a shrine to that great Australian. This is the site which must lay claim to his statue to guard the refuge of his Spirit, not in an out-of-the-way city park. The cave overlooks the playing fields that now replace the magnificent waterfalls and wooded ravine which our civic fathers saw fit to destroy forever for the sake of a repository for garbage and rubbish. Only slight compensation is afforded as these fields will now form part of a linear park system and will be named Bicentennial Reserve, Willoughby.

But the spirit of Henry Lawson lives on and Naremburn's present and future generations should be able to recognise with pride that they also owned part of that literary giant. What finer tribute could be rendered, belatedly perhaps, than to dedicate part of what remains of that gully to the memory of such a great literary genius. It would be a fitting posthumous recognition.

Thanks to the late T. M. Watchorn, and to the late Leo Haylen for recollections of statements of his late uncle, Mr Les Haylen, a journalist and acquaintance of Henry Lawson, on Lawson's presence in Naremburn.

5. The Northside Storage Tunnel

What is the Tunnel: <https://www.sydneywater.com.au/SW/water-the-environment/how-we-manage-sydney-s-water/wastewater-network/northside-storage-tunnel/index.htm>

To watch a video of the Northside Storage Tunnel Click

Here: <https://www.weeklytimesnow.com.au/news/the-northside-storage-tunnel/video/46ed90fa17d03ae33e9e5476d3fd4ec4>

For more Information click here: <https://www.tunneltalk.com/TunnelTalk-Australia-May2000-Sydney-Northside-Storage-Tunnel-alliance-holding-up-under-pressure.php>

This Wastewater and Stormwater is designed to hold 500 Million Litres and crosses the path of the proposed tunnels running under Long Bay. It appears to be very close to the tunnel alignment but this has not been assessed in documents.

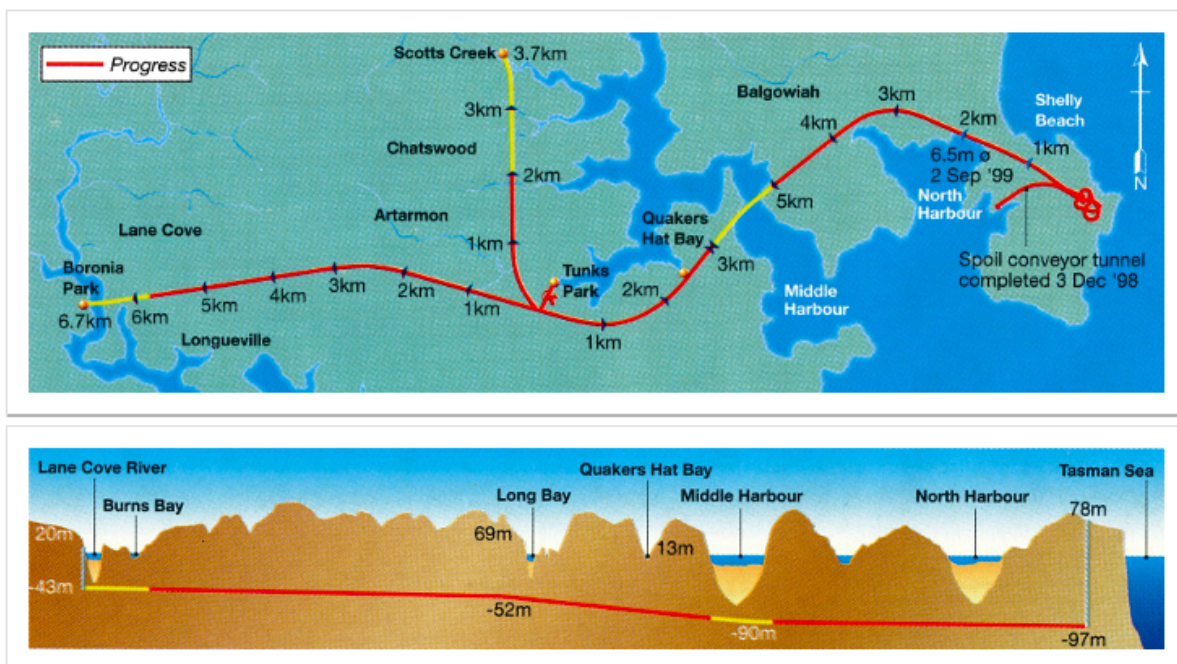


Fig 1. Plan and geological section of the 20km-long Northside Storage Tunnel Project

The Project

The tunnels appear to cross under Long Bay/ Flat Rock Gully within approx.. 20mtrs of each other. Given the risk identified in the EIS around ground stability, drawdown, contamination etc this proximity may create other significant issues.

6. Contaminated Lands Act Advice

----- Forwarded message -----

From: **Fernandez, Denis** <Denis.Fernandez@willoughby.nsw.gov.au>

Date: Wed, 24 Feb 2021 at 16:41

Subject: FW: Obligation to notify EPA pursuant to Contaminated Land Management Act 1997

Good afternoon John,

I have received confirmation that I can share Council's EPA notification document – see attached.

Please note that Mr Binns also indicated that this can be uploaded onto Council's website when Council's submission has been adopted by Council and sent to DPIE – I'll follow this up in due course.

Let me know if I can be of further assistance and appreciated the heads up on this particular matter.

All the best and regards

Denis

Denis Fernandez - Councillor

WILLOUGHBY CITY COUNCIL

PO Box 57 Chatswood NSW 2057

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willoughby.nsw.gov.au | visit chatswood.com.au | theconcourse.com.au

From: "Binns, Chris" <Chris.Binns@Willoughby.nsw.gov.au>

Date: Wednesday, 24 February 2021 at 8:34 am

To: "Fernandez, Denis" <Denis.Fernandez@Willoughby.nsw.gov.au>

Cc: "Just, Debra" <Debra.Just@Willoughby.nsw.gov.au>, COUNCILLORS - ALL <Elected_Representatives@Willoughby.nsw.gov.au>

Subject: RE: Obligation to notify EPA pursuant to Contaminated Land Management Act 1997

Hi Denis,

As the notification to EPA can be accessed under GIPA, I have no problem with the Pdf being forwarded for information. It was emailed to the EPA at 4.12pm yesterday afternoon. Given the timing, perhaps it's best to forward it later today so EPA have had an opportunity to receive it first.

Again, as the notification can be publicly accessed via GIPA, I have no problem with placing it on Council's website. For context and background however, it may be best published alongside our submission on the EIS after adoption by Council.

Kind regards and FYI

Chris.....

Chris Binns - Planning & Infrastructure Director

WILLOUGHBY CITY COUNCIL

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From: "Binns, Chris" <Chris.Binns@Willoughby.nsw.gov.au>

Date: Tuesday, 23 February 2021 at 4:27 pm

To: "Fernandez, Denis" <Denis.Fernandez@Willoughby.nsw.gov.au>

Cc: "Just, Debra" <Debra.Just@Willoughby.nsw.gov.au>, COUNCILLORS - ALL <Elected_Representatives@Willoughby.nsw.gov.au>

Subject: FW: Obligation to notify EPA pursuant to Contaminated Land Management Act 1997

Good afternoon Councillor Fernandez,

I refer to Mr xxxxx email below and just wanted to update you and all Councillors on action taken, and to forward you a copy of our EPA notification form and covering letter which was dispatched to the EPA today. The EPA notification arises from WCC becoming aware of groundwater contamination via reviews of the Beaches Link EIS.

I note that we have also advised North Sydney Council of our notification to the EPA given their interest in Tunks Park.

You may wish to advise Mr xxxx that the EPA have been formally notified in line with the Contaminated Land management Act 1997.

Kind regards and FYI

Chris.....

Chris Binns - Planning & Infrastructure Director

WILLOUGHBY CITY COUNCIL

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----- Forwarded message -----

From: xxxxxx

Date: Fri, 5 Feb 2021 at 17:00

Subject: Obligation to notify EPA pursuant to Contaminated Land Management Act 1997

To: COUNCILLORS - ALL <Elected_Representatives@willoughby.nsw.gov.au>

Dear councillors, Mayor Gail, and General Manager,

I am emailing you in my personal capacity, rather than as President of WEPA, although I expect WEPA to endorse this email within the next day or two.

The purpose of this email is to advise you of the obligation on Council as owner of contaminated land to notify the EPA pursuant to s 60(2) of the Act because the requirements of s 60(3) may have been satisfied. Substantial penalties apply if no notification is made where the requirements of s 60(3) have been satisfied. If notification pursuant to s 60(2) is required and not done, s 98 provides that substantial penalties will apply to a councillor "who knows or ought reasonably to know that the .. offence would be or is being committed .. and fails to take all reasonable steps to prevent or stop the commission of that offence".

Section 60(3) provides:

(3) A person is required to notify the EPA under subsection (1) or (2) only if—

(a) each of the following is true—

*(i) the substance contaminating the land (the **contaminant**) or any by-product of the contaminant has entered or will foreseeably enter neighbouring land, the atmosphere, groundwater or surface water,*

(ii) the regulations prescribe for the purposes of this subparagraph, or the guidelines specify, a level of the contaminant or by-product in the neighbouring land, atmosphere, groundwater or surface water,

(iii) the level of the contaminant or by-product after that entry is, or will foreseeably be, above the level prescribed or specified and will foreseeably continue to remain above that level, or

(b) a guideline specifies a level of the contaminant in soils with respect to a current or approved use of the land and the level of the contaminant on or in any part of the soil on

that land is equal to or above that specified in the guideline and a person has been, or foreseeably will be, exposed to the contaminant or any by-product of the contaminant, or (c) the contamination meets any other criteria that may be prescribed by the regulations for the purposes of this subsection.
(emphasis added)

Without detracting from obligations arising under s 60(3)(b) or (c) I wish to focus on the obligation pursuant to s 60(3)(a) in light of the previous contamination of land neighbouring contaminated land owned by council, namely Tunks Park, which led to it being managed pursuant to the Act. I have attached the relevant declaration from 2003.

Given the respective location of council's land and Tunks Park, and the history of the unregulated tip on council's land it is likely that the tip was the cause of the contamination.

The risk of contamination to Tunks Park now, however, arises from the work to be done as part of the proposed Beaches Link project. This is made clear in the EIS.

For instance, Figure 5-2, Appendix M (attached), which shows the results of testing at Willoughby Leisure Centre and Bicentennial Reserve, identifies a number of dangerous contaminants and gives a risk ranking of High. Testing at Flat Rock Reserve, again identifies a number of dangerous contaminants and gives a risk rating of Moderate.

As councillors would be aware, Tunks Park is used by large numbers of school children for school sport and those children would be very vulnerable to any contamination.

It is my intention to also make North Sydney Council and members of the Bicentennial Reserve Committee aware of my concerns.

Sincerely,

xxxxxx BA, LIB

Attached:

Contaminated Land Notification Tunks Park
Motion by Federation of Willoughby Progress Associations
Notification to EPA from WC regarding obligations under the Contaminated Lands Act