

10.9. Warringah Freeway Upgrade - TfNSW proposal to place land under Council's care, control, and management

AUTHOR	Gary Parsons, Director Open Space & Infrastructure
ATTACHMENTS	<ol style="list-style-type: none"> 1. Letter dated 6/11/25 from TfNSW re Section 159 Agreements over 6 land parcels [10.9.1 - 4 pages] 2. Aerial maps of portions of land proposed under CCMs [10.9.2 - 6 pages]
CSP LINK	<p>Outcome 8 – An effective, accountable and sustainable Council that serves the community</p> <p>G8. Manage Council’s finances through robust long-term planning and ongoing financial management</p>

PURPOSE:

The purpose of this report is to provide Council with information of an approach from Transport for NSW to place six parcels of land under the care, control, and management of North Sydney Council.

EXECUTIVE SUMMARY:

- Transport for NSW (TfNSW) has formally approached Council regarding a proposal to place six public reserves into the care, control, and management of Council under Section 159 (CCM) Agreements, upon completion of certain stages of work associated with the Warringah Freeway Upgrade (WFU) project.
- Principles as currently proposed by TfNSW place obligations on Council in relation to cost, liability, and Council’s ability to terminate the Agreement. Therefore, it would be prudent for Council to seek further clarification and potentially seek adjustments or additions to the principles.

RECOMMENDATION:

- 1. THAT** Council note the contents of this report in relation to an approach from Transport for NSW to place six parcels of land under the care, control, and management of North Sydney Council (Council).
- 2. THAT** Council authorise the Chief Executive Officer to enter into formal discussions with Transport for NSW in relation to the future care, control, and management of:
 - (a) Rose Avenue Reserve comprising Lot 78 in DP1129479, Lot 7 in DP1129475, Lots 15, 16 and 26 in DP250372, Lot 7 in DP1130306 and Lot 6 in DP1130293;
 - (b) Anzac Avenue Reserve comprising of Lot 15 in DP1167731 and Lot 15 in DP752067;
 - (c) Jeafferson Jackson Reserve comprising of Lot 6 in DP828726;
 - (d) Merlin Street Reserve comprising Lot 20 in DP250372;
 - (e) Whaling Park comprising of Lot 15 in DP816476; and
 - (f) High Street reserve comprising of Lot 40 in DP828060.
- 3. THAT** Council note a further report will be provided following discussions with Transport for NSW in relation to the future care, control, and management of:

- (a) Rose Avenue Reserve comprising Lot 78 in DP1129479, Lot 7 in DP1129475, Lots 15, 16 and 26 in DP250372, Lot 7 in DP1130306 and Lot 6 in DP1130293;
- (b) Anzac Avenue Reserve comprising of Lot 15 in DP1167731 and Lot 15 in DP752067;
- (c) Jeafferson Jackson Reserve comprising of Lot 6 in DP828726;
- (d) Merlin Street Reserve comprising Lot 20 in DP250372;
- (e) Whaling Park comprising of Lot 15 in DP816476; and
- (f) High Street reserve comprising of Lot 40 in DP828060.

Background

On 6 November 2025, Transport for NSW (TfNSW) wrote to Council regarding a proposal to place six public reserves into the care, control, and management of Council by way of Section 159 (CCM) Agreements.

Locations of the reserves in question are as follows:

1. Rose Avenue Reserve 975.2sqms - Cnr Alfred Street and Rose Avenue, North Sydney
2. Anzac Avenue Reserve 2,120sqms – Cnr Anzac Avenue and Rosalind Street, Cammeray
3. Jeafferson Jackson Reserve 3,659sqms – Cnr Moodie Street and Warringah Freeway, Cammeray
4. Merlin Street Reserve 1,054sqms – Cnr Merlin Street and McIntosh Lane, Cammeray
5. Whaling Park 3,086sqms – Cnr Whaling Road and Alfred Street, North Sydney
6. High Street reserve 3,505sqms – Cnr High Street and Cahill Expressway onramp

The above areas are indicative and would be subject to final survey. Further information in relation to land including aerial maps is attached to this report.

Report

TfNSW has identified several portions of land that it intends to return to public open space for the community, upon completion of certain stages of work associated with the Warringah Freeway Upgrade (WFU) project.

TfNSW is proposing to place these portions of land in Council's management, under Care Control and Management Agreements (CCMs). The principles of the proposed CCMs are included in the correspondence issued to Council on 6 November 2025 (Attachment 1 to this report).

Council has lobbied the NSW State Government in relation to its commitments regarding open space associated with the WFU / WHT projects, and whilst the return of these portions of land aligns with this commitment, the principles as currently proposed place obligations on Council in relation to cost, liability, and Council's ability to terminate the agreements. Therefore, it would be prudent for Council to seek clarification and potentially seek adjustments or additions to the principles prior to entering into the CCMs with TfNSW.

TfNSW has advised that they would seek to manage the land internally in the event that an agreement with Council is unable to be reached.

Consultation requirements

No community consultation has been undertaken to inform the recommendations of this report.

Financial/Resource Implications

There will be some minor costs associated with legal advice and staff time associated with Council in entering into formal discussions in relation to the future care, control, and management of the subject land, however these will be managed within current operational budget commitments.

Legislation

- Crown Lands Management Act 2016
- NSW Local Government Act 1993

Transport for NSW



Thursday, 6 November 2025

North Sydney Council
200 Miller Street
NORTH SYDNEY NSW 2060

Attention: **Gary Parsons, Director of Open Space and Infrastructure**

Dear Gary,

Re: Section 159 Agreements Care Control and Management of Rose Avenue Reserve, Anzac Avenue Reserve, Jeafferson Jackson Reserve, Merlin Street Reserve, Whaling Park and High Street Reserve

I refer to TfNSW letters dated 23 April 2021 and 03 April 2024 (TfNSW reference A37241527, A37241965 and A62019735) that outlined TfNSW's intention to place the six (6) public reserves in the care, control and management of North Sydney Council (**the Council**).

1. **Purpose of this letter**

1.1 The Council requires additional open space to be delivered as part of its statutory functions under the *Local Government Act 1993 (LGA)* and its ongoing commitment to ratepayers.

1.2 TfNSW owns the land at

- (a) Rose Avenue Reserve comprising of Lot 78 in DP1129479, Lot 7 in DP1129475, Lots 15, 16 and 26 in DP250372, Lot 7 in DP1130306 and Lot 6 in DP1130293;
- (b) Anzac Avenue Reserve comprising of Lot 15 in DP1167731 and Lot 15 in DP752067;
- (c) Jeafferson Jackson Reserve comprising of Lot 6 in DP828726;
- (d) Merlin Street Reserve comprising Lot 20 in DP250372;
- (e) Whaling Park comprising of Lot 15 in DP816476; and
- (f) High Street reserve comprising of Lot 40 in DP828060.

Collectively (**the Land**).

The Land was utilised by TfNSW for the purpose of delivering the Warringah Freeway Upgrade Project. At the completion of the Project, the Land will be returned to open space for the community.

1.3 The parties have identified the Land as being suitable for their respective requirements for temporary use for public recreation and open space and have agreed that:

(a) TfNSW will publish an order in the Gazette under section 159 of the *Roads Act 1993* (**Roads Act**) placing the land in the care control and management of the council; and

(b) the Council will consent to this arrangement.

1.4 The parties intend to enter into agreements for each reserve identified in paragraph 1.2 to record the terms on which the Council's consent is envisaged to be granted (**CCM Agreements**).

1.5 The purpose of this letter is to record the broad terms envisaged to form part of each CCM Agreement. An outline of the key principles are set out at Annexure A.

1.6 The parties do not intend that this letter will give rise to any legal relations between them in relation to the proposed CCM Agreements.

2. **Next steps**

2.1 I would be grateful if the Council could please sign a copy of this letter below to indicate it is willing to move forward in good faith with the CCM Agreements on the broad terms set out in Annexure A to this letter.

Yours faithfully



Beverly Magpayo
Director, Project Property Services
Property Development and Land Access | Infrastructure Projects and Engineering

Enc.
Attachment A - Key Principles of CCM Agreement

Signed by an authorised signatory of North Sydney Council

Signature

Date

Name of Signatory

Annexure A - Key Principles

Each CCM Agreement will be governed by the following general principles:

Key term	Principle
Parties	TfNSW Council
Licence Fee	Nil
Term	Undefined
Care, control and management of the Land	The Land will be placed in the care, control and management of the Council by publication of an order in the Gazette. Until the order is published, TfNSW grants Council an interim licence on the terms set out in the CCM Agreement.
Maintenance of the Land and improvements	The Council will be responsible for the maintenance of the Land and any improvements on the Land.
Status of the Land	The Land will become "community land" under the <i>Local Government Act 1993</i> .
Plan of management	As "community land" under the LGA, a plan of management (POM) will need to be prepared. The POM must be consistent with TfNSW's requirements.
Use of the Land	The Land must only be used for public recreation.
Risk	The Council uses the Land at its own risk.
Third party access	The Council may not grant rights to third parties without the approval of TfNSW. Any such rights may only be granted subject to the CCM agreement, with the third party releasing TfNSW from liability.
TfNSW access	TfNSW may access the Land to exercise its functions. The CCM Agreement will deal with the terms on which this will be required.
Insurance	Council must maintain required insurances the same way as it does for its other open space.
Council revenue	Council will be able, subject to approval of TfNSW, and provided it is consistent with the POM, to derive revenue from the Land. TfNSW will not seek to obtain any portion of that revenue.
Council works	Council must not carry out works on the Land without the prior written consent of TfNSW.
Compliance with laws	Council will be required to comply with all laws in relation to its care, control and management of the Land including work, health and safety laws.
Contamination	Council is responsible for contamination arising during the term of the CCM Agreement.
Release and indemnity	Council will release and indemnify TfNSW in relation to Claims arising during the currency of the CCM Agreement, Council's use of the Land, and Council's breach of the CCM Agreement.
Termination	TfNSW can terminate the CCM Agreement to take back the Land:

	<ul style="list-style-type: none">• in the event of default; or• on 120 days' notice. <p>Termination of the CCM Agreement will not entitle the Council to any compensation.</p>
Compulsory acquisition	Where TfNSW acquires any part of the Land by compulsory process, the parties agree that there will be no compensation.

This sketch has been drawn using a design that has been based on an inaccurate cadastre

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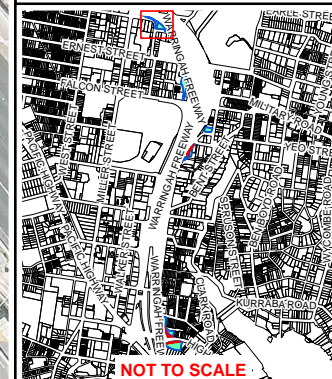
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LAND REQUIREMENTS
FOR PROJECT PURPOSES

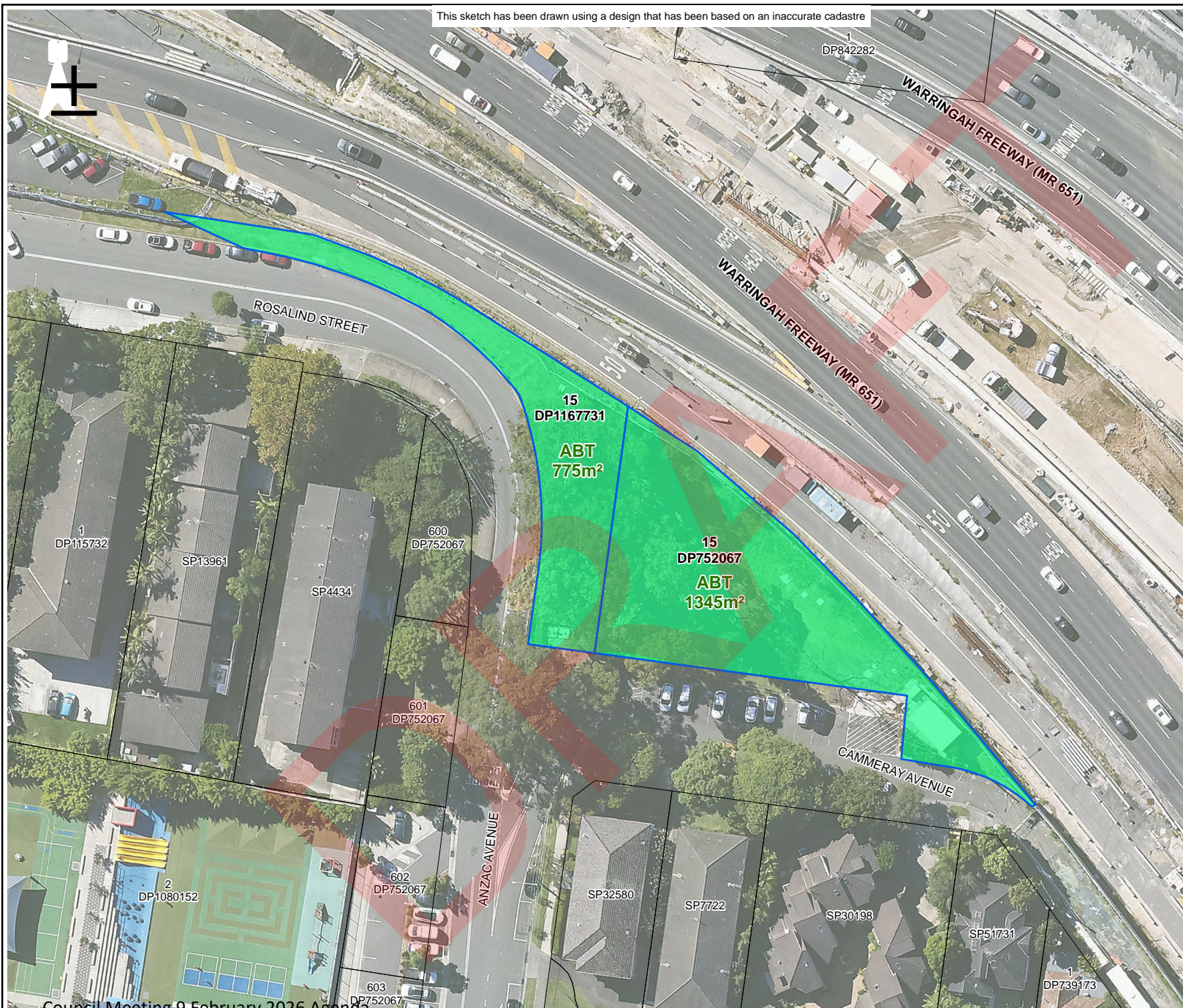
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LGA: NORTH SYDNEY
LALC: METROPOLITAN
GLA FILE NO: SF2021/331747

LEGEND
TFNSW OWNED LAND
PROPOSED TO BE PLACED
UNDER CONTROL OF COUNCIL

Lengths are in metres
Dimensions are approximate only



Accuracy Disclaimer:
Areas, boundaries, dimensions and
positions of improvements in relation to the
boundaries are subject to final survey.



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SKETCH NO.
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 SHT 2 OF 6

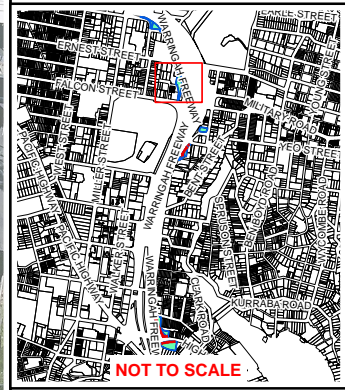
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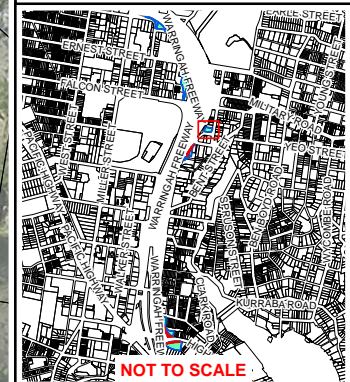
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SUBJECT
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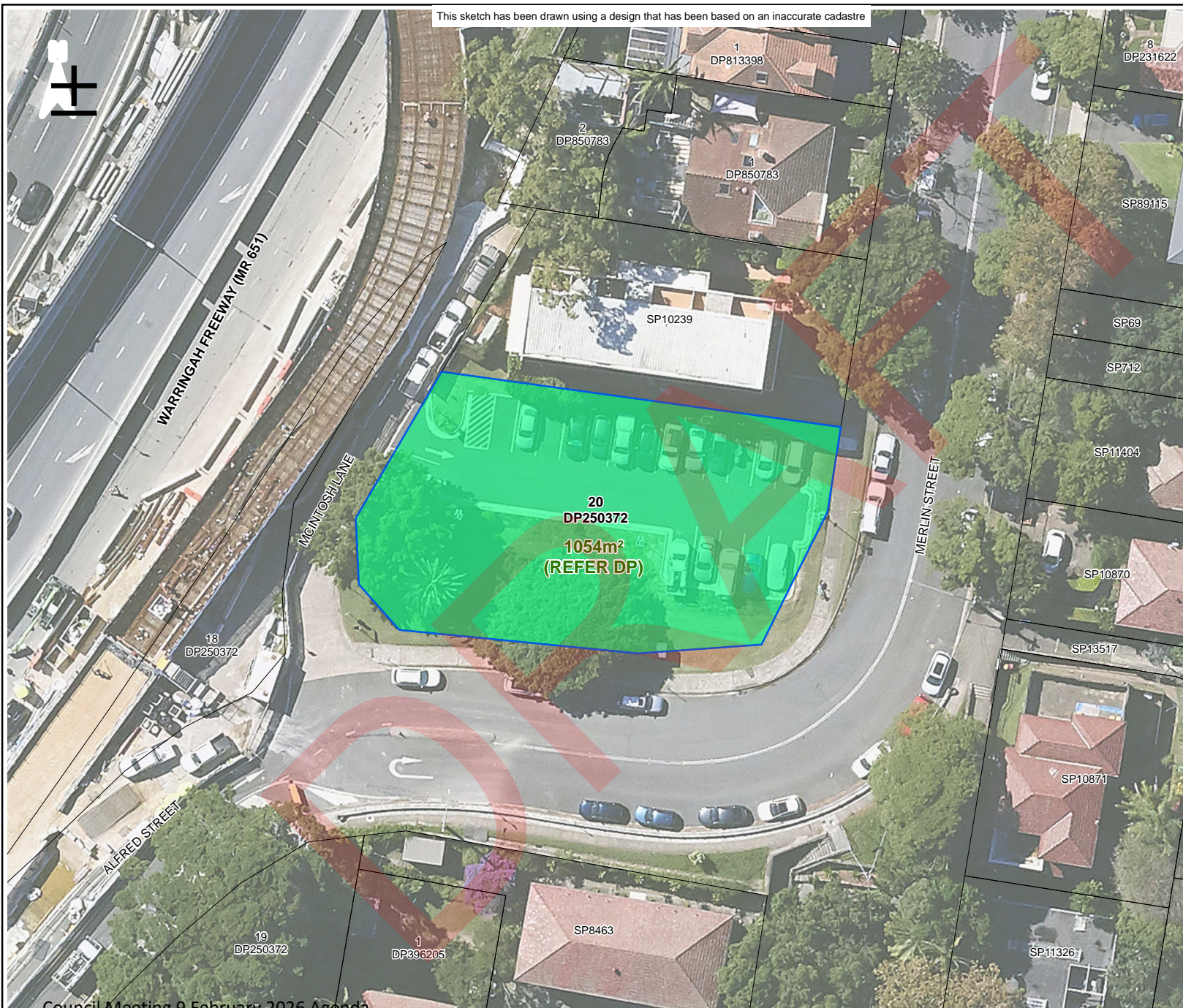
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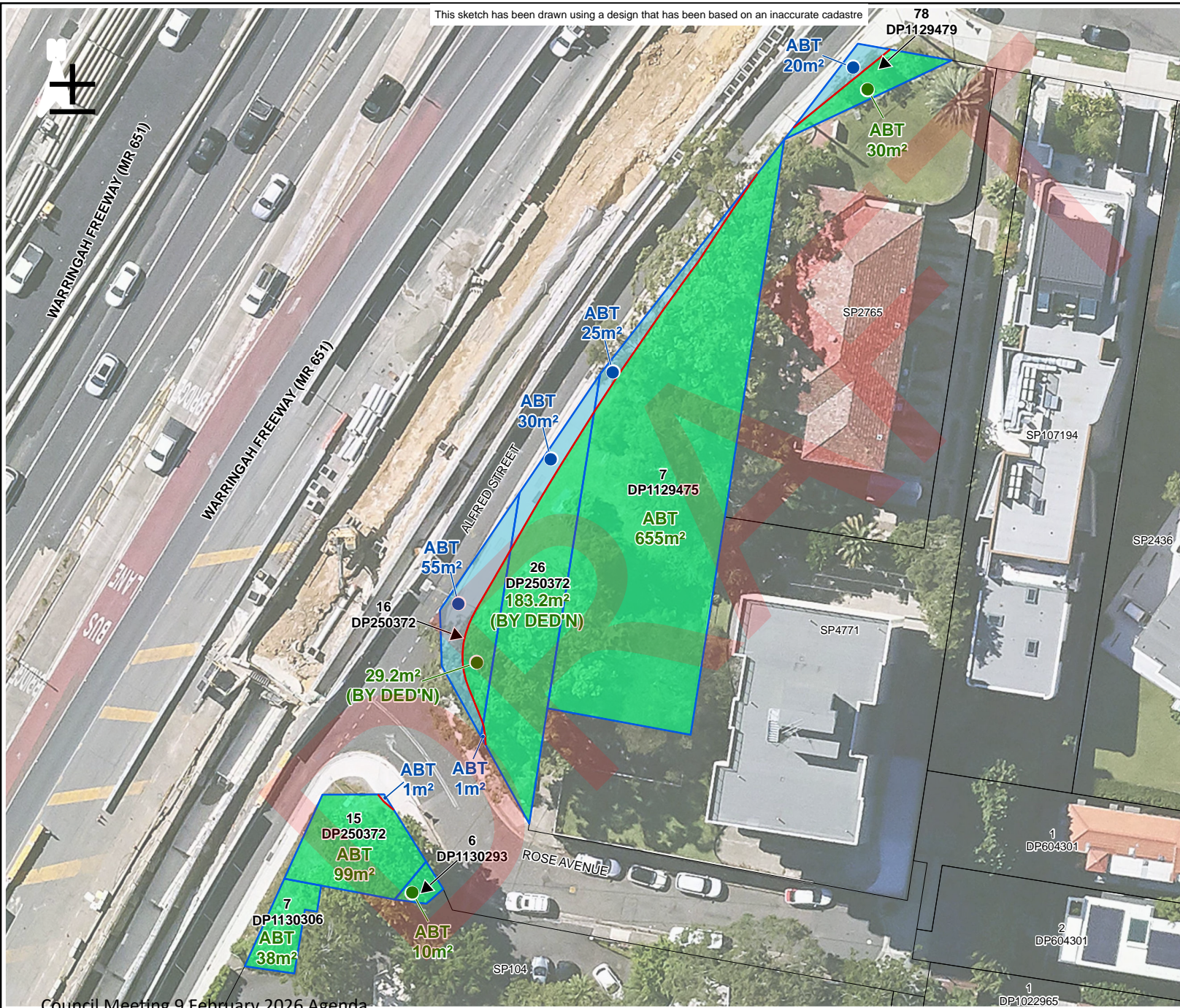
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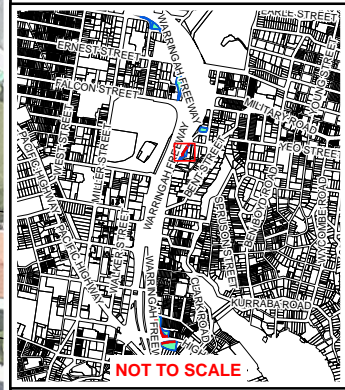
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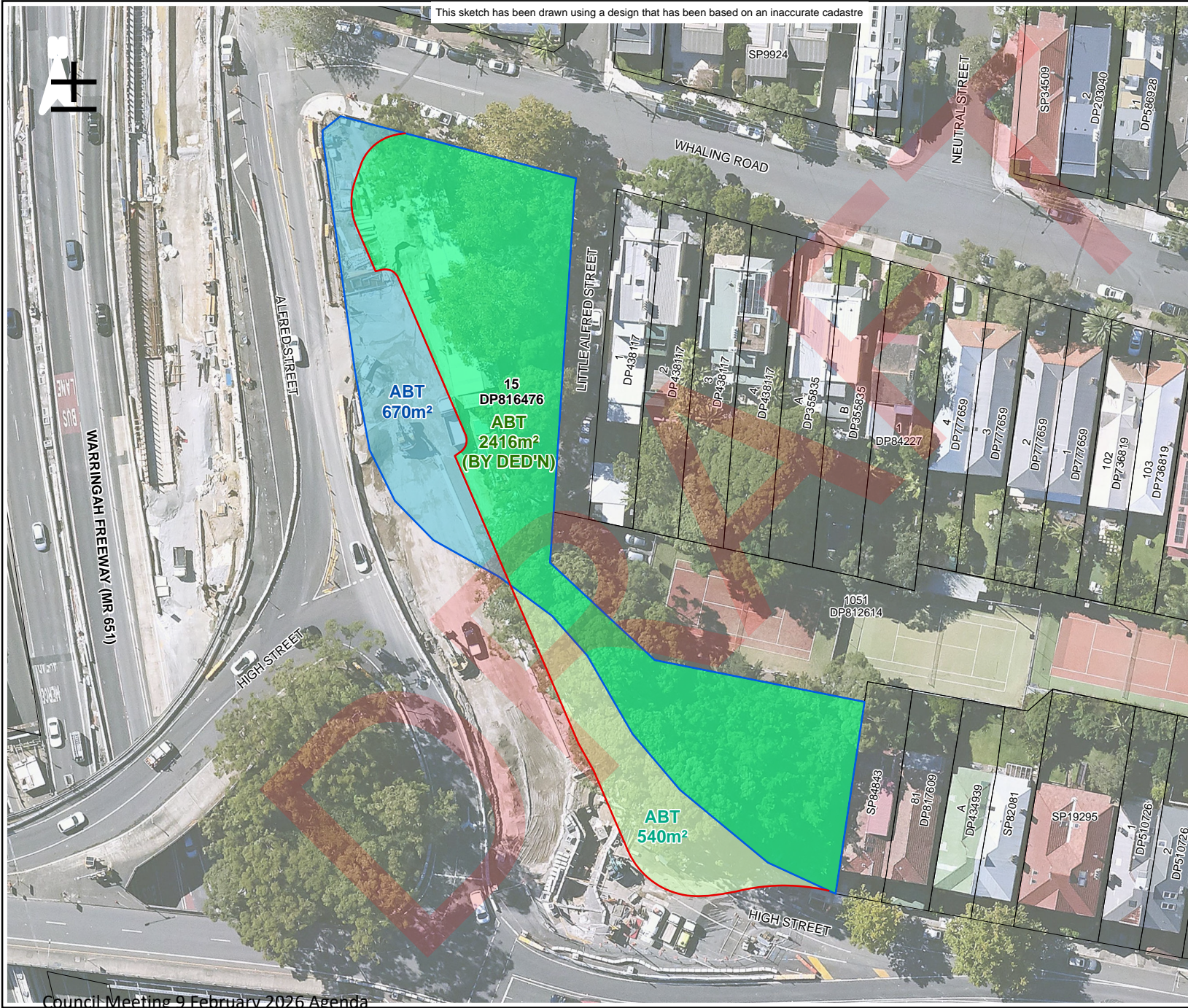
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LALC: METROPOLITAN
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- LEGEND**
- PROPOSED NEW ROAD BOUNDARY
 - TFSW OWNED LAND PROPOSED TO BE PLACED UNDER CONTROL OF COUNCIL
 - TFSW OWNED LAND REQUIRED FOR ROAD PURPOSES

Lengths are in metres
 Dimensions are approximate only



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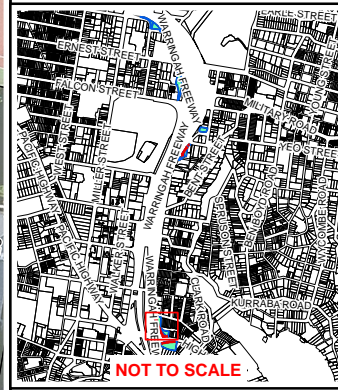
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- LEGEND**
- PROPOSED NEW ROAD BOUNDARY
 - TFNSW OWNED LAND PROPOSED TO BE PLACED UNDER CONTROL OF COUNCIL
 - TFNSW OWNED FREEWAY PROPOSED TO BE CLOSED AND PLACED UNDER CONTROL OF COUNCIL
 - TFNSW OWNED LAND REQUIRED FOR ROAD PURPOSES

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NOT TO SCALE

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