

- stop-activity orders issued ‘on the spot’ to stop or prevent unlawful activities taking place on Crown land
- issuing penalty infringement notices – \$1,100 for each infringement.

Waverley Council, as Crown Land Manager for Bronte Park and Beach is responsible for the management of the park, in accordance with the Crown Land Act (2016). Council acknowledges that practices have been allowed to take place over many years in relation to the boundaries between the park and private land. Where possible Council will work with landowners to alleviate these issues, with the focus being on sustainably managing the park for future generations.

### 3.2.7. Plans of management and native title

As outlined in *Guidelines For Council Crown Land Managers December 2016*, plans of management for Crown reserves must be compliant with the statutory requirements prescribed by the both the *CLM Act* and the *LG Act*. This includes a requirement for council CLMs to obtain written advice from a qualified native title manager that any plan of management covering Crown land that is not ‘excluded land’.

Excluded land is defined in the *CLM Act* to include:

- land subject to an approved determination of native title (as defined in the *Native Title Act 1993* of the Commonwealth) that has determined that:
  - all native title rights and interests in relation to the land have been extinguished, or
  - there are no native title rights and interests in relation to the land
- land where all native title rights and interests in relation to the land have been surrendered under an Indigenous land use agreement (as defined in the *Native Title Act 1993* of the Commonwealth) registered under that Act
- an area of land to which section 24FA protection

(as defined in the *Native Title Act 1993* of the Commonwealth) applies

- land where all native title rights and interests in relation to the land have been compulsorily acquired
- land for which a native title certificate is in effect.

Section 8.7 of the *CLM Act* and the *Native Title Manager Workbook* clearly set out that written native title manager advice is required before a council CLM does any of the following:

- grants leases, licences, permits, forestry rights, easements or rights of way over the land
- mortgages the land or allows it to be mortgaged
- imposes, requires or agrees to covenants, conditions or other restrictions on use (or removes or releases, or agrees to remove or release, covenants, conditions, or other restrictions on use) in connection with dealings involving the land
- approves (or submits for approval) a plan of management for the land that authorises or permits any of the kinds of dealings referred to in paragraph (a), (b) or (c). Accordingly, native title manager advice must be obtained prior to the approval (or submittal for approval) of a POM that allows a dealings in (a)–(c) and the execution of any lease, licence, permit, etc. that may be authorised under that plan.

Council’s native title manager has been and will continue to be consulted in all relevant aspects of native title pertaining to the land.

### 3.2.8. Native Title Declaration

In late 2021 Council, in accordance with its requirements under the *Native Title Act 1993*, sought legal advice to determine if Native Title existed on Bronte Park. Council’s Native Title Manager then provided that advice to Council<sup>11</sup>.

To formalise the requirements under the *Native Title Act 1993* the report to Council’s delegate represented Council’s

Native Title Manager’s direction, which is required under the Act. The Native Title Assessment report was completed by Council’s solicitors Norton Rose Fulbright. The report was produced on the basis that there is sufficient evidence for a conclusion of extinguishment via prior Crown land grants or public works, but if that was not the case the advice still describes the Future Act process that can be considered under subdivision J of the *Native Title Act 1993*.

Based on the evidence noted in the report and its attachments, it is likely that there is evidence that Native Title has been extinguished within the reserve in Table 1 of the report and known as Bronte Park. The Future Act process in leasing, licensing and operating or developing the Reserve is likely to continue and can be considered under subdivision J of the *Native Title Act 1993*. Based on this and the constructive relationship Council seeks to maintain with those who may have native title rights or interests, Council will not apply to the Federal Government to formalise the extinguishing of Native Title rights or interests at this time.



Image: Mature tree in Bronte Park

<sup>11</sup> Bronte Park – Native Title assessment, Norton Rose Fulbright.