



PLANNING PROPOSAL

RECLASSIFICATION OF PARKS FORM COMMUNITY LAND TO OPERATIONAL LAND

Sister Gardenia Park, Carrington Gardens, Reymond Street Park and Clematis Street Park

June 2017

Prepared by:
Forbes Shire Council
Department Environmental Services and Planning
Contact:
Alexandra Power
Town Planner
Phone: 02 68502345
Email: Alexandra.Power@forbes.nsw.gov.au

CONTENTS

Introduction.....	4
BACKGROUND	9
SCOPE OF REPORT	10
Part 1 – Objectives or Intended Outcomes	11
Part 2 – Explanation of provisions.....	12
Part 3 – Justification	13
Section A – Need For The Planning Proposal.....	13
1. Is the planning proposal a result of any strategic study or report?	13
2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?.....	13
Section B – Relationship to the strategic planning framework	13
3. Is the planning proposal consistent with the objectives and actions of the applicable regional or subregional strategy?	13
4. Is the Planning proposal consistent with Council’s local strategy or other local strategic plan?	13
5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?.....	14
6. Is the Planning Proposal consistent with applicable Ministerial Directions (s.117 directions)?	14
Section C – Environmental, Social and Economic Impact	18
Is there likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?	18
Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?	18
Has the Planning proposal adequately addressed any social and economic effects?	18
Section D – State and Commonwealth interests	19
Is there adequate public infrastructure for the planning proposal?	19
What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?	19
Part 4 Mapping	20
Part 5 – Community Consultation	21

Appendix 1 – Report to Council..... 22

CLAUSE 15 – PLAYGROUND AUDIT..... 22

CLAUSE 8 – RECLASSIFICATION OF SURPLUS PARK LAND 28

CLAUSE 4 – REYMOND STREET PARK..... 31

2.4 RECLASSIFICATION OF PARKS..... 34

INTRODUCTION

This Planning Proposal has been prepared in accordance with section 55 of the Environmental Planning and Assessment Act 1979 and the format specified within the relevant Department of Planning Guidelines including 'A Guide to Preparing Local Environmental Plans' and "A Guide to Preparing Planning Proposals'.

The purpose of the Planning Proposal (PP) is to provide an explanation of the intended effect and justification for the amendment to the *Forbes Local Environmental Plan 2013 (FLEP 2013)* for the reclassification of the following parcels of land Council owned land from Community to Operational land:

- Lot 13 DP 35998, Patterson Street known as "Sister Gardenia Park" is zoned R1 General Residential within the *Forbes Local Environmental Plan 2013 (FLEP 2013)*. The subject site falls from Patterson Street to the rear boundary, the total area of the subject site is 740m² and consists of minimal vegetation. Water and sewer connections are available and access to the site can be provided from Patterson Street .The surrounding context consists of single storey residential dwellings.



Figure 1 Sister Gardenia Park

- Lot 11 DP 702906, Weelong Place known as “Carrington Gardens”, is zoned R1 General Residential within the FLEP2013. The subject site is located between Weelong Place (at the end of the Weelong Place cul-de-sac) and Farnell Lane. The subject site is rectangular shape, comprises an area of 1892m² and consists of vegetation along the perimeter of the property. The water, stormwater and access can be provided from Weebong Place. A sewerage line is already provided in the north eastern corner and along the eastern boundary of the site. The site sits within a residential context.

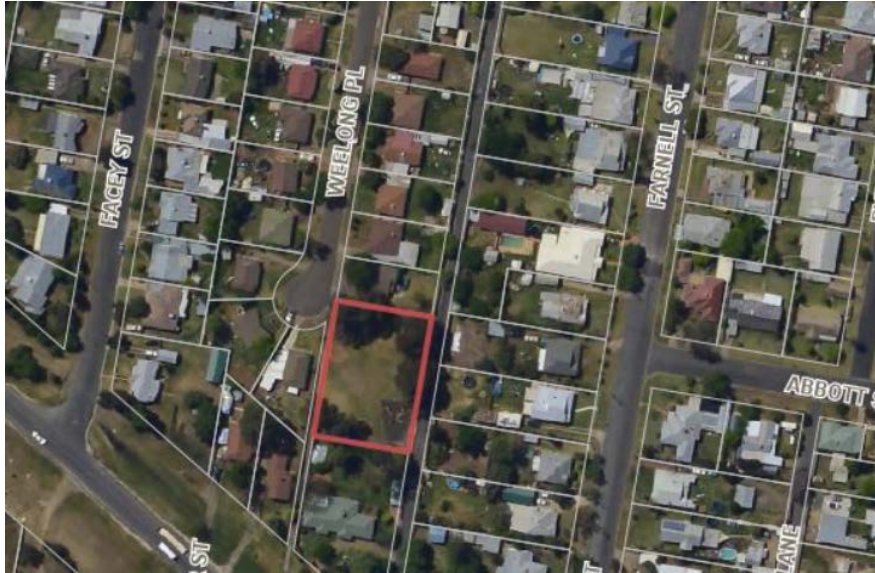


Figure 2 Carrington Gardens

- Lot 12 DP 841467, College Road known as “Reymond Street Park”, is zoned R5 Large Lot Residential within the FLEP 2013. The subject site is located between Reymond Street and College Road with existing accesses to each street and the total area of the site is 9273m². The site is relatively flat, minimal vegetation cover, is identified as flood liable land and Ground Water Vulnerable land under the FLEP 2013 and is situated in an Urban Release Area. Water, sewer and stormwater services can be connected to the site from Reymond Street or College Road. The subject site sits within a large lot residential context.



Figure 3 Reymond Street Park

- Lot 29 DP 247738 and Lot 42 DP 248480, 6 Clematis Street known as “Clematis Street Park” both lots are zoned R1 General Residential. Clematis Street Park is positioned between Blue Gum Street and Clematis Street. The site consists of minimal vegetation, the site can be serviced from Blue Gum or Clematis Street and stormwater services already dissect the site. The total area of the both lots is 2574m² and access can be provided to the site from either Blue Gum or Clematis Street.



Figure 4 Clematis Street Park

The reclassification of the above properties from Community to Operational land must be carried out in accordance with Part 2 Division 1 of the Local Government Act 1993. To effect the reclassifications, this planning proposal has been prepared to amend *Forbes LEP 2013* in accordance with *Part 3 Division 4 of the Environmental Planning and Assessment Act 1979* and entries made to *Schedule 4 Part 1 Land classified, or reclassified as operational land- no interests changed of Forbes LEP 2013*. A public hearing must be conducted to enable public input into the proposed reclassification following exhibition of the planning proposal.

The scope of this Planning Proposal is to describe the relevant attribute of the subject of the subject sites and to respond to matters for consideration outlined in “A Guide to Preparing Planning Proposals issued by the Department of Planning”.

The preparation of a Planning Proposal is the first step in NSW Planning and Environment’s Gateway Process, the process for making or amending local environmental plans. It has a number of steps set out in Table 1 that require this document to be revised as it progresses through the Gateway Process. This document is currently at Step 1: Council prepares a document explaining the effect of and justification for making or amending a local environmental plan.

No.	Step	Explanation
1	Planning Proposal	Council prepares a document explaining the effect of and justification for making or amending a local environmental plan.
2	Gateway Determination	The Department of Planning (western region) checks the Planning Proposal and determines whether the Planning Proposal should proceed.
3	Community Consultation	The Planning Proposal is publicly exhibited.
4	Assessment	Council considers any submissions it receives in response to the public exhibition, changing the Planning Proposal as necessary.
5	Drafting	Parliamentary Counsels Office prepares a draft of the local environmental plan.
6	Decision	The Minister (or delegated plan making authority) approves the local environmental plan, making it law.

BACKGROUND

Council resolved at its December 2012 meeting to investigate and identify any parks that should be reclassified from Community to Operational Land, as they were surplus to Council's requirements so that these parks can be disposed as they are surplus to requirements and to deploy parks and garden resources more effectively. Council identified initially seven parks to be reclassified from Community to Operational land, following community consultation between May to December 2015, the parks were reduced to five (5) parks to be reclassified. Following further investigations into Mabel Green Park this park was excluded as it was not owned by Council. The final four parks to be reclassified following the review, investigation and consultation process that have occurred is provided below:

- Lot 13 DP 35998, Patterson Street known as "Sister Gardenia Park",
- Lot 11 DP 702906, Weelong Place known as "Carrington Gardens",
- Lot 12 DP 841467, College Road known as "Reymond Street Park", and
- Lot 29 DP 247738 and Lot 42 DP 248480, 6 Clematis Street known as "Clematis Street Park".

The Parks were chosen based on the parks proximity to other parks/open spaces, current infrastructure located in each park and potential for redevelopment.

Given the contentions Council resolved that further consultation was required for the Reymond Street Park and Clematis Street Park. Following further consultation with surrounding residents of Clematis Street Park. The consultation process concluded for the Clematis Street Park at the end of March 2017. It was resolved at the March Council Meeting that the Clematis Street and Reymond Street Park would be included in the Planning Proposal. The background Council reports and resolutions are provided within Appendix 1 of this Planning Proposal.

SCOPE OF REPORT

This Planning Proposal has been prepared in accordance with the NSW Department of Planning's (DoP) advisory documents 'A Guide to Preparing Local Environmental Plans' and 'A Guide to Preparing Planning Proposals'. The latter document requires the Planning Proposal to be provided in five (5) parts, these being;

- Part 1 – A statement of the objectives or intended outcomes of the proposed LEP;
- Part 2 – An explanation of the provisions that are to be included in the proposed LEP;
- Part 3 – The justification for those objectives, outcomes, and provisions and the process for their implementation;
- Part 4 – discusses proposed mapping changes; and
- Part 5 – Details of the community consultation that is to be undertaken with the Planning proposal. Part 5 would be confirmed following a Gateway Determination of this Planning Proposal by the Department of Planning.

PART 1 – OBJECTIVES OR INTENDED OUTCOMES

This Planning Proposal seeks to amend Schedule 4 of Forbes Local Environmental Plan 2013 by reclassifying the following parcels from Community Land to Operational Land:

- Sister Gardenia Park (Patterson Street, Lot 13 DP 35998)
- Carrington Gardens (Carrington Gardens Weelong Place, Lot 11 DP 702906),
- Reymond Street Park (College Road, Lot 12 DP 841467), and
- Clematis Street Park (6 Clematis Street, Lot 29 DP 247738 and Lot 42 DP 248480).

To enable the reclassification of four parcels of land from community to operational within the local government area of Forbes Shire Council. It is then intended to dispose of these which will release resources that will enable Council to better manage the remaining open space areas.

PART 2 – EXPLANATION OF PROVISIONS

The principle planning intends to reclassify the following parcels from community to operational land by amending the FLEP2013.

The PP will amend FLEP 2013 by including the following parcels as operational land within Schedule 4, as detailed below:

Insert:

Schedule 4 Classification and reclassification of public land

Part 1 Land classified, or reclassified, as operational land—no interests changed

Column 1	Column 2
Lot 13 DP 35998 Patterson Street Forbes	Operational
Lot 11 DP 702906 Weelong Place Forbes	Operational
Lot 12 DP 841467 College Road Forbes	Operational
Lot 29 DP 247738 and Lot 42 DP 248480 6 Clematis Street Forbes	Operational

The proposed provisions are consistent with all relevant section 117 Ministerial Directions.

PART 3 – JUSTIFICATION

Section A – Need For The Planning Proposal

1. Is the planning proposal a result of any strategic study or report?

No, The planning proposal was the result of a periodic review of land stock, Council undertook a review of potentially under-utilised parks and open spaces with the view to dispose these properties, so as to more effectively deploy our parks and gardens resources to the higher utilised parks and gardens.

As a part of this process Council sent out letters to all residences in the catchment area of these parks (i.e within a 250m radius of each park), approximately 580 properties, seeking their feedback to inform any decisions. As a result of this process the parks subject to this planning proposal were identified to be reclassified from Community to Operational Land as they were under-utilised parks.

Following the initial letters and responses Council proceeded with Community Consultation for the reclassification of Clematis Street Park, Sister Gardenia Park, Carrington Gardens and Reymond Street Park between May and December 2015. Further community consultation was also conducted for the Reymond Street and Clematis Street Park. The Clematis Street Park consultation concluded in March 2017.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The planning proposal is the appropriate means of achieving the intended outcomes and objectives, and is supported by relevant planning studies and planning policies.

Section B – Relationship to the strategic planning framework

3. Is the planning proposal consistent with the objectives and actions of the applicable regional or subregional strategy?

The Draft Central West and Orana Regional Plan was released by the Department of Planning and Environment in April 2016. The draft plan applies to the Forbes LGA and has been exhibited for public comment. There are no directions or actions that relate to or affect any of the four properties proposed to be reclassified.

4. Is the Planning proposal consistent with Council's local strategy or other local strategic plan?

The Planning Proposal is consistent with the adopted *Forbes Shire Growth Management Strategy dated February 2009*. There are no other strategies, policies or plans of management that apply to any of the four properties.

5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

An assessment of the planning proposal against the relevant SEPP is provided below:

SEPP	Intent	Comment
SEPP No 55- Remediation of Land	To provide consistent controls for the remediation of contaminated land	The sites are currently used for public recreation purposes "parks" and there are no historic records of the parks being used for any potential contaminating purpose listed within Table 1 of the Managing Land Contamination Planning Guidelines for SEPP 55. It is considered preliminary investigations as are not necessary given the previous use and current occupation of each site.

6. Is the Planning Proposal consistent with applicable Ministerial Directions (s.117 directions)?

An assessment of the planning proposal against the relevant Ministerial Directions (s.117 directions) is provided below:

Ministerial Directions	Application	What a relevant planning authority must do if this direction applies and how it can be consistent.	Comment
3.1 Residential Zones	<i>This direction applies when a relevant planning authority prepares a planning proposal that will affect land within:</i> (a) An existing or proposed residential zone (including the alteration of any existing residential zone boundary), (b) Any other zone in which significant residential development is permitted or proposed to be permitted.	<i>What a relevant planning authority must do if this direction applies</i> (4) A planning proposal must include provisions that encourage the provision of housing that will: (a) broaden the choice of building types and locations available in the housing market, and (b) make more efficient use of existing infrastructure and services, and (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and (d) be of good design. (5) A planning proposal must, in relation to land to which this direction applies: (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to	The four properties are currently zoned R1 General Residential and R5 Large Lot Residential. The zoning of the five properties is not expected to change as a part of the reclassification and disposal of these properties. All four properties are located within existing developed residential areas and can/already utilising this existing infrastructure to service the properties. Future development applications for residential development on these properties will require the provision of services as a part of the application. No residential development will occur on these sites until they are adequately serviced. The planning proposal is consistent with this direction.

		<i>the council, or other appropriate authority, have been made to service it), and</i> <i>(b) not contain provisions which will reduce the permissible residential density of land.</i> Consistency <i>A planning proposal must, in relation to land to which this Direction applies:</i> <i>(a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and</i> <i>(b) not contain provisions which will reduce the permissible residential density of land.</i>	
--	--	---	--

4.3 Flood Prone Land	This direction applies when a relevant planning authorities prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.	What a relevant planning authority must do if this direction applies (4) <i>A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas).</i> (5) <i>A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.</i> (6) <i>A planning proposal must not contain provisions that apply to the flood planning areas which:</i> <i>(a) permit development in floodway areas,</i> <i>(b) permit development that will result in significant flood impacts to other properties,</i> <i>(c) permit a significant increase in the development of that land,</i> <i>(d) are likely to result in a substantially increased requirement for government spending on floodmitigation measures, infrastructure or services, or</i> <i>(e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development.</i> Consistency <i>A planning proposal may be inconsistent with this direction only if the relevant planning authority can satisfy the Director-General (or an officer of the Department nominated by the Director-General) that:</i> <i>(a) the planning proposal is in</i>	The Reymond Street Park is identified as flood liable land on the FLEP 2013 Flood Planning Map. This Planning Proposal to reclassify the Reymond Street Park does not involve rezoning this property. This property is zoned R5 Large Lot Residential land. Any future development of this site will require the finished floor level to be sited at or above the Flood Planning Level (1% plus 0.5m Freeboard). The controls within <i>Chapter 4 Flooding and Flood Affected Land of the Forbes Shire Development Control Plan 2013</i> will apply to future developments of the subject site. No rezoning is proposed as a part of this Planning Proposal and therefore this direction does not apply to this Planning Proposal. The above information has been provided to support the Planning Proposal regardless of the application of this direction.
------------------------------------	--	---	--

		<i>accordance with a floodplain risk management plan prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005, or</i> <i>(b) the provisions of the planning proposal that are inconsistent are of minor significance.</i>	
6.2 Reserving Land for Public Purposes	This direction applies when a relevant planning authority prepares a planning proposal	<i>What a relevant planning authority must do if this direction applies</i> <i>(4) A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General).</i> <i>(5) When a Minister or public authority requests a relevant planning authority to reserve land for a public purpose in a planning proposal and the land would be required to be acquired under Division 3 of Part 2 of the Land Acquisition (Just Terms Compensation) Act 1991, the relevant planning authority must:</i> <i>(a) reserve the land in accordance with the request, and</i> <i>(b) include the land in a zone appropriate to its intended future use or a zone advised by the</i> <i>Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), and</i> <i>(c) identify the relevant acquiring authority for the land.</i> Consistency <i>(8) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that:</i> <i>(a) with respect to a request referred to in paragraph (7), that further information is required</i>	Forbes Shire Council the (relevant planning authority) resolved at the March 2017 Council meeting to reclassify the four properties from Community Land to Operational Land.

		<i>before appropriate planning controls for the land can be determined, or</i> <i>(b) the provisions of the planning proposal that are inconsistent with the terms of this direction are of minor significance.</i>	
--	--	--	--

Section C – Environmental, Social and Economic Impact

Is there likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The five properties subject to this Planning Proposal does not contain any critical habitat, threatened species, populations, or ecological communities or habitats; therefore there will be no impact on areas of environmental significance as a result of the Planning Proposal.

Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No, there are no other environmental effects as a result of the planning proposal that require additional management.

Has the Planning proposal adequately addressed any social and economic effects?

The proposed reclassification of the five properties will have a positive social and economic effect. Economically, the proposed reclassification of parks to operational land will provide further land supply which will allow for more housing supply in the existing developed residential areas. Socially, the disposal of the parks will provide further resources that can be more effectively deployed to other forms of social recreation infrastructure and will have a positive social impact.

Section D – State and Commonwealth interests

Is there adequate public infrastructure for the planning proposal?

Adequate Council infrastructure is provided in the subject areas. Council sewer and water are provided to all lots subject to this planning proposal.

What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

The views of state and commonwealth public authorities would be ascertained in accordance with the comments contained in the Gateway Determination.

PART 4 MAPPING

No Mapping amendments are required as a part of this Planning Proposal.

PART 5 – COMMUNITY CONSULTATION

It is intended to exhibit the planning proposal for a minimum of 28 days. Council has already undergone extensive consultation with surrounding residents on four separate occasions and will also be arranging a public hearing in respect to this planning proposal to reclassify community land as operational land. The evidence of the previous community consultation is provided within Appendix 1 of this Planning Proposal.

No consultation with any public authorities is proposed to be undertaken given the nature of the planning proposal.

APPENDIX 1 – REPORT TO COUNCIL

February 2013:

CLAUSE 15 – PLAYGROUND AUDIT

Council resolved at its December 2012 meeting to investigate and identify any parks that should be transferred to Operational Land.

Council have identified six (6) Council-owned parks (as opposed to Crown-owned parks) which are currently classified as Community Land that would be suitable for consideration to rezone and dedicate as Operational Land. When determining if a park is suitable for reclassification, both the Engineering and Planning departments have considered the park's proximity to other parks/open spaces, current infrastructure located within the park eg. location of water and sewer mains and the potential for redevelopment of the site.

The parks identified are:

No.	Park	Street	Folio ID	Infrastructure Comments
1	Clematis St Park,	Clematis Street	Lot 29 DP247738 Lot 42 DP248480	Sewer runs along western boundary- would require a 4m sewer easement over.
2	Eloora Place Park	Eloora Street	Lot 31 DP791180	Sewer runs along northern boundary- would require a 4m sewer easement over.
3	Sister Gardiner Park	Patterson Street	Lot 13 DP35998	Sewer main runs across property about 2/3rds in from Patterson St, - would require a 4m sewer easement over.
4	Paul Wenz Park	Hettie Place	Lot 28 DP835295	Sewer along Western and northern boundaries - would require a 4m sewer easement over. Also Stormwater lines runs through access from Cul-de-sac to Farnell Street. Probably would keep that access in Council's ownership.

5	Carrington Gardens	Weelong Place	Lot 11 DP702906	Sewer main runs across north eastern corner of block and stormwater line runs across the North-western corner and down pathway to from Cul-de-sac to Bogan Gate Rd. Council would require a 4m easement over both the water and sewer lines. There is a watermain in the access lane as well as stormwater.
6	Mable Green Park	15-19 Scrivener Street	Lot 18 DP224824	Sewer main passes across the middle of the park, would require a 4m sewer easement over.

Three (3) parks were first identified for reclassification, but later removed from the list:

1	Gale Street Park	Gale Street	Lot 38 DP215546)	Limited potential for development based on total area size of 462sq/m and triangle-shape of lot.
2	Sister Odelia Park	Koala Place	Lot 47 DP827549	No road access, or potential for road access to this lot
3	Andrew Peet Memorial Park	Jacaranda Street	Lot 36 DP801823	No road access, or potential for road access to this lot

One (1) park was first identified for reclassification and would be suitable for development on the proviso that road access over an adjoining freehold was created.

1	Reymond Street Park	College Road	Lot 12 DP841467	No services; no road access; potential road access could be created over Lot 270 DP750158
---	---------------------	--------------	-----------------	---

In order to progress this matter it is recommended that Council undertake a period of community consultation.

That Council undertake community consultation on the reclassification of Clematis Street Park, Eloora Place Park, Sister Gardiner Park, Paul Wenz Park, Carrington Gardens, Mable Green Park and Reymond Street Park.

(Cr J Nicholson/Cr C Roylance)

16 October 2014:

Minute Number: 33/2013

Report: Director Corporate Services

Subject: Playground Audit

Resolution: That Council undertake consultation on the reclassification of Clematis Street Park, Eloora Place Park, Sister Gardiner Park, Paul Wenz Park, Carrington Gardens, Mable Green Park and Reymond Street Park.

(Cr J Nicholson/Cr C Roylance)

Action Officer: Acting Director Corporate Services

Progress: Community consultation to commence in late 2014.

889 RESOLVED

That Council commence the consultation process on the reclassification of Clematis Street Park, Eloora Place Park, Sister Gardiner Park, Paul Wenz Park, Carrington Gardens, Mable Green Park and Reymond Street Park in February 2015. *(Cr P Miller/Cr G Miller)*

21 May 2015:

**MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE SHIRE OF FORBES
HELD IN THE SHIRE CHAMBER FORBES ON THURSDAY 21 MAY 2015**

CLAUSE 1 – RECLASSIFICATION OF SURPLUS PARKS

As reported to the April Council meeting, Council has undertaken a periodic review of potentially under-utilised parks and open spaces with the view to disposing of these properties, if appropriate, so as to more effectively deploy our parks and gardens resources.

Council identified six (6) Council-owned parks (as opposed to Crown-owned parks) which are currently classified as Community Land that would be suitable for consideration to reclassify and dedicate as Operational Land. When determining if a park is suitable for reclassification, both the Engineering and Planning departments considered the park's proximity to other parks/open spaces, current infrastructure located within the park eg. location of water and sewer mains, and the potential for redevelopment of the site.

Of the 10 parks originally identified Council resolved to commence the consultation process on the reclassification of Clematis Street Park, Eloora Place Park, Sister Gardiner Park, Paul Wenz Park, Carrington Gardens, Mable Green Park and Reymond Street Park.

The Reymond Street Park consultation process will be undertaken separately as it was identified in the original report to Council that the land would only be suitable for development on the proviso that road access over an adjoining freehold was created.

Council sent out letters to all residences within the catchment area of the first six (6) parks (ie. within a 250m radius of each park), approximately 580 properties, seeking their feedback to inform any decisions. Council also sought comment from the wider community through mainstream and social media. The closing period for submissions was 25 March 2015. Council received 29 responses including one (1) with signatures representing six (6) residences, one (1) representing two (2) residences and one (1) referring to two (2) parks.

Further to the high level summary of feedback provided to the April Council meeting, the following tables report the comments, issues and questions raised in relation to each of the parks under review. These comments are those of the respondents and have not been verified or otherwise by Council staff.

A town map identifying parks as provided to residents with the letters is appended for your information.

Clematis Street Park – six (6) responses

Comments/Issues/Questions
Requested Council consider the closure include transfer of ownership of half of the walkway on either side to the adjoining residences in Blue Gum Street.
All responses were in favour of closing this park with three (3) noting the antisocial behaviour of some pedestrians using the walkway.
Concern with retaining rear access to two (2) adjoining properties in Clematis Street currently provided by the open space.

Eloora Place Park – four (4) responses

Comments/Issues/Questions
All respondents would prefer to retain the park. Residents purchased in the area because it is quiet and includes the park which is used by local children to get to and from school; as a safe play area; as a meeting place for community members/families generally. Closing the park would increase traffic in the area. <i>Note all 4 respondents reside in the Eloora Place cul-de-sac.</i>

Sister Gardiner Park – one (1) response

**MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE SHIRE OF FORBES
HELD IN THE SHIRE CHAMBER FORBES ON THURSDAY 21 MAY 2015**

Comments/Issues/Questions

In support of the closure.

Paul Wenz Park – 17 responses

Comments/Issues/Questions

Request that consideration be given to making the park (or a portion of) a car parking area for staff at the adjoining child care centre to alleviate traffic congestion and resultant safety issues arising on Farnell Street from staff parking. *Note those supporting the use of the park as a car park were Farnell Street residents.*

Residents of Hettie Place went through this with Council and the Learning Ladder 12 years ago and it was resolved then that the park would remain as it is.

Supportive of the area being sold for residential use. *Hettie Place resident.*

Opposed to park being utilised by the child care centre for vacation care and/or car parking. Concern regarding resultant increased traffic (more children, more staff, more cars), the area becoming less quiet, the change to the character of the area, and devaluing properties in the area. Will Council compensate residents?

Supportive of the closure of the park and suggest the laneway be dedicated to the child care centre or closed off to discourage the antisocial behaviour it currently attracts. *Farnell Street resident.*

Interest expressed by the adjoining child care centre to utilise the park for after school and vacation care which have been identified as high need services in Forbes.

Questions were raised regarding the cost of maintaining the park and how this is an impost on Council justifying reclassification when it appears to involve infrequent mowing and watering. Local residents are prepared to undertake mowing and watering and have done so in the past.

Questions were raised regarding the determination of being underutilised as Council has not provided any facilities in the park (eg. playground equipment). Perceived under-utilisation yesterday or today may not be the case tomorrow or into the future.

Questions were raised regarding all of the parks being reviewed being located in North Forbes. It was stated that South Forbes has more green space with all of the sporting fields, walking path and water park. How utilised are the South Forbes parks such as Koala Place? It was suggested the South Forbes parks appear better maintained e.g. Koala Place has a watering system.

Paul Wenz Park was a feature attracting a number of residents to buy in the area for use by children, grandchildren, great-grandchildren, elderly residents unable to travel to other parks and the community in general as a safe place to play/meet outside the home.

Area set aside as a consent condition/building restrictions by Council. The additional cost of setting this aside was borne by purchasers of the land for whom the open space was an incentive to buy. When land was purchased in the estate it was believed the park would be there in perpetuity and a premium price was paid for the 'prestige estate' as marketed by Council.

Concern the stormwater infrastructure will not be sufficient to support any development of the park area as it is currently inadequate for the existing development.

There is a need for a park in this area. Only other nearby park is also being considered for reclassification.

Suggestions were put forward for staff of the child care centre to park in nearby streets such as Patterson or Dawson Street; staff car pool; and staff be instructed not to park in Farnell Street. Further suggestions were to purchase the block on the corner of Patterson and Farnell Streets for a car park; purchase the house next door to the child care centre in Farnell Street currently for sale; look for an alternate site. Generally investigate other options.

Park provides a buffer between the noise from the child care centre and residences.

The walkway is used by school children and other pedestrians and the increase in traffic may pose a risk to these children.

Comments/Issues/Questions

Why would Council want another holiday program? Why does a non-profit organisation need to continuously expand? Should this be left to the private sector? How much of the park would they need? Haven't seen a plan. Don't believe the current car park is over utilised during the day.

**MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE SHIRE OF FORBES
HELD IN THE SHIRE CHAMBER FORBES ON THURSDAY 21 MAY 2015**

Paul Wenz Park was gifted to the community of Forbes.

Carrington Gardens

No responses.

Mable Green Park

No responses.

As noted previously two (2) responses were received in support of closing under-utilised parks generally with it being noted resources would be best utilised ensuring the well patronised parks are kept safe and clean.

Summary

Responses were received in relation to four (4) of the six (6) parks. Three (3) of these were generally in agreement of either closing or retaining the parks with Clematis Street Park respondents including some provisions to any closure. Consideration must be given to these requested provisions as part of any decision to progress further with reclassification.

For those parks where Council determines it appropriate to move forward with reclassification Council would need to resolve to make amendments to the Forbes LEP to reclassify the parks from community land to operational land.

Responses to Paul Wenz Park consultation were mixed and it is recommended Council consider undertaking further consultation with regard to the future of this park. It is suggested Council distribute a fact sheet to all those initially contacted directly regarding the future of this particular park (ie. those in a 250m radius) as well as any respondents outside this area. The purpose of the fact sheet being to ensure each person has the same information prior to participating in further consultation. The fact sheet would be sent with an invitation to attend an on-site consultation meeting where Council and affected and interested residents could openly discuss concerns and questions regarding the future of the park.

347 RESOLVED

That Council:

- i). schedule a consultation with residents regarding Paul Wenz Park;**
- ii). proceed and negotiate access at the Clematis Street Park with the residents within the area;**
- iii). schedule a consultation with residents regarding Eloora Place Park;**
- iv). proceed to reclassify Sister Gardiner Park, Carrington Gardens and Mable Green Parks through the LEP process to operational land.. (Cr D Booth/Cr J Nicholson)**



Amity Howe
DIRECTOR CORPORATE SERVICES

CLAUSE 8 – RECLASSIFICATION OF SURPLUS PARK LAND

As part of a periodic review of land stock, Council undertook a review of potentially under-utilised parks and open spaces with the view to disposing of these properties, if appropriate, so as to more effectively deploy our parks and gardens resources.

Council resolved in October 2014 to commence the consultation process on the reclassification of Clematis Street Park, Eloora Place Park, Sister Gardiner Park, Paul Wenz Park, Carrington Gardens, Mable Green Park and Reymond Street Park.

This report relates to the consultation for the Reymond Street Park and the final stages of consultation for Clematis Street Park.

Reymond Street Park

In September 2015 Council sent out letters to all residences within the catchment area of the Reymond Street Park (ie. within a 250m radius of the park), approximately 91 properties, seeking their feedback to inform any decisions.

The closing period for submissions was 9 October. Council received four (4) responses:

Response 1

Raised concerns over the possible disposal of the 'Reymond Street Reserve' in particular that closing even a small space such as this would have a great effect on the properties in the area. The resident was not opposed to the potential sale of the land however feels very strongly about any buildings being erected on the land. The resident also met with Council's Director Environmental Services and Planning and Director Corporate Services to discuss these issues where they also advised residents would be happy to maintain the area.

Response 2

Agreed the 'Reymond Street Reserve' is of little use to most people with the nearby Botanical Gardens being more suitable for most needs. It was suggested the reserve may be better utilised for an up-market, over 50s villa complex.

Response 3

Resident has gate access to the reserve and were advised, by the real estate agent, at the time of purchase that 'the land would never be sold as it is classified as a flood run way and no one could ever build on' it. The resident would be interested in purchasing the land were it to be sold. Council's Mayor and Director Corporate Services met with these residents, at their request; at the meeting the residents' fears that they had missed the consultation meeting were allayed. They were advised the public meeting had not yet been held and they would receive correspondence regarding each step in the process. Further, that should Council resolve to reclassify the land and sell it, a competitive process would have to be followed.

Response 4

Resident advised they were open to discussion for Council to purchase a section of their land to use as road access to the reserve.

In light of these responses the next step in the consultation process is to hold a public meeting with the affected residents to further discuss and address their concerns and questions. It is suggested a meeting be convened on site prior to the December Works/Services/Community Meeting on Monday 7 December.

Clematis Street Park

As reported to the May Works/Services/Community Meeting in response to both the letter sent to all residences within the catchment area of the Clematis Street Park and the invitation for comment from the wider community through mainstream and social media, Council received six (6) responses.

Comments/Issues/Questions
Requested Council consider the closure include transfer of ownership of half of the walkway on either side to the adjoining residences in Blue Gum Street.
All responses were in favour of closing this park with three (3) noting the antisocial behaviour of some pedestrians using the walkway.
Concern with retaining rear access to two (2) adjoining properties in Clematis Street currently provided by the open space.

Council subsequently resolved to proceed and negotiate access at the Clematis Street Park with the residents within the area. Accordingly, Council's Director Corporate Services and Senior Administration Officer met with the two residents on either side of the Clematis Street Park concerned with retaining rear access to their properties as well as the owners of one residence bordering the walkway. These owners advised the fourth adjoining neighbour was unable to attend the meeting, however was in agreement regarding the walkway.

After robust discussions the following outcomes were noted:

The walkway needs to be closed;

The owners adjoining the park would like to retain rear access to their properties to enable the current use of a shed (for boat storage) and a carport (closing the park would result in costly stormwater works to the carport not currently required) . These residents also noted they maintain the sections of the park along their fences and are happy to continue to do so.

DIRECTOR CORPORATE SERVICES REPORT TO COUNCIL – PART I cont'd:

Further discussion identified some serious objections to the reclassification of the park both amongst those present and those with whom it had been discussed within the neighbourhood. There were concerns that there were no nearby parks for children in this area “to kick a ball around” and that the lack of use is likely due to the fact that it isn’t currently maintained to a standard that allows it to be used. The park is not watered and is therefore barren most of the year and generally full of burs, the residents believe that if the park was maintained through regular watering and mowing that it would be utilised. The residents noted that there are few open spaces in this general area of town. The issue of the effect of reclassification on property valuations was also raised.

In light of the above next steps may be to proceed to close the walkway and to further consult with the residents on the reclassification of Clematis Street Park with a public meeting.

The residents at the meeting were advised this report would be presented to Council’s November meeting and they would be kept informed of the outcome and next steps.

DCS Comment: There are two other open spaces within reasonable proximity of Clematis Street being Jenny Murphy Park in Cedar Crescent and Mabel Green Park in Scrivener Street, which is also being considered for reclassification.

978 RESOLVED

That Council:

- i). convene a consultation meeting at the Reymond Street Reserve prior to the December Works/Services/Community meeting; and**
- ii). undertake the road closure process to close the walkway from Blue Gum Street through to Clematis Street Park; and**
- iii). set a date for a consultation meeting at the Clematis Street Park in December. (Cr B Mattiske/Cr G Clifton)**

17 December 2015

CLAUSE 4 – REYMOND STREET PARK

As part of the review of land stock Council received a report regarding Reymond Street Park at the November Council meeting. The report outlined the feedback received in response to the letters sent out to all residences within the catchment area of the Reymond Street Park (ie. within a 250m radius of the park), approximately 91 properties, seeking their feedback to inform any decisions.

After considering the report Council resolved to hold an on-site consultation with interested residents to further consult. This meeting was held on Monday 7 December 2015 directly following the December Works/Services/Community meeting. The meeting was attended by Council's Mayor and Crs Nicholson and Mattiske, General Manager, Director Engineering Services and the Director of Environmental Services and Planning. A summary of the issues raised and associated discussion follows:

The Mayor advised those in attendance that Council is looking to change some of its parks from community to operational to enable unused parks to be sold for housing with sale proceeds being invested back into park improvements.

Comment	Response
Only one attendee indicated they used the park as it was close by and they help out with disabled children.	
Does Council have a layout plan in place for what is proposed for the park?	No

Concerns were raised in relation to flooding and the impact additional would have in redirecting the floodwaters onto neighbouring properties.	Advice was provided that a recent flood study to the west of Church Street between Church and Wambat Street had found there would be a minimal impact should additional building pads be placed in the floodway, as the area is a low-hazard flood storage area.
Concerns raised that a flood bank had been installed in the Church Street vicinity and is still to be removed.	
What will happen with stormwater surface water flow?	This would need to be designed as part of the engineering layout.

GENERAL MANAGER'S REPORT TO COUNCIL – PART I cont'd

Comment	Response
Will Church and Stokes Streets ever be bitumen sealed as they have potholes? At one stage Council workers were ready to commence sealing of the road and then left. There was concern these works had been redirected to Show Street.	
Who would Council sell the land to? Would they sell it to developers?	Council would need to ensure a fair price was received and the land would be put up for public sale.
Would development in the area will be battle-axe development?	There are no plans at this stage.
Some years ago residents were told that there would be no further development south of Reymond Street.	It is understood that some years ago this was the general information provided. Further flood studies have been undertaken since then and as a result there would be no reason as to why further development could not take place.
Would the services in place such as water and sewer be adequate? There is currently low water pressure on the corner of College Road and Reymond Street.	This will need to be investigated as part of any subdivision.

The Mayor reiterated Council was here to consult with the surrounding residents and that any future plan for the area will be brought to them for discussion in the same way Council has consulted with the Morton Street development.

The majority of residents in attendance were not opposed to the park being closed and reclassified as operational land.

1081 RESOLVED

That Council proceed to reclassify Reymond Street Park through the LEP process to operational land. (Cr G Falconer/Cr D Booth)

21 April 2016

MATTERS IN PROGRESS – PART:

**Minute Number: 347/2015 (CRM: 8051/2015) 965/2015 (CRM: 9716/2015) 24/2016
(CRM: 10518/2016)**

Report: Director Corporate Services

Subject: Reclassification of Surplus Parks

Resolution: 347/15 That Council:

- i). schedule a consultation with residents regarding Paul Wenz Park;
- ii). proceed and negotiate access at the Clematis Street Park with the residents within the area;
- iii). schedule a consultation with residents regarding Eloora Place Park;
- iv). proceed to reclassify Sister Gardiner Park, Carrington Gardens and Mable Green Parks through the LEP process to operational land.

(Cr D Booth/Cr J Nicholson)

Resolution: 965/15 That Council source from the sale of surplus parks, funds for a Barbeque area at Nelson Park. (Cr J Nicholson/Cr D Booth)

Resolution: 24/16: That Council where appropriate, investigate the possibility of having a tap located in Clematis Street Park. (Cr G Miller/Cr C Roylance)

Action Officer: Director Environmental Services & Planning

Progress: 347/2015

- i). Complete. Council resolved not to reclassify the land;
- ii). Council resolved not to reclassify the land and to close the walkway through to Blue Gum Street. Closure of the walkway is in progress.
- iii). Council resolved not to proceed.
- iv). In progress.

965/2015

Once the process has been completed Council will review the need for a BBQ in Nelson Park in light of any funds received from the sale of parks.

24/2016

Complete: A tap key has been supplied to two residents adjacent to the park to enable all tap outlets within the park to be used.

16 March 2017

2.4 RECLASSIFICATION OF PARKS

Report Author: Senior Administration Officer

Responsible Officer: General Manager

Executive Summary

Council has previously resolved to reclassify Sister Gardenia Park, Carrington Gardens, Mabel Green Park and Reymond Street Park from community land to operational land. When developing the Project Action Plan two issues have been identified which must be resolved before proceeding with the planning proposal to amend the Forbes Local Environmental Plan 2013 to reclassify the land status of the abovementioned parks.

Detailed Report

Background

Council resolved in 2014 to undertake community consultation on the reclassification of land status for a number of identified under-utilised parks in Forbes, with the intention of changing the land status from 'community land' to 'operational land' via amendment to the Forbes Local Environmental Plan 2013 so the land could be otherwise utilised or disposed of.

Following the consultation process Council ultimately resolved to:

- 1). proceed with reclassification of Sister Gardenia Park, Carrington Gardens, Mabel Green Park and Reymond Street Park; and
- 2). not proceed with reclassification of Paul Wenz Park, Clematis Street Park and Eloora Place Park.

As part of the consultation process with Clematis Street Park residents, the closure of the walkway from Blue Gum Street to Clematis Street was raised as a means to curb vandalism and anti-social behaviour in the park. Council resolved to close the walkway.

Current Matter

In the course of developing the Project Action Plan for this matter, two issues have been identified which must be resolved before the LEP Gateway amendment can commence (see items 4 and 5 Project Action Plan V3).

Issue 1:

The walkway from Blue Gum Street through to Clematis Street Park is part of the two titles that comprise Clematis Street Park (see attachment), therefore the land must be reclassified from community to operational before a formal closure can commence. New community consultation will be required to explain the situation and a new resolution required to include the land in the LEP amendment.

Issue 2:

Mable Green Park is included on Council's land register however the certificate of title shows the landowner as NSW Housing Commission. Council staff are investigating this matter, which may require amendment to Council's existing resolution to reclassify the land.

41 RESOLVED

That Council:

- 1). **undertake community consultation on the reclassification of land status for Clematis Street Park.**
 - 2). **In the interim, block either end of the walkway from Blue Gum Street to Clematis Street until Council reclassifies the land. (Cr J Nicholson/Cr S Chau)**
-

42 RESOLVED

**That Council proceed with the planning proposal for the reclassification of parks as a matter of urgency.
(Cr P Miller/Cr M Herbert)**

REPORT AND RESOLUTION OF COUNCIL REQUESTING PLANNING PROPOSAL BE SENT FOR GATEWAY DETERMINATION

DIRECTOR ENVIRONMENTAL SERVICES & PLANNING REPORT **TO COUNCIL**

CLAUSE 3 – PLANNING PROPOSAL FOR THE RECLASSIFICATION OF PARKS FROM COMMUNITY TO OPERATIONAL LAND

Report Author: Town Planner

Responsible Officer: Director, Environmental Services and Planning

Executive Summary

A Planning Proposal has been prepared to amend the *Forbes Local Environmental Plan 2013* to reclassify Sister Gardenia Park, Carrington Gardens, Reymond Street Park and Clematis Street Park from ‘Community land’ to ‘operational land’ within *Schedule 4 of the Forbes Local Environmental Plan 2013*.

The Report recommends that Council adopt the Planning Proposal and direct the General Manager to send the Planning Proposal to the Department of Planning for Gateway Determination and place on public exhibition post receiving the Gateway Determination from the Department of Planning

Detailed Report

Council resolved at its December 2012 meeting to investigate and identify any parks that should be reclassified from Community to Operational Land. Council identified initially seven parks to be reclassified from Community to Operational land, following community consultation between May to December 2015, the parks were reduced to five (5) parks to be reclassified. Further community consultation was required for Reymond and Clematis Street Park which concluded at the end of April 2017. Following further investigations into Mabel Green Park this park was excluded as it was not owned by Council. The final four parks to be reclassified following the review, investigation and consultation process that have occurred is provided below:

- Lot 13 DP 35998, Patterson Street known as “Sister Gardenia Park”,
- Lot 11 DP 702906, Weelong Place known as “Carrington Gardens”,

- Lot 12 DP 841467, College Road known as “Reymond Street Park”, and
- Lot 29 DP 247738 and Lot 42 DP 248480, 6 Clematis Street known as “Clematis Street Park”.

The Parks were chosen based on the parks proximity to other parks/open spaces, current infrastructure located in each park and potential for redevelopment.

Council resolved to prepare a planning proposal for the reclassification of the four parks above at the Council Meeting in April 2017. The Planning Proposal for the reclassification of the four parks has since been prepared and forms an attachment to this report.

In response to the above resolution a Planning Proposal for the reclassification of the four parks has since been prepared and forms an attachment to this report.

The Planning Proposal is consistent with the *Guide to Preparing Planning Proposals, the Forbes Growth Management Study 2008, the Draft Central West and Orana Regional Plan, the Forbes Local Environmental Plan 2013 and other relevant planning policies.*

Discussions with the Department of Planning (the Department) branch in Dubbo have provided advice that all proposals to amend the LEP (except for changes of a minor nature such as a to correct a spelling mistake) will require a planning proposal to be submitted to The Department for Gateway Determination.

The process for Amendment to the Local Environmental Plan (LEP) is as follows:

- i). Council resolve to undertake an amendment to the FLEP 2013- 16 March 2017.
- ii). Council adopts the Planning Proposal for Gateway Determination with the Department of Planning- 15 June 2017.
- iii). Planning Proposal assessed for Gateway Determination by the Department under Delegation at the Dubbo branch- 16 July 2017 (generally one month from the date of submission)
- iv). Proposal will be required to be publically exhibited for 28 days
- v). Submissions received on the Planning Proposal must be presented to Council for consideration.
- vi). Proposal to go to Parliamentary Council for review.
- vii). Plan making undertaken by the Department.
- viii). Council to adopt the final plan and direct General Manager to make the plan in accordance with the Section 59 Report.

- ix). Amendment is gazetted and adopted into the LEP.

RECOMMENDATION

It is recommended:

1. That Council adopt the Planning Proposal for the reclassification of the four parks and direct the General Manager to send the Planning Proposal to the Department of Planning for Gateway Determination,
2. Grant delegation to the General Manager to negotiate with the Department of Planning any amendments that are broadly consistent with the Planning Proposal, and
3. Post public exhibition that Council recommend sending the submissions received to the Department of Planning.

Alignment with Strategic Plan

22.2 – Ensure public places are clean and well-maintained
22.2.2 Finalise review of parks and open spaces

Financial and Resource Implications

The disposal of the four parks will ensure further parks resources will be deployed more effectively.

Policy Implications

The Planning Proposal will amend the Forbes Local Environmental Plan 2013 schedule 4 to reflect the reclassification of the four parks from Community to Operational Land.

Risk Considerations

Nil.

Statutory/Regulatory Implications

Requires changes to legislation, being the Forbes Local Environmental Plan 2013.

Consultation conducted

Intensive consultation will need to be undertaken in accordance with the procedures to vary a Local Environmental Plan.

Attachments

Planning Proposal for the reclassification of parks from Community to Operational Land.

4.4 PLANNING PROPOSAL FOR THE RECLASSIFICATION OF PARKS FROM COMMUNITY TO OPERATIONAL LAND

183 *RESOLVED*

That Council:

- 1. adopt the Planning Proposal for the reclassification of the land status of the four parks and direct the General Manager to send the Planning Proposal to the Department of Planning for Gateway Determination,**
- 2. grant delegation to the General Manager to negotiate with the Department of Planning any amendments that are broadly consistent with the Planning Proposal, and**
- 3. post public exhibition that Council recommend sending the submissions received to the Department of Planning. *(Cr P Miller/Cr J Nicholson)***

