

Attachment 2 – Assessment of the Planning Proposal against relevant DP&E Guidelines and EP&A Act criteria

Part 1 – Statement of objectives or intended outcomes

The application for this Planning Proposal describes as its objectives:

- to “enable Council-owned properties in Erskine Park and St Clair to be rezoned and reclassified to facilitate their sale so that the proceeds may be used to upgrade and enhance other parks, streets and spaces in Erskine Park”. This upgrade includes enhancing the quality and range of spaces for residents, the connections between spaces and places, minimising maintenance cost and permitting Council to sustainably manage its finances.

These aims are consistent with the instrument which the Planning Proposal seeks to amend, namely Penrith LEP 2010 (PLEP 2010), especially those aims relating to sustainable development and the orderly and economic development of land.

Part 2 – Explanation of provisions

As outlined in the submitted application, the Planning Proposal seeks to achieve the above aims through amendment of PLEP 2010 in the following manner:

- Reclassify the subject land from “Community land” to “Operational land”. This is to be achieved through the inclusion of the subject land into ‘*Schedule 4 Classification and reclassification of public land*’, specifically listing the land in ‘*Part 2 Land classified, or reclassified, as operational land – interests changed*’.
- Rezone the subject land, currently zoned as “RE1 Public Open Space”, to “R2 Low Density Residential” under PLEP 2010 map, by amending the ‘Land Zoning’ Map;
- Amend the PLEP 2010 ‘Height of Buildings’ Map for the subject land to incorporate a maximum building height of 8.5 metres; and
- Amend the PLEP 2010 ‘Lot Size’ Map to incorporate a minimum lot size of 550m²

Six of the eight local infrastructure sites which are the subject of this Planning Proposal will be completed affected by the above amendments, while 11A Canopus and 85 Swallow Drive/Regulus Street are only partially affected by the above amendment (i.e. only 25 – 30% of these sites are subject of the Planning Proposal). **The subject sites and the extent of affectation is shown in the Plans shown attached to this report at Attachment x.**

Part 3 – Justification

All Planning Proposals must demonstrate “the case for making the proposed LEP”. The DP&E Planning Proposal Guidelines outlines 11 questions that are used to assess the merit of the proposal. These questions and an assessment of the merits of the proposal are detailed below:

Q.1 – Is the Planning Proposal the result of any strategic study or report?

The Planning Proposal is the result of numerous studies over a number of years. These studies are both specific to the Planning Proposal and City-wide. The earlier City-wide studies - namely the People’s Lifestyle Aspiration and Needs Study (PLANS) and the Open Space Action Plan arising from it - demonstrated up to 13 years ago, that the community sought less focus on the *quantity* of open space and greater *quality*, range and connectivity with our City’s recreation opportunities.

In the past two years, analysis of Erskine Park’s open space has been carried out by Council staff and consultant’s Cloustons and this has been supported by community consultation. The consequence of this analysis resulted in the Draft Erskine Park Open Space Master Plan (OSMP) Study. This study identifies “specific sites where improvements could be made, the types of upgrades and facilities needed, and which underutilised spaces might be sold to fund

improvements". The study revealed that Council currently owns 19 parks and reserves in Erskine Park and provides 30% more open space per person than the widely accepted standard. The study further confirms that while there is an abundance of supply of open space, it is typified by its small size/scale, is isolated, irregularly shaped and in close proximity to other open space. Other studies (such as a 2013 independent Drainage Analysis report) and consultation with Council Departments (Community Development), revealed that land in Ashwick Circuit and land at Chameleon Drive, are no longer required for the drainage and community facility functions for which they were originally intended.

The findings of the OSMP are therefore implemented through the Planning Proposal, providing the basis and justification for the sites to be rezoned and how funding arising from sale may be allocated in the neighbourhood of the subject land.

It is proposed that the OSMP be exhibited concurrently with any draft LEP. ***A copy of the draft OSMP is shown at Attachment XX to this report.***

Q2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The Planning Proposal application states that the improvements to the Erskine Park recreation portfolio cannot be achieved within Council's current available funds, but would be possible through the sale of the eight sites which are no longer required to meet community needs and expectations.

In accordance with the EP&A Guidelines, the applicant has examined alternatives such as leasing or licensing the sites to generate income, however Community land is subject to restrictions which preclude this income raising approach. Council more broadly has achieved extra funding for open space embellishment through the Special Rates Variation levy, however expenditure of these funds is limited to those purpose endorsed by IPART and the NSW Department of Local Government.

Q3. Is the Planning Proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The current Metropolitan Plan for Sydney, 'A Plan for Growing Sydney' establishes four key goals for the city, of which three are relevant to this planning proposal and which are commented upon below, being:

1. *A city of housing choice, with homes that meet our needs and lifestyles* – In terms of the objective of "increasing housing choice", while 550sq.m housing lots with detached dwellings are proposed in the PP, the R2 zone also permits a variety of other housing options beyond detached dwellings and these options exist for all other existing R2 Low Density zoned land across Erskine Park.
2. *A great place to live with communities that are strong, healthy and well connected*; Given the abundance of open space already in Erskine Park/St Clair and the intention to reinvest any proceeds from the sale of the eight sites into recreation and community-enhancing facilities in Erskine Park, this objective will be achieved. The open space improvements facilitated by the proposed rezoning and reclassification of the land parcels will ensure the Erskine Park and St Clair communities become stronger, healthier and better connected through improved access to high quality open space and enhanced pedestrian/cycleway networks.
3. *A sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources*. Reinvestment of the proceeds from the sale of the eight affected sites will include extensive additional plantings and

landscaping to enhance the natural environment. Although several of the sites affected have existing trees on them, ecologist and arborist reports describe the poor condition of many of the trees or the scope for others to be conserved through the tree preservation order. Financial and park maintenance sustainability will be achieved by consolidating the number of open space assets and permit higher maintenance levels.

Specifically, the Planning Proposal will facilitate the achievement of **Direction 3.2** of the plan, to create a network of interlinked, multi-purpose open and green spaces across Sydney. The Direction identifies the need to establish appropriate planning for the open space needs of the community. This Planning Proposal will achieve this aim as it will address the practical recreational and open space needs of the community that have been determined in consultation with local residents.

The Planning Proposal is also consistent with **Direction 3.3** of the plan, which aims to create healthy built environments as it will facilitate funding that will be used to deliver infrastructure such as outdoor fitness equipment, improved access to parks through shared paths and improved public transport facilities that are located in close proximity to recreation areas.

As outlined in **Section 5.1**, the rezoning and reclassification will not result in any significant adverse environmental impacts and will support a sustainable and balanced approach to providing a mix of housing and open space. The land to which this proposal applies is located in the Western Subregion under *A Plan for Growing Sydney*.

Q.4 Is the planning proposal consistent with Council's local strategy or other local plan

The Planning proposal describes its consistency with relevant Council strategic planning framework documents (pp30-34) namely:

- The Community Plan
- Community Engagement Strategy
- Delivery Program (including the Operational Plan)
- Resourcing Strategy
- City Strategy

Meeting the needs of the Erskine Park Community (as expressed through recreation studies over the past 10 years and recent community consultation) achieves consistency with the Community Plan. Delivering adequate services and infrastructure is a priority of the Delivery program and is echoed in the reinvestment of rezoning site sale proceeds.

In terms of compliance with Penrith LEP 2010, the proposal is considered compliant with the aims of the instrument as it achieves orderly and economic development of land, balances social and economic outcomes, and achieves a strong commitment to healthy and safe communities and environmental protection and enhancement. Page 33 of the Planning Proposal elaborates on this issue. With respect to LEP objective relating to facilitating “a range of additional housing types in areas appropriately located in close proximity to open space, transport and services” as outlined earlier in this analysis, while 550sq.m housing lots with detached dwellings are proposed in the PP, the R2 zone also permits a variety of other housing options beyond detached dwellings and these options exist for all other existing R2 Low Density zoned land across Erskine Park.

The proposal will also be consistent with s94 Plans (most notably the Erskine Park s94 Plan), as all funds arising from the sale of any assets following rezoning and reclassification will be reinvested into those areas of Erskine Park and St Clair where the s94 Plan applied, in a manner consistent with the Plan. This outcome is consistent with the requirements of the Local Government Act.

Q5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies (SEPPs)

The Planning Proposal describes consistency with relevant SEPPs in Appendix H of the Proposal. The Proposal's description of compliance is accepted.

Q6. Is the Planning Proposal consistent with applicable Ministerial Directions

The Planning Proposal describes compliance with the relevant Ministerial Directions in Appendix H of the Proposal. The Proposal's description of compliance is accepted. In particular, the proposal achieves:

- Integration of land use and transport, proposing additional dwellings at densities relevant to their levels of access to facilities; and
- While it reduces land for public purposes it seeks approval from Council (the relevant authority), through rezoning and reinvests proceeds raised to further embellish other open space.

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities or their habitats, will be adversely affected as a result of the proposal?

Arboriculture and ecological studies were undertaken by the applicant to address this issue and the findings of those reports are detailed on pages 36 - 41 of the Planning Proposal. All of the sites contain vegetation of varying types, ages and condition. In summary, both reports concluded that for the eight sites which are the subject of the Planning Proposal, "all of the sites are suitable for rezoning as much of the vegetation observed is in a poor condition that would not meet listing criteria as a threatened species". It further found that "should the removal of trees be required during the development stage, it is not expected this will have any significant adverse impacts on the local occurrence or significance of any threatened species". Council's Environmental officers have reviewed these studies and confirmed the accuracy of the analysis. Discussion on referral of the Planning Proposal to relevant Council staff is detailed in the next attachment to this report.

Two other sites (in St Clair and Erskine Park) contained habitat or ecological communities that the Ecological Study regarded as warranting retention and which should not be rezoned or reclassified. These sites were removed from the Planning Proposal.

Q8. Are there any other environmental effects as a result of the planning proposal and how are they proposed to be managed?

Traffic and Transport

In addition to the matters described above, the applicant has undertaken a traffic and parking assessment to determine any vehicular impacts that may arise from the rezoning of the eight sites which are the subject of the planning proposal. In light of the small number of additional dwellings which would arise from rezoning, additional vehicular trip movements were calculated to be nominal and are described on pages 41 – 43 of the Proposal and in Appendix K to the Proposal. The Assessment concludes that the proposal to rezone and reclassify the subject land to facilitate approximately 29 new dwellings will have no notable impact on the operation of the surrounding road network and that no upgrade works are required. Accordingly, traffic and transport issues do not impede rezoning and reclassification of the subject sites.

Site Contamination Assessment

Following instruction by Council's Environmental Health officers, Phase 1 and Phase 2 contamination assessments were prepared for the Spica and Regulus/Swallow Drive sites. The more detailed Phase 2 report revealed some minor fibrous material on these sites (an indication the sites are likely to have been previously subject to some filling, perhaps several decades ago). The results did not, however, suggest that the sites are unsuited to the proposed rezoning and reclassification.

Q9 Has the Planning Proposal adequately addressed any social and economic impacts?

The Planning Proposal does address the social and economic impacts of the rezoning and reclassification.

While there are no envisaged losses of “items or places of European or Aboriginal cultural heritage” associated with rezoning and reclassification of the subject sites, other social impacts, both positive and negative may arise from advancement of the Planning Proposal, which are addressed below:

Social impacts

The social impacts of the proposal can be divided into:

- the suburb wide benefits which will be enjoyed by the entire community of Erskine Park and parts of St Clair as the proceeds from the sale of the subject land are reinvested into park upgrades, tree planting, pathways and networks across Erskine Park; and
- the impacts on a small number of residents who live immediately around the eight subject sites who will experience loss of open space .

Recognising the sensitivity of this issue to the local Erskine Park community, Council's Property and Finance Departments conducted community consultation to seek input on the project.

In terms of adverse impacts, the community living closest to the subject sites are likely to experience:

- loss of a sense of space, greenery and “borrowed” amenity from the neighbouring park or vacant local infrastructure site (such as Chameleon Drive Community facility site or the drainage reserve at Ashwick Circuit);
- loss of immediate access to small local open space areas (although in some cases the affected land only forms part of a much wider park);
- possible loss of the absolute privacy enjoyed when open or landscaped areas adjoin the neighbouring residential site and is replaced by new residential development; and
- the potential loss of social memory, being memories that were either formed on the subject site by nearby neighbours or residents' memories of the character of the neighbourhood where they grew up; and
- the reserve may have been a reason that residents chose to purchase their property;
- possible loss of residents immediate enjoyment of local wildlife (primarily birdlife);
- a sense of uncertainty in the immediate community about the future of its neighbourhood

Against these localised adverse social impacts affecting nearby neighbours to the affected sites are suburb-wide positive social consequences that will also benefit the neighbours of the sites to be rezoned and reclassified. As outlined in the Planning Proposal, the community consultation identified a number of positive outcomes which would arise, those being:

- better access (through new linkages and networks) for all sectors of the community to a wider variety of better quality recreation and community connecting facilities;
- better youth access to facilities suited to their needs;
- upgraded paths, picnic areas, well-illuminated spaces, more useable public open spaces and cycling paths which can be funded through the project;
- the replacement of parks and vacant land (which may not be missed by many residents as the sites offer little attraction and don't cater for the community, are currently unoccupied and poorly activated), with additional housing options;
- safer, more secure parks and streets;
- more appealing streetscapes, through new street tree planting and pathways;
- new recreation infrastructure which is “fit for purpose”; and

- financially sustainable recreation facilities with the capacity to be affordably maintained by Council over the long term, which will help these parks retain their appeal

In terms of social impact, it should also be noted that even with rezoning and disposal of the subject sites, open space provided in Erskine Park will remain 17% (or 2.4 hectares) above the historic standard for open space provision applied across Sydney and in our new greenfields release areas.

In summary, broader social benefits cannot be achieved without the rezoning, reclassification and sale of the subject sites and the suburb-wide positive impacts are considered to significantly outweigh the adverse localised impacts.

Economic Impacts

The economic impacts of the proposal are considered to be positive and a multi-million dollar increase in net benefit for the Erskine Park community. The positive economic benefits can be summarised as:

- releasing the value of the 8 subject sites through their rezoning, reclassification and sale, to generate approximately \$8 million in revenue to be invested in the upgrading of parks, reserves and streetscapes across Erskine Park, including in settings immediately nearby those precincts affected by the land sales;
- minimising and consolidating the maintenance program for parks in Erskine Park, permitting greater long term upkeep and viability; and
- the economic investment in the suburb that will arise from the construction of up to 29 new dwellings on the sites to be sold. Assuming an average new dwelling cost of \$275K, this represents additional investment of approximately \$7.97million.
- Forward funding by Council of \$2.65M in open space and footpath improvements to deliver the projects identified in the draft Erskine Park Open Space Management Plan, in order to demonstrate the agreed improvements will be realised. This will occur in advance of receipts from the sale of the eight parcels.

Q.11 Is there adequate public infrastructure for the planning proposal?

As outlined in the DP&E guidelines, this criteria applies to developments generating in excess of 150 dwellings or substantial urban renewal. While these criteria don't apply to this Proposal, the rezoning, reclassification and sale of the 8 local infrastructure sites are only projected to generate approximately 29 new dwellings. Studies conducted for the Planning Proposal confirm that existing traffic, transport and recreation facilities are readily capable of absorbing the additional housing. Other facilities such as public transport and local retail and community services will also be capable of absorbing this very modest growth. Moreover, the reinvestment in local recreation, cycleway and footpath facilities that will arise from the Proposal will further augment public infrastructure available. In light of the above, no public infrastructure shortage is envisaged.

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

Gateway determination has not yet occurred and hence referral to relevant authorities has not been required. Given the localised and small scale nature of this Planning Proposal, State and Commonwealth referrals are likely to be limited, if any.

Mapping

Plans identifying the subject land and the proposed mapping amendments have been prepared in accordance with the Standard technical requirements for LEP maps, as required by the DP&E Guidelines.

Community Consultation

Significant community consultation in relation to the project has already occurred and more will be required if the Proposal is supported by Council and the Gateway process.

In terms of consultation to date, the Planning Proposal outlines the two stages of consultation undertaken to inform and refine the Proposal (detailed at Appendix E to the application). The consultation entailed initial, Penrith City-wide consultation in March 2015 on land which may be surplus to local infrastructure needs. This was followed by consultation with Erskine Park residents by Council officers in April and May 2015, seeking their views on the sale of Council assets in the suburb and the reinvestment of any proceeds into the community.

The consultation took the form of:

- 2 x community information sessions
- A letterbox drop to residents surrounding a larger number of possible sites for rezoning, reclassification and sale
- An online community survey
- A student workshop with Erskine Park high school students; and
- Intercept surveys

The consultation sought community views on the project as a concept, the location and nature of open space improvements requested and which sites they believed may be underutilised and could be sold.

In August and September 2015 further community consultation was undertaken in relation to the Draft Open Space Management Plan. This consultation was very broad-based and included suburb-wide letterbox drops, targeted letters to those precincts most affected, targeted doorknocking and communication with parents of childcare centres, along with two drop in session and social media outreach.

The feedback from the Stage 2 consultation included strong community support for the retention of three reserves (Warbler, Aquarius/ Mohawk and Sennar Reserves), resulting in the removal of these sites from the project. This recognised the value the community attached to these locations, even though they were identified in the draft OSMP as unsuited to their intended recreation purpose. Community feedback also indicated strong support for upgrading of other sites utilising proceeds raised through land sales, especially the upgrade of Chameleon Reserve.

If the Planning Proposal is supported by Council and the Gateway process, further community consultation will be required as part of the rezoning and land reclassification process. The Planning Proposal would be exhibited for at least 28 days and a public hearing conducted on the subject of reclassifying the subject sites from "community" to "operational", in accordance with section 57(6) of the EP&A Act and section 29 of the Local Government Act.

In addition to public consultation for the rezoning and reclassification of the subject land described above, it is appropriate that the draft Open Space Management Plan also be

exhibited concurrently, as it describes where funding arising from the sale of the subject lands will be reinvested in Erskine Park's parks, streets and public domain.

Exhibition of the planning proposal would occur at the Penrith and St Marys offices of Council, appear on our website and be notified through local newspapers.

Project Timeline

The Project Timeline submitted with the Planning Proposal envisaged Gateway determination by November 2016 and public exhibition over December 2016 - January 2017, with final gazettal by July 2017. A December - January exhibition period is considered inappropriate as it would occur across the school and summer holiday period, when many affected residents may be on leave and unable to comment on the exhibition. Exhibition should occur outside major key holiday periods. A refined Project timeline will be prepared once Gateway determination is achieved.