



IRF21/5191

## Gateway determination: PP-2021-6839

---

Victor Brazier Park reclassification

January 22

Published by NSW Department of Planning and Environment

[dpie.nsw.gov.au](https://dpie.nsw.gov.au)

Title: Gateway determination: PP-2021-6839

Subtitle: Victor Brazier Park reclassification

---

© State of New South Wales through Department of Planning and Environment 2022. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning and Environment as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (January 22) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning and Environment), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

# Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

## Contents

<b>1</b>	<b>Planning proposal</b>	<b>1</b>
1.1	Overview	1
1.2	Objectives of planning proposal	1
1.3	Explanation of provisions	1
1.4	Site description and surrounding area	2
1.5	Mapping	3
1.6	Background	4
<b>2</b>	<b>Need for the planning proposal</b>	<b>5</b>
<b>3</b>	<b>Strategic assessment</b>	<b>6</b>
3.1	District Plan	6
3.2	Local	7
3.3	Local planning panel (LPP) recommendation	9
3.4	Section 9.1 Ministerial Directions	9
3.5	State environmental planning policies (SEPPs)	11
<b>4</b>	<b>Site-specific assessment</b>	<b>11</b>
4.1	Environmental	11
4.2	Social and economic	11
4.3	Infrastructure	12
<b>5</b>	<b>Consultation</b>	<b>12</b>
5.1	Community	12
5.2	Agencies	12
<b>6</b>	<b>Timeframe</b>	<b>12</b>
<b>7</b>	<b>Local plan-making authority</b>	<b>13</b>
<b>8</b>	<b>Assessment summary</b>	<b>13</b>
<b>9</b>	<b>Recommendation</b>	<b>14</b>

**Table 1 Reports and plans supporting the proposal**

Relevant reports and plans
Attachment A1 – Council meeting report dated 4 March 2020
Attachment A2 – Council meeting resolution dated 4 March 2020
Attachment A3 – Council meeting report and Local Planning Panel minutes dated 16 June 2021
Attachment B – Open Space Branch assessment

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

Local Government Area (LGA)	Cumberland
PPA	Cumberland City Council
NAME	Victor Brazier Park reclassification
NUMBER	PP-2021-6839
LEP TO BE AMENDED	Cumberland Local Environmental Plan 2021 (Cumberland LEP)
ADDRESS	327 Excelsior Street, Guildford
DESCRIPTION	To rezone and reclassify the area of land at the site on Victor Brazier Park for the eventual disposal on the open market.
RECEIVED	11/11/2021
FILE NO.	IRF21/5191
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that explains the intent of the planning proposal.

The stated objectives of the planning proposal are to respond to community concerns about anti-social and illegal behaviour occurring in the northwest portion (the site) of Victor Brazier Park, Guildford and surrounding pedestrian laneways. The proposal seeks to achieve this objective by amending the planning controls under the Cumberland LEP 2021 (LEP) to reclassify the site from 'community' to 'operational', rezone the site from open space to residential and amend the height of building (HOB) controls to permit the eventual disposal of the site on the open market.

While the objectives and intended outcomes of the planning proposal are understood, the Department recommends that Council refer to the LEP Making Guideline to ensure the objectives and intended outcomes in future planning proposals are clear and concise to allow it to be easily understood by the community.

## 1.3 Explanation of provisions

The planning proposal seeks to implement site-specific planning controls at Victor Brazier Park per the changes below:

**Table 3 Current and proposed controls**

Control	Current	Proposed
Zone	RE1 Public Open Space	R2 Low Density Residential
Maximum height of the building	N/A	9m
Land classification	Community	Operational

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the planning proposal will be achieved.

## 1.4 Site description and surrounding area

The site is an approximately 140m<sup>2</sup> section of Victor Brazier Park, Guildford. The park is located on Excelsior Street, Guildford, with pedestrian access to Brazier Street. The park is made up of two allotments (Lot 21 DP27820 and Lot 32 DP241618) with a total area of approximately 7,840m<sup>2</sup>. The park is divided in three sections by a natural waterway flanked by mature vegetation. The portion of the park north of the waterway is approximately 2,300m<sup>2</sup> in size.

The surrounding area is predominantly characterised by low density, detached residential dwellings and pedestrian laneways. The park is located 2km west of Guildford train station and is not within any of Cumberland's local or strategic centres. The Granville South Creative and Performing Arts High School is located to the east on the opposite side of Excelsior Street. (Figure 1).



**Figure 1 Aerial photograph of the site context (source: Six Maps, edited by the Department)**





Figure 2 Street view of Victor Brazier Park from Excelsior Street, Granville (source: Google 2021)

## 1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Cumberland LEP 2021 maps, which are suitable for community consultation.

Table 4 Current and proposed controls maps

Control	Existing	Proposed
Zone		

Control	Existing	Proposed
Maximum height of the building		

## 1.6 Background

The planning proposal responds to community concerns regarding anti-social and illegal behaviour at the park and nearby pedestrian laneways off Nadia Place, Caroline Street, and Excelsior Street. The following table presents a summary of the planning proposal's background and Council's actions.

**Table 2 Planning proposal background**

Date	Description
4 March 2020	<p>Council considered a report regarding ongoing concerns by community park users and residents about the illegal activities and antisocial behaviour caused by youth assembling at Victor Brazier Park and particularly on the site (<b>Attachment A1</b>). Council's report notes that poor passive surveillance of the site makes it susceptible for groups of youth to congregate without being detected to engage in illegal and/or inappropriate activities. Council was presented with two options to address these issues:</p> <p>Option 1: Implement a high-level concept plan (<b>Figure 3</b>) to address the isolation of the northern portion of the park based on four principles of Crime Prevention Through Environmental Design (CPTED), including:</p> <ul style="list-style-type: none"> <li>• improved surveillance,</li> <li>• controlling access through landscaping,</li> <li>• territorial reinforcement of park ownership,</li> <li>• activity management.</li> </ul> <p>Option 2: Reclassify the site for disposal on the open market.</p> <p>The report sought Council's direction and 'in-principle' support for option 2, but no justification for the conclusion was reported. The report also notes that the net proceeds from the sale of the site can potentially be used for open space upgrades in the area</p>

Date	Description
	however no commitment was made. Council endorsed reclassifying the site through the Local Environmental Plan process, including the preparation of a planning proposal for a Gateway determination.
16 June 2021	Council considered a report ( <b>Attachment A2</b> ) which recommended the reclassification of the site from 'community' to 'operational' and the amendment of zoning and height controls to discourage anti-social behaviour reported at the site. No submissions were received to an early consultation process for the planning proposal. Council endorsed the proposed planning controls and planning proposal for the site.
11 November 2021	Council submitted a planning proposal seeking the following changes at the site: <ul style="list-style-type: none"> <li>• rezone land from RE1 Public Recreation to R2 Low Density Residential;</li> <li>• apply a building height of 9m on the site, consistent with the adjoining low-density residential zone; and</li> <li>• reclassify the land from 'community' to 'operational'.</li> </ul>

## 2 Need for the planning proposal

### Is a planning proposal the best means of achieving the objective or intended outcomes?

The planning proposal fails to justify or explain how the proposed LEP amendments are the best means of achieving the objective of the planning proposal. The objective of the proposal is to respond to community concerns about anti-social and illegal behaviour occurring in the northern portion of the park and surrounding pedestrian laneways. The Council report of 4 March 2020 presented two options aimed at achieving this objective (**Attachment A1**):

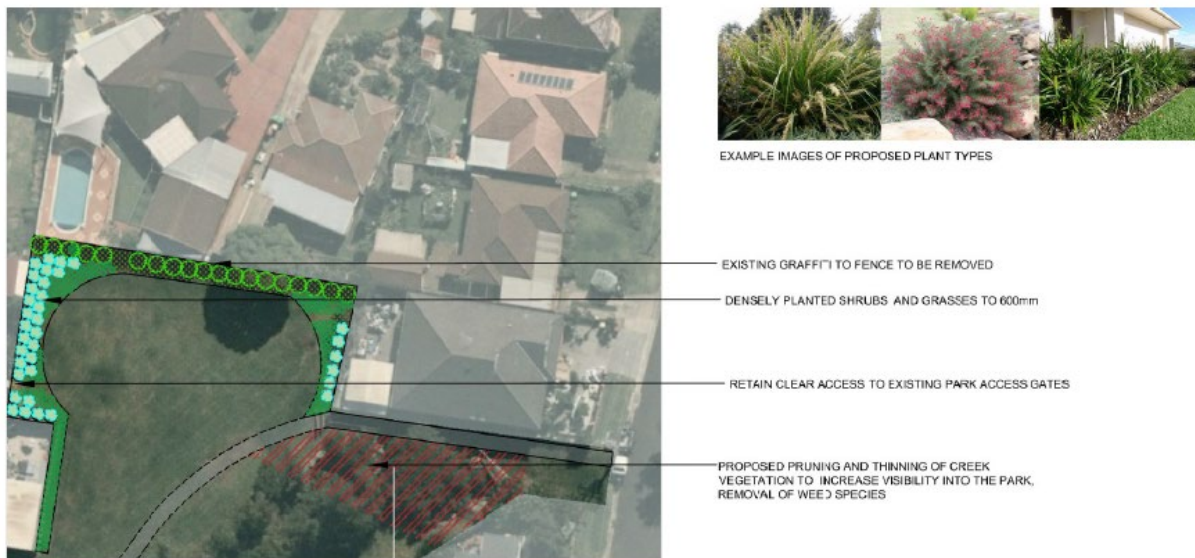
- Option 1 - a two stage concept plan prepared by Council officers to improve the safety and amenity of the park incorporating CPTED principles with a detailed description of how this objective would be achieved (**Figure 3**).
- Option 2 - the reclassification and disposal option and provided no explanation of how, or if, the objective would be achieved, stating only that it 'may' resolve the issues of community concern.

The Department considers that Option 2 will result in the northern portion of the park remaining largely out of view from Excelsior Street. As a result, it is likely that the anti-social behaviour will continue in this area of the park given the lack of surveillance from the street and the location of natural vegetation along the waterway.

It is considered that Option 1 would be a better means of achieving the objective of the proposal. The option provides a more considered, holistic approach to resolving the community concerns about anti-social and illegal behaviour for the entire northern portion of the park, not just the site. The option also provides the benefit of retaining the site in public ownership as a park for use by the community and improving the safety and amenity of the park.



## High-level Concept Plan – Stage 1 Works



## High-level Concept Plan – Stage 2 Works



Figure 3 Concept plan for northern portion of the park (source: Council)

## 3 Strategic assessment

### 3.1 District Plan

The site is located within the Central City District.

The *Greater Sydney Region Plan: A Metropolis of Three Cities* (Region Plan) is a 20 year plan outlining a three-city vision for the Sydney Region to the year 2036. The Central City District Plan (District Plan) is a guide for implementing the Region Plan at a district level and is a bridge

between regional and local planning. The District Plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The Department is not satisfied the planning proposal gives to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. The following table includes an assessment of the planning proposal against relevant directions and actions.

**Table 6 District Plan assessment**

District Plan: Planning Priorities	Justification
Planning Priority C4 – Fostering healthy, creative, culturally rich and socially connected communities	<p>Priority 4 aims to create healthy, resilient, and socially connected neighbourhoods, particularly regarding access to recreational, open spaces.</p> <p>The planning proposal fails to justify consistency with the priority as it does not provide clear justification or explanation of how the reclassification of the site will enhance neighbourhood connection. The planning proposal does not provide adequate reasoning as to how it meets CPTED principles and proposes no change to create a place that is accessible and inclusive for the community. Safety within the northern portion of the park is likely to remain a community concern as this area is largely hidden from the street, restricting opportunities for surveillance.</p>
Planning Priority C17 – Delivering high quality open space	<p>Priority 17 aims to make public open space accessible, protected, and enhanced.</p> <p>The planning proposal is inconsistent with the priority as it will reclassify the site from 'community' to 'operational' resulting in a loss of 140m<sup>2</sup> of public open space. The proposal justifies this loss of open space is offset by the delivery of improved quality of open space and community safety. However, the proposal fails to provide a clear justification or explanation of how the reclassification will improve the community concern about anti-social and illegal behaviour. As discussed previously, surveillance of the remaining northern portion of the park will continue to be poor and the proposal does not include any new elements to enhance the quality of the open space.</p>

The planning proposal is inconsistent with the priorities of the Central District Plan relating to sustainability and open space. Therefore, it is recommended that the planning proposal does not proceed.

## 3.2 Local

The planning proposal's consistency with the following local plans and endorsed strategies, is discussed in the table below:

- Cumberland 2030: Our Local Strategic Planning Statement
- Cumberland Council Strategic Plan 2017-2027
- Cumberland Community Safety and Crime Prevention Plan 2018-2022
- Cumberland Open Space and Recreation Strategy 2019-2029

Table 7 Local strategic planning assessment

Local Strategies	Justification
<p>Cumberland 2030: Our Local Strategic Planning Statement (LSPS)</p> <p>The LSPS was endorsed by the Greater Sydney Commission in March 2020. It identifies a strategic land use framework to guide a 20 year vision for the economic, social and environmental land use needs, and planning and delivery growth in the Cumberland LGA in line with the Greater Sydney Region Plan and the District Plan.</p>	<p>The planning proposal is inconsistent with the relevant Planning Priorities of the LSPS, including:</p> <ul style="list-style-type: none"> <li>• Priority 9 – Provide high quality, fit-for-purpose community, and social infrastructure in line with growth and changing requirements. There is no supporting evidence that the planning proposal will achieve this priority.</li> <li>• Priority 13 – Protecting, enhancing, and increasing natural and green spaces. The planning proposal will not enhance the open space and will reduce the amount of open space in the LGA.</li> </ul>
<p>Cumberland Council Strategic Plan 2017-2027</p> <p>The strategy sets out Council's integrated planning and reporting framework.</p>	<p>The planning proposal is inconsistent with the following strategic goals and outcomes of the strategic plan:</p> <ul style="list-style-type: none"> <li>• Strategic Goal 1 – A great place to live. There is no supporting evidence that the planning proposal will achieve this goal.</li> <li>• Strategic Goal 2 – A safe accessible community. There is no supporting evidence that the planning proposal will achieve this goal.</li> </ul>
<p>Cumberland Community Safety and Crime Prevention Plan 2018-2022</p> <p>The Plan identifies and addresses five priority crime issues and five community safety issues demonstrating Council's commitment to addressing crime issues and improving community safety.</p>	<p>The planning proposal is inconsistent with the following strategic goals and outcomes of the Plan:</p> <ul style="list-style-type: none"> <li>• Strategic Direction 10.3 – Plan and design safety and security into open spaces and facilities. There is no supporting evidence that the planning proposal will achieve this direction.</li> </ul>
<p>Cumberland Open Space and Recreation Strategy 2019 to 2029 (OSRS)</p> <p>The OSRS provides Council with a ten-year direction for open space, sport and recreation services and facilities.</p>	<p>The planning proposal is inconsistent with the following strategic direction and actions of the OSRS:</p> <p>Strategic Direction 2 – Increasing the quality and capacity of existing open space and recreation facilities. The planning proposal will reduce the amount of open space in the LGA, makes no change to the quality of the park and there is no supporting evidence that the planning proposal will achieve this direction.</p> <p>The Council report notes a lack of open space per person in this area of the LGA (East Guildford). The Department notes that as stated in the OSRS, the amount of open space per person LGA wide is predicted to decrease by 2036 as a result of population growth should no new open space areas be delivered.</p> <p>The OSRS also has benchmarks for access to open space per person and it indicates that some parts of the LGA currently have overall poor access to parks over 0.5ha in size including Guildford East. The Council report notes that</p>

Local Strategies	Justification
	<p>in these areas, priorities should include expanding the size of existing open space, improving pedestrian access to existing open space and creating a network of smaller spaces that provide a range of recreation functions with active street connection between.</p> <p>Council has justified the inconsistency with the OSRS due to the size of the site, its uneven boundary and the community concern. However, Council has demonstrated it can retain the site while improving the safety and quality through the preparation of the concept plan.</p>

### 3.3 Local planning panel (LPP) recommendation

The draft planning proposal was reported to the Cumberland LPP on 26 May 2021. In Council's report dated 16 June 2021 (**Attachment A3**), it is noted that the LPP generally supported the Council officer recommendations to pursue a reclassification of land to achieve the outcomes of the proposal. The LPP made no further recommendations and as a result, Council endorsed the planning proposal on 16 June 2021 and submitted a request for Gateway determination on 11 November 2021.

### 3.4 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

**Table 8 9.1 Ministerial Direction assessment**

Directions	Consistent / Not Applicable	Reasons for Consistency or Inconsistency
<p>2.6 Remediation of Contaminated Land</p> <p>The objective of this Direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.</p>	Inconsistent	<p>The proposal is inconsistent with the Direction. The Direction applies as the park was previously used for agricultural activities before it was donated to the former Parramatta City Council.</p> <p>Council has not justified the inconsistency with this Direction.</p>
<p>3.1 Residential zones</p> <p>The objectives of this Direction are to encourage a variety and choice of housing types for existing and future housing needs, make efficient use of existing and future infrastructure and services, and minimise the environmental impacts of residential development.</p>	Inconsistent	<p>The proposal is inconsistent with the Direction. It will reduce the efficient use of existing open space infrastructure, and is unlikely to encourage additional housing as the minor increase in the size of the R2 residential zone will only benefit a single residential lot which is already developed with a dwelling.</p>

Directions	Consistent / Not Applicable	Reasons for Consistency or Inconsistency
<p>4.1 Acid sulfate soils</p> <p>The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p>	Inconsistent	<p>This Direction applies as the site is identified as Class 5 acid sulfate soils under Cumberland LEP 2021.</p> <p>The planning proposal is inconsistent with the Direction as an acid sulfate soils study has not been prepared. This is a requirement when an intensification of land use is proposed. The planning proposal has not justified the inconsistency with this direction.</p>
<p>4.3 Flood prone land</p> <p>The objectives of this Direction are:</p> <p>(a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 and</p> <p>(b) to ensure that the provisions of a local environmental plan that apply to flood prone land are commensurate with flood behaviour and include consideration of the potential flood impacts on and off the subject land.</p>	Inconsistent	<p>The Direction applies as Victor Brazier Park is identified in Council flood maps compiled for use with the <i>SEPP (Exempt and Complying Development) 2008</i>. The site is classified as:</p> <ul style="list-style-type: none"> <li>• 'Park' in the 'Flood Controls Lots' map;</li> <li>• 'Medium Risk (1%)' in the 'Flood Risks Precincts' map; and</li> <li>• surrounded by land classified as 'Mainstream Flooding' and require a flood study.</li> </ul> <p>The planning proposal suggests that the site would likely be reclassified as 'mainstream flooding' to suit the precedent controls if it were to be successful. It is also noted that the site is within a highly urbanised area and any flooding impacts will be considered and addressed appropriately when development is sought and meet the requirements under the Flood Risk Management controls outlined in the Cumberland DCP. However, the proposal seeks an intensification of land use on a site identified as being of 'medium risk' to flooding which is an issue that has not been adequately addressed in the planning proposal.</p> <p>The planning proposal has not justified the inconsistency with this direction.</p>
<p>6.2 Reserving Land for Public Purpose</p> <p>The objective of this Direction is to facilitate the provision of public services and facilities by reserving land for public purposes.</p>	Inconsistent	<p>The planning proposal is inconsistent with the Direction. The loss of public open space to address anti-social behaviour is not justified. Council has not provided any evidence that the anti-social behaviour will be resolved.</p>



## 3.5 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs.

## 4 Site-specific assessment

### 4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the planning proposal.

**Table 9 Environmental impact assessment**

Environmental Impact	Assessment
Green public open space and tree cover	<p>The Department's Open Space Branch, Public Spaces Division were consulted about the planning proposal (<b>Attachment B</b>). The Open Space Branch recommended the retention of the site for community use and in public ownership as a park because:</p> <ul style="list-style-type: none"> <li>Victor Brazier Park would be classified as a local park servicing a catchment of 400m according to the Draft Urban Design Guide. Any reduction in size would diminish the capacity of the park to service its catchment.</li> <li>The park is part of a riparian tributary connected to Little Duck Creek and contributes to broader ecological values and would benefit from embellishment in support of that function.</li> <li>The availability of an existing design response that addresses the anti-social behaviour concerns while providing increased amenity values for the park.</li> </ul> <p>The proposal will result in a loss of green public open space and the opportunity to provide additional tree cover in a public space.</p>
Critical habitats or threatened species	<p>The site is not known to include any threatened species, populations or ecological communities or their habitats. The land is located within a well-established, urbanised area with no tree canopy cover.</p>

### 4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the planning proposal.

**Table 10 Social and economic impact assessment**

Social and Economic Impact	Assessment
Social impact	<p>The planning proposal states that it will achieve the following social community benefits:</p> <ul style="list-style-type: none"> <li>• mitigate anti-social and illegal behaviour by limiting youths from congregating on the site;</li> <li>• increase perceptions of safety and security among the community; and</li> <li>• provides a planning response to increase the safety of park users.</li> </ul> <p>However, no justification or evidence is provided to support this. Safety within the northern portion of the park is likely to remain a community concern as this area is largely hidden from the street, restricting opportunities for surveillance.</p> <p>It is considered that the loss of open space and the missed opportunity to implement a CPTED principle guided concept plan for the park will result in an adverse social impact for the community.</p>
Economic impact	<p>The planning proposal will result in a minor yield of residential development and is not expected to result in any significant economic impacts.</p>

## 4.3 Infrastructure

The site is in an established, highly urbanised area with access to adequate public infrastructure.

## 5 Consultation

### 5.1 Community

#### Early consultation

An early consultation process was conducted by Council with the community, landowners, residents, and other relevant stakeholders in preparation of this planning proposal for a 28-day period in March 2021. Council notes that no submissions were made regarding the Victor Brazier Park early consultation.

#### Proposed consultation

At this time, consultation is not required. It is recommended that the proposal not proceed to exhibition.

### 5.2 Agencies

At this time, consultation is not required. It is recommended that the proposal not proceed to exhibition.

## 6 Timeframe

The timeframe for the proposal is not relevant as it is recommended that the proposal not proceed.

## 7 Local plan-making authority

Council has not advised that it would like to exercise its functions as a Local Plan-Making authority (LPMA).

## 8 Assessment summary

The planning proposal is not supported to proceed. The planning proposal is inconsistent with the relevant State and local planning strategies, has not demonstrated strategic or site-specific merit, and does not contain appropriate justification to support the reclassification of Council land from 'community' to 'operational' or the loss of open space.

The planning proposal has not demonstrated strategic or site specific merit or consistency with the relevant priorities, aims or objectives of:

- Central City District Plan;
- Cumberland 2030: Our Local Strategic Planning Statement;
- Cumberland Council Strategic Plan 2017-2027;
- Cumberland Community Safety and Crime Prevention Plan 2018-2022;
- Cumberland Open Space and Recreation Strategy 2019-2029; and
- Section 9.1 Ministerial directions:
  - 2.6 Remediation of Contaminated Land,
  - 3.1 Residential zones,
  - 4.1 Acid sulfate soils,
  - 4.3 Flood prone land, and
  - 6.2 Reserving Land for Public Purpose.

The planning proposal is inconsistent with the key aims to maintain and enhance open space, green cover and amenity available in an area that is planned for growth. A reduction in park size would diminish the capacity of the park to service its urban catchment of 400m under the Draft Urban Design Guide and its contribution to the broader ecological values of the Little Duck Creek. The planning proposal provides inadequate justification and evidence that the proposal will achieve the objective of addressing community concerns about anti-social and illegal behaviour in Victor Brazier Park.

## 9 Recommendation

It is recommended the delegate of the Minister for Planning determine that the planning proposal should not proceed, for the reasons outlined in this report.



27/1/2022

Eleanor Robertson

Manager Place and Infrastructure, Central (GPOP)



2/02/2022

Jazmin van Veen

Acting Director, Central (GPOP)

### Assessment officer

Jorge Alvarez

Senior Planning Officer, Central (GPOP)

9995 5748