



IRF23/1224

Gateway determination report – PP-2023-701

Mimosa Park (22 Box Road, Casula)

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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.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Council Report and Resolution – 27 October 2020
Council Report and Resolution – 31 August 2022

Council Report and Resolution – 29 March 2023

Proposed Maps

PN16-001 Checklist Responses

Mimosa Park Concept and Safety Design Report – November 2021

Soil Contamination Assessment – 18 October 2021

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	City of Liverpool
PPA	Liverpool City Council
NAME	Mimosa Park
NUMBER	PP-2023-701
LEP TO BE AMENDED	Liverpool Local Environmental Plan (LEP) 2008
ADDRESS	22 Box Road, Casula
DESCRIPTION	Lot 1103 DP 1051233
RECEIVED	3/04/2023
FILE NO.	IRF23/1224
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 adequately explain the intent of the proposal.

The objectives of the planning proposal (**Attachment A**) are to facilitate the reclassification and rezoning of surplus Council-owned land known as Mimosa Park. The reclassification would allow for the sale and potential development of the site for a dwelling house.

The planning proposal contains objectives that adequately explain the intent of the proposal.

1.3 Explanation of provisions

The planning proposal seeks to amend the Liverpool LEP 2008 per the changes below:

Table 3 Current and proposed controls

Control	Current	Proposed
Zone	RE1 Public Recreation	R2 Low Density Residential
Maximum height of the building	N/A	8.5m

Floor space ratio	N/A	0.6:1
Minimum lot size	N/A	300sqm
Reclassify land from	Community	Operational (interests changed)

The objectives and intended outcomes of the planning proposal in relation to the reclassification will be achieved by amending Schedule 4 of the Liverpool LEP 2008 to identify the site as 'Operational Land'. The proposed wording is in Table 4 below.

Table 4 Proposed insertion in Part 2 of Schedule 4 of the Liverpool LEP 2008

Column 1	Column 2	Column 3
Locality	Description	Any trust etc not discharged
Mimosa Park	22 Box Road, Casula (Lot 1103 DP 1051233)	Nil

It's noted that the Governor's approval is required when a reclassification proposal seeks to remove any public reserve status and/or discharge any interests affecting public land.

The planning proposal's explanation of provisions should be updated to clarify the proposed changes to development standards and to clarify that the site is a Council owned public reserve and that Council is extinguishing interests on the site. A Gateway condition has been included to this effect.

The planning proposal is accompanied by a proposed 'Land Reclassification (Part Lots) Map' identifying the subject land (**Attachment E**). This map is not required as the proposal applies to all of Lot 1103 DP 1051233. The Gateway determination includes a condition that this map be removed from the planning proposal documents to avoid confusion.

The explanation of provisions otherwise adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The site is located at 22 Box Road, Casula. It is legally described as Lot 1103 DP 1051233 and locally known as 'Mimosa Park'. It is a vacant rectangular block, approximately 565sqm in size and sloping down away from the eastern boundary.

The site is surrounded by double storey dwellings to the north, west and south. The eastern boundary of the site fronts a public road, however part of this road is currently limited to buses, cyclists and pedestrians (See **Figures 1 and 2**).

The site is located approximately 180m south of the South Western Motorway, 180m east of Peter Miller Park, 180m west of Casula High School, and 800m south west of Casula Town Centre. (See **Figure 3**)

The site is currently zoned RE1 Public Recreation and all adjoining lots are zoned R2 Low Density Residential. The site opposite is zoned SP2 Infrastructure (Water Supply System) and is surrounded by R3 Medium Density Residential land. (See **Figure 4**) The subject site is owned by Council and classified as community land.



Figure 1 Subject site (source: planning proposal, April 2023)



Figure 2 Subject site streetscape, showing bus filter (source: Google Streetview, May 2023)



Figure 3 Site context (source: planning proposal, April 2023)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Liverpool LEP 2008 maps, which are suitable for community consultation.

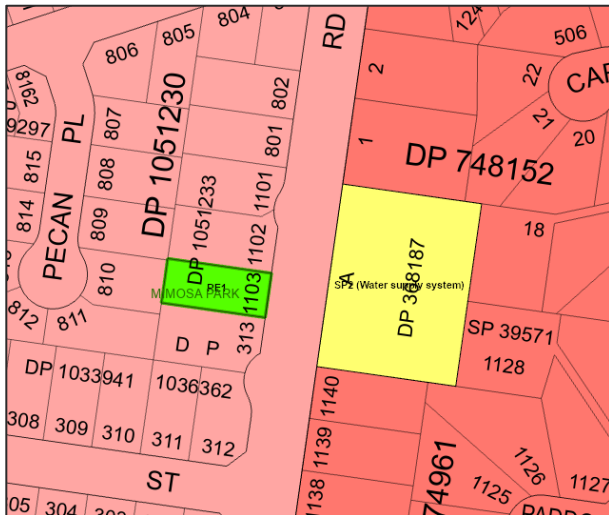


Figure 4 Current zoning map (source: planning proposal, April 2023)

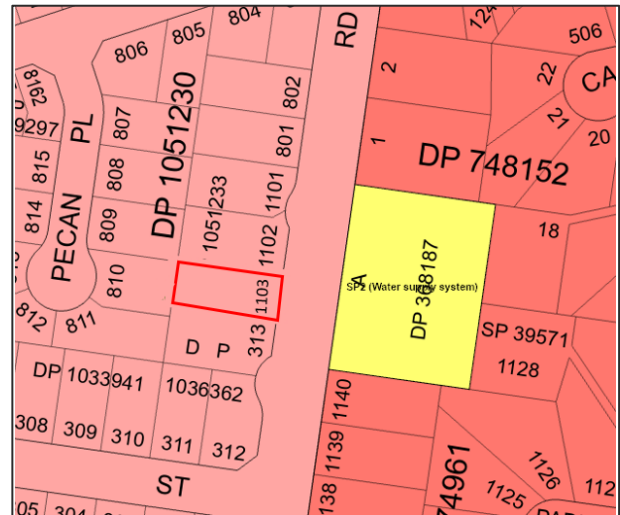


Figure 5 Proposed zoning map (source: planning proposal, April 2023)

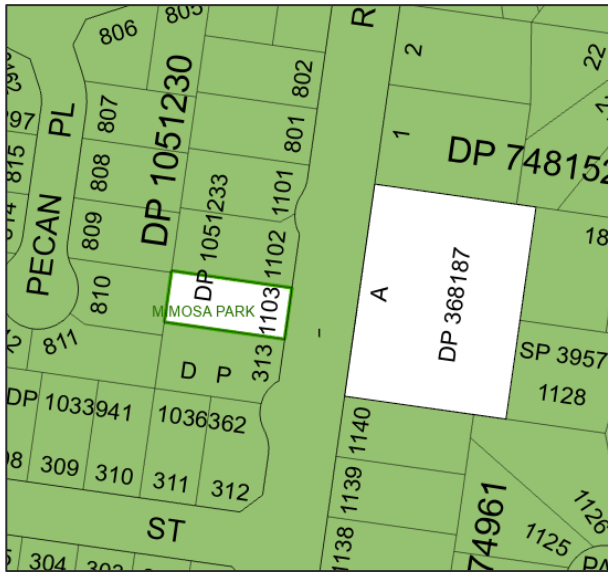


Figure 6 Current height of building map
(source: planning proposal, April 2023)

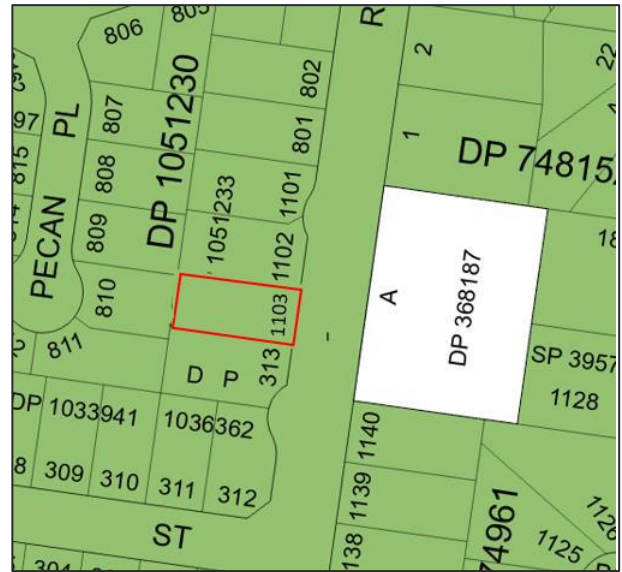


Figure 7 Proposed height of building map
(source: planning proposal, April 2023)

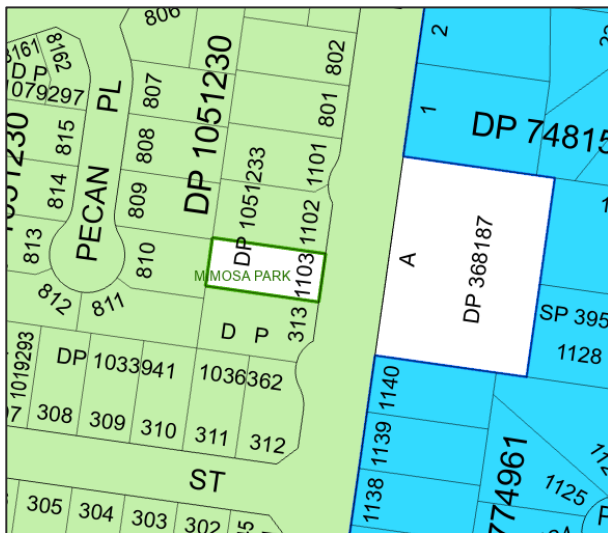


Figure 8 Current floor space ratio map
(source: planning proposal, April 2023)

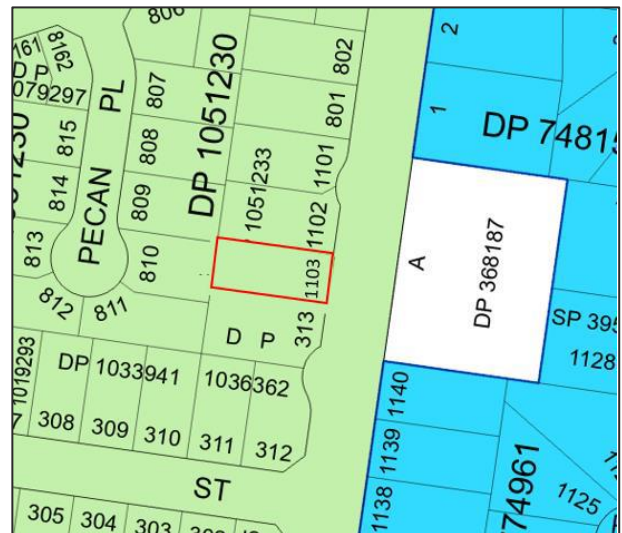


Figure 9 Proposed floor space ratio map
(source: planning proposal, April 2023)

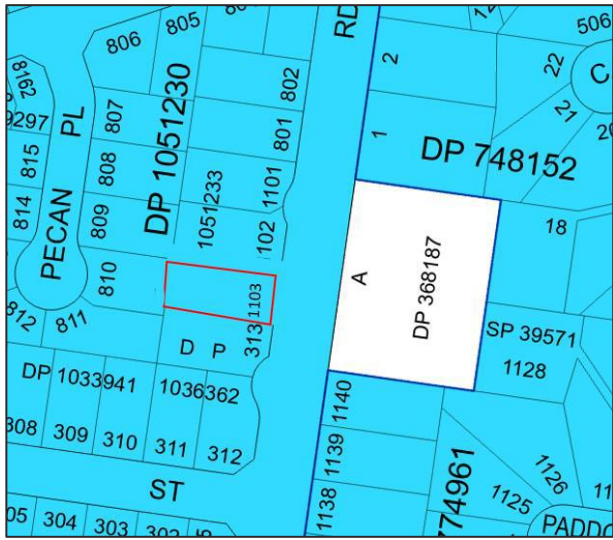


Figure 11 Proposed minimum lot size map
(source: planning proposal, April 2023)

On 14 April 2003, the site was dedicated to Council as a public reserve in lieu of developer contributions.

On 27 October 2020, Council resolved to undertake a feasibility study, environmental testing, and a concept development for Mimosa Park. The investigation identified several risks pertaining to public safety, accessibility, slope and maintainability (**Attachment H**).

On 31 August 2022, Council resolved to proceed with the proposed rezoning and reclassification of the site, with the intention of selling the site and allocating the proceeds to the embellishment of Jardine Park (**Attachment I**).

On 28 November 2022, the Liverpool Local Planning Panel advised that the planning proposal had sufficient strategic and site-specific merit to progress (**Attachment D**).

On 29 March 2023, Council resolved to submit the planning proposal for Gateway assessment (**Attachment J**).

The planning proposal is not the result of a local strategic planning statement, or Department approved strategy or report. It was initiated in response to an investigation into the feasibility for developing Mimosa Park for open space. As stated above, the investigation found that the site was unsuitable for continued use as a park due to public safety, accessibility, and maintainability risks. Council resolved to dispose of the site with proceeds from the sale being allocated to the embellishment of Jardine Park.

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The proposal also seeks to update the land use zone and development standards to reflect the proposed change in use on the site. A planning proposal is the most appropriate mechanism to achieve this.

The intended outcomes of the proposal cannot be delivered under the current planning framework and a planning proposal is required to amend the LEP.

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Greater Sydney Regional Plan.

Table 5 Regional Plan assessment

Regional Plan Objectives	Justification
Objective 6 – Services and infrastructure meet communities' changing needs	<p>Objective 6 seeks to deliver social infrastructure that reflects the needs of the community now and in the future and to optimise the use of available public land for social infrastructure.</p> <p>The proposal is consistent with Objective 6 because it facilitates the disposal of land that is deemed surplus to requirements, with proceeds being used to upgrade other local open space (Jardine Park).</p>
Objective 10 – Greater housing supply	<p>Objective 10 seeks to provide ongoing housing supply and a range of housing types in the right locations that will create more liveable neighbourhoods and support Greater Sydney's growing population.</p> <p>The proposal is consistent with Objective 10 because the rezoning will facilitate the provision of additional residential zoned land in an existing urban area.</p>
Objective 12 – Great places that bring people together	<p>Objective 12 seeks to use a place-based approach to prioritise a people-friendly public realm, recognise the dual function of streets as places and movement corridors, provide a fine grain urban form, integrate social infrastructure, and recognise and celebrate local character.</p> <p>The proposal is consistent with Objective 12 as it will facilitate improvements to Jardine Park and maximise amenity within the existing local open space network.</p>
Objective 26 – A cool and green parkland city in the South Creek corridor	<p>Objective 26 seeks to implement the South Creek Corridor Project and use the design principles for South Creek to deliver a cool and green Western Parkland City.</p> <p>The proposal is consistent with Objective 26 because it is local in scale and is not likely to impact the South Creek Corridor Project.</p>
Objective 31 – Public open space is accessible, protected and enhanced	<p>Objective 31 seeks to maximise the use of existing open space and protect, enhance and expand public open space.</p> <p>Investigations by Council have found that the site is unsuitable for use as public open space. Although the proposal will result in the reduction of public open space, any proceeds from the disposal of the site will be reinvested to improve Jardine Park. Overall, the proposal is considered consistent with this Objective.</p>

3.2 District Plan

The site is within the Western City District and then Greater Sydney Commission released the Western City District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The planning proposal is consistent with the priorities for infrastructure and collaboration, liveability, productivity, and sustainability in the plan as outlined below.

The Department is satisfied the planning proposal gives effect 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

Regional Plan Objectives	Justification
Planning Priority W1 – Planning for a city supported by infrastructure	<p>Planning Priority W1 seeks to better align growth with infrastructure by identifying place-based infrastructure priorities.</p> <p>The planning proposal is consistent with Planning Priority W1 because makes changes to the LEP to facilitate the disposal of surplus land and for proceeds to be used to improve existing open space infrastructure (Jardine Park).</p>
Planning Priority W5 – Providing housing supply, choice and affordability, with access to jobs, services and public transport	<p>Planning Priority W5 seeks to expand housing choice through increased supply, diversity and affordability.</p> <p>The proposal is consistent with Planning Priority W5 because it increases the amount of residential zoned land in proximity to existing infrastructure.</p>
Planning Priority W6 – Creating and renewing great places and local centres, and respecting the District's heritage	<p>Planning Priority W6 seeks to deliver a well-designed and people-friendly public realm.</p> <p>The proposal is consistent with Planning Priority W6 because it seeks to fund improvements to local open space infrastructure (Jardine Park) by disposing of a surplus site.</p>

3.3 Local

The proposal states that it is consistent with the following local plans and endorsed strategies, as described below.

Table 7 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement	The LSPS sets out the land use planning context and Council's 20-year vision to manage future land use planning decisions and guide how growth will be managed to provide for more housing, jobs, parks and services for the growing population.

	<p>Council states that the planning proposal is consistent with Planning Priority 6 ‘High-quality, plentiful and accessible community facilities, open space and infrastructure aligned with growth’ as the disposal of the site will help revitalise Jardine Park in Casula and will facilitate the redevelopment of 22 Box Road for housing. The area is well serviced by infrastructure, including open space, and the reduction of this site will result in better open space outcomes for Casula.</p> <p>The Department is satisfied with Council’s assessment against the LSPS.</p>
Local Housing Strategy	<p>The LHS provides direction at a local level about where, and in what form, new housing will be delivered. It establishes Housing Priorities and Objectives that align with relevant Planning Priorities in the Western City District Plan and Council’s LSPS and provides recommendations to inform amendments to the LEP.</p> <p>The Department is satisfied that the planning proposal is consistent with the LHS because it contributes to the LHS target of providing up to 12,000 additional dwellings by 2030.</p>

3.4 Local planning panel (LPP) recommendation

On 28 November 2022, the Liverpool Local Planning Panel was briefed on the proposal and provided the following advice (see also **Attachment D**):

The panel considers that the planning proposal has sufficient strategic and site specific merit to progress to the next stage of the planning proposal process, subject to Council officers being satisfied that evidence exists to demonstrate that the land is unsuitable for the purpose for which it was dedicated as required by section 32 of the LG Act 1993.

The Gateway determination includes a condition that the planning proposal be updated prior to exhibition to reflect the advice provided by the Local Planning Panel and to provide the advice in full as an attachment.

3.5 Section 9.1 Ministerial Directions

The planning proposal is consistent with the relevant Section 9.1 Ministerial Directions. See assessment in **Table 8** below.

Table 8 9.1 Ministerial Direction assessment

Directions	Consistent / Not Applicable	Reasons for Consistency or Inconsistency
Direction 1.1 Implementation of Regional Plans	Consistent	<p>The objective of Direction 1.1 is to give effect to the Regional plans.</p> <p>The planning proposal is consistent with the relevant objectives of the Greater Sydney Regional Plan 2018. See section 3 of this report.</p>
Direction 1.4 Site Specific Provisions	Consistent	<p>The objective of Direction 1.4 is to discourage unnecessarily restrictive site specific planning controls.</p> <p>The proposal is consistent with Direction 1.4 because it does not seek to introduce restrictive site specific planning controls. The Department notes that the proposed development controls are consistent with adjacent sites.</p>

Directions	Consistent / Not Applicable	Reasons for Consistency or Inconsistency
Direction 4.4 Remediation of Contaminated Land	Consistent	<p>The objective of Direction 4.4 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> <p>The proposal is consistent with Direction 4.4 because it is accompanied by a soil contamination assessment prepared by Environmental Earth Sciences in 2018 which concludes that there is no evidence of site contamination and that the site presents a low risk to human health and the environment.</p>
Direction 5.1 Integrating Land Use and Transport	Justifiably Inconsistent	<p>The objective of Direction 5.1 is to ensure that development improves access by active and public transport, increases transport choice, reduces car dependency, reduces travel demand, supports public transport, and provides for efficient freight.</p> <p>The planning proposal does not address Direction 5.1. It should be updated to include an assessment against the Direction. The Gateway determination includes a condition to this effect.</p> <p>The planning proposal seeks to rezone the site to R2 Low Density residential. The site has frontage to an existing local road, however there is currently limited access to this part of the road. The access arrangements will need to be resolved prior to the site being developed. As this is a Council initiated proposal in relation to Council owned land, the Department is satisfied Council has the ability to resolve this matter.</p> <p>The proposal is considered justifiably inconsistent with the Direction 5.1 as the inconsistency is of minor significance.</p>
Direction 5.2 Reserving Land for Public Purposes	Consistent	<p>The objective of Direction 5.2 is to facilitate the reservation of land for public purposes and the removal of such reservations where they are no longer required.</p> <p>The planning proposal does not address Direction 5.2. It should be updated to include an assessment against the Direction. The Gateway determination includes a condition to this effect.</p> <p>The planning proposal seeks to facilitate the disposal of surplus Council land. The site has been found unsuitable for use as a park and therefore is surplus to requirements.</p> <p>The Department considers that the proposal to remove the public recreation zoning is consistent with the objectives and requirements of Direction 5.2 subject to agreement from the Secretary (or delegate).</p>

Directions	Consistent / Not Applicable	Reasons for Consistency or Inconsistency
Direction 6.1 Residential Zones	Consistent	<p>The objective of Direction 6.1 is to encourage housing choice, make efficient use of existing infrastructure, and minimise impacts of residential development on the environment and resource lands.</p> <p>The proposal seeks to rezone the site R2 Low Density Residential. The site is located in an established residential area which is adequately serviced to support residential development. The proposal is considered consistent with Direction 6.1.</p>

3.6 State environmental planning policies (SEPPs)

The planning proposal is consistent with the relevant SEPPs as discussed in the table below.

Table 9 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Biodiversity and Conservation) 2021	The relevant chapters of the SEPP aim to protect the biodiversity and amenity values of vegetation in non-rural areas of the State, to encourage the conservation and management of habitat for koalas, and to ensure development in the nominated areas is consistent with the biodiversity certification, to manage areas with high biodiversity value.	Consistent	<p>Chapter 4 'Koala habitat protection 2021' applies to the Liverpool LGA. It is not subject to an approved koala plan of management and is smaller than 1ha.</p> <p>The Cumberland Plain Conservation Plan applies to the Liverpool LGA. The subject land is not identified as part of a Strategic Conservation Area, as Avoided Land, or as Certified Urban Capable Land.</p> <p>The subject site is vacant land in, is covered in grass with no other significant vegetation and an established residential area. It is unlikely that the planning proposal will have any significant impact on significant vegetation, koalas or koala habitat.</p> <p>The Department is satisfied that the proposal will not interfere with the operation of the SEPP and has sufficient merit to proceed to the exhibition and consultation stage.</p>

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Transport and Infrastructure) 2021	The SEPP aims to facilitate the effective delivery of infrastructure across the State, including allowing for the efficient development, redevelopment or disposal of surplus government owned land, and providing opportunities for infrastructure to demonstrate good design outcomes.	Consistent	The planning proposal seeks to facilitate the redevelopment and disposal of surplus Council owned land. It is consistent with the objectives of the SEPP because it will facilitate the disposal of surplus land to fund improvements to existing public open space at Jardine Park. The planning proposal does not interfere with the operation of this SEPP.
SEPP (Housing) 2021	The SEPP aims to ensure new housing development provides residents with a reasonable level of amenity and is supported by existing and planned infrastructure and services.	Consistent	The planning proposal does not interfere with the operation of this SEPP. Future development on the site may need to address the requirements of this SEPP. The Department is satisfied that the proposal is consistent with the SEPP as it seeks to locate residential dwellings in an area already serviced by infrastructure.

4 Site-specific assessment

4.1 Environmental

The subject site is vacant and covered in grass with no other significant vegetation. The site is not identified as environmentally sensitive and the planning proposal is not expected to impact on any critical habitat, threatened species or ecological communities. The site is not identified as flood prone, bushfire prone, or contaminated.

Any future development application for the redevelopment of the site would need to demonstrate that the application does not have any significant environmental impacts.

4.2 Social and economic

The reclassification supports priorities within Council's LSPS including assisting with the embellishment of existing infrastructure to meet the needs of a growing community.

If the land is reclassified and a sale was to occur, this would result in income to Council which could be used to fund the upgrade of Jardine Park.

The proposal is unlikely to have any adverse social or economic impacts.

4.3 Infrastructure

There will be no notable impact on infrastructure demand and Council has advised that the site can be suitably serviced and that the existing public infrastructure is adequate to accommodate the future additional dwelling.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

Under the new Local Environmental Plan Making Guide (September 2022), the exhibition period for a standard planning proposal is 20 working days.

It is noted that for planning proposals involving reclassification of public land, the LEP Practice Note PN 16-001 requires least 28 (calendar) days for public exhibition, and that the *Local Government Act 1993* requires a public hearing to be held.

Accordingly, the Gateway determination includes a condition that the planning proposal be exhibited for a minimum of 20 working days. Council should consider the requirements of the *Local Government Act 1993* and PN 16-001 when exhibiting the planning proposal.

5.2 Agencies

The proposal does not specifically raise which agencies will be consulted.

It is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- Relevant utility providers, including Sydney Water.

The Gateway determination includes a condition to this effect.

6 Timeframe

Council proposes a 5 month time frame to complete the LEP.

The planning proposal is classified as 'standard' in the Local Environmental Plan Making Guideline (September 2022). The benchmark timeframe in the Guideline for standard planning proposals is 200 working days from the issued Gateway determination to finalisation. This is approximately 10 months.

Accordingly, consistent with the LEP Making Guideline and allowing for a public hearing into the reclassification and the Christmas shut down period, the Department recommends an LEP completion timeframe of 10 months. The Gateway determination includes a condition to this effect.

7 Local plan-making authority

Council has requested delegation to be the Local Plan-Making authority.

As the site is owned by Council and is seeking reclassification from 'community' to 'operational', the Department recommends that Council not be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The planning proposal is the most appropriate way to achieve the objectives and intended outcomes.
- The planning proposal has demonstrated potential strategic and site specific merit, as it will facilitate the embellishment of existing infrastructure and the provision of an additional

dwelling in a suitable location. The proposal is unlikely to have any adverse environmental, social or economic impacts.

Based on the assessment outlined in this report, the proposal is to be updated before consultation to:

- Address the required changes to Schedule 4 of the LEP and clarify the public reserve status and interests on the site
- Remove the proposed Land Reclassification (Part Lots) Map
- Attach copies of DP 1051233 and the LPP advice
- Address Ministerial Direction 5.2 Reserving Land for Public Purposes and 5.1 Integrating Land Use and Transport.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that the planning proposal is consistent with Direction 5.2 Reserving Land for Public Purposes
- Agree that any inconsistencies with section 9.1 Direction 5.1 Integrating Land Use and Transport are minor and justified.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to exhibition, the planning proposal is to be updated to:
 - Address the proposed changes to development standards associated with the rezoning
 - Clarify that the site is a Council owned public reserve and that Council is extinguishing interests on the site
 - Remove the Land Reclassification (Part Lots) Map
 - Provide a copy of the Deposited Plan and the details of all the dealings, interests and easements registered on the Title for Lot 1103 DP 1051233 and clarify what the planning proposal is seeking to extinguish and the justification for this.
 - Address Ministerial Direction 5.2 Reserving Land for Public Purposes and Direction 5.1 Integrating Land Use and Transport
 - Attach a copy of the Local Planning Panel advice and Practice Note PN 16-001.
2. Consultation is required with the following public authorities:
 - Relevant utility providers, including Sydney Water.
3. The planning proposal should be made available for community consultation for a minimum of 20 working days.
4. A public hearing is required to be held in accordance with the *Local Government Act 1993* and the Department's Practice Note PN 16-001.
5. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing.
6. Given the nature of the proposal, Council is not authorised to be the local plan-making authority.
7. The timeframe for completing the LEP is to be 10 months from the date of the Gateway determination.



(Signature)

18/05/2023

Douglas Cunningham

Acting Specialist Planning Officer, Agile Planning



(Signature)

6/06/2023

Louise McMahon

Director, Agile Planning

Assessment officer

Rachel Hughes

Planning Officer, Agile Planning

(02) 9995 5936