

SUBJECT: Proposed Re-zoning and Re-classification of Land at Kitchener Park - Owner's Consent to Lodge Planning Proposal

Meeting: Planning an Integrated Built Environment Committee

Date: 19 December 2011

STRATEGY: Recreational Management

ACTION: Provide planning, design, investigation and management of recreation facilities

PURPOSE OF REPORT

To seek Owner's Consent to submit a Planning Proposal (re-zoning and re-classification) of certain land at Kitchener Park to provide funding with which to undertake Community Benefit Improvement Works identified in the adopted Plan of Management

1.0 BACKGROUND

- The purpose of this report is for Council to formally consider granting Owner's Consent to the submission of a Planning Proposal (re-zoning and re-classification application) to formally re-zone and re-classify certain land owned by Council in order to realise its value and contribute funding towards the development of Community Benefit Improvements.
- The subject land comprises part of Kitchener Park, Mona Vale, an under-utilised area of Open Space that is currently classified as "Community Land" under the provisions of the Local Government Act. It is proposed to re-zone this land, by way of an amending Local Environmental Plan, to permit appropriate residential (multi-unit housing) development, consistent with the adjoining residential land uses and to re-classify the land as "Operational Land" to permit its future divestment.
- Currently, the subject site cannot be divested. It must first be re-classified as "operational" land (and ideally, re-zoned to maximise its value in the market and reduce risk) and discharge any trusts by way of an amending Local Environmental Plan.
- This report seeks Council's agreement to grant Owner's Consent to lodge the statutory re-zoning and re-classification process as described by the Gateway Determination procedures adopted by the NSW Department of Planning & Infrastructure under Section 56 of the Environmental Planning & Assessment Act.

2.0 ISSUES

2.1 Kitchener Park Plan of Management

Council adopted the Kitchener Park Plan of Management in September, 2009. The Plan of Management confirms Council's commitment that any funds derived from the divestment of this land will be used to embellish Kitchener Park. Council resolved to adopt the Plan of Management – the Plan noted that an additional source of funding for these identified works "will be explored through the potential sale of these parcels..."

The funds will be tied to a specific purpose, being those works described in the Plan of Management (and undertaken in priority order, as funds permit), primarily the Skate Park and associated works. Funding from the rezoning will enable Council to achieve a number of tangible and intangible benefits, including:

Tangible Benefits

- The skate park is a physical asset that provides the infrastructure to support a range of skate/BMX activities at multiple levels of experience from beginner through to elite/national level competition and demonstration events
- The youth drop-in centre/retail outlet is also a physical asset that provides an interactive meeting place for youth, a centralised location to conduct events, as well as a retail facility, the proceeds from which can in part be used to support the ongoing activities and maintenance of the facility.

Intangible Benefits

The facility provides a raft of intangible benefits ranging from:

- Youth interaction, engagement and networking
- Counselling and mentoring
- Healthy bodies and minds through participation in structured and free form sport activities
- Combat child and youth obesity through activities that youth closely relate to and enjoy
- Improved well-being and intervention through role models (focus on youth depression - suicide)
- Reduce shopping centre and streetscape vandalism and other anti-social behaviours and the costs involved
- Role models, mentoring & peer support to help develop responsible citizens of the future
- Community integration and recognition of skill sets of youth
- Provide career and lifestyle opportunities for the future through increased recognition of these forms of sport and leisure activities.
- Will likely become a tourist attractor given its unique attributes and elite competition capabilities
- Financial – reduced damage, flow on retail and social support service opportunities

The total financial value of the above community benefits are listed below:

Upgrade Kitchener Park parking area utilised by both transit public and sports field recreation attendees including expansion of area as per Plan of Management and upgrade of entryways and ancillary landscaping	\$1,381,100
Upgrade of local cricket nets and facilities generally (nets, associated picnic area, shelters, bbqs	\$230,000
Construction of regional skate facility and improvements to Kitchener Park as outlined in the adopted Plan of Management	\$2.3-\$2.5m
Creepline rehabilitation – water quality to beach from residential housing	\$275,000- \$1m

The Plan of Management identifies the potential divestment of this Council-owned land adjoining Kitchener Park that could provide funding for the embellishment of Kitchener Park in accordance with the Plan.

Council has been consulting widely with the community as part of the development of the 2012-2016 Social Plan. These consultations have continued to identify a strong need to provide positive recreational precincts for your people. A lack of recreational opportunities for young people has been consistently identified in Council's Social Plans since 1999 and in many Youth Fora since then.

The proposed Youth Precinct/Skate Park at Kitchener Park provides an opportunity to assist in addressing this need for young people in Pittwater. A Skate Park and associated facilities has been widely supported by the community at public meetings and in public submissions on the Plan of Management. Further, one of Councils' strategies to meet the recreational needs of young people is to create Youth Precincts centred on skate parks at Avalon and Mona Vale (reference Pittwater Council Management Plan 2008-12). Upgrading the existing Youth Precinct / Skate Park is a high priority under the Plan of Management – the investigation into the potential disposal of Lots 2 and 3 is also identified as a high priority.

The Youth Precinct/ Skate Park will occupy the site of the existing skating facility (part of which has been closed to ensure public safety). It should be noted that this site represents the most appropriate site for such a facility, being removed from adjoining residential development, being in close proximity to public transport and having the additional benefit of being located directly across Pittwater Road from Mona Vale Police Station.

Kitchener Park is highly valued by the community for its wide variety of passive and active recreational activities. However, almost all recreational facilities in Kitchener Park require upgrading due to their age and condition. Council's capacity to undertake all of the works identified in the Plan of Management to ensure the ongoing functioning of Kitchener Park as a regional sporting and recreational facility is limited and requires additional funding to supplement Council's resources.

The Plan of Management identified the re-zoning (and re-classification) of certain under-utilised lands as a viable funding source. This funding stream becomes imperative in view of the unsuccessful applications (two) to the Federal Government for grant monies. An Expression of Interest has recently been lodged for grant funding – at this time, the outcome is not known.

The subject lands are described as:

Land	Zoning	Classification	Proposed Zoning	Proposed Classification
Lot 2, DP 110299	9(a) Reservation – Open Space (deemed 6(a) Existing Recreation)	Community	Zoning to permit medium density housing	Operational
Lot 3, DP 251053	6(a) Existing Recreation	Community	Zoning to permit medium density housing	Operational

2.2 Classification

Section 25 of the Local Government Act, 1993 requires that all public land must be classified as either "Community" or "Operational" land within the meaning of the Act.

The subject site is classified as “Community” land – Council does not have the ability to “deal” (ie exchange, transfer or divest) this land until it is re-classified as “Operational” land. The re-classification of “Community” land to “Operational” land can be achieved by means of an amending Local Environmental Plan (that is, a “Spot Re-zoning” under Section 27 of the Local Government Act). A Local Environmental Plan that re-classifies “Community” land to “Operational” land may make provision that these lands cease to be public reserves and that they are also discharged from any trusts, dedications, restrictions and covenants affecting that land. Lot 3 Kitchener Park is subject to a Declaration of Trust held by the Department of Planning & Infrastructure – negotiations with the Department have confirmed the Department’s commitment to release this parcel from the Trust. The Local Environmental Plan for re-zoning can include a provision to discharge a trust. This provision requires the approval of the Governor.

2.3 Process

In order to realise the financial benefits deriving from the future divestment of this land, certain resolutions are required from Council, namely to grant Owner’s Consent for the lodgement of a Planning Proposal to re-zone and re-classify this land. The Planning Proposal is to be separately tabled.

In order for Council to divest this land, it must firstly re-classify the subject site as “Operational” land so as to enable Council to “deal” with it (and to also effect a discharge of the trust over Lot 3 Kitchener Park) and to re-zone the land.

Section 30 of the Local Government Act provides that the making of such a Local Environmental Plan would have the effect that the land ceases to be public reserve and by the operation of the Plan, would be discharged from the trust affecting Lot 3 Kitchener Park, provided that the Plan specifically contains such a provision and the Governor has approved of the provision, prior to the making of the Plan. The Department of Planning & Infrastructure has indicated its commitment to support the embellishment of Kitchener Park by agreeing to extinguish the Declaration of Trust. Correspondence from the Department to confirm its position is soon anticipated.

The re-classification process requires (under Section 29 of the Local Government Act) that a public hearing is arranged in respect of the Planning Proposal. The public hearing must be chaired by an independent person and provides for community input to the re-classifications.

2.4 Standard Template LEP

Council considered a report on the Standard Template LEP on 17 October, 2011 whereby the process and timing for preparing the new Local Environmental Plan (LEP) was outlined. The recommendations made to Council in respect of this matter included provision for individual Planning Proposals (to amend the current LEP) to be made only under exceptional circumstances, such as proposals which demonstrate public benefit. In view of Councils’ previous decisions in respect of the Plan of Management for Kitchener Park, which centrally revolves about embellishing regionally significant public open space (Kitchener Park), then it is clearly demonstrated that the test of public benefit is met and that a Planning Proposal to amend the LEP should be supported.

The proposals to re-classify and re-zone this land to realise its value and thereby provide significant Community Benefit Improvements to the regionally significant Kitchener Park satisfies the exceptional circumstances for the making of Planning Proposals to amend the current LEP.

In order to deliver on public commitments to provide Community Benefit Improvements to Kitchener Park, re-zoning and re-classification of this surplus asset is a pre-requisite to future divestment. Accordingly, it is recommended that Council grants Owner's Consent to the submission of a Planning Proposal (to re-zone and re-classify the subject land) to facilitate this process.

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

There is considerable positive public benefit from the conversion of an under-performing, under-utilised asset to an asset which will serve the broader community very well into the future. The broad range of Public Benefit Improvements can only be delivered by the divestment of this under-utilised asset – alternative funding streams have not been identified and the adopted Community Benefit Improvements will be delayed (and possibly deferred) without realising the value of these surplus parcels.

3.2 Valuing & Caring for our Natural Environment (Environmental)

The Planning Proposal has assessed potential impacts on the natural environment arising from the re-zoning of the land. The Planning Proposal confirms that natural environmental effects (at the rezoning stage) are not significant and that any mitigation of effects can be addressed at the Development Application stage.

3.3 Enhancing our Working & Learning (Economic)

Adopting the Planning Proposal to re-zone this surplus site will realise economic benefits that are otherwise dormant – the land has little utility value (the Plan of Management identified the land as being surplus to needs) and future divestment provides the only identifiable and available funding stream to deliver on the commitments contained within the Plans of Management for Community Benefit Improvements.

3.4 Leading an Effective & Collaborative Council (Governance)

The submission of a Planning Proposal to the NSW Department of Planning & Infrastructure is prescribed under the Environmental Planning & Assessment Act. The Planning Proposal has been prepared in accordance with legislative requirements and relevant procedural guidelines, such as Practice Notes issued by the Department.

3.5 Integrating our Built Environment (Infrastructure)

The Planning Proposal will allow Council to further enhance its public infrastructure works into the future and will provide significant infrastructure and public domain embellishments to the broader community.

4.0 EXECUTIVE SUMMARY

4.1 Proposed re-zoning and re-classification of certain land at Kitchener Park to provide funding with which to undertake community benefit works that are contained in the adopted Plan of Management.

4.2 The purpose of this report is for Council to formally grant Owner's Consent to the submission of a Planning Proposal (re-zoning and re-classification) to formally re-zone and re-classify certain land owned by Council to realise its value and contribute funding towards the development of community benefit improvements/works.

RECOMMENDATION

1. That Council grants Owner's Consent to the submission of the Kitchener Park Planning Proposal.
2. That Council delegates authority to the General Manager to execute all documentation, and make all applications required under this process
3. Notes the statutory process to be adopted for the re-zoning and re-classification, including the provision for a public hearing.
4. That all proceeds from any land sales within Kitchener Park be expended on Kitchener Park or Village Park improvements.

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