

Friends of Fernhill and Mulgoa Valley Inc.

PO Box 552 Penrith 2751 president@ffmv.org.au

<https://www.ffmv.org.au>



Our goals are to “safeguard Fernhill Estate and ensure protection, through legislation, of the Mulgoa Valley as an area of outstanding cultural and natural significance to NSW”.

Draft Exposure Bill: Greater Sydney Parklands Trust Bill Potential Effects on Fernhill Estate

The following are our concerns re the Draft Exposure Bill: Greater Sydney Parklands Trust Bill (the Bill) and its potential effects, especially on Fernhill Estate.

General comments

The Bill does not reflect the communities’ views enunciated in White Paper – Parklands for People – What we heard report viz. *importance of open space and parklands, as well as blue and green spaces, for environmental protection and climate change mitigation; concerns with over-commercialisation or sale of parks, lack of public funding for parks, loss of local community input and involvement, and impacts on ecology and the environment.*

The numbers of amendments required for this Bill are so numerous that it needs fundamental reworking.

As Sydney’s Parklands have quite different characteristics, (size, city of rural, Callan Park of Western Sydney Parklands {WSP}) different activities are appropriate for each parkland. The problem with this legislation is that it attempts to cover all activities under one umbrella – a **“one size fits all” approach. Regardless of a parklands’ unique qualities they are still subject in the Bill to the same set of rules (and commercial exploitation) under this legislation. This is a flawed approach. The draft gives so many avenues for commercialisation that a management plan may become irrelevant.** Objects (e) and (f) and Functions (d) and (e) could be made applicable to any park without recognising the uniqueness of the park. Despite their differences in scale, nature, audience and resources each park is expected to deliver the same core propositions. **One model doesn’t fit all!** This failure to recognise the uniqueness of each park, is exacerbated by Object (f) *“recognise and responds to the diverse needs of the community”* which infers that if the community thinks it wants

another football stadium or water park or outdoor concert it could be sited in any park despite natural and cultural heritage limitations. Plans of Management, too, fail to indicate limitations on the scale of major activities e.g. Fernhill Plan of Management indicates that picnic races and concerts are possible in certain precincts, but give no clarity on the size of events that is permissible. **The SCALE of commercial opportunities and events that are permissible at all parks, including Fernhill, must be defined.**

Parklands such as Fernhill must be for quiet reflection – picnics, walks, bird watching - not large scale events that are best hosted where facilities and the physical and natural environment are able to cope. There are existing venues for horse racing in the Nepean Valley. There are existing venues for rock concerts in the Penrith LGA; e.g. Penrith Lakes Regatta site. Fernhill is not conducive to such large scale events – but we note the running rail (for which there has been no DA approval) is still in place, and therefore we suspect that such events are still being considered. While the land may only be **surrendered** from general park usage for a week during these events, the associated damage from the event may require several months of “surrender” for the grass to regrow.

Clarity could be improved by more **definitions** than those provided in Schedule 4; e.g. *public purpose, development, ecologically sustainable development¹, open space, cultural heritage, off-park business hubs, natural and cultural heritage values, heritage values, purposes of the agency, and recreation* - a very broad term that encompasses any activity done for enjoyment when one is not working. What is envisaged by *entertainment and tourism uses*? What level of sporting uses especially if “*providing facilities and associated services*”? Under what conditions may the Trust *grant a lease, licence or easement over land within the GSP Trust (GSPT) estate? Etc. etc.*

This Bill fails to provide any significant protections for Greater Sydney’s five iconic parklands. It creates an alarming model for funding and administering future public parklands across NSW at a time when, as the Minister has stated, the people have discovered a new appreciation for the value and importance of open green space for exercise, passive recreation and mental health.

Objects and Functions

- The Bill needs to include a **Statement of Significance for each park** (a summary of the cultural and natural heritage values currently attached to it and how they interrelate, which distils the particular character of the place), **or better yet, a Design and Access Statement**, and the **constraints** which relate to those natural and heritage values. Such statements for each parkland enable the significance and special character of each to be understood and consequently retained in a sustainable way as the parks continue to evolve. **Currently there is no framework in the Bill to ensure the integrity of each individual park in perpetuity.**

¹ If there are threats of serious or irreversible environmental damage lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. Will GSP be guided by the National Strategy for Ecologically Sustainable Development provides broad strategic directions and framework for governments to direct policy and decision-making?

- This Bill fails to provide any protections for Greater Sydney’s five iconic parklands at a time when there is a new appreciation for the value and importance of open green space for exercise, passive recreation and mental health.
- Will the Bill give long term protection of our parklands and help restore old infrastructure? The old buildings in Callan Park are in desperate need of restoration due to lack of successive government funding for decades. It has been the Friends of Callan Park, not the NSW government, that have been protecting the park over the last 20 years, **with no loss of land**. Compare this with Centennial Park where much land has been alienated - Old Fox Studios and Entertainment Quarter, the Light Rail holding depot, the Supa Centa, large acreage of parkland lost to the light rail, to the Eastern Distributor, etc., or WSP where extensive lands have been alienated through up to 99-year leases.
- **A statement on funding should be included in the Objects and Functions.** Major justifications for the establishment of the GSP were funding and funding stream. An Object should be included to ensure there are different funding solutions for the different parks, as stated in the White Paper.
- **All activities and events to be conducted on parklands must have no negative effects on surrounding areas and must be compatible with local Council Development Control Plans.**
- **There should be limits on the scale of commercialisation so there are no negative impacts on the heritage and scenic and landscape values of the park.**
- There should be a defining statement that park activities are permissible and encouraged, provided they do not, or are unlikely to, damage the **Park’s heritage and environmental values.**
- **Friends of Fernhill and Mulgoa Valley Inc (FFMV) supports the initiative to expedite the acquisition of new lands to form a more extensive green grid.** Opportunities for the Mulgoa Valley included in **White Paper – Parklands for People What we heard report:** *“extension of the Glenmore Park Open Space to Mulgoa Creek walk to the Blue Mountains National Park and linking with the Fernhill to Nepean walk, inclusion of Littlefields Creek as a wildlife corridor, securing the Kings Hill Road corridor as a significant green connection (and further opportunities throughout the Mulgoa Valley and surrounds)”*
- **Regardless of the Public’s views on the funding of Sydney Parklands in the White Paper – Parklands for People What we heard report,** the Bill is more about giving the GSP Trust open-ended opportunities to enter into commercial ventures and revenue generation than preserving the unique qualities of the parklands (our public assets). These commercial arrangements will alienate public green spaces for exclusive private use.
- **All Greater Sydney Parklands should be declared inalienable – then such land cannot be voluntarily sold, mortgaged, leased or otherwise reallocated for large scale commercial purposes. Parks should not be for profit!**
- *“Private subsidiaries, partnerships, joint ventures”*: this suggests an avenue to set up commercial arrangements on parklands with private entities for the purpose of profit. **When profit becomes the main motivator, the integrity of parklands is immediately compromised.**
- **The limiting factor in making Fernhill a great park, free of rampant commercialisation, is the inability to think holistically and creatively.**

Detailed submission

The White Paper – Parklands for People – What we heard report had key feedback themes which Friends of Fernhill and Mulgoa Valley Inc (FFMV) will use in this submission.

Governance

White Paper – Parklands for People – What we heard report:

- *While an umbrella trust can create a stronger voice for parks and greater coordination and efficiencies, there is concern that local voices will not be heard, and that more complex structures may have cost implications.*
- *The selection of the Greater Sydney Parklands Trust (GSPT) Board should reflect the wider Sydney community and the skills of the board should be relevant to the key values of parks. Diversity in board appointments is important.*
- *The decision-making framework for the board should be transparent and mechanisms put in place to respond to individual park values rather than a one-size-fits-all approach. Local voices should be heard.*
- *Parks such as Callan Park and Fernhill Estate may not be well represented by the GSPT Board and may require their own individual trusts and local boards.*

From the above it is obvious that DPIE and GSPT have not listened to the Community in drafting the Bill.

Has a Business Plan been done to justify the establishment of the GSPT and changes to management of the parks?

Management of Sydney's iconic parklands

In the White Paper on the Greater Sydney Parklands published earlier this year Minister Stokes said: *'Removing local park trusts and the community voice is not what we will do. Any decision on the future of our parkland must be validated by the views of the community. They are the park users and the park experts. Their voice gives meaning to what we are trying to do.'*

FFMV, as part of the Alliance for Public Parklands, believes in a **federated community model** rather than the centralised, top-down model that is being advanced in the Greater Sydney Parklands Trust Bill.

Under this alternative model, each of the iconic parks in the Greater Sydney Parklands would have **its own Trust to manage each park**. The membership of these individual Trusts would combine community members with local knowledge of each park, First Nations representation, experts in heritage, biodiversity and park management, and a representative from the local Council.

There could still be a central Greater Sydney Parklands agency advocating for Sydney's parklands for equitable government funding and providing back office, maintenance and infrastructure services and taking advantage of economies of scale.

FFMV and the Alliance believe that the best way forward is to entrust each of our parks to its own Trust and not to a centralised bureaucracy with a board of directors made up of representatives appointed by the Minister from the 'big end of town'.

Community Trustee Boards

There is confusion as to whether there will be Community Trustee Boards for each park:

E.g. Part 4 Community Consultation Division 2 Community Trustee Board Clause 36: The Trust **MAY** establish Community Trustee Boards.

Will both WSP and Fernhill have their own Community Trustee Boards? A Trust for Fernhill as well as a Community Trustee Board is essential and must have members competent to protect Fernhill's cultural significance embodied in its physical form or fabric, its setting, its uses, or people's memory and associations with the place.

The uncertainty of Community Trustee Boards for each park is reinforced in Schedule 5 Amendments of the Acts. E.g. Clause 24. Western Sydney Parklands Act 2006 Community Trustee Board (1) This section applies **IF** there is a Community Trustee Board for the Parklands

As the Penrith City Council (PCC) submission points out: *The previously exhibited White Paper – Parklands for People outlined the establishment of Community Trustee Boards noting that there would be a separate board for each parkland area. Council is supportive of this approach however the draft Bill does not require the establishment of Community Trustee Boards and does not require separate boards for each parkland. It is Council's view that it is critical for a Community Trustee Board specific to Fernhill Estate be established. In addition, we request the appointment of a local Council representative to the Board as allowed for by the draft Bill.*

If GSPT is 'fair dinkum' about Community Consultation, the Community Trustee Boards would be compulsory for each different parkland. Their roles and responsibilities must be defined more clearly.

But a toothless community trustee board that can be dissolved at any time without justification if the trustee board members push back against the GSPT or government of the day will provide inadequate input into the future of Fernhill. Fernhill needs its own Trust with the expertise to shape Fernhill into a unique place of exceptional National, State and Local significance. It is a Greek Revival house in its colonial landscape with significant areas of biodiversity, yet it has to be moulded into a parkland for social and physical activity without damaging its exceptional heritage or environment.

When will the Trustee Boards be formed? CTB's are needed from day one! There is no reason why CTB's need Bill approval before being established, considering the CEO of GSP will be in charge of CTB's.

Part 3. Functions of the Trust, Division 3 Planning, Clause 22 Plan of Management, Clauses 1-6:

Approved plan of management means a plan of management approved by the Minister under the Greater Sydney Parklands Act 2021. Under the Act subsection (4) The Trust must submit to the Minister – for the Minister's consideration – if the Trust is satisfied with a proposed plan of management given to the Trust by an associated Trust - the proposed plan of management.

The Act now allows that the Minister may approve with or without changes, a plan of management submitted to the Minister under subsection (4)

Does this effectively give the Minister discretionary powers to change a plan of management without consultation with the associated Parklands Trust, Trustee Board or GSPT?

Community consultation

White Paper – Parklands for People – What we heard report:

- *Parks are for people. **Ongoing and genuine community engagement is vital to establish confidence in the GSPT***
- *Consultation should provide opportunities for **GSP and communities to work together** to improve the access, amenity and ecological functions of existing parks through integration into the blue-green grid and should secure more parks for the city.*
- *It is important that the proposed **community trustee boards have a real and meaningful role** to advise on important local issues and represent diverse local views. These views must be considered in key decisions including on plans of management, commercialisation controls and new activities in the parks.*
- ***A tiered structure of GSPT boards and regional boards may allow for more local operational control of parks.***
- ***Engagement between local councils and GSPT will be critical in providing new GSP parks***
- *The community and stakeholders need to know what matters GSPT will consult on, who will be consulted and how that will be undertaken – including through the consultation and engagement framework.*
- ***Consultation should be informed by good-quality background documents and studies so that participants understand the related constraints and complexities of the issues being considered.***
- ***If GSP gets consultation right, they will have the power of the community behind them and be much more effective in achieving the 50-year Vision.***

It is obvious from the above that DPIE and GSPT has not listened to the Community!

“Park and recreation administrators who wish to expand their funding beyond existing tax support should take actions to foster trust and commitment across their multiple constituent groups”².

Community Consultation and Engagement Framework

(g): “community engagement to shape regionally significant parklands in response to diverse community needs”.

Clause 22 Plan of Management 3(b): “appropriate consultation consistent with the approved consultation and engagement framework has been undertaken”

Clause 28: “The Trust must have an approved consultation and engagement framework for the parklands estate”.

The community consultation process for Fernhill has been highly unsatisfactory. Community knowledge of Fernhill must be refined by better consultation methods.

There is a feeling in the community, reinforced by such “consultation” as the Options Paper and the recent community open day held by Elton Consulting at the Hayshed, Fernhill Estate on 1 May, 2021, that the Fernhill Estate is *terra nullius* – a large area of land without claims on it, suitable for the

² Mowen, A.J., Kyle, G.T., Borrie, W.T. and Graefe, A.R., 2006. Public response to park and recreation funding and cost saving strategies: the role of organizational trust and commitment. *Journal of Park & Recreation Administration*, 24(3).

accommodation of all manner of activities, without respect for the prior natural and cultural heritage claims on the site.

It is a greatly misleading consultation process to present “options” and “uses” for comment by the community without simply and directly informing the community of the constraints that apply to those uses, either through the Options Papers, Conservation Management Plan or any other planning instrument.

Page 31 Part 2 2: **Approved Consultation and Engagement Process:** *“Despite section 28, the Trust is not required to have an approved consultation and engagement framework for the parklands estate until the day that is 2 years after that section commences”.*

This will allow the GSPT to have complete control over the parklands: leases, licenses, development, commercialisation without any public scrutiny in the first 2 years. For Fernhill, a Trust and Community Trustee Board are essential in its formative stage.

Funding and finance

In a prelude to the Bill, the **White Paper – Parklands for People What we heard report**³ states that:

- *“Key concerns included the potential **over-commercialisation or sale of parks, lack of public funding for parks**”.*
- *“**New and innovative mechanisms need to be outlined and investigated to fund parks** that add to rather than detract from park values and amenity, while off-park business hubs may provide benefits for some parks”.*
- *“Ensure **a nexus between the park where funds are raised and where those funds are spent**, and that the GSPT prioritises funds to ensure plans of management are implemented in a timely manner”.*
- ***Over-reliance on self-funding models may result in over-commercialisation of parks** and the trust’s resources being directed towards commercial outcomes rather than the custodianship of the parks themselves.*

Regardless of the Public’s views on the funding of Sydney Parklands, the Bill, as proposed, is more about giving the GSP Trust open-ended opportunities to enter into commercial ventures and revenue generation than preserving the unique qualities of the parklands (our public assets).

The Bill allows for the alienation and privatisation of lands and buildings within the five parklands. The Trust may grant a lease, licence or easement over land within the GSPT estate. A lease, licence or easement for more than 25 years may be granted only with the Minister’s consent.

It opens the door for further commercialisation and inappropriate developments such as hotels, business hubs and transport infrastructure on our parklands including Fernhill.

All Greater Sydney Parklands should be declared inalienable – then such land cannot be voluntarily sold, mortgaged, leased or otherwise reallocated for large scale commercial purposes. Other avenues of funding parks must be sought.

³ [White Paper – Parklands for People – What we heard report \(nsw.gov.au\)](https://www.nsw.gov.au/white-paper-parklands-for-people-what-we-heard-report)

Income generation

There are perceived problems with income generating activities in Sydney Parklands:

- Ring-fencing any income that is generated from business developments may be problematic
- The commercial uses may not be appropriate for the site
- Business development can lead to over-commercialisation
- Events and festivals may cause additional and costly management burdens and repairs. It is not just the amount of funding of parks that matters, but also how that funding is used.
- The skills and capacity of the people running parks, both at a management and an operational level, have a clear impact on the quality and the sustainability of those spaces.

A 50-year Vision for Greater Sydney's Open Space and Parklands open space management (p. 32):

- *"explore innovative ways to create sustainable funding streams for parks, both local and regional"*
- *"review and coordinate financial contributions schemes such as the Sydney Regional Development Fund and investigate cross-city funding mechanisms used in other states, such as levies, green bonds and parkland-specific funds, in conjunction with State agencies and local councils".*

There is no evidence in the Bill that alternative funding methods have been investigated or that any of these contribution schemes will be adopted.

Has the NSW Government considered establishing a Sovereign Wealth Fund responsible for investing for the benefit of parks and open spaces for future generations?

*Paying for parks: eight models for funding urban green spaces*⁴ considers the main ways of funding the management and maintenance of urban green space that are being used throughout the world:

- **Traditional local authority funding:** funded from the general revenue budget
- **Multi-agency public sector funding**
- **Taxation initiatives** In many countries levies on property, or tax credits, can be ringfenced to fund the management and provision of urban green space.
- **Planning and development opportunities where** property developers are required to contribute to developing and maintaining publicly accessible green space
- **Bonds and commercial finance**
- **Income-generating opportunities:** risk of over-commercialisation and environmental damage unless managed carefully.
- **Endowments**
- **Voluntary and community sector involvement** Not-for-profit organisations and voluntary and community groups can contribute time and labour, raise funds and encourage community development and local ownership of urban green space. This informative

⁴ [Paying for Parks: Eight models for funding urban green spaces – The Parks Alliance](#)

Paying for Parks report recommends that a **one-size-fits-all approach will not work**. No matter what approach or model is taken, it is important to set up **dedicated funding and management arrangements from the outset**.

- Successful funding is often underpinned by a strategic approach to funding and management that incorporates a portfolio of different funding sources, mechanisms and partnerships.
- The success of funding models is inextricably linked to the physical, political and social context within which the green space is located, and the assets and resources available.
- Some models can be applied more readily to access finance in the short term. Other models require more long-term developmental work and radical thinking but could play a key role in funding green space in the future.

“Any comprehensive system of parks has three income classes of properties: a) those that can never generate income in excess of costs; b) those with a profit potential; and c) those with a profit history”⁵.

The same applies to Sydney parks. **It has not been explained how the proposed system of revenue raising through “business activities and facilities” (Bill: Clause 11 (b) and (c)) with “the funds of each trust be spent on implementing their plan of management and ensuring they are financially sustainable” can work where the potential for revenue raising varies so greatly between parks.**

Trusts and funding

From the Guide to the Bill⁶: “the funds of each trust be spent on implementing their plan of management and ensuring they are financially sustainable”. Does this imply there will be pressure on each trust to have park activities that raise funds and exempt state contributions to funding? How will Fernhill be funded in the short and long term?

In Schedule 5 Amendments to the Acts, there are proposed changes to the different Park Trusts. **None of these proposed changes detail the funding methods or how the different Park Trust are linked to GSPT financial operations.**

Business hubs

The White Paper Parklands for the People and the ‘What we Heard’ responses mention Off Park Business Hubs and neither the WSP Act nor the Bill have the classification or definition of Off Park Business Hubs.

It is not strictly a partnership when a Business Hub within a Parkland is classified as a State Significant Development. WSP has a shopping centre zoned a State Significant Development, thus setting a precedent that will certainly be mis-used. **The creation of Business Hubs needs a total reassessment.**

The Business Hubs in WSP are within the Parklands and not Off Park. WSP was established in 1968, and now after 50 odd years parts of the parklands have been considered as low level environmental

⁵ Ibid.

⁶ https://www.dpie.nsw.gov.au/__data/assets/pdf_file/0006/471867/GSP-Guide-to-the-Bill.pdf

and recreational value to enable Business Hubs to be established. Meanwhile Local Councils are land filling dump sites and reclaiming quarries to create parklands. Independent investigation is needed before parts of parklands are considered low level environmental and recreational value for Business Hubs. There is a definite need for transparency.

There is nothing in this wording of the Bill to prevent GSPT from engaging in large scale lease of land for business hubs as WSP Trust has done, only now it could occur in any park administered by GSPT; i.e. a business hub is a product of facilitating business activities and facilities. **There must be no off-park Business Hubs in the Mulgoa Valley.**

Private subsidiaries

Clause 11 (b) and (c): *Exercise of functions through private subsidiaries*: Private subsidiaries, partnerships, joint ventures appear to suggest this is an avenue to set up commercial arrangements on parklands with private entities for the purpose of profit. **When profit becomes the main motivator, the integrity of parklands is immediately compromised.**

Part 5 Finance Clause 42 Payments out of Fund: *Amounts required to meet expenditure incurred by the Trust in the exercise of its functions may be paid from the Fund.*

If some form of self-funding of parks is to be adopted, have the following points been considered: *Should the fund be pro-rated between enhanced income production and deferred maintenance and between income-producing and non-income producing parks? Or should it be totally reinvested to expand the income base so that more money might be available for maintenance needs and nonproducers in future years? The total reinvestment option is very attractive for a park system which is marginally successful. It also has a very strong personal appeal for success! On the other hand, the pro-rated approach has a better chance for increasing public support, maintaining a viable volunteer corps, and emphasising the non-monetary benefits of parklands. Fortunately, a middle ground can be found. One half of the 'profits' are reserved for a rainy season. If not needed at the end of the second season these funds are used for needed improvements at historic sites, natural areas, and low income producers. The second half of the fund is immediately used to address deferred maintenance and expansion needs at income-producing parks, with the hope of payback in the second and third years⁷.*

- **There needs to be information in the Bill on how funds will be dispersed to individual parks.**
- **There is nothing in the Bill about cost-monitoring.**
- **There should be a defined cap put on administrative costs of GSP.**

City – wide planning

<p>Poor urban planning situations can often be attributed in large part to a lack of understanding of and/or interest in the history, heritage, and community attachments to urban green spaces by management authorities⁸. ICOMOS 2019.</p>
--

⁷ LaPage, W., 1994. Self-funding state parks: The New Hampshire experience. *Parks*, 4(2), pp.22-27.

⁸ Brown S. 2019. Historic urban public parks: are they being incrementally spoiled? [Historic Urban Public Parks: Are They Being Incrementally Spoiled? – The Nature of Cities](#)

White Paper – Parklands for People – What we heard report “*The role of GSPT in advocating and influencing city-wide outcomes should be clearly articulated, including its relationship with other agencies and local councils*”.

- **State heritage items** are listed on the State Heritage Register and are identified as being of significance or importance to the whole of New South Wales. They are protected and managed under the Heritage Act. The Heritage Council of NSW, or Heritage NSW as its delegate, is the approval body for changes to State-listed items. Owners or their representatives must, therefore, seek development approval under the Heritage Act for certain changes or alterations to State Heritage Register items – commonly known as a Section 60 works application. This is required for works that have, or have the potential to have, an impact on the heritage significance of a State-listed item. Changes are assessed on their merits. In assessing applications, the consent authority determines whether the proposed works will have an acceptable impact on the heritage significance of the place. **Will Heritage Council or Heritage NSW be the approval body for any changes to heritage buildings at Callan Park or at Fernhill to its Greek Revival house or the unique state heritage listed colonial landscape?**
- **The Bill provides no assurance that the use of State Significant Developments in the Environmental Planning and Assessment Act 1979 will not be used to effectively turn off the provisions of the Heritage Act**
- FFMV and Councils (Penrith, Inner West Councils) seek clarity on **whether the NSW Government intends to change the existing planning framework or consent authority for parklands** under this Bill.
- It is noted that WSP managed under the Western Sydney Parklands Act 2006 is governed by a State Environmental Planning Policy and that the relevant local environmental plans do not apply.
- The Bill removes any obligation for the Board to inform Council, who are obliged to consult the local community, to consider development applications and plans. It also confuses the issue of *integrated* DAs, where Heritage NSW is the co-consent authority.
- FFMV and PCC would be concerned if the operation of the Penrith Local Environmental Plan 2010 (Penrith LEP) was removed for Fernhill Estate as it includes specific controls to protect the unique scenic and landscape attributes of the Mulgoa Valley of which Fernhill Estate is a part. **It is critical that the matters covered by the Penrith LEP are retained and implemented into the future.**
- Clause 15 (i) *to manage and operate the GSPT estate in a way that aligns with the Government’s long-term vision for metropolitan open space and parklands within Greater Sydney.* **The Western City District Plan (2018)** has the following planning priorities applicable to Fernhill and the Mulgoa Valley:
 - † Planning Priority W6 Creating and renewing great places and local centres and respecting the District’s heritage. Action: e. protecting heritage and biodiversity to enhance cultural and eco-tourism (**refers to Fernhill Estate in the Mulgoa Valley**)
 - † † Planning Priority W16 Protecting and enhancing scenic and cultural landscapes (**specifically mentions the Mulgoa Valley**).

- ✦ Planning Priority W14—Protecting and enhancing bushland and biodiversity
- ✦ Planning priority W17: Better managing rural areas (**specifies the historic Mulgoa Valley**)⁹

The responsibility for the actions associated with these priorities have been assigned by GSC to Councils – for Fernhill that is Penrith City Council. **FFMV would, therefore, expect the PCC environment planning instruments to apply to Fernhill Estate.**

Western Sydney Parklands legislation

The only proposed changes to WSP legislation in the Bill are stated to be those general changes to allow the trusts to work consistently with Greater Sydney Parklands Trust.

- **2% (as stated in the WSP Plan of Management) as a business hub would be totally unacceptable for Fernhill. Also the Fernhill Estate Plan of Management does not quantify the scale of commercialisation (activation!).**
- WSP Act 2006 No. 92 (NSW) Page 16: **Division 5 Other provisions relating to management of Parklands 29 Management of cemeteries and crematoria:**
 - (1) *The Trust may, in accordance with a precinct plan, use or permit the use of a part of the Trust land for the purposes of a cemetery or crematorium, or both.*
 - (2) *The provisions of the [Cemeteries and Crematoria Act 2013](#) and the regulations under that Act relating to cemeteries and crematoria apply to Trust land used for those purposes in the same way as it applies to Crown land reserved under the [Crown Land Management Act 2016](#) for those purposes and those provisions apply—*

This is a totally unacceptable option for Fernhill Estate. Mulgoa residents fought the proposal by Rookwood in 2017 for a large cemetery at Fernhill on environmental and heritage grounds. Either give Fernhill Estate its own Act (preferred) or amend the WSP Act to exclude cemeteries and crematoria for Fernhill Estate.

While many of the functions of the WSP Trust may be applicable to Fernhill, some **definitely are not:**

- (c) *“provide or facilitate the provision of a diverse range of recreational, entertainment and tourist facilities and opportunities in the Parklands, such as major sporting facilities, private amusement and recreational attractions and accommodation”*
 - (d) *“cater, at a regional level, for a diverse range of community interests, organisations and groups, including through the provision of facilities such as multi-use community halls” (j) “undertake or provide, or facilitate the undertaking or provision of, commercial, retail and transport activities and facilities in or in relation to the Parklands with the object of supporting the viability of the management of the Parklands”*
- The Trust may, in accordance with a precinct plan, use or permit the use of a part of the Trust land for the purposes of a cemetery or crematorium, or both*

The submission by Penrith City Council states: *We note from the previously exhibited White Paper – Parklands for People that Fernhill Estate was vested into the Western Sydney Parklands Trust in December 2020 resulting in its management being governed by the Western Sydney Parklands Trust under the Western Sydney Parklands Act 2006. **Council is concerned that Fernhill Estate’s inclusion under the Western Sydney Parklands Trust may compromise the management of its unique qualities and attributes.***

⁹ <https://www.greater.sydney/western-city-district-plan>

Fernhill does not fit easily within the Western Sydney Parklands Act and needs a Fernhill Estate Act or a Fernhill (Special Provisions) Act and its own Trust.

For any park, will the Sporting Venues Authorities Act 2008 and its amendment (Sporting Venues Authorities Amendment (Venues NSW) Act 2020) override the Bill?

Blue-Green Committee

Clause 12 Committees (1): *The Trust may establish—*

*(a) a committee, known as the **Blue-Green grid committee**, to advocate for a long-term vision and outcome of quality parklands across Greater Sydney, particularly connectivity of green corridors and public access to open space,*

FFMV applauds this initiative and suggests this committee includes representatives from the Greater Sydney Commission, local council and the local community.

Acquisition of Land

Property NSW Act 2006

The Bill states in Clause 10. Management of GSPT estate and other land (7) *Without limiting the Property NSW Act 2006, section 12, the Trust may enter into an arrangement with Property NSW under that section or this section.*

- a. to hold property for the agency or to manage, maintain or dispose of property of the agency, or (b) to carry out, manage, co-ordinate **or participate in the development of the property of the agency, or***
- b. **to acquire any property on behalf of, or for the purposes of, the agency, or***
- c. **to provide services or do other things** for the management, maintenance or improvement of property of the agency.*

This is far greater than “public purpose or roads” and provides GSPT with unfettered discretionary powers. **What are the “purposes of the agency”?**

Acquisition of Land Division 2 17 (1) to (3)

(1) The Trust may, for the purposes of this Act, acquire and own—

- (a) new parks, and*
- (b) supplementary land.*

(2) Land acquired and owned under subsection (1) forms part of the GSPT estate.

(3) The Trust may acquire land—

- (a) by agreement, or*
- (b) **by compulsory process in accordance with the Land Acquisition (Just Terms Compensation) Act 1991.***

Does that imply that nearby land to Fernhill or any other park could be [compulsorily] acquired for the park? Or land acquired for an Off Park Business Hub?

The Bill provides for the Parklands to **take over management of other government land (s19)**. FFMV is particularly concerned that the Parklands may seek to take over management of further areas of

NPWS estate, as has occurred with the Western Sydney Regional Park¹⁰ which was quietly moved into WSPT ownership over the last decade. The Regional Park gazettal remains, only the land tenure has changed.

There is nothing to prevent GSPT from taking over land presently in the care of National Parks & Wildlife Service viz, within Greater Sydney area or even any or all of the Regional Parks, National Parks and Nature Reserves, or perhaps even some Local Government parks and reserves. **Clarity must be provided.**

Protection of the environment and heritage

This Bill fails to specify protections for Greater Sydney's five iconic parklands, even though the **White Paper – Parklands for People** **What we heard report states:** *"Parks should be protected from encroachment by infrastructure or built facilities that reduce green space, and prohibitions on land sales should be strengthened".*

The Bill Object (c): *to ensure the conservation of the natural and cultural heritage values of the parklands estate and 15 Functions (b) to conserve, restore and enhance— (ii) the heritage values of the parklands estate,*

We are aware that in recent times the heritage of Parramatta Park has not protected it from a stadium, aquatic complex and a proposed hotel.

Nowhere in the Bill is biodiversity mentioned. Yet the maintenance of the remnant Cumberland Plain woodland at Fernhill and WSP is of the utmost state and national importance. **So why is this not included in a Statement of Significance in the Bill?** Even the other three parks as 'islands' within a matrix of urbanisation, with little remnant vegetation, can be managed to improve biodiversity.

Sustainability

The Bill Object 3(a): *"to deliver world-class and ecologically sustainable parklands for the public".*

Environmental considerations are particularly important for Fernhill in its formative years as a Parkland. A key challenge for management is to achieve a sustainable balance between protecting biodiversity and heritage values and providing opportunities for visitors to enjoy and appreciate nature and the cultural values of the historic Fernhill Estate.

Meeting this challenge requires careful consideration of the physical form of Fernhill's fixed park facilities (as it does for Callan Park).

The Bill requires a framework for explaining how an ecologically sustainable parkland will be achieved and should include:

- ***adaptive reuse*** of a building or structure consistent with the conservation of the natural and cultural values of the land, and compatible **with the retention of the cultural (and heritage) significance of the building or structure.**
- ***provision for sustainable visitor use and enjoyment that is compatible with the conservation of the site's natural and cultural values,***

10

<https://www.environment.nsw.gov.au/resources/planmanagement/draft/WesternSydneyRPPOMFinalDraft.pdf>

- *environmental **protections that acknowledge the critical natural habitat for plants and animals** within the parklands.*

An example is Sydney Regional Environmental Plan No 31—Regional Parklands Part 2 7 General development controls which has the Objectives:

- (c) *conserve and enhance the biodiversity of the region through retention of remnant vegetation, restoration of vegetation and revegetation, and*
- (d) *encourage ecologically sustainable development by ensuring that all development has minimal adverse environmental impact.*

Open spaces and parklands

“Open spaces and parklands” are referred to in multiple places in the Bill, but nowhere is there a **definition of open space**. Can it refer to rural land or even a vacant block of urban land? Or is it referring to “open green space” which in a municipal context, includes parks, sports fields, street trees, planted and vegetated median and verge areas, wetlands and nature reserves and cemeteries?

A recent article in Landscape Architecture Australia¹¹ described crucial factors that shape urban green space and are applicable to the discussion of the Bill:

- *Urban green space governance tools (such as legislation, policies, plans, strategies and budgets) should be **coordinated, developed and implemented at all levels of government**, to provide equitable access to urban green space, commensurate with current and future needs.*
- ***A holistic approach to urban green space provision.***
- *City leaders must provide vision and leadership, **foster collaboration to provide innovative and sustainable solutions for delivery of urban green space.***
- ***Optimize existing land resources to sustainably support the broad spectrum of urban green space functions.***
- ***Engage with community partners***
- *Conceived and delivered in a manner economically, environmentally and socially sustainable*
- *Supported by individuals with relevant knowledge, skills and experience.*

Fernhill – a great park, not a commercial venture

“The best public parks provide escape and calm and a chance to recover with friends and family or by yourself. You can go for a stroll, take a deep breath of clean air, sunbathe, play ball, sit on a bench, read for hours, anything that is simple and fulfilling¹²”.

As Minister Stokes said in his foreword to the Guide to the Bill; “the impacts of the COVID-19 lockdown have been a salient reminder for us all of the intrinsic need for parkland and open space”.

¹¹ Chris Boulton “Rethinking our approach to urban green space provision Landscape Architecture Australia, August 2021 <https://landscapeaustralia.com/articles/rethinking-our-approach-to-urban-green-spaceprovision/>

¹² <https://www.globalcitizen.org/en/content/what-makes-a-good-public-park/>

Fernhill must be:

- **Sustainable and resilient** embodying environmentally responsible development strategies: a great place for people, and for migratory birds (Swift parrot, Regent honeyeater, black cockatoos), kangaroos, swamp wallabies and an occasional koala). Facilities integrating green infrastructure: solar panels, water capture and re-use, composting etc.
- **Timeless:** Fernhill should reflect the era in which its colonial landscape was designed. Context matters!
- **Maintainable:** As park budgets continue to be in peril, ensure efficient maintenance processes are integrated into Fernhill's future activities.
- **Tech-engaged:** where cars once reigned, accommodate ride shares, bicycle hubs and scooter rentals.
- **Branding** —with information about exploring the park and its programs a simplified click away.
- **Technology** can provide rich meaning to park experiences and a deeper understanding of our environments.
- **Provide health and wellbeing benefits from communication with nature:** watching the horses, sitting by the lake or a dam, taking in the long views across the rural lands, walking through the bush
- **Collaborations with private, not-for-profit entities to stretch resources and allow for creativity and philanthropy.**

The only limiting factor in making Fernhill a great park, free of commercialisation, is the inability to think holistically and creatively.

Visiting Fernhill in the late 1840s Colonel Godfrey Mundy, Governor Sir Charles FitzRoy's cousin and one of his entourages, wrote:

"A stranger might imagine himself at the country house of some substantial English squire....a handsome stone house overlooks by far the most lovely and handsome view – as a home view – I ever met in Australia."

DO NOT DESTROY THIS!!

Disclosure: FFMV is a member of the Alliance for Public Parklands, a coalition of community groups and individuals whose aim is to protect significant parklands in the Greater Sydney Region for future generations. FFMV is a signatory to the Alliance for Public Parklands submission which can be found on the Alliance website <https://alliance4parks.org>

Dr Michael Barkley,

President of FFMV

29 October 2021.