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From C. Cox engraving, Mulgoa Valley, 1839

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”.

SUBMISSION TO SELECT COMMITTEE ON THE GREATER SYDNEY PARKLANDS TRUST BILL 2021 (Second Print)

Executive Summary

Friends of Fernhill and Mulgoa Valley Inc endorse these aspects of the Bill:

- Objects to conserve the natural and cultural heritage values of, and protection of the environment within, parklands,
- the need for a sustainable funding model and
- establishing a blue-green grid committee to advocate for green corridors providing access to open spaces across Greater Sydney.

However, the Bill has several fundamental and critical flaws – it:

- expressly does not reflect what the public wants,
- lacks clarity (definitions, intentions, consent authority),
- is more about giving the GSP Trust open-ended opportunities to enter into commercial ventures and revenue generation than preserving the integrity and unique qualities of the parklands (our public assets),
- allows for alienation of parklands by stealth, privatisation and partnerships with private business and allows up to 25-year leases to commercial developments,
- gives the GSP Board overreaching powers to acquire public and private land compulsorily
- does not effectively address frameworks for its Objects to be achieved.

FFMV believes a federated, community model rather than the centralised, top-down model advanced in the Bill should be the way forward. Under the federation model, each of the parks would have its own Trust to manage each park. The parklands agency would still advocate for equitable government funding of Sydney’s parklands and provide administrative support for economies of scale. Furthermore, community consultation should be informed by sound, factual background information enabling participants to understand the issues.

Detailed Submission

The following are the concerns of Friends of Fernhill and Mulgoa Valley inc. (FFMV) re the Greater Sydney Parklands Trust Bill (the Bill) and its potential effects on Sydney's Parklands into the future, with special reference to Fernhill Estate.

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 parklands, lack of public funding for parks, loss of local community input and involvement, and impacts on ecology and the environment.*

As Minister Stokes said in his forward 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”*.

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? This is critical to the evolution and implementation of a Greater Sydney Parklands (GSP) agency as it defines its scope.

A recent article in Landscape Architecture Australia¹ described crucial factors that shape urban green space and are applicable to this 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.**

Why the need for open space and parklands especially in Western Sydney?

On 4 January 2020, the western Sydney suburb of Penrith was one of the hottest places on Earth at 48.9 C. The heat that day gave a brief window into what the future will be like in Sydney's outer rings, soon to be home to more than 1.5 million people.² This anticipated growth has its origin in a

¹ 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-space-provision/>

² <https://www.theguardian.com/australia-news/2021/nov/16/ultimately-uninhabitable-western-sydneys-legacy-of-planning-failure>

range of factors, including lower than average land prices, high rates of greenfield development, the construction of Sydney's second international airport, urban expansion around the South Creek catchment, the growth of Penrith's health and education precinct and the rising importance of Penrith as a metropolitan hub in the envisioned Western Parkland City (Greater Sydney Commission (GSC), 2019).

A study by western Sydney University in 2019/20 documented air temperatures above 50°C for the first time in the Sydney Basin on three individual days in December, January and February. These observations are evidence for a situation where super-heated air impacts not a single location or suburb, but a wider section of Western Sydney.³

Hence, planning and development across the region must aim to build resilience against heat by better landscape and building design, infrastructure for water and energy, transport infrastructure and **greening strategies** with the clear intention to provide best functionality under extreme summer temperatures and, wherever possible, additional cooling.

Purpose of Parklands

"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 fulfilling".⁴

This Bill fails to provide any protections for Greater Sydney's five iconic parklands at a time when there is a renewed appreciation for the value and importance of open green space for exercise, passive recreation, relaxation and mental health.

As Sydney's Parklands have quite different characteristics, (size, city of rural, Callan Park of Western Sydney Parklands) different activities are appropriate for each parkland. One key 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). This is a flawed approach.** Objects (e) and (f) and Functions (d) and (e) of the Bill could be made applicable to any park without recognising the uniqueness of the park. Despite their differences in scale, nature, audience, resources and carrying capacity 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**

³ Pfautsch S., Wujeska-Krause A., Rouillard S. (2020) Benchmarking Summer Heat Across Penrith, New South Wales. Western Sydney University, 56 p.

⁴ <https://www.globalcitizen.org/en/content/what-makes-a-good-public-park/>

SCALE of commercial opportunities and events that are permissible at all parks, including Fernhill, must be defined.

The Bill needs to require 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) and the **constraints** which relate to those natural and heritage values. Such statements for individual 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.**

Will the Bill give long term protection to our parklands and restore heritage infrastructure? The old buildings in Callan Park are in desperate need of restoration due to lack of funding, across successive governments, but it has been the Friends of Callan Park protecting the park over the last 22 years and **with no land lost**. 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 with Western Sydney Parklands (WSP) where extensive lands have up to 99-year leases and where the percentage of land commercialised now exceeds significantly that specified in its Plan of Management.

Greater Sydney Parklands (GSP) and DPIE should be guided by ICOMOS-IFLA DOCUMENT ON HISTORIC URBAN PUBLIC PARKS⁵ which emphasises, and provides guidance on, the safeguarding of historic urban public parks as heritage places created or adapted for the use and enjoyment of present and future generations.

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. While the land may only be **surrendered** from general park usage for a week during these events, the associated damage to heritage and environment from the event may require much longer to restore.

City – wide planning

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 authorities.⁶ ICOMOS 2019.

⁵ ICOMOS-IFLA DOCUMENT ON HISTORIC URBAN PUBLIC PARKS [GA2017_6-3-2_HistoricUrbanPublicParks_EN_adopted-15122017.pdf \(icomos.org\)](#)

⁶ 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”.* **There is no indication in the current Bill that this will occur.**

- Will the Sporting Venues Authorities Amendment (Venues NSW) Bill 2020 override the Bill?
- **Will Heritage Council or Heritage NSW be the approval body for any changes to heritage buildings at Callan Park or at Fernhill to the 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 circumvent provisions of the Heritage Act or alienate parkland.**
- FFMV and several Councils (Penrith, Woollahra, 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. FFMV and Penrith City Council would be concerned if the operation of the Penrith Local Environmental Plan 2010 (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.**
- The Bill Clause 15 (1)(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 in 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**)⁷

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

Western Sydney Parklands legislation

*“Fernhill Estate will be vested in Greater Sydney Parklands under the Western Sydney Parklands Act 2006. This Act and its regulations define the operational requirements of the Trust in its activation and management of Fernhill Estate. The sustainable business model for Western Sydney Parklands will underpin the way forward to create long term sustainability at Fernhill Estate”.*⁸

⁷ <https://www.greater.sydney/western-city-district-plan>

⁸ Fernhill Draft Plan of Management 2030.p. 24

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.**”

While many of the functions of WSP⁹ 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

(i) 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.

There is a lack of heritage considerations within WSP and the cultural significance/listing of Fernhill precincts.

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.

Trust Functions about land in Bill

Acquisition of Land

Property NSW Act 2006

The Bill states in Management of GSPT estate and other land Clause 19 Subclause 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 acquire any property on behalf of, or for the purposes of, the agency,

What is the purpose of this subclause? Is it to facilitate development/commercialisation of park land or provide GSPT with unfettered discretionary powers for acquisition of lands?

Acquisition of Land Division 2 Clause 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.

⁹ Western Sydney Parklands Act 2006. No. 92 (NSW)

This Bill gives the GSP Board **overreaching powers to acquire public and private land compulsorily** viz, any existing council parks, reserves, playgrounds, or private land.

The Bill also provides for GSPT to **take over management of other government land (Clause 19)**. 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 the Regional Parks, National Parks and Nature Reserves, or perhaps even some Local Government parks and reserves. This 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. Clause 19 is especially significant in light of the 'six cities plan'¹¹ recently announced by the NSW government, affecting state and local parks, reserves, etc.

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 requires inclusion of representatives from the GSC, local council and the local community.

Commercialisation

In a prelude to the Bill, the **White Paper – Parklands for People What we heard report**¹² 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 is more about giving the GSPT 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.*

¹⁰<https://www.environment.nsw.gov.au/resources/planmanagement/draft/WesternSydneyRPPOMFinalDraft.pdf>

¹¹ Cormack, Lucy. "Premier's plan to grow Sydney, create new cities and science minister" SMH 2 December 2021)

¹² [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)

It opens the door for further commercialisation and inappropriate developments such as hotels, business hubs and transport infrastructure on our parklands including Fernhill, as has occurred in the Western Sydney Parklands:

Bob Carr and following governments had been buying up this land with our taxes since I was a child to be protected for *'open space never to be developed'*. These early governments weren't naive and made provisions to ensure this land would not be flogged-off by a future parliament. But after the 2011 Liberal government of Barry O'Farrell these provisions were increasingly ignored, sidestepped and stripped back; a sell-off which subsequent Liberal governments continued. Today the government has largely stopped buying up the land and is instead selling it off or renting it out for private uses. In theory only 2% of the Parklands will be developed but in real terms the Parklands have already commercialised at least 4.9 square kilometres of land since 2000 — more than a tenth of the total — to create new high-density suburbs, industrial estates, shooting ranges, corporate adventure parks, zoos and numerous other private uses. This fire-sale of our reserves is the product of ideology rather than necessity. One commercial venture currently pays \$700 per hectare for exclusive use in a neighbourhood where the median industrial rent is \$1,000,000; private business is seen as a public good. In 2013 four homes compulsorily acquired for parkland at Horsley Park were bulldozed and the land 'leased out' for the construction of furniture warehouses just two years later. The farmers who were dispossessed to create a green belt now have the privilege of buying furniture there.

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But the commercialisation of WSP continues with the latest industrial development proposal on land that was resumed for WSP: <https://mpweb.planningportal.nsw.gov.au/major-projects/project/41636>. It is on exhibition as a State Significant Development for Building 2 & 3 of Stage 2 Horsley Drive Business Park. The development [Application 20211112044608](#) shows the site to be development in the Western Sydney Parkland.

**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.**

Income generation

***“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”.*¹⁴**

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

- Ring-fencing any income that is generated from business developments may be problematic
- The commercial uses may not be appropriate or disproportionate for the site
- Business development can lead to over-commercialisation

¹³ Ridgeway PA. 2021. A Wide and Open Land. Walking the last of Western Sydney's woodlands. P. 141.

¹⁴ 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).

- 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 capability 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 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*¹⁵ 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 ring-fenced 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. However, reliance on volunteers is dependent upon respect and effective communication between park administration and the volunteers.¹⁶

This informative *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.

¹⁵ [Paying for Parks: Eight models for funding urban green spaces – The Parks Alliance](#)

¹⁶National Trust loses thousands of volunteers as some tell AGM they feel 'abandoned and ignored' (The Telegraph UK, 31 October 2021)

- Some models can be more readily applied to access finance in the short term. Other models require more long-term developmental work and radical thinking but could play an important 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”.*¹⁷

The same applies to Sydney parks. **It has not been explained how the proposed system of revenue raising through “private subsidiaries corporations, joint ventures etc” (Bill Clause 11 (b) and (c)) with “the funds of each trust¹⁸ 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.**

If the NSW Government can spend at least \$200 million, and costs could blow out to as much as \$300 million¹⁹ on a new football stadium in Penrith,²⁰ it can surely finance the development and operation of Fernhill as a world class parkland for passive leisure activities in Western Sydney.

In recent years there has been a considerable amount of research concerning what makes a cultural attraction succeed as a business enterprise. A number of critical success factors have been identified.²¹ These factors tend to group into the following areas:

1. Understanding of heritage significance
2. Effective management of the cultural resource to ensure its key values and integrity are retained
3. The will to enter the tourism marketplace
4. Business and management skills
5. The ability to develop and present distinctive product, to provide an engaging experience for visitors
6. A focus on customer needs and interests
7. A well-conceived and targeted marketing program which generates local and wider market interest and
8. Community support and ownership.

No commercialisation of parks

- **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 GSPT open-ended opportunities to enter into commercial ventures and revenue generation than

¹⁷ Ibid.

¹⁸ [GSPT Bill 2021 Guide to the Bill. October 2021. Part 5 Finance P. 5.](#)

¹⁹ <https://www.foxsports.com.au/nrl/nrl-premiership/teams/panthers/panthers-land-stunning-200m-stadium-upgrade-from-government/news-story/332fdaca70c2dfb7968db93a75037538>

²⁰ [Penrith set to roar as Panthers stadium to get massive upgrade \(nsw.gov.au\)](https://www.nsw.gov.au/penrith-set-to-roar-as-panthers-stadium-to-get-massive-upgrade)

²¹ [Leader-Elliot, L. 2000. Heritage, Tourism and Integrity – Making it Work. Bulletin of the Australian Institute for Maritime Archaeology \(2001\), 25:69-74.](#)

preserving the unique qualities of the parklands (our public assets). These commercial arrangements alienate public green spaces for exclusive private use.

- **All Greater Sydney Parklands should be declared inalienable in perpetuity– then such land cannot be voluntarily sold, mortgaged, leased or otherwise reallocated for large scale commercial purposes. Public 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.**

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 significant 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.

The Objects {Clause 3(a) and (c)} of the Bill specify ecological sustainability and protection of the environment. No framework or focus is provided to address these objects. At individual parkland level, there is no requirement for Community Trustee Board (CTB) membership to include skills or experience in biodiversity, ecology or environmental science {Clause 38 (3b)}. **How can a CTB provide advice on these matters to the Associated Trust, and thereby to GSPT, without knowledge and experience in these disciplines?** Greater emphasis on CTB membership is given to diversity (age, gender, cultural background) than to fulfilling obligations to the Objects of the Bill.

Object (d) highlights the need to advocate for a long-term vision for parklands across Greater Sydney. However, the Bill fails to state what is that vision. How can NSW legislate for an agency with an unspecified goal? The Bill is fundamentally flawed.

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 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 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 representatives from local Council(s) in which the park is situated.

There could still be a central Greater Sydney Parklands agency advocating for equitable government funding of Sydney's parklands and providing back office, maintenance and infrastructure oversight 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 (CTB)²²

Clause 37 (page 13) of the Bill states that a CTB **must** be established for Callan Park, Centennial/Moore Park, Parramatta Park and WSP but only that CTBs **may** be established for other parts of the parkland estate (e.g. Fernhill). A Trust for Fernhill as well as a Community Trustee Board is essential and must have members competent to protect Fernhill's cultural significance, as embodied in its physical form or fabric, its setting, its uses, or people's memory and associations with the place and its biodiversity.

As the Penrith City Council 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 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 Bill.*

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

A toothless CTB that can be dissolved at any time, without justification, if the trustee board members advocate for matters the GSPT Board may not appreciate, would serve no purpose.

Fernhill needs its own Trust, independent of WSP, 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

²² An issue with the Bill is use of the word "Trust," which is confusing in its use throughout. For example, on Page 52, Section 23 (4) does "Trust" refer to the Associated Trust (Western Sydney Parklands Trust) or the GSP Trust? It is at variance with the definition of "Trust" on Page 31 under Schedule 4 Dictionary.

landscape with significant areas of biodiversity, yet it is to be moulded into a parkland for social and physical activity, hopefully without damaging its exceptional heritage or environment.

Community consultation

The Object (g) of the Bill states: *to provide increased opportunity for community engagement to shape regionally significant parklands in response to diverse community needs* and the **Functions of the Trust**

Clause 15 (1)(g): *to consult with, and involve, the community in planning for the parklands estate and carrying out the plans, including the provision of services and facilities within the parklands estate, by establishing a transparent process for consultation about and management of the parklands estate,*

Requirement to have consultation and engagement framework Clause 29: *The Trust must have an approved consultation and engagement framework for the parklands estate.*

It is obvious from the following that DPIE and GSPT has not listened to the Community:

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.***

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 on 1 May 2021 by Elton Consulting at the Hayshed, Fernhill Estate, that Fernhill Estate is *terra nullius* – a large area of land without claims on it, suitable for the 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 community comment without informing the community of the constraints that apply to the site, either through the Options Papers, Conservation Management Plan or any other planning instrument.

More recently GSP staff and Elton Consulting held a Teams meeting with the FFMV Committee to inform them of the draft concepts in the Fernhill Landscape Management Plan (LMP). FFMV responded with initial written concerns and asked for an on-site meeting to discuss issues of concern and potential alternatives. FFMV had a thank you from Elton Consulting but no reply to our request to meet. The following webinar on the Fernhill draft LMP raised even more issues, so FFMV contacted the Landscape Architect to see if an on-site visit could be arranged as some of the

concepts were contrary to the draft Conservation Management Plan. FFMV was told that an on-site visit by those involved in drafting the plan was not possible, as **decisions on Fernhill were being made at the “highest political levels”**. FFMV was informed that a further “community consultation” would probably be held in March (submissions close on 8th Feb!) when the LMP had been finalised.

So much for consultation! To consult as defined in the Oxford dictionary is to “*have deliberations with a person, seek information or advice, take into consideration*” and consultation is “*the act of consulting, deliberation, conference*”.

The final statements in the draft Fernhill LMP are “*Prepare detailed designs for key design moves in consultation with community*” and “*Continue to engage community members and key stakeholders*”! It should be noted that some on the FFMV Committee have an intimate knowledge of Fernhill, even dating back 50 years!

We can put in a submission, ask a question on a webinar or teams meeting, but not have any meaningful discussion on issues of concern. If this is a classic example of how DPIE and GSP consultation works, the **consultation and engagement framework in the Bill** is dysfunctional, lacks clarity and specificity.

As Minister Rob Stokes said in his PhD thesis (2007)²³ pp. 364-5: “The bureaucratisation of public participation means that effective citizen empowerment in planning is thwarted wherever the aspirations of the public clash with the public interest as determined by public officials”. “Public participation is captive to the power of the public officials who control it”.

Business hubs

The White Paper Parklands for the People and the ‘What we Heard’ responses mention Off Park Business Hubs and neither the Western Sydney Parklands Act nor the Bill has 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. Western Sydney Parklands has a shopping centre zoned a State Significant Development, thus setting a precedent that will certainly be misused. The power by GSPT to create Hubs within, or associated with, a Parkland should be prohibited by the Bill.

The Bill does not 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.

WSP was established in 1968, and now after 50 odd years parts of the parklands have been considered as low level environmental 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.

²³ Stokes, RG. 2007. THE BATTLE FOR THE BIG BACKYARD: AN EXAMINATION OF THE CONFLICT BETWEEN SUBURBAN CHARACTER AND URBAN CONSOLIDATION AND THE USE OF PUBLIC PARTICIPATION IN MANAGING THIS CONFLICT. PhD thesis Department of Law. Macquarie University.

Private subsidiaries

The Bill Clause 11(b) and (c): ***Exercise of functions through private subsidiaries corporations, joint ventures etc:*** The example given is innocuous, but the clause enables an avenue to establish 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 44 **Payments from 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 non-producers in future years?*

The total reinvestment option is very attractive for a park system. 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 years.²⁴

Clause 45 (2) of the Bill states disbursement of funds is at the discretion of the GSPT Board.

- **There is nothing in the Bill about cost-monitoring or expenditure efficiency**
- **There should be a defined cap put on administrative costs of GSP**
- **Will administrative costs of GSP come from Consolidated Revenue or income generated from GSPT?**

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".*

Heritage

The Bill has as Object (c): *to ensure the conservation of the natural and cultural heritage values of the parklands estate* and **Clause 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, central road and a proposed hotel.

Will the Greater Sydney Parklands adhere to the objectives and functions of the Bill at Fernhill?

²⁴ LaPage, W., 1994. Self-funding state parks: The New Hampshire experience. *Parks*, 4(2), pp.22-27.

The State Government bought the iconic state heritage listed Fernhill Estate for public parkland. **What is exceptional about the Fernhill Estate is that the Fernhill Homestead survives with its contemporary designed landscape and in its original setting.** The rural landscape of Fernhill (and the Mulgoa Valley) has been recognised since early settlement of the Valley and survives to a degree unsurpassed. The designed landscape (the house setting, the drive, bridges, reflecting pond and *Angophora* clumps) is arguably unique in the history of landscape design in Australia and in the retention of native species, represents a remarkable, important shift in the early colonists’ attitude to their environment.

The Fernhill Estate’s Foundation Plan of Management 2026 (POM) reinforced the view that *“the open rural parkland of the Estate below the house and into the Valley is significant as a remnant Early Colonial rural estate landscape where it remains intact”* (POM p. 25) and planned to *“Protect and manage Early Colonial remnant cultural landscapes. Investigate opportunities to reverse the late 20th century modifications to the Early Colonial landscape setting”* (POM p. 47).

But now, contrary to the recommendations of the draft Conservation Management Plan, the draft **Fernhill Estate Landscape Master Plan summary brochure** proposes to desecrate that unique colonial landscape with

- two parking lots
- changing the landform to create a “wetland discovery area”
- no indication that the colonial landscape will remain a rural grazing landscape.

National Trust director of conservation David Burdon says one of the biggest issues is trying to preserve heritage conservation areas, to maintain their character. *“It’s often very important to protect the original setting around a heritage property to keep it meaningful. And while there are protections, we have to enforce them, sometimes we have bodies too willing to override heritage protections.”*²⁵

The following should also be noted:

NSW Government’s response to the Report of the Social Issues Standing Committee Inquiry into the <i>Heritage Act 1977</i>		
Standing Committee Report Recommendation	Response	Comment
2 <i>That the NSW Government amend the Heritage Act 1977 to explicitly reflect and accommodate a more varied, inclusive and nuanced concept of what constitutes the State’s heritage, especially beyond conventional understandings of heritage as buildings and structures. This should reflect contemporary concepts, thinking and approaches to heritage conservation including (but not limited to) intangible cultural heritage and cultural landscapes.</i>	Support	<ul style="list-style-type: none"> • The NSW Government will prepare amendments to the <i>Heritage Act 1977</i> to reflect more varied understandings of State Significant Heritage including landscapes and intangible heritage.

Biodiversity

Only in the example to Clause 11 is biodiversity mentioned in the Bill and that relates to joint ventures. Yet the maintenance of the remnant Cumberland Plain woodland at Fernhill and Western Sydney Parklands is of the utmost state and national importance. **So why is biodiversity not included in a Statement of Significance in the Bill?** Even the three Sydney parks as ‘islands’ within a

²⁵ [Sydney’s heritage homes: take a look inside the historic gems these homeowners have restored for modern living \(domain.com.au\)](http://www.domain.com.au)

matrix of urbanisation, with little remnant vegetation, can be managed to improve biodiversity and achieve a balance between the conservation of biodiversity and the public recreation and cultural facilities provided.²⁶

The Bill contains next to no imperative to maintain green open space, habitat and biodiversity. Western Sydney is under enormous pressure with Parramatta and Blacktown expected to increase their housing by over 40,000 dwellings and Penrith by 24,000²⁷ by 2038. **Carving up of Western Sydney Parklands must stop – these parks are our green lungs²⁸ for humans and wildlife.**

Sustainability

The Bill Object {Clause 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.

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 (carrying capacity)***²⁹
- ***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.

Parks must be:

- **Maintainable:** As park budgets continue to be in peril, ensure efficient maintenance processes are integrated into future activities.
- **Tech-engaged:** where cars once reigned, accommodate ride shares e.g. charabancs, bicycles and small electric personal mobility devices. **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**

²⁶ Corkery, L. And Corkery, N., Western Sydney Parklands: Australia’s Largest Urban Park. Parks Vol 21.1 March 2015

²⁷ Penrith Local Housing Strategy. Sept. 2019. Ethos Urban. 117 pp.

²⁸ <https://www.smh.com.au/nsw-election-2019/factories-planned-for-a-section-of-the-lungs-of-sydney-s-west-20190322-p516kl.html>

²⁹ Manning RE. 2007. Parks and carrying capacity: commons without tragedy.

<https://portals.iucn.org/library/node/28738>

- **Collaborations** with private, not-for-profit entities to stretch resources and allow for creativity and philanthropy. This requires transparency and trust.
- **Safe:** While Part 6 (pages 17-20 of the Bill) includes generic provisions for offences and legal proceedings, neither the Bill nor the POM addresses issues of how the GSPT Board should address criminal activities, vandalism and more importantly, given the increasing social divide and worldwide tendency towards cultural divisiveness, occupation of parklands by homeless persons.

Conclusion

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.

**Dr Michael Barkley
President of Friends of Fernhill and Mulgoa Valley Inc.
14 January 2022**