



## DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

9<sup>th</sup> August 2005

**DSDS5 SOUTH WEST ROCKS OPEN SPACE STRATEGY RECLASSIFICATION OF COMMUNITY LAND  
FILE: 527 APB**

### SUMMARY:

Reporting on submissions from the public notification to reclassify community land and recommending Council undertake reclassification by preparation of a draft Local Environmental Plan.

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### Background

Council resolved at its meeting of 12<sup>th</sup> April 2005:

*That Council give public notice of its intention to resolve to reclassify the following land:*

*Part Lot 122 DP 1051855 Dennis Crescent  
Lot 39 DP 819591 Albert Harrower Crescent  
Lot 81 DP 805382 Arthur Street (East)  
Part Lot 132 DP 829565 Victor Perry Place  
Part Lot 26 DP 844106 Rafferty Crescent*

This followed exhibition of an open space study for South West Rocks prepared by consultants ERM and consideration of submissions from that exhibition.

### Public Exhibition and Submissions

Public notice of intention to reclassify the land, and to repeal DCP 10, was placed in the local paper on 19<sup>th</sup> April 2005.

Council has received 19 submissions plus a petition signed by 86 individuals. In addition, copies of 6 letters sent to either the Lands Department or DIPNR were received. ([Appendix I, Part 1, Part 2, Part 3, Part 4, Part 5, Part 6, Part 7, Part 8, Part 9](#))

Issues raised were:

| Objection  | Planning Comment   |
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| 1 Need to plan for adequate open space provision to serve long term population growth.       | 1 Agreed. Provision of open space needs to be adequate and appropriate for future population, and able to be managed on a sustainable basis.   |
| 2 Strong community opposition to the loss of any open space.                                 | 2 It is acknowledged that there has been vocal opposition to sale of the parks.  |
| 3 Maintenance costs to Council is not significant as neighbouring land owners maintain land. | 3 No formal arrangements exist. Formalising these arrangements creates liability issues for Council.   |
| 4 Council doesn't maintain, so no significant costs.   | 4 Council intends to provide an open space network that is managed and maintained.   |
| 5 Should have new open space strategy in place before disposal of existing open space.       | 5 The locational criteria in the Open Space Study have been adopted by Council as an interim measure.  |
| 6 Uncertain of future use of reclassified land.  | 6 Intention is to sell land, which would be able to be developed for residential purposes.   |
| 7 Adjoining owner expectation land would remain as open space in perpetuity.                 | 7 Council has legislative power to reclassify and sell open space land.  |
| 8 Land zoning should provide certainty.  | 8 Land is zoned residential. No rezoning is proposed.  |
| 9 Concern that precedent set for reclassification of other community land.                   | 9 Council has power to reclassify community land either under the Local Government Act or the Environment Planning and Assessment Act. Circumstances may arise where reclassification is |

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|   | desirable, preferable or leads to a preferred outcome for Council.  |
| 10 Albert Harrower Crescent and Arthur Street (East) reserves were not previously considered for sale, and assurances given in 2004 would be embellished. | 10 The purpose of the review was to review previous decisions in the context of the amount of open space required for South West Rocks, including locational criteria.  |
| 11 No public meeting held for Albert Harrower and Arthur Street is in breach of Local Government Act.   | 11 Section 29(2) requires a public hearing to be held before Council resolves to reclassify land.   |
| 12 ERM report commissioned by Council recommended Albert Harrower and Arthur Street be retained.  | 12 Consultant reports and recommendations are subject to Council review.  |
| 13 DCP 10 should not be repealed until open space strategy for South West Rocks prepared.   | 13 The review relates to small neighbourhood parks only. Other open space for passive and active uses will be subject to a separate review and would not affect the current review.   |
| 14 80 submissions were received on proposal to sell land, not 20 as previously reported.  | 14 There was a separate exhibition process for the sale of a range of land parcels, prior to preparation and exhibition of the ERM open space strategy report. This later exhibition resulted in 20 submissions, as reported. |
| 15 Accurate plans and description, of size and location of land was not provided.   | 15 It is considered the exhibition material was adequate. Given the submissions received, it appears adequate notification was provided.  |
| 16 Previous proposal by Council strongly opposed by community.  | 16 Noted that there has been vocal opposition to sale of land in South West Rocks.  |
| 17 No assurance that money from sale would be used for provision/embellishment of   | 17 Any proceeds from the sale of land dedicated under Section 94 of the Environmental   |

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| open space in South West Rocks.   | Planning and Assessment Act must be spent on open space purposes.   |
| 18 Council has not demonstrated land is not suitable based on requirements of Local Government Act. | 18 The reasons listed in the Local Government Act are brief and limited. Some of the land parcels are very limited in suitability due to size and shape, while others are unsuitable due more to strategic provision of open space. |
| 19 Slashing twice a year is not a significant financial burden.                                     | 19 Ultimately Council aims to provide functional local parks with facilities. Vacant land parcels is under utilisation of resources.  |
| 20 Opportunity to provide playground equipment in future as population grows.                       | 20 Playground equipment is a facility that needs to be provided in strategic locations for maximum benefit based on the expected needs of a population dominated by older persons.  |
| 21 Existence of park major factor in purchasing house in street.                                    | 21 Council is able to review the provision of local parks and while this may have some localised impacts broader goals of effective provision of open space is preferred.   |
| 22 Believe Council wants money to address short term debt.  | 22 Money from sale must be spent on open space and recreation in South West Rocks.  |
| 23 Children need playgrounds close to home.   | 23 It is proposed to provide playgrounds within reasonable distance of residential areas.   |

## Consideration

Council's intention is to adopt a strategic approach to the provision of open space in South West Rocks. An assessment indicated the five parks identified for reclassification would not fit into this strategic provision. In addition, Dennis Crescent reserve and Victor Perry

Place reserve are limited in suitability, due to size and shape, for use as local parks.

It is reasonable that the community be satisfied that the reclassification of land, to enable disposal, will lead to the better provision of public open space in South West Rocks. It is considered this is the intention of the provisions of the Local Government Act, and despite there being an ability to reclassify the land by Council resolution it is recommended that Council elect to reclassify the land by way of Local Environmental Plan preparation. This will enable more complete documentation of the approach to open space provision, greater transparency and clearer justification of Council's reasons.

## **Process**

Section 27 of the Local Government Act provides that land may be reclassified from Community Land to Operational Land through preparation, exhibition and gazettal of a Local Environmental Plan. Under this process, a public hearing under Section 68(I) of the Environmental Planning and Assessment Act must be held.

## **Proposal**

It is proposed to prepare a draft Local Environmental Plan to reclassify land in South West Rocks from Community Land to Operational Land.

### ***REPORT IMPLICATIONS:***

- ***Environmental***

***No significant environmental affects.***

- ***Social***

***Strategically located open space will provide a sustainable service for the community.***

- ***Economic (Financial)***

***Strategic provision of open space will optimise provision and costs of management.***

- ***Policy or Statutory***

***Section 34 of the Local Government Act requires Council to give public notice of its intention to reclassify public land.***

***Section 27 provides reclassification of public land may be by preparation of a Local Environmental Plan. Section 29 requires a public hearing be held. This takes place following***

*public exhibition of the draft Local Environmental Plan. A report of the public hearing must be provided to Council and made public.*

**RECOMMENDATION:**

**That Council, in accordance with Section 54 of the Environmental Planning and Assessment Act 1979 prepare a draft Local Environmental Plan to reclassify from community land to operational land the following:**

- Lot 122 DP 1051855 Dennis Crescent**
- Lot 39 DP 819591 Albert Harrower Crescent**
- Lot 81 DP 805382 Arthur Street (East)**
- Lot 132 DP 829565 Victor Perry Place**
- Lot 26 DP 844106 Rafferty Crescent**

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**R B Pitt**  
**DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES**