
5.7 RECLASSIFICATION OF 230 PHILLIP STREET (LOT 24 DP 1035913) AND REZONING AND RECLASSIFICATION OF 30 LEEWOOD DRIVE (LOT 43 DP 255071) - POST EXHIBITION AND PUBLIC HEARING REPORT

TRIM REFERENCE: 2016/62

AUTHOR: Craig Mortell, Senior Planner

EXECUTIVE SUMMARY

Two separate parcels of Council owned land, 230 Phillip Street (situated to the rear of 14-16 Astill Drive) and 30 Leewood Drive (known as Catto Park) have each been the subject of draft Local Environmental Plan (LEP) amendments.

230 Phillip Street was exhibited as proposed Amendment 7 seeking to reclassify the site from Community Land to Operational Land to enable the site to be sold for industrial development. The site is to cease to be a Public Reserve, however, it is intended that the existing easement for an electricity transmission line will remain following the reclassification. The easement is to be preserved by inclusion in Column 3 of Part 2 of Schedule 4 of the LEP.

30 Leewood Drive was exhibited as proposed Amendment 10 seeking to rezone the land from RE1 Public Recreation to IN1 General Industrial as well as reclassifying the site from Community Land to Operational Land. This would enable the site to be sold or leased to the owner of a nearby industrial site for development as a car park, providing the parking demand needed to support an expansion of the industrial site.

Following public exhibition both sites were considered in a public hearing conducted on 21 December 2015. The hearing was presided over by an independent person, Mr Nicholas Murphy (qualified town planner employed by Bathurst Regional Council as a Senior Strategic Planner).

In each case Mr Murphy found no planning reasons why the planning proposals should not proceed unaltered.

This report also deals with the proposed rezoning and reclassification of 17 Leewood Drive, being a battle-axed block behind 19 – 25 Leewood Drive. This report recommends that the rezoning and reclassification of this land not proceed.

LINK TO DELIVERY/OPERATIONAL PLAN

The recommendation in this report relates to the Delivery/Operational Plan strategy “1.2 Our City - Information and advice provided for the decision-making process will be succinct, reasoned, accurate, timely and balanced”.

FINANCIAL IMPLICATIONS

Council has been advised that as a council included in the NSW Government’s merger proposals under consideration by the Office of Local Government since referral on 6 January 2016, Council must comply with the merger proposal period guidelines issued under S23A of the Local Government Act 1993.

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The guidelines instruct Council it should expend money in accordance with the detailed budget adopted for the purposes of implementing the Delivery/Operational Plan for the 2015/16 year.

Any expenditure outside the adopted budget requires the identification of clear and compelling grounds and must be approved by Council at a meeting that is open to the public. The guidelines indicate the resolution of Council for increased expenditure must specify the reasons why the expenditure is required and warranted.

If increased expenditure is greater than \$250,000 or 1% of the Council's revenue from rates in the preceding year, whichever is the greater, Council is required to exhibit the increase to the budget and consider comments received.

Council must also avoid entering into contracts or undertakings where expenditure or revenue is greater than \$250,000 or 1% of the Council's revenue from rates in the preceding year, whichever is the greater, unless the contract or undertaking is as a result of a decision or procurement process commenced prior to the merger proposal period or where entering into a contract or undertaking is reasonably necessary for the purposes of meeting the ongoing service delivery commitments of the Council or was previously approved in the Council's Delivery/Operational Plan.

Implications in this report

Nil

POLICY AND GOVERNANCE IMPLICATIONS

Nil

RECOMMENDATION

- 1 That Council note the recommendations of the public hearing report regarding Lot 24 DP 1035913, 230 Phillip Street and Lot 43 DP 255071, 30 Leewood Drive, that there are no planning reasons not to proceed with the removal of the public reserve status on both lots, and the rezoning and reclassification of 30 Leewood Drive.**
- 2 That Council confirm the reclassification of 30 Leewood Drive and 230 Phillip Street from Community Land to Operational Land.**
- 3 That Council confirm the rezoning of 30 Leewood Drive from RE1 Public Recreation to IN1 General Industrial zone.**
- 4 That Amendment 7 (relating to 230 Phillip Street) and Amendment 10 (relating to 30 Leewood Drive) to Orange Local Environmental Plan 2011 proceed in accordance with the above resolutions and be forwarded to the Department of Planning and Environment seeking the approval of the Governor of NSW to extinguish the Public Reserve interest prior to the making of the LEP.**
- 5 That Council not proceed with rezoning or reclassification of 17 Leewood Drive, retaining it as a public reserve within the RE1 Public Recreation zone.**

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FURTHER CONSIDERATIONS

Consideration has been given to the recommendation's impact on Council's service delivery; image and reputation; political; environmental; health and safety; employees; stakeholders and project management; and no further implications or risks have been identified.

SUPPORTING INFORMATION

This report relates to two draft amendments to the Orange Local Environmental Plan 2011 and concerns the reclassification of two separate sites, one of which is also proposed to be rezoned from RE1 Public Recreation to IN1 General Industrial.

The proposals commenced at different periods but reached the public exhibition stage within a few weeks of each other. Given that both proposals involve reclassification under the Local Government Act 1993 a combined public hearing was held in relation to both sites.

This report details the public exhibition and public hearing phase for both amendments.

Draft Amendment 7 – 230 Phillip Street

The site is currently a Public Reserve. The effect of reclassification in the form proposed will cause the site to cease to be a Public Reserve thereby removing the impediment which such a status places upon development and sale of the site.

Council has previously re-zoned the land to IN1 General Industrial in recognition of the appropriate use to be made of this site. The approval of the Governor of NSW to the reclassification is required to remove the Public Reserve Status.

The site is situated to the rear of 14-16 Astill Drive and is separated from the nearest residential area by the Northern Distributor Road to the southwest. It is considered that this context negates any passive or active recreational potential and the site does not exhibit significant ecological values.

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Draft Amendment 7 was exhibited between 31 October 2015 and 30 November 2015, there were no submissions received. The matter was listed for the public hearing conducted on 21 December 2015. No speakers addressed the hearing in relation to this site.

Draft Amendment 10 – 30 Leewood Drive “Catto Park”

Draft Amendment 10 was exhibited between 16 September 2015 and 14 October 2015, one submission was received during this period, on behalf of Environmentally Concerned Citizens of Orange (ECCO).

The matter was listed for the public hearing conducted on 21 December 2015 and a total of three speakers addressed the hearing in relation to this site. The report of the independent convener of the hearing is attached to this report.

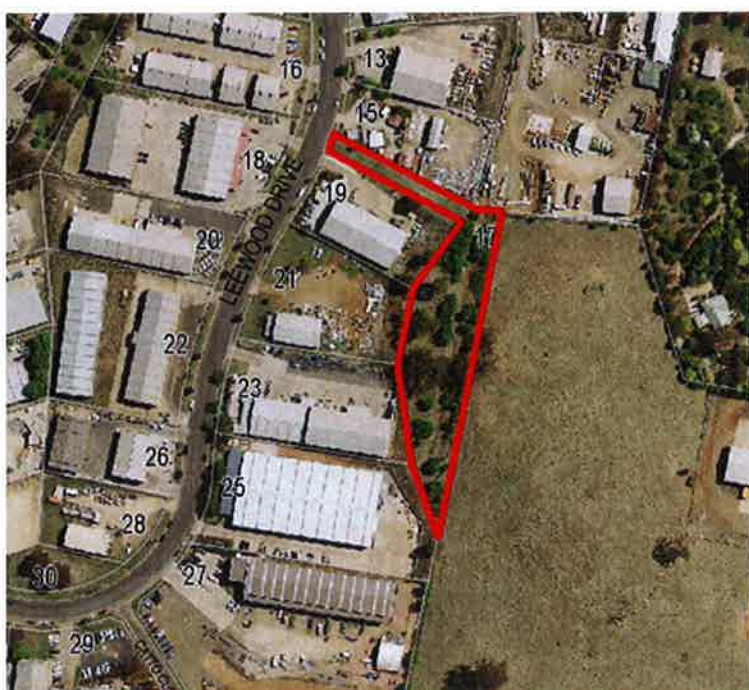
The ECCO submission opposes the rezoning of Catto Park. In support of the objection ECCO note the two large eucalypts and their contribution to biodiversity and habitat in the area suggesting that linkages involving these trees with nearby vegetation could potentially be achieved, additionally the trees are considered to compensate for tree removals at Leewood Park. The ECCO submission also considers that Catto Park should be retained due to the amenity the park provides to the industrial estate and public benefits of greenspace to the health and well-being of the community.

Comments from the Manager Development Assessments advise that the Leewood Industrial estate was created in the 1970s as a garden industrial estate intended to provide a higher level of amenity for the workforce and visitors. Catto Park and Leewood Park as well as other vegetated corridors and front of premises landscaping were to provide a relaxed and enhanced presentation to the estate, creating a more desirable working environment. It was envisaged that the workforce would utilise the parklands for lunch breaks and the like.

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In terms of ecology and habitat, the trees in Catto Park are considered to be relatively isolated from other vegetation stands in the area. The potential connectivity value of the vegetation is therefore seen to be modest. Given the location of the trees within the site it is considered possible that design of a future car park could seek to retain the trees, which would provide beneficial shade to vehicles and maintain their existing contribution to the urban canopy and bird habitat.

With respect to amenity site inspections have not indicated significant active use of the site, this may be attributed in part to the lack of embellishment of the site e.g. no picnic tables or other facilities beyond the two eucalypts, partly to the absence of neighbourhood shops or food outlets reducing the likelihood of workers to picnic in the park and partly due to the nature of industrial estates which are generally not regarded as preferred recreation areas.

Draft Amendment 10 – 17 Leewood Drive

Previously, draft amendment 10 had also included the potential rezoning and reclassification of 17 Leewood Drive, being a battle-axed block behind 19 – 25 Leewood Drive. Some Councillors undertook a site inspection of 17 Leewood Drive on 12 September 2015. Concerns relating topography, accessibility and a desire to retain the existing vegetation were raised at the inspection.

ATTACHMENTS

- 1 Final Report of Public hearing 21 December 2015 for reclassification of 230 Phillip Street and 30 Leewood Drive "Catto Park", D16/2770
- 2 Submission (Environmentally Concerned Citizens of Orange - ECCO) - objection to reclassification of Catto Park, IC15/15135



**Report on the Public Hearing for the
proposed reclassification of land in the
Orange LGA**

Lot 24 DP 1035913, 230 Philip Street, Orange

Lot 43 DP 255071, 30 Leewood Drive, Glenroi, known as Catto Park

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Introduction

Orange City Council recently exhibited a document titled *'Draft Orange Local Environmental Plan 2011 – Amendment No. 7'* to rectify an administrative error in a previous reclassification by removing the public reserve status of Lot 24 DP 1035913, 230 Philip Street, Orange.

Orange City Council also recently exhibited a document titled *'Draft Orange Local Environmental Plan 2011 – Amendment No. 10'* to rezone the subject land from RE1 Public Recreation to IN1 General Industrial, to reclassify the land from 'community' to 'operational' and to remove the public reserve status of Lot 43 DP 255071, 30 Leewood Drive, Glenroi, known as Catto Park.

It should be noted that the original proposal in relation to Leewood Drive also included Lot 16 DP 255071, 17 Leewood Drive, Glenroi, however this parcel was not included in the NSW Department of Planning and Environment's Gateway Determination dated 8 September 2015 as Council had excluded this parcel of land from the Planning Proposal.

Both draft LEP Amendments propose to reclassify certain parcels of Council owned land pursuant to the Local Government Act 1993. The provisions of the Local Government Act 1993 and the Environmental Planning and Assessment Act 1979 require that a public hearing be held regarding such reclassification proposals.

To satisfy these requirements Orange City Council convened a public hearing, pursuant to Section 29 of the Local Government Act, commencing at 1.00pm on Monday 21 December 2015 at the Council Chambers in the Council offices located at Byng Street, Orange.

As required by Public Land Management, issued by the Department of Local Government in May 2000, Council appointed me, Mr. Nicholas Murphy, as an independent person to preside at the hearing. I am a qualified town planner employed by Bathurst Regional Council as a Senior Strategic Planner.

Prior to the hearing, I undertook a site inspection of both sites to familiarise myself with the locations and identify any matters which I should take into consideration in making my recommendation. Photos of the sites are located at **attachments 1 & 2**.

Acknowledgement of Country

The Chair read the Acknowledgement of Country.

Public Hearing

All interested persons and groups were invited to attend the hearing and make verbal or written submissions on the proposed reclassifications. Orange City Council had received 1 written submission in relation to the Leewood Drive reclassification, and no submissions on the Phillip Street reclassification.

The meeting was convened at 1.00pm on Monday 21 December 2015, as advertised. Present at that time were:

Mr Nicholas Murphy (meeting chair) - Bathurst Regional Council;

Mr David Waddell - Orange City Council, Director, Development Services;

Mr Nicholas King – Environmentally Concerned Citizens of Orange (ECCO);

Mr Kelvin Regan – Local resident, supporting ECCO;

Mrs Joan Regan – Local resident, supporting ECCO.

Attendance of the meeting is at **attachment 3**.

At the commencement of the hearing, the Chair enquired whether there was anyone in attendance relating to the Phillip Street reclassification. There were no speakers in relation to the Phillip Street reclassification.

Following the Phillip Street reclassification matter, the Chair enquired whether there was anyone in attendance relating to the Leewood Drive reclassification. There were three (3) speakers in relation to the Leewood Drive reclassification.

The meeting closed at 1.16pm after verbal submissions by Mr. King, Mr Regan and Mrs Regan.

Submissions

The hearing received verbal submissions from Mr. King, Mr Regan and Mrs Regan in relation to the Leewood Drive reclassification. A summary of their issues are outlined below:

Mr King spoke to the ECCO submission:

- a) Indicated that the Leewood Drive estate is a typical industrial estate.
- b) Has the feel of an environmental area with the expansion of the wildlife corridor from McFarlane Park.
- c) The site has two mature eucalypt trees, centrally located.
- d) The removal of these trees, if on privately owned land, would contravene Orange City Council's TPO.
- e) Advises there is ongoing tree removal within the industrial estate.
- f) Considers that the public land should be retained as it contributes to the general amenity of the estate.
- g) Identifies that the land is used by workers from Challenge Implements during break times. Photos supporting this (See **attachment 4**).
- h) The public has the ability to use the park in its current form.
- i) The park should be retained as public reserve and retained as recreation land.

Mr & Mrs Regan

- a) Supported the comments made by ECCO.
- b) Identified potential dangers associated with the use of the land as a carpark with the additional large trucks, access and egress from the site and ongoing traffic concerns.

The Chair asked Council if the parcel was to be disposed of to an adjoining landowner?

Mr Waddell

- a) Advised that Council has been approached by PJJ located across the road for use of the parcel as a carpark for their workers.

Consideration of Submissions

Following the close of the meeting, I considered the matters raised in the one written and three verbal submissions. In relation to Lot 24 DP 1035913, 230 Philip Street, Orange, I have concluded:

- a) The Planning Proposal known as Amendment No 7, Lot 24 DP 1035913, 230 Philip Street, Orange, is to remove the public reserve status, requiring the NSW Governor's

approval. Council has not received a submission in relation to the proposed reclassification.

- b) There are no planning reasons not to proceed with the Planning Proposal unaltered.

In relation to Lot 43 DP 255071, 30 Leewood Drive, Glenroi, I have concluded:

- a) The Planning Proposal known as Amendment No 10, Lot 43 DP 255071, 30 Leewood Drive, Glenroi, known as Catto Park is to rezone the subject land from RE1 Public Recreation to IN1 General Industrial, to reclassify the land from 'community' to 'operational', and to remove the public reserve status, requiring the NSW Governor's approval.
- b) Orange City Council has received one written submission from Environmentally Concerned Citizens of Orange (ECCO). Three verbal submissions were made by Mr King and Mr & Mrs Regan in relation to the parcel of land at the public hearing.
- c) Mr King's submission primarily related to the removal of the trees and the detrimental impact to the local area's biodiversity and loss of amenity attributed to the removal of the trees. Mr King also noted that the land is periodically used by local workers during break times.
- d) Mr & Mrs Regan spoke to the issues relating to the use of the land as a carpark and the associated access and egress, additional large trucks and ongoing traffic concerns.
- e) The purpose of the Planning Proposal is to rezone the land, reclassify the land and remove the public reserve status. The Planning Proposal does not consider any future use of the site. Any future use of the site, including any potential sale of the land will be subject to further rigor through the Development Application process and Council resolution process.
- f) There are no planning reasons not to proceed with the Planning Proposal unaltered.

Recommendations

I have examined the information available for the Planning Proposal Gateway Determinations of the two Planning Proposals (PP_2015_ORANG_002 and PP_2015_ORANG_003), the publically available information supporting the Planning Proposals, the one written public submission relating to the Leewood Drive matter and the three verbal submissions relating to the Leewood Drive matter.

Planning Proposal (PP 2015 ORANG 002) to amend Orange Local Environmental Plan 2011 – Lot 24 DP 1035913, 230 Phillip Street Orange

I am of the opinion there are no planning reasons why the Planning Proposal to remove the public reserve status of Lot 24 DP 1035913, 230 Phillip Street, Orange should not proceed unaltered.

Planning Proposal (PP 2015 ORANG 003) to amend Orange Local Environmental Plan 2011 to rezone and reclassify – Lot 43 DP 255071, 30 Leewood Drive, Glenroi – "Catto Park"

It is important to note that the reclassification of the land from Community to Operational does not compel Council to sell the land or remove the trees on the site. The reclassification of the land provides Council with flexibility in entering into lease arrangements and sale of the land at a future date if it is deemed appropriate.

The matters raised in the submissions received during public exhibition or representations at the public hearing do not warrant the Planning Proposal to be discontinued.

I am of the opinion there are no planning reasons why the Planning Proposal to rezone, reclassify and remove the public reserve status of Lot 43 DP 255071, 30 Leewood Drive, Glenroi should not proceed unaltered.

Next step

The independent report of the outcomes of the public hearing will be submitted to Orange City Council for consideration. The report from the public hearing, as required by section 57(7) of the Environmental Planning and Assessment Act 1979, is to be made available to the community.

Orange City Council staff will prepare a report for a forthcoming ordinary meeting of Council to consider and resolve if it wishes to proceed with the Planning Proposals.



Nicholas Murphy
SENIOR STRATEGIC PLANNER

Attachment 1





Attachment 2





(list meeting being held)

Reclassification

21 Dec 2015

(location of meeting eg room)

(date of meeting)



ORANGE
Australia's Colour City

[illegible]

Attachment 4



130pm

march 2015



march 2015



October 2015



~~XXXXXX~~

DEC 2015

7.53am