

4 RZ18/0008 - Planning Proposal to amend Penrith Local Environmental Plan 2010 - Reclassification of four (4) sites in St Marys and Penrith from Community to Operational land.

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Outcome	<i>We plan for our future growth</i>
Strategy	<i>Facilitate quality development in the City that considers the current and future needs of our community</i>
Service Activity	<i>Plan for and facilitate development in the City</i>

Procedural note: Section 375A of the Local Government Act 1993 requires that a division be called in relation to this matter.

Owner: Penrith City Council

Proponent: Penrith City Council

Executive Summary

Council is in receipt of a Planning Proposal to amend the *Penrith Local Environmental Plan (LEP) 2010*. The Planning Proposal relates to land at four (4) sites in St Marys and Penrith and is provided in Attachment 1.

The Planning Proposal seeks to reclassify the land from Community to Operational land and remove all trusts that relate to public reserve status for the three sites in St Marys and car parking for the Penrith site. No other zones or planning controls are proposed to be amended.

The reclassification is a statutory process that will enable Council to consider the future use of all sites and to realise the objectives of the existing zones. The Planning Proposal is aligned with local and regional plans and strategies.

Under the requirements of Section 2.19 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*, this Planning Proposal was referred to the Local Planning Panel for advice. This advice has been considered in the assessment of the Planning Proposal.

The reclassification requires the use of the Department of Planning and Environment's (DP&E) Gateway process (the process for making and amending local environmental plans). This process requires a Gateway Determination, the preparation and public exhibition of a planning proposal and an independently chaired public hearing. This report recommends that Council sponsor the planning proposal.

Reclassification Process

Public land is managed under the *Local Government Act 1993*, based on its classification. All public land must be classified as either 'community land' or 'operational' land.

- Community land – is land council makes available for use by the public, for example, parks, reserves or sports grounds.
- Operational land – is land which facilitates the functions of council, and may not be open to the public, for example, a works depot or council garage.

Land that is classified as Community land must not be sold, exchanged or otherwise disposed of by a council. There is no special restriction on Council powers to manage,

develop, dispose, or change the nature and use of Operational land. The reclassification of public land does not commit Council to the sale or development of the land. Council can still retain ownership and maintain the current use of the land.

Reclassification through an LEP (by the preparation of a planning proposal) is the mechanism with which Council can remove any public reserve status applying to land, as well as any interests affecting all or part of public land. It is critical that all trusts are identified upfront as part of any planning proposal. If public land is reclassified from Community to Operational, without relevant interests being identified and discharged, then the land will need to be reclassified back to community land.

A reclassification proposal to remove the public reserve status of land and remove trusts/interests may not necessarily result in the immediate sale or disposal of the land. The major consequence of this process is that the land in question is no longer protected under the Local Government Act from potential future sale once it has been reclassified to operational.

The intended outcome for this planning proposal is to allow Council to consider the future use of all sites and to realise the objectives of the existing zones. This will only be possible if the land is reclassified to Operational land and the removal of the abovementioned relevant trusts that apply.

The Planning Proposal

The Planning Proposal seeks to reclassify four sites in Penrith and St Marys. The following discussion provides details on each of the sites, the identified trusts that are proposed to be discharged, and, a discussion on the implications of the removal of these trusts. Attachment 2 provides the aerial photographs of all sites.

Site 1 and 2 - (12A and 32A Champness Crescent, St Marys)

These sites are currently zoned R4 High Density Residential and have a 15m height limit. Both battle-axe shaped sites are vacant, surrounded by residential development and have restricted access via narrow access handles approximately 2.4 m wide. The St Marys town centre and public transport are within walking distance of the site.

The land has a public reserve status and a trust for community purpose (open space). This trust must be removed as a requirement for any reclassification to Operational land. As a result, the sites can be disposed of, consolidated with adjoining land or redeveloped into a residential flat building in accordance with the zoning of the land endorsed by Council in 2010.

The sites were dedicated as recreational reserves in 1962 and were later rezoned from 6(a) Public Recreation and Community Uses (under LEP 1998) to R4 High Density Residential in LEP 2010. The rezoning of these sites underwent community consultation at that time as part of the city wide LEP review in 2010. There remain three parks within a 450m radius of sites 1 and 2 as shown in Attachment 2.

Site 3 – (110A Dunheved Circuit, St Marys)

This site is zoned IN1 General Industrial, is currently vacant within an existing industrial estate and is used for unauthorised parking. The site is in close proximity to existing and future (Outer Sydney Orbital) freight routes. The site was dedicated to Council in 1967 as Public Garden and Recreation space.

The land has as a public reserve status and a trust for community purpose (open space). This trust must be removed as a requirement for any reclassification to Operational land. As

a result, the sites can be disposed or redeveloped for industrial use in accordance with the zoning of the land endorsed by Council in 2010.

The impact of the removal of the trust for open space and public reserve status on the community and workers in the estate would be minimal. Open space areas in the locality includes the Dunheved Estate reserve (located opposite site 3 on the southern side of Dunheved Circuit) and in the eastern portion of the estate near Kommer Place as shown in Attachment 2.

Site 4 – (Part Soper Place car park / 5-7 Lawson Street, Penrith)

The site is zoned B3 Commercial Core and is part of the Soper Place car park. The Soper Place car park is strategically located within the CBD and provides all-day parking servicing commuters and local employees. It is made up of 16 lots. Apart from Lots 1-3 DP 1159119 (site 4) all other lots in the car park are classified as Operational. This site was originally acquired for car parking (a public purpose), which means there is an implied trust over the land for community purposes.

The land has as a trust for community purpose (car parking). This trust must be removed as a requirement for any reclassification to Operational land. The removal of the trust for car parking (a public purpose) does not prevent this use from continuing. The entire Soper Place car park has been identified in Council's Community Plan, Penrith Progression and the City Centre Car Parking Strategy as providing future car parking for the city.

Council is currently exploring preliminary design options for a new multi deck car park over a portion of the Soper Place car park. This would activate car parking in the city centre and would result in additional parking. Reclassification and the removal of the trust will enable greater design flexibility should site 4 be required for future development or business dealings. This Planning Proposal seeks to provide a consistent classification over the whole car park and remove the car parking trust.

Key considerations

The key considerations in the assessment of this Planning Proposal are summarised below:

Alignment with local and regional plans

The Planning Proposal aligns with key plans including the Greater Sydney Region Plan, Western City District Plan, Penrith City Strategy, Community Plan and Penrith Progression (site 4 only).

For sites 1 & 2, the Planning Proposal will increase the supply of housing, close to public transport and the St Marys town centre. Site 3 is strategically located to enable the provision of local employment close to existing and future transport corridors. Site 4 provides a location that will meet the parking needs of the City and facilitate the redevelopment of the Soper Place multi-deck car park. The Planning Proposal will enable the management of Council's property portfolio to be sustainable now and into the future.

Local Planning Panel's Advice

Under the requirements of Section 2.19 of the *Environmental Planning and Assessment Act 1979*, this Planning Proposal was referred to the Local Planning Panel for advice on the 22 August 2018. The panel visited all sites and were briefed on the planning proposal by Council officers. The panel's advisory comments are provided in Attachment 3.

The panel generally supported the planning proposal. However, their advice stated that the rationalisation of site 1 and 2 should result in higher amenity through good public open space provisions. Council should provide quality public open space as part of future redevelopment of the precinct. A master planning exercise for the broader St Marys area is a future priority for this Council and will be undertaken in the next 5 years.

Next steps

The reclassification process requires the amendment of *Penrith Local Environmental Plan 2010* via a planning proposal being submitted to the DP&E to commence the Gateway Process. Upon receipt of a Gateway Determination, public exhibition and agency consultation will occur, followed by an independently chaired public hearing (required for reclassification of land). The results of the community consultation will then be reported to Council.

Conclusion

The reclassification to Operational land requires the identification and removal of relevant trusts/interests. The reclassification will enable the potential of all sites to be explored in line with the existing zones. Existing open space areas are located within walking distance of sites 1, 2 and 3. The Soper Place car park has been identified to continue to provide car parking for the city into the future. It is recommended that Council sponsor the planning proposal and commence the Gateway process to reclassify the land from 'community' to 'operational'. A Gateway Determination will enable public exhibition and agency consultation of the planning proposal.

RECOMMENDATION

That:

1. The information contained in the report on RZ18/0008 - Planning Proposal to amend Penrith Local Environmental Plan 2010 - Reclassification of four (4) sites in St Marys and Penrith from Community to Operational land. be received
2. Council endorse the attached Planning Proposal, that reclassifies four (4) sites in Penrith and St Marys and submit it to the Department of Planning and Environment seeking a Gateway Determination.
3. The General Manger be granted delegation to update and finalise the Planning Proposal before submitting it to the Department of Planning and Environment seeking a Gateway Determination.
4. Consultation with the community and public agencies be undertaken in accordance with any Gateway Determination issued by the Department of Planning and Environment.
5. An independently chaired public hearing be held in accordance with the requirements of the Environmental Planning and Assessment Act and Regulations.
6. A planning consultant be engaged to independently chair the public hearing.
7. A report be presented to Council on the submissions received during the public exhibition and the results of the public hearing.

ATTACHMENTS/APPENDICES

1. Planning Proposal RZ18/0003 66 Pages Attachments Included
2. Details of sites 1 to 4 5 Pages Attachments Included
3. Local Planning Panel Advice 2 Pages Attachments Included