

## Planning Services

### Gateway Determination Report

<b>LGA</b>	Penrith
<b>PPA</b>	Penrith City Council
<b>NAME</b>	Reclassification and rezoning of Council owned land at the corner of Rodgers and Somerset Streets, Kingswood
<b>NUMBER</b>	PP_2018_PENRI_007_00
<b>LEP TO BE AMENDED</b>	Penrith Local Environmental Plan 2010
<b>ADDRESS</b>	Corner of Rodgers and Somerset Streets, Kingswood
<b>DESCRIPTION</b>	Lots 137, 138, 139, 140, 141, 142 and 143 in DP 14333
<b>RECEIVED</b>	21 August 2018. The planning proposal was subject to further information being provided by Council.
<b>FILE NO.</b>	IRF18/4630
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal.

### INTRODUCTION

#### Description of planning proposal

The planning proposal (**Attachment A**) seeks to amend the Penrith Local Environmental Plan 2010 by:

- reclassifying seven Council owned parcels from community land to operational land;
- rezoning these seven parcels from RE1 Public Recreation to B4 Mixed Use; and
- to include a minimum lot size requirement of 400m<sup>2</sup> over these seven parcels.

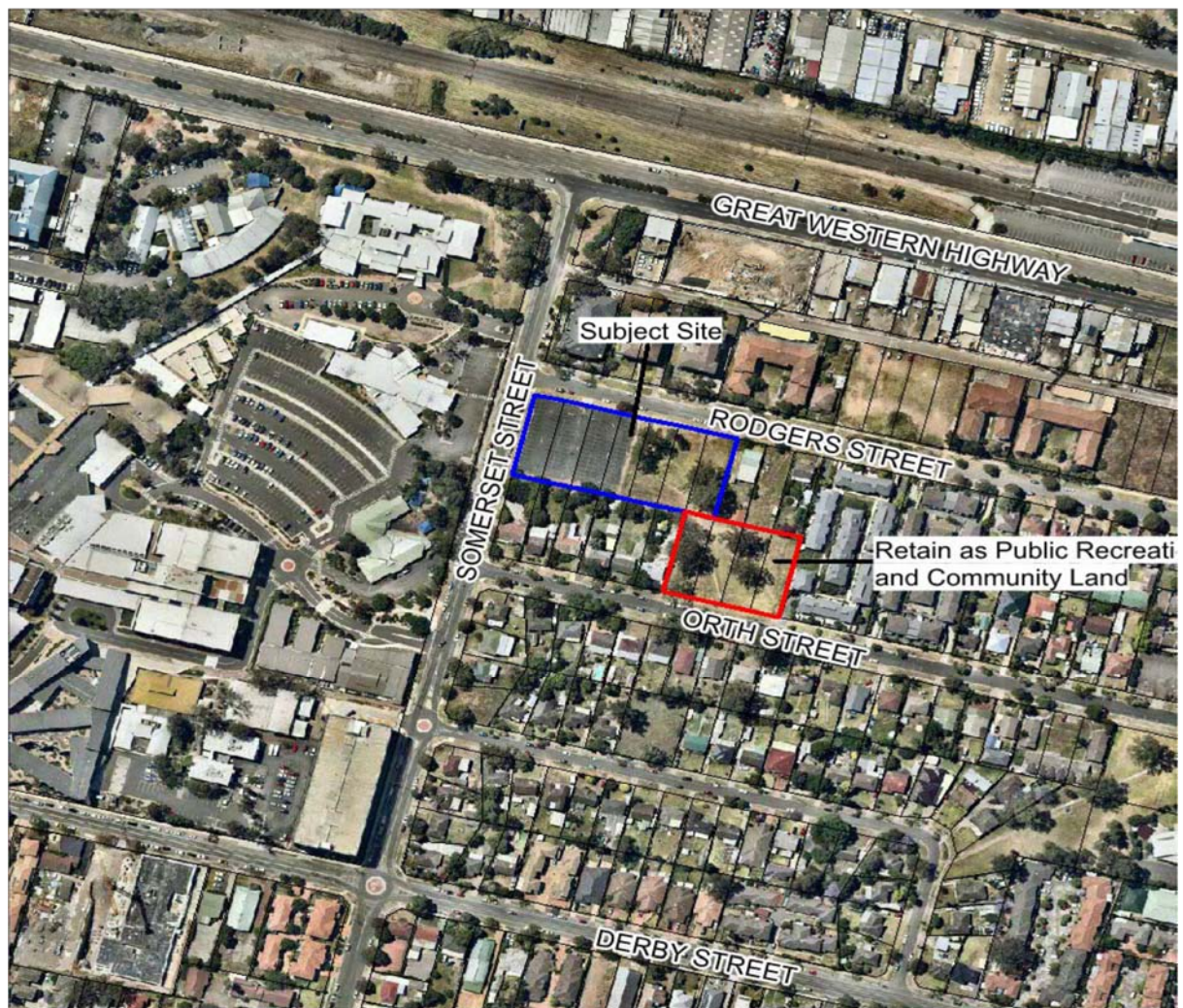
The planning proposal will facilitate the urban renewal of the site along with the provision of high-density mixed-used development. Potential development opportunities include apartments, shop top housing, health services facilities, hospitals, medical centres, aged care housing, seniors housing, restaurants, cafes, commercial, retail and community uses.

#### Site description

The planning proposal applies to seven parcels (the site) of Council's owned land as identified in the following table and location map (**Figure 1**), overleaf.

**Table 1 – Land Description**

Description	Lot/DP	Area m <sup>2</sup>
Corner of Rodgers and Somerset Streets, Kingswood	Lot 137 DP 14333	727
	Lot 138 DP 14333	727
	Lot 139 DP 14333	727
	Lot 140 DP 14333	727
	Lot 141 DP 14333	727
	Lot 142 DP 14333	727
	Lot 143 DP 14333	727
	<b>Total land area</b>	<b>5,089m<sup>2</sup></b>



**Figure 1 - Location Map**

The subject site, with a total land area of approximately 5,100m<sup>2</sup>, is situated near the Nepean Hospital Campus and is 600m walking distance from Kingswood Train Station. The site forms part of a larger land holding owned by Council, within the Penrith Health and Education Precinct (The Quarter).

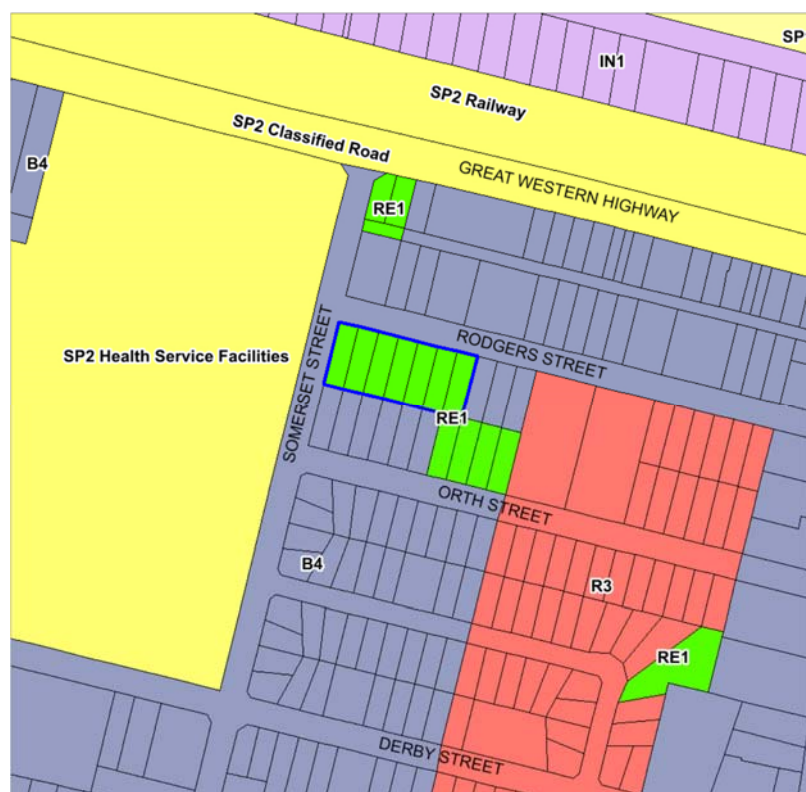
The site is currently leased for use as a temporary car park for Nepean Hospital Staff as overflow parking. The site also provides a north south pedestrian link, connecting Rogers Street and Orth Street. Owing to its current use, and in view of a lack of embellishment and improvements, the site has not been used for recreation purposes for some time. The residents in this area have access to parks that offer greater amenity, including Wainwright Park and Red Cross Anniversary Park located within a 300m radius of the subject land.

The site is constrained by a major trunk drainage pipe and overland flow flood paths (maps at **Attachment G**). The planning proposal does not seek changes to the existing flood and water management controls.

### Existing planning controls

The site is currently zoned RE1 Public Recreation under Penrith LEP 2010 (**Figure 2**). A Floor Space Ratio control of 3.5:1 and Height of Building control of 18m also apply to the site.

As stated above, the subject site is located within the Quarter's Hospital Precinct. The majority of the Hospital Precinct is zoned B4 Mixed Use, which provides for a mix of commercial and medical related uses, as well as, higher density housing to service the needs of medical patients, staff and students. A zoning extract is provided, below, with the site highlighted by thin blue edge.



**Figure 2** - Existing Zoning Map Extract



## Surrounding area

The site is surrounded by single dwellings to the south, medium density residences to the north and east, the Nepean Hospital campus on the western side of the Somerset Street. Two open space areas are located in the vicinity of the site (**Attachment E**).

The site forms part of a larger land holding zoned RE1 Public Recreation. The remaining four parcels front Orth Street (refer to **Figure 2**). These four parcels will remain zoned RE1 Public Recreation. It is proposed to improve these southern lots as recreational land and formalise the pedestrian connection through the site, as part of any future redevelopment of the subject land.

## Summary of recommendation

It is recommended that the planning proposal proceed with conditions as the site is well serviced by public transport; is near Nepean Hospital and public open spaces. The proposal will enable Council to consider opportunities for the future use of the land, including an option to sell or develop the site. Development opportunities may include housing, health service facilities and commercial premises.

## PROPOSAL

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### Objectives or intended outcomes

The objectives of this planning proposal are to:

- reclassify seven Council owned parcels of land from Community Land to Operational Land;
- rezone these parcels from RE1 Public Recreation to B4 Mixed Use zone; and
- include a minimum lot size requirement of 400m<sup>2</sup> over these seven lots (currently no minimum lot size is specified for the subject parcels under the Penrith LEP 2010).

The proposal will enable Council to better manage and allocate its finances, securing the long term financial sustainability of Council. The proposal will also increase the amenity and productivity of The Quarter - Health and Education Precinct by permitting urban renewal and providing an opportunity to deliver a greater liveability outcome for this under-utilised land.

### *Department comment*

These objectives are considered to be clear and adequate. However, it is recommended that dwellings proposed to be facilitated by the proposal be included in Part 1 of the planning proposal, together with advice about the number of jobs that may be generated by the proposal.

### Explanation of provisions

The planning proposal seeks to amend the Penrith LEP 2010 as follows:

- reclassification of Lots 137-143 DP 14333 from Community Land to Operational Land; amend 'Schedule 4 Classification and reclassification of public land' to specifically list the land in 'Part 2 Land classified or reclassified as operational land – interests changed' (see **Table 2**);
- amend the Land Zoning Map Sheet LZN\_013 by rezoning Lots 137 – 143 DP 14333 from RE1 Public Recreation to B4 Mixed Use; and

- amend the Lot Size Map Sheet LSZ\_013 by applying a minimum lot size controls of 400m<sup>2</sup>.

**Table 2** – Details to be included in Part 2 of Schedule 4 of Penrith LEP 2010

Insert into Column 1 – Locality	Insert into Column 2 – Description	Insert into Column 3 – Any trusts etc not discharged
Corner of Rodgers Street and Somerset Street, Kingswood	Lots 137-143 DP 14333	Nil

Department comment

It is noted that the proposal indicates that the floor space ratio control of 3.5:1 and height of building control of 18m that currently apply to these parcels would continue and not be altered.

Further, the planning proposal indicates at page 11 that any other caveat such as drainage easements will remain in place. By placing 'nil' in column 3 (see above), however, any such interest would be removed (refer to clause 5.2 of the LEP).

This matter was discussed with the council officer and it was confirmed that there are no registered interests.

A condition is recommended to address this anomaly.

**Mapping**

The current and proposed maps are provided in Part 4 of the planning proposal, and reproduced, following. The planning proposal will amend the following maps:

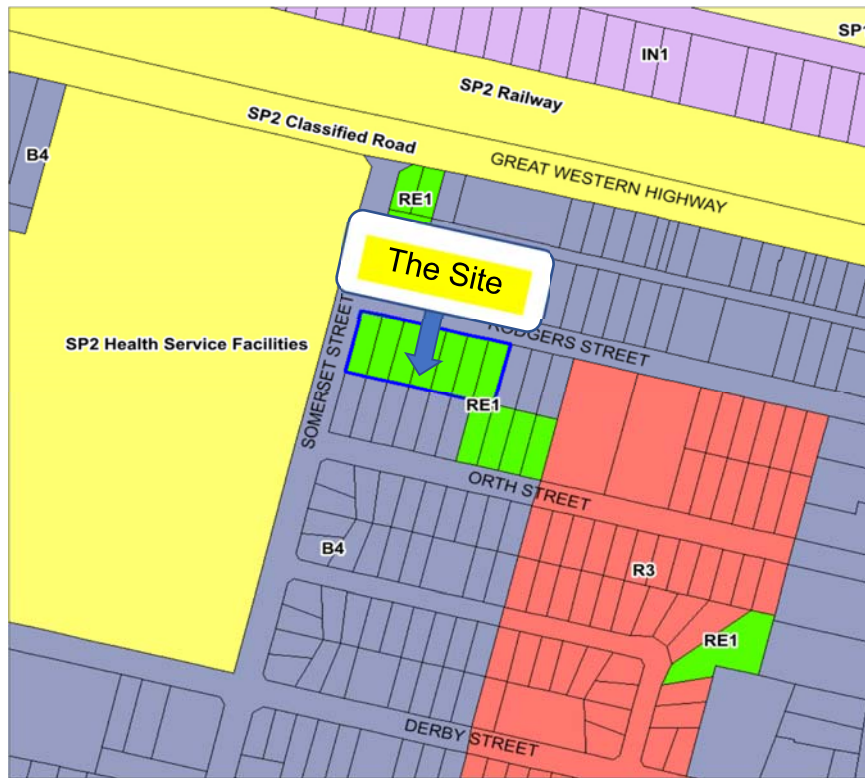
- Land Zoning Map; and
- Lot Size Map.

A location map is provided to show the boundaries of the site. The proposal includes a map showing the surrounding environs. The current Land Classification map is also included for information. Further, a number of maps and diagrams are included in the various studies supporting the planning proposal.

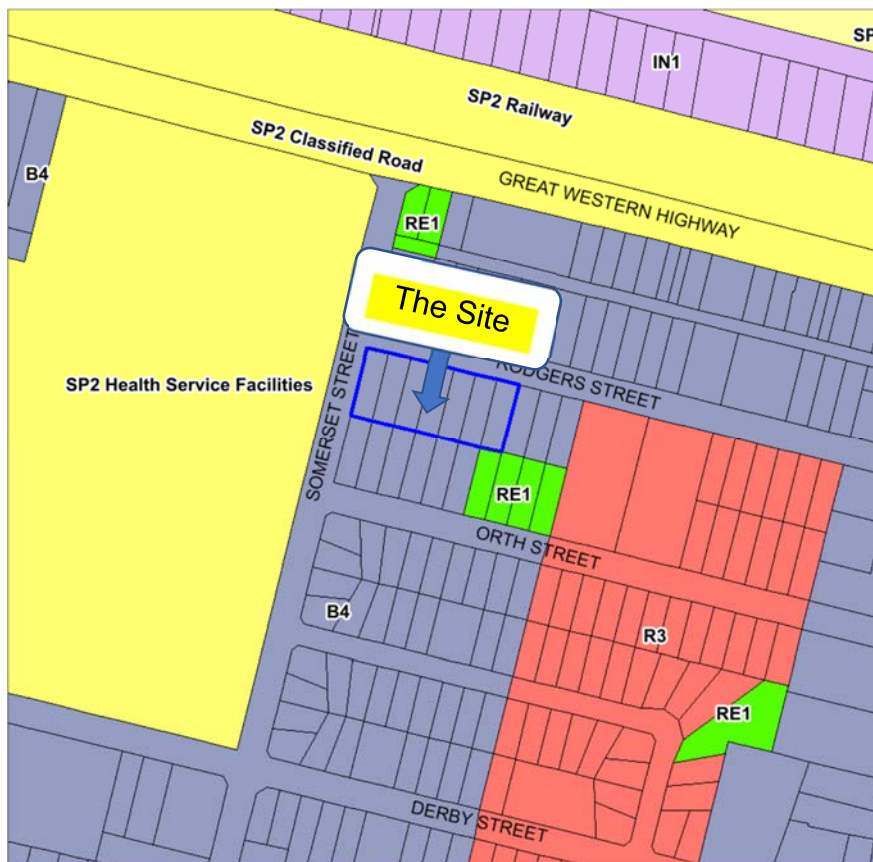
Department comment

It is noted that the existing and proposed maps provided in the planning proposal do not contain a legend. It is recommended that Council amend these maps to include a key so that these maps will be more readily understood by the public.

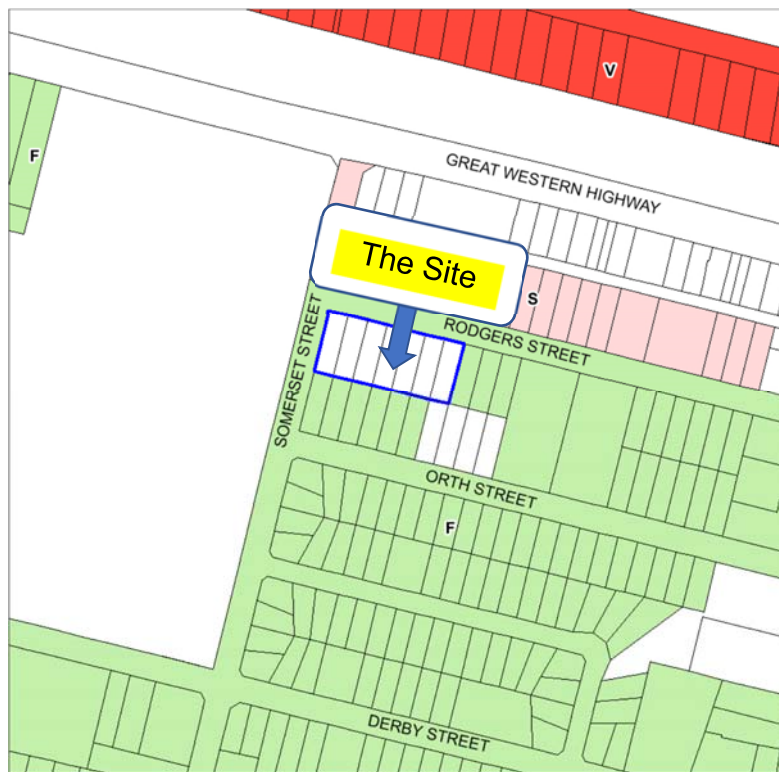
The other supporting diagrams in the planning proposal are considered to be suitable for community consultation purposes.



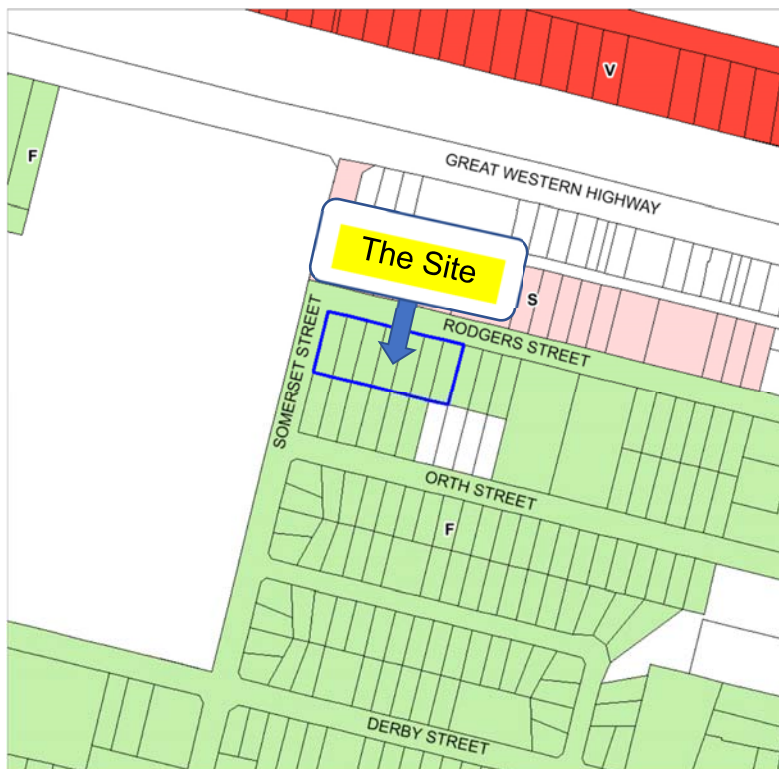
**Figure 3 - Existing Zoning Map Extract**



**Figure 4 - Proposed Zoning Extract**



**Figure 5 - Existing Lot Size Map Extract**



**Figure 6 - Proposed Lot Size Map Extract**

## NEED FOR THE PLANNING PROPOSAL

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The planning proposal is the result of The Quarter Action Plan 2017-2021, People's Lifestyle Aspiration and Needs Study, Open Space Action Plan 2007 and Nepean Hospital Open Space Analysis June 2013 studies. These studies are discussed further in this report under the Strategic Assessment section. In brief these studies concluded that at present these parcels are underutilised and there is an opportunity for the site to be improved by rezoning these parcels to B4 Mixed Use. This will facilitate growth within the local economy and attract strategic investment in this key precinct within Penrith.

### *Department comment*

It is noted that the planning proposal is the best and most appropriate means of achieving the Council's intended outcome.

## STRATEGIC ASSESSMENT

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### Regional / District

#### Greater Sydney Region Plan – A Metropolis of Three Cities (March 2018)

The proposal is consistent with:

- *Objective 4: Infrastructure use is optimised:* as the proposal will maximise utilisation of the existing infrastructure.
- *Objective 6: Services and infrastructure meet communities' changing needs:* as the mixed-use development within a walkable environment would assist with raising the liveability standards for future residents, business and visitors.
- *Objective 10: Greater housing supply:* as it will supply a range of housing types in the right location to support Sydney's growing population.
- *Objective 11 – Housing is more diverse and affordable:* as the proposal will provide a greater dwelling mix than is currently available in the area.
- *Objective 14 – A Metropolis of three cities – Integrated land use and transport creates walkable and 30-minute cities:* the proposal will provide an opportunity for business investment in new mixed-use buildings in relatively close proximity to the Hospital Precinct and Kingswood Train station.

#### Western City District Plan (March 2018)

The proposal is consistent with:

- the *Liveability Planning Priority - W5 Providing housing supply, choice and affordability, with access to jobs, services and public transport:* the proposal will provide housing supply and a range of housing types at a location with very good access to jobs, services and public transport; and
- the *Liveability Planning Priority – W6 Creating and renewing great places and local centres, and respecting the District heritage:* Council has advised that the site is currently underutilised. The proposal by delivering new housing, shops, business and services would optimise the use of the area.

### Local



### The Quarter Action Plan 2017-2121

The Quarter Action Plan provides a strategy for developing the Penrith Health and Education Precinct (the Precinct). The vision of this Plan is to make the Precinct an international destination for investment in education, health services, research and related technology.

The proximity of the site to the Precinct provides an opportunity to facilitate a high quality mixed use development in line with this vision. Preliminary concept designs are provided in Appendix 4 of the planning proposal.

### Open Space Action Plan 2007

Council's Open Space Action Plan 2007 identified Council's open space land holdings and outlined strategies and actions for the future of this land. The plan identified that improving the quality of the City's open space areas, and facilities, will involve a review of the merit of smaller open space areas, where there is a variety of existing parks and open space to meet community needs.

In accordance with this recommendation, Council's Property Development Branch undertook a merit assessment of the site and identified it as appropriate site for rezoning, hence, the planning proposal.

The planning proposal supports the plan's action as it will facilitate the better use of the subject land, which is not being used for recreational purposes, and facilitate improvements to adjoining open space land fronting Orth Street.

### Nepean Hospital Open Space Analysis – June 2013

In 2013, Nepean Hospital Open Space Analysis (copy provided at Attachment 5 to the planning proposal) was conducted to assess the adequacy of local open space near Nepean Hospital and the suburb of Kingswood in Penrith. The study identified the subject land as a Pocket Park. The Analysis found that pocket parks in the study area are of poor quality with limited recreation, play or amenity value. The analysis noted that the recreation value of pocket parks in the precinct are restricted for a number of reasons including the irregular layout of the sites and presence of drainage channels and detention uses. The Analysis also found that there is high quantum of open space, relative to population, and considered rezoning of this surplus site would improve amenity of the area. Further, to offset loss of open space, any future development would include the improvement and embellishment of the southern open space zoned land, which will improve amenity and encourage passive recreation.

### Penrith Community Strategic Plan 2017

The Plan provides a representation of the community's vision for the entire Council area. The vision for Penrith is to facilitate delivery of a City that offers both cosmopolitan and cultural lifestyle of a mature city and the casual character of a rural community.

The proposal is consistent with the Plan as it facilitates development that encourages a range of health services/commercial land uses, with ancillary housing types, by responding to the need for increased density within The Quarter.

## Penrith City Strategy

The Strategy aims to integrate various Council adopted planning strategies, examine the long-term issues facing Penrith and set directions for the City's future.

The planning proposal is consistent with this strategy as it relates creating dwellings, jobs and the economy.

### **Section 9.1 Ministerial Directions**

The consistency of the planning proposal with the relevant Section 9.1 Directions is addressed below:

#### 1.1 Business and Industrial Zones

This direction aims to encourage employment growth in suitable locations; protect existing employment land; and support the viability of identified strategic centres.

This Direction applies to this planning proposal as it proposes to rezone the site to B4 Mixed Use. Council has advised that the proposal is the result of a strategic study the Quarter Action Plan 2017-2021. Further, the planning proposal seeks to encourage growth within a suitable location which is aligned with all the adjoining land and the strategic vision for the Quarter Health and Education Precinct.

#### *Department Comment*

As rezoning of the site would encourage employment growth in a suitable location and would support the viability of this identified health and education precinct, any inconsistency with the direction is considered to be of a minor nature and approval of the Secretary is sought in this regard.

#### 3.1 Residential Zones

This direction applies when a planning proposal affects an existing or proposed residential use or any other zone in which significant residential development is permitted or proposed to be permitted and approval of the Secretary of the Department of Planning is required if the reduction in density is involved.

This direction applies as the proposal seeks to rezone to B4 Mixed Use, which permits high-density mixed-use development including housing.

#### *Department Comment*

It is considered that the inconsistency is justified as the proposal proposes a more efficient use of existing infrastructure and services and reduces the consumption of land for housing. The approval of the Secretary is recommended in this report, to satisfy the Direction.

#### Direction 3.4 Integrating Land Use and Transport

The direction applies to the planning proposal.

Under this direction, a planning proposal must include provisions that give effect to and are consistent with the aims, objectives and principle of:

- (a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001) and
- (b) The right Place for Business and Services – Planning Policy (DUAP 2001).

Central to these two documents is the objective of improving access to housing, jobs and services by walking, cycling and public transport, and the reducing travel demand including the number of trips generated by development and the distance travelled, especially by car.

#### *Department Comment*

The planning proposal is consistent with the objectives of this direction given the site is in close proximity to Kingswood train station and has access to employment opportunities within the Quarter, as well as, the core of the Penrith CBD.

#### Direction 4.1 Acid Sulfate Soils

The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils. Council has advised that the site is not known to contain acid sulfate soils. However, future development of the site will require detailed consideration of this issue at the development application stage.

#### *Department comment*

As the site is not known to contain acid sulfate soils, the proposal is considered to be consistent with the direction.

#### Direction 4.3 Flood Prone Land

This Direction aims to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and that potential flood impacts are considered. Council has advised that the site is not impacted by mainstream flooding. However, it is affected by localised flooding (stormwater and overland flow) and is identified as a low Hydraulic Hazard category shown in the attached map at **Attachment F**.

In justification, Council has advised that the flood assessment will occur at development application stage.

#### *Department comment*

It is noted that Council has indicated that a flood assessment will be required at the development application stage.

As the site is not impacted by mainstream flooding, it is appropriate that further consideration is given to the matter at the development application stage and it is considered that the proposal is not inconsistent with the direction.

#### Direction 6.2 Reserving Land for Public Purposes

This direction requires that a planning proposal shall not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Secretary (or an officer of the Department nominated by the Secretary).

This direction applies as the proposal seeks to reclassify the site from Community Land to Operational Land and rezone the site from RE1 Public Recreation to B4 Mixed Use to enable future use of the site. The site is owned by Council and Council has requested to rezone the site.

#### *Department comment*

Given Council has requested this rezoning, it is considered that the planning proposal satisfies the requirement of the Direction which requires the relevant authority to approve the rezoning of public land.

It is noted however that the Secretary has not approved the proposed rezoning. Given the circumstances, any inconsistency in this regard is considered to be of a minor nature. Consequently, the approval of the delegate of the Secretary is recommended to satisfy the Direction on the basis of minor significance.

### **State environmental planning policies (SEPP)**

#### State Environmental Planning Policy No. 55 – Remediation of Land

Council has advised that any future redevelopment of the site will need to address the requirements of the SEPP.

To ensure that Council considers this matter prior to rezoning, a suitable condition has been attached to the determination.

#### State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

Council has advised future developments would need to comply with the provisions of the SEPP.

#### SEPP (Affordable Rental Housing) 2009

Council has advised that relevant provisions of the SEPP will be given considerations during the assessment of a development application.

#### SEPP (Building Sustainability Index: BASIX) 2004

Council has advised that future development applications would be subject to the provisions of this SEPP.

#### Greater Metropolitan Regional Environmental Plan No 20 – Hawkesbury Nepean River

Council has advised the planning proposal is consistent with the provisions of the SEPP.

### **SITE-SPECIFIC ASSESSMENT**

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#### **Social**

#### **Environmental**

Council has advised that the site does not contain any critical habitat or threatened fauna. There are no known items or sites of European or Aboriginal cultural heritage that would be affected by the proposal.



## **Social and Economic**

Together with the better proposed utilisation of the adjoining open spaced land, the proposal will have positive social and economic impacts as it seeks to increase the development potential of the site in an appropriate location. Further, the proposal will provide an increase and choice of housing, along with commercial and community service opportunities.

## **Infrastructure**

Council has advised that the site is currently serviced by necessary infrastructure and utilities. To ensure this is the case consultation is recommended with the relevant authorities.

Council's has conducted a traffic and access study (copy at Appendix 8 of the planning proposal) for the site. The study indicates that the proposed development will result in somewhat higher traffic generation than from the existing uses.

In recognition of the increased traffic generation, the proposal indicates (p.29) that traffic modelling, i.e. SIDRA, is to be undertaken during the detailed assessment to appropriately quantify its implications on the existing network capacity.

While this work is supported, given the minor nature of potential additional traffic i.e. 74 vehicle trips during peak hour, it is considered appropriate that this modelling be undertaken by Council during the plan making process and prior to the plan's finalisation. A condition is recommended.

## **Overshadow Impact**

The planning proposal does not propose to alter the existing height or floor space ratio controls that apply to this land. As there is no change to these standards, detailed impacts will be considered at the development application stage.

## **Flood and water management**

Council has advised that the site is located in an area of local overland flow and therefore any detailed consideration of these matters will be undertaken as part of a future development application. The planning proposal does not seek changes to the existing flood and water management controls within the LEP.

Hydraulic modelling undertaken by Council indicates (map at **Attachment F**) there will be minimal changes to the flood characteristics within the site due to the proposed development. Further, the increase in flood velocities and flood depths can be managed by upgrading the drainage assets to a level acceptable for a 1 in 100-year flood event.

## **CONSULTATION**

### **Community**

Council proposes to undertake a community consultation period of 28 days. An independent chaired public hearing is also proposed as required under the Local Government Act 1993.

A community consultation period of 28 days is considered an appropriate amount of time to gauge the response by the community.

## **Agencies**

Council has advised that Gateway will determine which public authorities will be consulted.

Given the nature of the planning proposal, consultation with the following agencies is recommended:

- Roads and Maritime Services;
- Transport for NSW;
- NSW Department of Education;
- State Emergency Service;
- Health – Nepean Blue Mountains Local Health District;
- Sydney Water; and
- relevant service providers.

## **TIME FRAME**

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Council proposes a timeframe of 9-months to finalise this planning proposal.

Given the nature of the planning proposal, a 9-month timeframe is considered appropriate.

## **LOCAL PLAN-MAKING AUTHORITY**

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Council has not requested authorisation to exercise the delegation for the plan making function.

Given the planning proposal involves the extinguishment of interest in the land and the Governor's approval is required, it is recommended that authorisation not be issued for Council under section 3.36 of the Environmental Planning and Assessment Act 1979 in this instance.

## **CONCLUSION**

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The Department recommends that the planning proposal proceeds with conditions, given that it will enable Council to investigate future options for the site including sale or development in line with the proposed B4 Mixed Use zoning.

## **RECOMMENDATION**

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It is recommended that the delegate of the Secretary:

1. agree any inconsistency with Section 9.1 Direction: 1.1 Business and Industrial Zones, 3.1 Residential Zones and 6.2 Reserving Land for Public Purposes is of minor significance.

It is recommended that the delegate of the Greater Sydney Commission, determine that the planning proposal should proceed subject to the following conditions:

1. prior to exhibition, Council is to amend the planning proposal in the following manner:

- (a) Part 1 – Objective or intended outcomes, by including projected dwelling numbers that would be achieved under the proposal and provide advice over anticipated employment generation.
  - (b) Part 2 - Explanation of Provisions, clarify whether any interests apply to the subject land and, if necessary, amend the Note at the foot of Part 2 – Explanation of Provisions (p.11) accordingly.
  - (c) Relocate the heading – ‘Section D – State and Commonwealth Interests’ so that it appears above Q10. on page 35 of the planning proposal.
  - (d) amend Part 4 – Mapping, by:
    - providing a key to the existing and proposed maps (where applicable) so that these maps can be readily understood; and
    - on pages 33 and 34, alter the legend to clearly indicate the location of the subject land.
2. Prior to finalisation, Council is to:
  - (a) review the supporting traffic and transport study applying appropriate data and, if appropriate, revise traffic generation and assess the need for intersection works;
  - (b) address to Council’s satisfaction that it has complied with clause 6 of State Environmental Planning Policy No 55 – Remediation of Land.
3. The planning proposal should be made available for community consultation for a minimum of 28 days.
4. Consultation is required with the following public authorities:
  - Roads and Maritime Services;
  - Transport for NSW;
  - NSW Department of Education;
  - State Emergency Service;
  - Health – Nepean Blue Mountains Local Health District;
  - Sydney Water; and
  - relevant Service providers.
5. The time frame for completing the LEP is to be 9 months from the date of the Gateway determination.
6. Given the nature of the planning proposal, Council should be the local plan-making authority.
7. An independent chaired public hearing is to be conducted as required under the Local Government Act 1993.



5/10/18  
**Terry Doran**  
Team Leader,



16/10/2018  
**Ann-Maree Carruthers**  
Director, Sydney Region West

## **Sydney Region West**

## **Planning Services**

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