

Appendix 3

Council Reports & Minutes

8 **Reclassification of Council owned land at 53 and 54 Union Road Penrith**

Compiled by: **Abdul Cheema, City Planning Co-ordinator**

Authorised by: **Paul Grimson, City Planning Manager**

Outcome	<i>We plan for our future growth</i>
Strategy	<i>Protect the City's natural areas, heritage and character</i>
Service Activity	<i>Undertake priority planning projects and statutory processes that contribute to Penrith's role as a Regional City</i>

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

Executive Summary

This report seeks Council's resolution to commence the statutory process to reclassify two parcels of Council owned land at 53 and 55 Union Road Penrith from 'community' to 'operational' land.

Council is currently seeking expressions of interest (EOI) from suitable partners for the development of Council owned land at Union Road to advance the implementation of the Penrith Progression vision. It is timely for Council to reclassify the land subject to this report to operational to allow greater flexibility should these lands be incorporated into the opportunity for a mixed use development.

All other Council owned land in the Union Road parking facility is classified as 'operational', with the exception of the two subject parcels that are classified as 'community'. The purpose of changing the classification of the subject land is to correct this irregularity. This process will provide a consistent classification of lands in the Union Road precinct.

The reclassification process requires the use of the Department of Planning and Environment's local environmental plan making and amending process, known as the "Gateway Process". The reclassification of the identified land requires the amendment of *Penrith Local Environmental Plan 2010* via a Planning Proposal. The subject land is already appropriately zoned as zoned B4 Mixed Use under Penrith Local Environmental Plan 2010 (Penrith LEP 2010).

Background

Penrith City Council owns the land bounded by Station Street, Union Road, Worth Street and Union Lane within the Penrith City Centre. The land is zoned B4 Mixed Use under Penrith LEP 2010 and is used as an at-grade car park. All of the land in the Union Road parking facility is classified as 'operational', with the exception of two parcels that are classified as 'community'. The details of the two parcels classified as community land (the subject land) are identified in Table 1 below and their location is shown in Figure 1.

Council acquired the subject land in 1994 for the purpose of a public car park. Funds for the purchase were made available from the Penrith CBD Section 94 Car Parking Fund. Council records indicate that it was always Council's intention to reclassify this land to operational to bring them in line with all other lands for public car parking in the City Centre.

	Description	Address	Property Description	Area	Classification	Zone
1.	Public car park	53 Union Road, PENRITH	Lot 16 Sec 2 DP976320	830m ²	Community	B4 Mixed Use
2.	Public car park	55 Union Road, PENRITH	Lot 17 Sec 4 DP976320	795m ²	Community	B4 Mixed Use

Table 1: Land in Union Road identified for Reclassification



Figure 1: 53 and 55 Union Road Penrith

The purpose of this report is to recommend that Council commence the statutory process to reclassify the subject land from 'community' to 'operational' land. This will allow the anomalous community classification to be corrected. Further, Council is currently seeking expressions of interest (EOI) from suitable partners for the development of the Union Road car park to advance the implementation of the Penrith Progression vision. It is timely for Council to reclassify the subject land to operational to allow greater flexibility should these lands be considered suitable to be included in a future mixed use development.

Strategic Context

Penrith Progression established a vision for the City Centre and identified a number of Opportunity Precincts and associated sites. With the advice of Council's Property Development Advisory Panel, and in partnership with the industry, Council is keen to explore opportunities to deliver innovative outcomes for our City.

As a significant land owner in the Penrith City Centre, Council is committed, and has the capacity, to directly leverage positive change by strategically using the publicly owned land on Union Road to deliver transformative change and positive community outcomes.

As part of the EOI process, Council is seeking innovative and creative projects to deliver on the vision for the Penrith City Centre and is therefore open to considering a range of project concepts and delivery models and commercial structures that may include Council retaining a commercial interest in the land. The reclassification of the land will enable Council to prepare its landholdings to respond to future development opportunities on this site.

The Reclassification Process

Under the Local Government Act, public land can be classified as either 'community' or 'operational' land.

- Community land is generally open to the public, for example parks, reserves or sportsgrounds.
- Operational land is public land used for other purposes such as work depots, car parks or investment properties held by Council.

Community land cannot be sold and cannot be leased or licensed for more than 21 years. No such restrictions apply to operational land. Importantly, operational land can continue to be used for community purposes. The reclassification of public land does not commit Council to the sale or development of that land, nor does it alienate the land from Council's ownership or prevent the current use of that land from continuing.

The reclassification process requires the amendment of Penrith LEP 2010 via a Planning Proposal. A Planning Proposal is a document that explains the intended effect of and provides justification for the proposed amendment.

The content of the Planning Proposal is guided by a framework of legislation and practice notes published by the Department of Planning and Environment (the Department).

In this instance, the Planning Proposal will need to:

- Set out the reasons for the reclassification
- Outline the consistency of the amendment with strategic planning documents;
- Identify community benefits;
- Explain how and why Council came to own the public land;
- Outline any financial gain or loss and of the type of benefit that could arise from the reclassification of the public land.
- Any other matter specified in the Department of Planning's Practice Note PN 09-003.

Once the Planning Proposal has been prepared it will be progressed through the Department of Planning's Gateway Process. This process includes requirements to publicly exhibit the Planning Proposal for at least 28 days and hold an independently chaired public hearing at least 21 days after the close of the exhibition period.

Proposed Next Steps

The submission of the Planning Proposal to the Gateway Process early next year, will likely result in the issue of a Gateway Determination in the first quarter of 2016. The Determination will also set out requirements for Council's consultation exercise and identify any refinements to the Planning Proposal.

A Gateway Determination will potentially allow the consultation with New South Wales Government Agencies and the public exhibition of the Planning Proposal with an independently chaired public hearing to follow. Council will then be presented with the results of the public exhibition and the public hearing to inform its decision on whether or not to proceed with the Planning Proposal.

Conclusion

The reclassification of 53 and 55 Union Road, Penrith as 'operational' would ensure the land has been appropriately classified, facilitate the best development outcome for the Precinct and assist Council to achieve strategic objectives.

Given the time required to reclassify public land it would be prudent to commence the process as soon as possible to avoid lengthy delays for any emerging development opportunities that require the use of public land.

RECOMMENDATION

That:

1. The information contained in the report on Reclassification of Council owned land at 53 and 54 Union Road Penrith be received.
2. A Planning Proposal reclassifying the public land at 53 and 55 Union Road, Penrith from Community Land to Operational Land be prepared and submitted to the Department of Planning and Environment seeking a Gateway Determination.
3. The Minister be requested to delegate his authority for Council to finalise and make the proposed amendment to Penrith Local Environmental Plan 2010.
4. Consultation with New South Wales Government Agencies be undertaken in accordance with any Gateway Determination issued by the Department of Planning and Environment.
5. The Planning Proposal be placed on public exhibition in accordance with any Gateway Determination issued by the Department of Planning and Environment.
6. An independently chaired public hearing be held at least 21 days after the close of the public exhibition period.
7. A planning consultant be engaged to independently chair the public hearing.
8. A report be presented to Council on the submissions received during the public exhibition and the results of the public hearing.

ATTACHMENTS/APPENDICES

There are no attachments for this report.

8 **Reclassification of Council owned land at 53 and 54 Union Road Penrith**

Councillor Bernard Bratusa left the meeting, the time being 10:20pm.

Councillor Marcus Cornish left the meeting, the time being 10:22pm.

383 **RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Mark Davies**

That:

1. The information contained in the report on Reclassification of Council owned land at 53 and 54 Union Road Penrith be received.
2. A Planning Proposal reclassifying the public land at 53 and 55 Union Road, Penrith from Community Land to Operational Land be prepared and submitted to the Department of Planning and Environment seeking a Gateway Determination.
3. The Minister be requested to delegate his authority for Council to finalise and make the proposed amendment to Penrith Local Environmental Plan 2010.
4. Consultation with New South Wales Government Agencies be undertaken in accordance with any Gateway Determination issued by the Department of Planning and Environment.
5. The Planning Proposal be placed on public exhibition in accordance with any Gateway Determination issued by the Department of Planning and Environment.
6. An independently chaired public hearing be held at least 21 days after the close of the public exhibition period.
7. A planning consultant be engaged to independently chair the public hearing.
8. A report be presented to Council on the submissions received during the public exhibition and the results of the public hearing.

In accordance with Section 375A of the Local Government Act 1993, a DIVISION was then called with the following result:

For

Against

Councillor Prue Car MP
 Councillor Greg Davies
 Councillor John Thain
 Councillor Ross Fowler OAM
 Councillor Jackie Greenow OAM
 Councillor Maurice Giroto
 Councillor Mark Davies
 Councillor Ben Goldfinch
 Councillor Tricia Hitchen
 Councillor Karen McKeown

UNCONFIRMED MINUTES

**OF THE ORDINARY MEETING OF PENRITH CITY COUNCIL HELD IN THE
COUNCIL CHAMBERS**

ON MONDAY 14 DECEMBER 2015 AT 7:03PM

NATIONAL ANTHEM

The meeting opened with the National Anthem.

STATEMENT OF RECOGNITION

Her Worship the Mayor, Councillor Karen McKeown read a statement of recognition of Penrith City's Aboriginal and Torres Strait Islander Cultural Heritage.

PRAYER

The Council Prayer was read by the Rev Neil Checkley.

PRESENT

Her Worship the Mayor, Councillor Karen McKeown, Deputy Mayor, Councillor Ross Fowler OAM and Councillors Jim Aitken OAM, Bernard Bratusa, Prue Car MP, Marcus Cornish, Kevin Crameri OAM, Greg Davies, Mark Davies, Ben Goldfinch, Jackie Greenow OAM, Tricia Hitchen and John Thain.

LEAVE OF ABSENCE

Leave of Absence was previously granted to Councillor Michelle Tormey for the period 30 October 2015 to 3 January 2016 inclusive.

APOLOGIES

391 RESOLVED on the MOTION of Councillor Jackie Greenow OAM seconded Councillor Kevin Crameri OAM that an apology be received from Councillor Maurice Giroto.

CONFIRMATION OF MINUTES - Ordinary Meeting - 7 December 2015

392 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Kevin Crameri OAM that the minutes of the Ordinary Meeting of 7 December 2015 be confirmed.

DECLARATIONS OF INTEREST

Nil.

MAYORAL MINUTES

1 Paul Lemm resignation

All Councillors present spoke in support of the Mayoral Minute.

393 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Ross Fowler OAM that the Mayoral Minute on Paul Lemm resignation be received.