

8.6 Planning Proposal - Reclassification of Land at Kanbyugal Reserve and 2 Rose Street, Campbelltown

Reporting Officer

Executive Manager Urban Centres
City Planning and Environment

Community Strategic Plan

Objective	Strategy
5 Strong Leadership	5.2.2 Ensure that public funds and assets are managed strategically, transparently and efficiently

Delivery Program

Principal Activity
5.2.2.1 Conduct Council business in an open, transparent and accountable manner

Officer's Recommendation

1. That Council endorse the Planning Proposal at attachment 1 which seeks to reclassify part of Kanbyugal Reserve, Campbelltown from Community land to Operational land and forward the Planning Proposal to the Department of Planning and Environment for a Gateway Determination.
2. That should the Minister or their delegate determine that the proposal may proceed, public exhibition occur in accordance with the Gateway Determination.
3. That following the completion of the public exhibition, a separate public hearing be held with the outcome of both the public exhibition and the public hearing reported back to Council.

Purpose

The purpose of the report is to inform the Council of a Planning Proposal (PP) which seeks to reclassify Council owned land at Campbelltown from community land to operational land to simplify the land classification of the site known as the Campbelltown Animal Care Facility and Kanbyugal Reserve. This report also recommends the rezoning of the part of the land to the E4 General Industrial zone to match the rest of the Animal Care Facility. The report also seeks Council's endorsement for the PP to be forwarded to the Minister for Planning and Public Spaces for a Gateway Determination.

The PP is located at attachment 1 to this report.

History

This report relates to Kanbyugal Reserve and the Campbelltown Animal Care Facility at property no. 2 Rose Street, Campbelltown. The current site incorporates an animal housing facility that is surrounded by parklands, known as Kanbyugal Reserve.

Council continuously undertakes work to review of main its Local Environmental Plan (LEP). Through this work it has been identified that there is a need to simplify mapping anomalies and fragmented planning controls.

The PP seeks to amend the Campbelltown Local Environmental Plan 2015 (CLEP 2015) to address the fragmented land classification for the subject land and future proof it for any potential future expansion of the animal care facility, without reducing the functionality or quality of the open space functions of Kanbyugal reserve.

Report

1. Summary of the Planning Proposal

The PP seeks to reclassify part of the land at Kanbyugal Reserve from Community land to Operational land.

The subject site is currently owned by Campbelltown City Council and includes land classified as Community land and Operational land. The site contains the ACF and Kanbyugal Reserve to the north. The ACF is currently in operation and is recognised as a premier animal housing facility in the region. The ACF has a split zoning, partly RE1 – Public Recreation and partly IN2 – Light Industrial. This IN2 zone will change to the E4 general industrial zone within the next few months as part of the employment zones reform program.

Adjoining the site is Kanbyugal Reserve which is zoned RE1 – Public Recreation. The PP seeks to amend the portion of land that is proposed to be reclassified from Community to Operational land to E4 General Industrial to maintain consistency with the current zoning of the part of the ACF site that is currently operational land.

2. Assessment of the draft Planning Proposal

2.1 Justification

The State Government's – Local Environmental Plan Making Guideline, 2022 issued under s3.33 (3) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) provides guidance and information for preparing planning proposals. The preparation of the PP subject of this report has been undertaken in accordance with the latest version of the guide.

The guide states that planning proposal should contain enough information to identify relevant environmental, social, economic and other site specific considerations. The scope for investigating any key issues should be identified in the initial PP that is submitted for Gateway Determination.

The purpose of the Gateway Determination stage is to ensure there is sufficient justification in the process to proceed with a PP. It enables planning proposal that lack strategic merit to be stopped early in the process before time and significant human and financial resources are committed.

The Gateway Determination is expected to confirm if any further information is required before the PP can be placed on public exhibition. The PP may need to be updated/amended in minor ways in response to the Gateway Determination.

An LEP Practice Note (PN-16-001) 'Classification and reclassification of public land through local environmental plan' has been used to assess the PP. The LEP practice note and responses are located at attachment 2.

2.2 Ministerial Directions

Section 9.1 (formerly Section 117) of the EP&A Act allows the Minister for Planning and Public Spaces to provide direction to Council in relation to the amendment or preparation of draft local environmental plans. The Section 9.1 Ministerial Directions are outlined in the PP located in attachment 1.

Overall the PP is considered consistent with the relevant Section 9.1 directions as the proposal seeks to simplify the land classification and unify the zoning of the Animal Care Facility.

2.3 Consideration of State Environmental Planning Policies

An assessment of the PP against all State Environmental Planning Policies (SEPPs) has confirmed that the PP is not inconsistent with those SEPPs. Further detail in relation to the relevant SEPPs is outlined in the PP which is located attachment 1.

2.4 Consideration of Campbelltown Local Environmental Plan 2015

The PP seeks to amend CLEP 2015 by reclassifying a portion of Kanbyugal Reserve from Community land to Operational land and also rezoning the proposed operational land from RE1 – Public Recreation to IE4 General Industrial.

A further explanation relating to the proposed zoning changes are located in attachment 1.

2.5 Consideration of Local Government Act 1993

The *Local Government Act 1993* (LG Act) establishes the concept of classifying Council land as either being Community land or Operational land.

Community land is generally Council land made available for use by the general public such as parks, reserves and sports grounds.

Operational land is generally Council land that facilitates the functions of Council. Typically, operational land is not dissimilar to privately owned lands/facilities, and would generally not be open to the public.

The LG Act places restrictions on the management of community land which restricts the flexibility of the use of the site and the ability to capitalise on opportunities as they arise, when compared to land that is classified as operational land.

When considering whether to adopt a community land classification or an operational land classification it is appropriate to consider the context of the site and the way it is used or is expected to be used in the future. The most recognised use of the site is for the purposes of housing animals that have either strayed from their homes, have been surrendered or have simply been found but have no microchip or known owner. The current location of the ACF is positioned over two different land classifications and as such a reclassification of a portion of Kanbyugal Reserve would be most appropriate to maintain a consistent land classification.

The proposed reclassification of land is unlikely to have an impact on the use of the site. The use of Kanbyugal Reserve as public space will continue and the use of the ACF will continue. The current use for the site is a key component in providing a valuable service to the community of Campbelltown.

The reclassification of the subject site will allow greater flexibility to occur in the future. Consistent with the Reimagining Campbelltown City Centre Master Plan Council may investigate options for other uses that complement the existing ACF or alternatively look to expand on the existing use of the site and the reclassification of part of the land as operational land will provide greater flexibility for this to occur.

3. Strategic Context – Relationship to Local and State Policies

3.1 Greater Sydney Region Plan

The Greater Sydney Regional Plan (the Plan) provides a framework for the predicted growth in Greater Sydney. The plan identifies key goals of delivering a metropolis of 3 x 30 minute cities through 4 key themes, infrastructure and collaboration, liveability, sustainability and productivity.

The PP is consistent with the Plan as it aims to simplify the land classification status of the facility and also provide greater flexibility for future enhancements of the site. Further information is provided at attachment 1.

3.2 Western City District Plan

The Western City District Plan (WCDP) sets out priorities and actions for the Western Parkland City which are structured on themes that are based on the Greater Sydney Region Plan. The PP is considered to be consistent with W3 and W11 identified in the WCDP. The consistency of the PP with the WCDP is outlined further in attachment 1.

3.3 Campbelltown Community Strategic Plan 2032

The overarching Community Strategic Plan represents the principal community outcome focused strategic plan guiding Council's policy initiatives and actions.

The PP is considered to be consistent with the relevant outcomes headed accordingly within the Plan:

- Community and belonging
- Places for people

- Enriched natural environment
- Economic prosperity
- Strong leadership

3.4 Reimagining Campbelltown City Centre Master Plan

The Reimagining Campbelltown City Centre Master Plan is a key strategic vision that provides a structured plan for the future growth of the Campbelltown City Centre. The subject site is within the boundary of the Re-imagining Campbelltown CBD study area and is consistent with the Master Plan.

The planning proposal is not inconsistent with the outcomes listed in the Reimagining Campbelltown Masterplan. The amendment would allow greater possibilities for the subject site and would promote opportunities to use the land in harmony with other potential uses on adjoining land. The current land classification over the animal care facility is irregular.

The proposal would allow for the facility to be solely located within the operational land classification.

3.5 Glenfield to Macarthur Corridor Strategy

The Glenfield to Macarthur Urban Renewal Corridor Strategy (Corridor Strategy) was identified as a growth corridor by the State Government for the purposes of providing further jobs, open space, improved movement networks and revitalisation of existing urban centres through good design.

The PP is consistent with the Strategy and is consistent with the Campbelltown Precinct Plan adopted as part of this Strategy.

3.6 Campbelltown Local Strategic Planning Statement (LSPS)

The Campbelltown Local Strategic Planning Statement (LSPS) came into effect on 31 March 2020.

The LSPS is Campbelltown City Council's plan for our community's social, environmental and economic land use needs over the next 20 years.

The LSPS provides context and direction for land use decision making within the LGA.

Its purpose is to:

- Provide a 20 year land use vision for the LGA
- Outline the characteristics that make our city special
- Identify shared values to be enhanced or maintained

The LSPS responds to region and district planning initiatives and information received from the Campbelltown community during the public exhibition period for the future of our city. The planning proposal is not inconsistent with the outcomes listed.

3.7 Campbelltown Local Planning Panel advice

On 28 September 2022 the Campbelltown Local Planning Panel (the Panel) considered a report on the subject PP. In summary, the Panel's considerations and advice to Council was that it:

- was aware of the ongoing operation and purpose of the Campbelltown Animal Care Facility as a venue to house animals
- believed that an independent public hearing with an independent chairperson should be held in regards to this PP, post gateway determination and public exhibition, so as to ensure the public is provided an appropriate level of scrutiny on the matter
- considers the draft PP to have sufficient strategic and site specific merit and is appropriate
- was of the view that the reclassification of land would simplify the land classification of the site and would remove constraints from having a dual classification across the site
- noted that the fragmented structure presently is not considered to be an efficient or orderly use of the land
- believed the reclassification will be of benefit to the ongoing management and use of the site a housing facility for animals

The Panel also provided the following advice:

- Council should seek independent legal advice before Council decides whether to forward the PP to DPE for Gateway approval regarding the permissibility of the boundary realignment between Kanbyugal Reserve and property No. 2 Rose Street, Campbelltown and any legal constraints that may prevent this change to ensure that any amendment to CLEP 2015 results in the existing and proposed land use being permissible on the land.

In accordance with the advice provided by the Panel, Council wrote to Bartier Perry requesting legal advice. Bartier Perry provided the following advice with respect to the Planning Proposal:

- The Planning Proposal can proceed to Council for consideration and endorsement to proceed the proposal to DPE for a Gateway Determination.
- Any proposed boundary adjustment between Kanbyugal Reserve and the ACF site is to take place after the Planning Proposal is finalised.
- The proposed boundary adjustment cannot take place until the reclassification of the relevant part of Lot 22 (Kanbyugal Reserve) as Operational land under section 30 of the LGA Act is completed, as Community land cannot be subdivided.
- Should the Planning Proposal proceed to finalisation, the amending instrument could outline a provision to the effect that, on the commencement of the amended CLEP 2015, the relevant part of Kanbyugal Reserve (Lot 22) ceases to be a public reserve and is discharged from any trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the relevant part of Kanbyugal Reserve (Lot 22), except for:
 - Any reservations that except the land out of a Crown grant relating to that land; and
 - Reservations of minerals.

A copy of the legal advice is located at attachment 6 to this report.

Public Participation

In the case that Council supports the progression of the PP, or otherwise amends it, the PP will be forwarded to DPE for a Gateway Determination.

Should a Gateway Determination be obtained then the PP would be publically exhibited at which time the public and anyone with an interest in the land would have the opportunity to comment.

Additionally, under the provisions of the LG Act a public hearing would need to be held in regards to the PP after the completion of the exhibition period. This public hearing would be facilitated by an independent chairperson.

The results of the public exhibition and a report prepared by the independent chairperson following the public hearing would be subsequently reported to Council.

Conclusion

The existing land classification for the subject site is fragmented and its simplification by reclassifying that part of the site currently classified as community to operational land, will provide a consistent land classification across the entire site. The will also simplify the ongoing management of the land. There is no intention to sell the land.

The PP also seeks to rezone the proposed operational land from RE1 – Public Recreation to E4 General Industrial to align with the existing zone of the ACF site. The proposed reclassification and rezoning is considered reasonable in the circumstances and is expected to increase the level of opportunity for the site to operate as a premier animal housing facility of Campbelltown and the Macarthur region.

The legal advice provided to Council notes that the Planning Proposal is able to proceed to DPE for gateway consideration. Any future boundary adjustments are required to be undertaken after the Planning Proposal should the proposal proceed to the finalisation stage.

Attachments

- 8.6.1 Planning Proposal Reclassification – 2 Rose Street Campbelltown (contained within this report) [↓](#)
- 8.6.2 Title Search (contained within this report) [↓](#)
- 8.6.3 LEP Practice Note and Responses (contained within this report) [↓](#)
- 8.6.4 Proposed Reclassification Map (contained within this report) [↓](#)
- 8.6.5 Proposed Land Zoning Map (contained within this report) [↓](#)
- 8.6.6 Advice Letter to Council (contained within this report) [↓](#)

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It was **Moved** Councillor Khalil, **Seconded** Councillor Hunt:

1. That Council endorse the Planning Proposal at attachment 1 which seeks to reclassify part of Kanbyugal Reserve, Campbelltown from Community land to Operational land and forward the Planning Proposal to the Department of Planning and Environment for a Gateway Determination.
2. That should the Minister or their delegate determine that the proposal may proceed, public exhibition occur in accordance with the Gateway Determination.
3. That following the completion of the public exhibition, a separate public hearing be held with the outcome of both the public exhibition and the public hearing reported back to Council.

A Division was recorded in regard to the Resolution for Item 8.6 with those voting for the Motion being Councillors G Greiss, D Lound, K Hunt, M Chowdhury, M Oates, M Khalil, M Stellino, J Cotter, G Brticevic, M Chivers, M George, J Chew and R Munro.

Voting against the Resolution were Nil.

013/2023 The Motion on being Put was **CARRIED**.
