

7.1 HYMAN PARK PLANNING PROPOSAL – FILE NO

DIRECTORATE: PLANNING AND COMPLIANCE
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Reference: Item 7.7 to Ordinary Council 12 December 2017 -
Minute No 426/17
Item 7.2 to Ordinary Council 12 September 2017 -
Minute No 287/17

5 ANNEXURES ATTACHED
1 ENCLOSURES ENCLOSED

RECOMMENDATION

That in relation to the report “Hyman Park Planning Proposal”, Council resolve to proceed with the planning proposal to remove the public reserve status and reclassify Part-Lot 39, Section F in DP 20599 from Community Land to Operational Land.

SUMMARY

The purpose of this report is to advise Council of the outcomes of the public exhibition of the *Hyman Park Planning Proposal*, and the results of the Public Hearing arranged by Council and undertaken by an independent chairperson relating to the proposed reclassification of the subject land. The report makes recommendation as to proceeding with the planning proposal to reclassify a section of Hyman Park from Community Land to Operational Land. The report describes the means by which the reclassification can be effected by the amendment of the *Tamworth Regional Local Environmental Plan 2010*.

COMMENTARY

Council, at its Ordinary Meeting on 12 December 2017, resolved to forward the *Hyman Park Planning Proposal* to the Department of Planning and Environment requesting a Gateway Determination to exhibit the planning proposal. A Gateway Determination was issued by the Department on 2 February 2018, authorising Council to proceed to exhibition subject to a number of conditions. These conditions were met by Council and the revised proposal was exhibited from 9 April 2018 to 9 May 2018.

As the proposal sought the reclassification of Council land and the removal of public reserve status, delegation for Council to make the amendment was not applicable. The removal of the public reserve status requires the approval of the NSW Governor and this outcome is facilitated by the Department of Planning and Environment at the conclusion of the process.

The exhibition included advertising in local papers, letters to adjoining residents/owners and the delivery of flyers to the residents of South Tamworth (5000+), as well as displays in Ray Walsh House and Council branch offices and social media engagement. A community information session was conducted by Council officers on Saturday 14 April 2018, at Hyman Park. A full report on the community engagement is **ATTACHED**, refer **ANNEXURE 1**.

Twelve submissions were received during the public exhibition period. There were concerns expressed about the loss of open space and potential impacts of future development but there were also a number expressing qualified or full support for the proposal. A summary of the submissions, including Council responses, is **ATTACHED**, refer **ANNEXURE 2**. The full set of submissions for the information of Councillors is **ENCLOSED**, refer **CONFIDENTIAL ENCLOSURE 1**.

When a Council proposes to reclassify Community Land to Operational Land the *Local Government Act 1993*, provides that a public hearing must be arranged. The hearing must be chaired by an independent person, who is not a Councillor or employee of Council either currently or at any time during the five years prior to the hearing.

Mr Chis Pratt of the planning consultancy 'Planning Resolutions' based on the North Coast of NSW fulfilled these requirements and was engaged to facilitate the hearing. The hearing was conducted on Wednesday 18 July 2018, commencing at 2:00pm in the Heritage Room at the Tamworth Community Centre, Darling Street, Tamworth. In the period leading up to the hearing, Mr Pratt reviewed the 12 submissions and on the morning of hearing undertook an inspection of Hyman Park and the surrounding locality accompanied by Council's Senior Strategic Planner.

Two members of the public attended the hearing and made oral presentations and one of the attendees also provided their speaking notes as a written submission. A number of Council officers attended the hearing and Councillor Jim Maxwell also attended to observe the proceedings.

Public Hearing Report

The proceedings were recorded and a full report was produced in accordance with the legislation and relevant guidelines. The *Hyman Park Public Hearing Report*, signed by the independent chairperson, is **ATTACHED**, refer **ANNEXURE 3**.

The report described the proposal, legislative requirements and minutes of the hearing, along with the findings and recommendation of the independent chairperson. While the public hearing process is important, the chairperson's findings and recommendation are not binding on Council.

The findings of the chairperson explain his recommendation that not all of the proposed area be reclassified to Operational status. The chairperson concluded that an area 30 metres wide, should remain as Community Land along the southern boundary of the eastern part of Hyman Park to preserve the trees and a pedestrian/cycle thoroughfare from Hillvue Road to Kathleen Street. The chairperson's recommended revised operational area is shown in the public hearing report at Figure 6.

The nearby Altona Park was referred to as an example of how the area could be enhanced to both achieve a pleasant and safe thoroughfare from Kathleen Street to the western area of Hyman Park, as well as providing a small area for unstructured play adjacent to the Girl Guides Hall for use by the Guides and others. The proposed operational area would be reduced to 7000m² and would not have access to Kathleen Street.

While not providing the same protection under the *Local Government Act 1993*, than if the land remained Community classified, the chairperson noted that the above values could be achieved by incorporating open areas into the development of the originally proposed operational area. That is, open areas adjacent to the Girls Guides Hall and the through access between Kathleen Street and Hillvue Road to the western side of Hyman Park. It is recommended that Council endorse this approach and reclassify all of the area identified in the publicly exhibited planning proposal.

Conclusions

It is considered that the connection to Kathleen Street would be an important feature for any future community uses that may operate on the proposed Operational Land, at least to facilitate staff access and deliveries.

It was intended to subdivide Hyman Park to establish a road reserve for Hillvue Road that traverses the park and create a Lot that could be identified in *Schedule 4* of the *Tamworth Regional Local Environmental Plan 2010 (TRLEP 2010)*, to effect the reclassification of the subject site. However, the requisitions of the Land Registry Services (LRS) office have restricted this option at this time. In particular, the requirement that Council provide evidence that the new lot intended for subsequent disposal has been reclassified as Operational Land (already). As the creation of the new lot was to facilitate its reclassification this is not possible.

As an alternative, Community Land can be reclassified to Operational Land under an amendment to the *TRLEP 2010*, via the implementation of a *Land Reclassification (Part Lots) Map*. This site would be the only land mapped in this manner at this time. A map of the proposed area to be reclassified and the proposed *TRLEP 2010 Land Reclassification (Part Lots) Map* are **ATTACHED**, refer **ANNEXURE 4** and **ANNEXURE 5**. Part-Lot 39 Section F in DP 20599 would also be identified in *Schedule 4* of the *TRLEP 2010*, to effect the reclassification in such terms as:

Column 1	Column 2
Locality	Description
25A Robert Street (part of), South Tamworth (part of Hyman Park)	Part of Lot 39 Section F, DP 20599, identified as "Operational Land" on the Land Reclassification (Part Lots) Map

This would allow Council to consider future enquiries about the use of the site for community purposes and fulfil the requirements of the LRS to effect the future subdivision of the land.

This report has outlined the outcomes of the public exhibition of the *Hyman Park Planning Proposal*, including the report of the public hearing undertaken to meet the requirements of the *Local Government Act 1993*. Having considered the submissions to the public exhibition and the recommendations arising from the public hearing, it is considered that the reclassification of the subject site from Community Land to Operational Land using a *Land Reclassification (Part Lots) Map* is appropriate.

(a) Policy Implications

The planning proposal will, when finalised, result in an amendment of the *Tamworth Regional Local Environmental Plan 2010*, that will enable Council to consider additional and/or alternative uses of the subject land.

(b) Financial Implications

The amendment of classification from Community Land to Operational Land would enable Council to enter into more complex long term lease arrangements or sell the land for the purpose of facilitating community uses on the land. The proceeds of a sale would be utilised for the further embellishment of the western section of Hyman Park and open space in South Tamworth.

(c) Legal Implications

An amendment of the *Tamworth Regional Local Environmental Plan 2010*, will change the legal status of the affected land and Council's ability to sell or otherwise deal in the land

(d) Community Consultation

This report has described the public exhibition processes used to engage the community on this proposal and has attached both the *Hyman Park Public*

Engagement Report and *Hyman Park Public Hearing Report* to detail the events and outcomes.

It is considered that the public consultation has fully satisfied the requirements of the relevant legislation, the gateway determination, the guidelines and practice notes and has provided a genuine and extensive opportunity for the community to be involved in this planning proposal.
