
**7 Amendment to Penrith Development Control Plan 2014 -
Road patterns requiring half road construction and dedication**

Compiled by: Nicole Dukinfield, Senior Planner

Authorised by: Abdul Cheema, Acting City Planning Manager

Outcome	<i>We plan for our future growth</i>
Strategy	<i>Facilitate quality development that encourages a range of housing types, employment, recreation and lifestyle opportunities</i>
Service Activity	<i>Plan for and facilitate delivery of release areas and urban renewal 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.

Executive Summary

The Penrith Development Control Plan (DCP) 2014 includes chapters E5 Emu Plains, E8 Kingswood and E15 St Marys/North St Marys which require half road construction and dedication of land at several locations where proposed road patterns are identified.

Amendments are proposed to these chapters to ensure that the development of the land is consistent with these proposed road patterns and provides incentives to do so. The amendments will ensure a stronger nexus between the proposed road pattern and development of the affected sites. It is proposed to insert new controls with the provision for dual frontage requirements, reduced landscaping area incentives and fencing requirements. In addition, an amendment is proposed to remove a road pattern which is no longer required in Emu Plains.

Council's resolution is sought to prepare a draft DCP amendment including these proposed amendments and undertake public exhibition of the draft DCP.

Background

As part of the approval of development applications where the DCP outlines proposed road patterns, Council has been requiring the dedication of land for creation of public roads, or construction of roads and subsequent dedication to Council, to ensure that development meets the vision for this area.

The DCP has historically been used as Council's policy position on the matter, as no Section 94 Development Contributions Plan applies for the purpose of acquisition and/or construction of the land for the road.

Chapters E5 Emu Plains, E8 Kingswood and E15 St Marys/North St Marys identify proposed road patterns at the following locations:

- Towle Close, in the vicinity of Troy and Emerald Streets, Emu Plains
- Kohlenberg Close, in the vicinity of Brougham Street, Emu Plains
- Acorn Street, in the vicinity of Grey Street, Emu Plains
- Stock Avenue, in the vicinity of First Street and Jones Street, Kingswood; and
- Aylett Street and Gross Avenue, in the vicinity of Boronia Road, North St Marys.

To give effect to the road pattern, the DCP outlines a control that requires developers to dedicate land for the creation of relevant road patterns as indicated, or construct that part of the road adjacent to their property and dedicate it to Council.

It is proposed that revised controls be inserted into the DCP for each location to clarify Council's position for proponents to construct and dedicate the road; create a stronger nexus between proposed development and the proposed road; incentivise the dedication and construction of road by reducing landscaped area requirements; and ensure appropriate development controls for fences fronting the proposed road.

As several properties in each of the locations identified above have already dedicated and constructed the land, the relevant road pattern in each of the locations are partially completed. It would set an undesirable precedent should Council decide to retain the current controls and potentially create an issue of inequity in relation to other developers who have complied with the DCP controls.

Proposed Amendments to the Penrith DCP 2014

Where controls apply to proposed road patterns in the DCP, the following new controls are proposed to be inserted:

1. Dual Frontage

It is proposed to insert a control outlining that any development of the land must provide dual frontage to the proposed road for vehicles and pedestrians. This will create a stronger nexus between the proposed development and the proposed road.

2. Landscaping

It is proposed to insert a control providing for a reduction in landscaping requirements where the dedication and construction of the road is provided. The current controls for landscaping in zones where these proposed road patterns apply requires a minimum of 40%-50% of a site area to be provided as landscaped area. The proposed control will provide for up to a maximum of 10% reduction in the minimum landscaping requirement to applicants who agree to dedicate and construct the part of the road. This reduction will provide for a greater developable area to offset the loss of some of the land for the proposed road.

3. Fencing

It is proposed to insert a control clarifying that the proposed road must be treated as frontage to a street and that fences should not be constructed of solid metal panels and must be 'open-style' fencing. This will ensure that the development of land makes a positive contribution to the safety and amenity of the new streetscape. It is also proposed that minor amendments to the wording of the existing controls to clarify that developers must construct and dedicate the land for the proposed roads.

4. Remove Proposed Road Pattern in the vicinity of Troy Street

A review of the proposed road pattern fronting Troy Street has shown that there is no identified need from a strategic planning perspective for a road in that location. Advice from Council's Engineering and Planning Departments have indicated their support for this proposed amendment. The current and proposed road pattern for this area is shown in *Appendix 1*.

Alternative options

Council could consider implementing other mechanisms to ensure the construction and dedication of land for the purposes of the proposed road patterns. These mechanisms are

largely confined to two alternative options – prepare a Section 94 Development Contributions Plan for the construction of proposed road patterns, or rezone the land to SP2 Infrastructure (Local Road). However, these alternative mechanisms are not recommended for the following reasons.

The ability to prepare a new Section 94 Development Contributions Plan to fund the acquisition and construction of the proposed road patterns is limited. The Section 94 Plan could only apply to a limited number of properties as only those who would use the infrastructure could be charged, therefore with limited scope, the Section 94 Plan would not generate the funds required to acquire and construct the roads.

The rezoning of the subject land to SP2 Local Road would require the land to be identified on the Land Reservation Acquisition map, meaning Council would be required to compulsorily acquire the land. Without a direct development-related funding mechanism to purchase the land and then construct the road, Council would be required to redirect funding from other sources and projects.

An amendment to the DCP is the preferred option due to the implications of both options outlined above.

Conclusion

Council's resolution is sought to prepare and publicly exhibit a draft amendment to chapters E5 Emu Plains, E8 Kingswood and E15 St Marys / North St Marys of the Penrith DCP 2014 where proposed road patterns are identified.

The amendments are proposed to ensure a stronger nexus between the proposed road patterns and development of the affected sites. It is proposed to insert new controls with the provision for dual frontage requirements, reduced landscaping area incentives and fencing requirements.

RECOMMENDATION

That:

1. The information contained in the report on Amendment to Penrith Development Control Plan 2014 - Road patterns requiring half road construction and dedication be received
2. Council resolve to prepare and publicly exhibit an amendment to Penrith DCP 2014 in accordance with the changes identified in this report.
3. A report be presented to Council following the public exhibition.

ATTACHMENTS/APPENDICES

1. Current and proposed road pattern in the vicinity of Troy Street 1 Page Appendix

6 Outcomes of Public Exhibition - Matters Deferred from Penrith Local Environmental Plan 2010 (Amendment 4)

235 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Jim Aitken OAM

That:

1. The information contained in the report on Outcomes of Public Exhibition - Matters Deferred from Penrith Local Environmental Plan 2010 (Amendment 4) be received.
2. Council endorse the changes made to the Planning Proposal, as shown in *Attachment 4*.
3. Council endorse the revised Planning Proposal for Deferred Matters from Penrith Local Environmental Plan 2010, as shown in *Attachment 5*, and forward it to the Greater Sydney Commission with a request that the Commission make the plan in accordance with the Environmental Planning and Assessment Act 1979.
4. The General Manager be granted delegation to make any necessary minor changes required to the Planning Proposal prior to its submission.
5. Council endorse the preparation of a draft amendment to Penrith Development Control Plan 2014 to review the relevant controls to ensure consistency with the removal of the minimum lot size requirements for the Werrington Signals site.
6. A further report be presented to Council following the preparation of the draft amendments to Penrith Development Control Plan 2014.

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

For

Councillor John Thain
Councillor Ben Goldfinch
Councillor Bernard Bratusa
Councillor Maurice Girotto
Councillor Prue Car MP
Councillor Greg Davies
Councillor Karen McKeown
Councillor Mark Davies
Councillor Ross Fowler OAM
Councillor Jim Aitken OAM
Councillor Tricia Hitchen
Councillor Marcus Cornish

Against

Councillor Kevin Crameri OAM
Councillor Michelle Tormey

7 Amendment to Penrith Development Control Plan 2014 - Road patterns requiring half road construction and dedication

236 RESOLVED on the MOTION of Councillor Jim Aitken OAM seconded Councillor Kevin Crameri OAM

That:

1. The information contained in the report on Amendment to Penrith Development Control Plan 2014 - Road patterns requiring half road construction and dedication be received.

2. Council resolve to prepare and publicly exhibit an amendment to Penrith DCP 2014 in accordance with the changes identified in this report.
3. A report be presented to Council following the public exhibition.

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

For

Councillor John Thain
Councillor Ben Goldfinch
Councillor Bernard Bratusa
Councillor Maurice Girotto
Councillor Kevin Crameri OAM
Councillor Prue Car MP
Councillor Greg Davies
Councillor Karen McKeown
Councillor Mark Davies
Councillor Ross Fowler OAM
Councillor Jim Aitken OAM
Councillor Tricia Hitchen
Councillor Michelle Tormey
Councillor Marcus Cornish

Against

8 Section 96 Application No. DA15/0544.01 for Modifications to Approved Adaptive Re-Use of "Mimosa" Property as Mirrabooka Study Centre at Lot 40 DP 58974, (No. 13) Pages Road, St Marys Applicant: Education Development Association; Owner: ~Education Development Association

237 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Marcus Cornish

That:

1. The information contained in the report on Section 96 Application No. DA15/0544.01 for Modifications to Approved Adaptive Re-Use of "Mimosa" Property as Mirrabooka Study Centre at Lot 40 DP 58974, (No. 13) Pages Road, St Marys be received.
2. Section 96 Application No. DA15/0544.01 for Modifications to Approved Adaptive Re-Use of "Mimosa" Property as Mirrabooka Study Centre at Lot 40 DP 58974, (No. 13) Pages Road, St Marys be approved subject to amended Condition 2.1.

2.1 Amended Condition:

The development must be implemented substantially in accordance with the plans tabled below and stamped approved by Council, the application form, and any supporting information received with the application, except as may be amended in red on the approved plans and by the following conditions:

PLAN	NUMBERED	DRAWN BY	DATED
Site Plan	1405 DA-02 Revision B	Nimbus Architects	29 April 2016
Ground Floor Plan	1405 DA-03 Revision B	Nimbus Architects	22 June 2016
First Floor Plan	1405 DA-04 Revision F	Nimbus Architects	5 June 2016
Sections Plan	1405 DA-05 Revision F	Nimbus Architects	5 June 2016
Elevations Plan	1405 DA-06 Revision B	Nimbus Architects	22 June 2016