

# Public Hearing Report

## Penrith City Council

### RECLASSIFICATION FROM 'COMMUNITY' LAND TO 'OPERATIONAL' LAND

11-13 Chesham St, St Marys  
Lot 1 – 3 DP 542707



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# Report on Public Hearing

## Reclassification of Community Land to Operational Land

### Lot 1- 3 DP 542707, 11- 13 Chesham Street, St Marys

#### 1 Introduction and Background

MBWA Consulting Pty Ltd was commissioned by Penrith City Council to independently chair a Public Hearing and prepare a Public Hearing report into the reclassification of 3 parcels of Council owned land.

The reclassification is part of a Planning Proposal that proposes to amend Penrith Local Environmental Plan 2010 (Penrith LEP 2010) to reclassify 11 – 13 Chesham Street, St Marys (Lots 1-3 DP 542707) from ‘community’ land to ‘operational’ land.

The Planning Proposal was publicly exhibited from 6 August 2018 - 4 September 2018. One (1) submission was received during the exhibition.

The Public Hearing was conducted on Wednesday 24 October 2018 and this Public Hearing report has been prepared in accordance with Section 29 of the *Local Government Act 1993* and relates only to the proposed reclassification of 11 – 13 Chesham Street (Lots 1 - 3 DP 542707).

#### 2 Statutory Context

Public land is any land that is vested in or under the control of a council. Pursuant to Section 25 of the *Local Government Act 1993*, public land must be classified as either ‘community’ land or ‘operational’ land.

Community land is generally open to the public, for example, parks, reserves or sports grounds. Under Section 45 of the *Local Government Act 1993*, community land must not be sold, exchanged or otherwise disposed of, leased or licensed unless in accordance with the provisions of the *Local Government Act 1993*.

Operational land may be used for other purposes, for example, as access, works depots or garages, or held by a council as a temporary asset.

Classification or reclassification of public land may be undertaken pursuant to Section 27(1) of the *Local Government Act 1993* via a Local Environmental Plan (LEP) made under the *Environmental Planning and Assessment Act 1979* or pursuant to Section 27(2) of the *Local Government Act 1993* via a resolution of council.

Should Council resolve to reclassify community land to operational land via a LEP, a Council is required by Section 29 of *Local Government Act 1993* to convene a public hearing and this public hearing must be held after the close of the statutory exhibition period for the LEP.

Reclassification of land does not in itself affect any estate or interest a council has in the land.

Section 47G of the *Local Government Act 1993* provides in part as follows:

- (2) The person presiding at a public hearing must not be;*
  - (a) a councillor or employee of the Council holding the public hearing, or*
  - (b) a person who has been a councillor or employee of that Council at any time during the five years before the date of his or her appointment.*
- (3) Not later than four days after it has received a report from the person presiding at the public hearing as to the result of the hearing, the Council must make a copy of the report available for inspection by the public at a location within the area of the Council.*

For the purposes of Section 47G of the *Local Government Act 1993* and the *Environmental Planning and Assessment Act 1979*, Monique Darcy has never been an employee or Councillor of Penrith City Council.

### 3 The Site and Surrounding Development

The site is legally described as Lots 1 – 3 in Deposited Plan 542707. The site is narrow, rectangular shaped, with a total area of approximately 3920m<sup>2</sup>, bound by the rail corridor to the north, Glossop Street to the east, Chesham Street to the south, and Lethbridge Street to the west. Figure 1 demonstrates the site and general locality.

The site is owned by Penrith City Council and is approximately 400m from St Marys Railway Station and town centre. The land is zoned R4 High Density Residential under Penrith LEP 2010.

A site visit of the surrounds was conducted on 8 October 2018.



Figure 1 – Site and general locality (Source: Six Maps)





Photo 1: View from Chesham Street (Glossop Street to the east and Rail Corridor directly behind)



Photo 2: View from Chesham Street looking west towards St Marys Railway Station (road reserve and subject site)





Photo 3: View from Chesham Street looking west towards St Marys Railway Station

## 4 Ownership and Land Use

### 4.1 Land use history and ownership

The Planning Proposal details the ownership and land use history. Relevant information has been extracted from the Planning Proposal and reproduced below:

*Historically, the land to which this Planning Proposal relates comprises a former road known as Station Street. Station Street was closed under the provisions of the Public Roads Act 1902- 1968. Refer to Deposited Plan 36191, dated 12 July 1946.*

*On 9 May 1969 under Section 20 of the Public Roads Act 1902-1968, the land known as Deposited Plan 36191 was vested in the Council of the City of Penrith. The land was later subdivided into its current subdivision pattern, this being Lots 1, 2 and 3 in DP542707. Title volume 11393 folios 198-200 were issued to the Council of the City of Penrith on 21 August 1970. At its meeting of 6 June 1994, Council resolved to classify Lots 1, 2 and 3 in DP 542707 as Community Land.*

*Adjoining Lots 1 to 3 is a strip of public reserve for garden and recreation space, known as Lot 21 in DP36191. Lot 21 DP36191 was dedicated as Public Highway by notification in Government Gazette dated 26th January 1962 folio 183 – pursuant to Section 81 of the Public Works Act of 1912<sup>1</sup>.*

<sup>1</sup> Page 3-4 Planning Proposal Reclassify Council-owned Land (Community Land to Operational Land) 11 -13 Chesham Street, St Marys (SJB Planning for Penrith City Council)

## 4.2 Site use

The historical site use is also outlined in the Planning Proposal and reproduced below. I have consulted with Council and confirmed the details:

*A Girl Guides Hall was constructed on Lot 2 DP 542707 by Guides Australia in the early 1970s as part of a 21-year licence agreement from 1970-1991. Girl Guides Australia entered into another 21-year licence in 1991 but relinquished this agreement in 2007 due to poor membership numbers. Girl Guides vacated the premises in early 2008. On termination of the license, the building was in a state of disrepair and in 2011 Council organised for the demolition of the hall.*

*As such, the site has not been used for community purposes for close to 10 years<sup>2</sup>.*

## 5 The Broader Planning Proposal

The broader Planning Proposal has been prepared by SJB Planning on behalf of Council's Property Development Department and is dated August 2018. The Planning Proposal aims to reclassify Lots 1 - 3 DP 542707 from 'community' land to 'operational' land.

The Planning Proposal does not propose a change to the current zone. The site is currently zoned R4 High Density Residential. The history of the zoning of the site is detailed in Section 10 below.

## 6 Public Exhibition

### 6.1 Public Exhibition

The proposal to reclassify Lots 1 - 3 DP 542707 was publicly exhibited as part of a Planning Proposal from 6 August – 4 September 2018. I have been advised that advertising and notification of the proposal was undertaken by Penrith City Council in accordance with the relevant legislative requirements and Gateway Determination.

Interested parties were notified of the exhibition via:

- A notice posted on Council's website – Your Say page
- The local newspaper – The Western Weekender
- In writing to adjoining landowners
- An exhibition in Council's Civic Centre (Information Centre), St Marys Council office and both Council Libraries (Penrith and St Marys)

Note: The Gateway Determination did not require consultation with any public authorities.

No submissions from the community were received during the exhibition notification period.

1 submission was received from Sydney Trains.

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<sup>2</sup> Page 4 Planning Proposal Reclassify Council-owned Land (Community Land to Operational Land) 11 -13 Chesham Street, St Marys (SJB Planning for Penrith City Council)

## 6.2 Submissions

1 submission was received from Sydney Trains in response to the exhibition.

The submission is summarised below:

- Future development of the site would potentially be subject to the *Infrastructure SEPP 2007* and the Department of Planning and Environment's guide *Development near Rail Corridors and Busy Roads – Interim Guideline (2008)*.
- Request any future development proposed be referred to Sydney Trains for pre-development application consultation.
- Transport for NSW should also be consulted on future development applications given the potential for a north-south rail link (Cudgegong Road – St Marys) as identified in *Future Transport 2056*.

## 7 Public Hearing

Council arranged a Public Hearing for the proposed reclassification of Lots 1- 3 DP 542707 on 24 October 2018, 7:00pm at the St Marys Community Centre (29 Swanston St, St Marys). The Public Hearing was conducted in accordance with Clause 29 of the *Local Government Act 1993* and the *Environmental Planning and Assessment Act 1979*.

Council placed an advertisement in the local paper (Western Weekender) on the 28 September 2018 advising of the Public Hearing.

**PENRITH**

**NEWS**

**LOOKING FOR IDEAS AND INSPIRATION TO GET YOU THROUGH THE SCHOOL HOLIDAYS?**

Penrith has activities and events for kids of all ages.

- Classes & workshops
- Performances & shows
- Learn to dance & kick dance
- Sports activities

Plus lots more!

Head to [visitpenrith.com.au](http://visitpenrith.com.au) to find out what's happening and to start planning your school holiday fun.

**COUNCIL BRIEFS**

Looking for ideas and inspiration to get you through the school holidays? There's also markets, workshops and food trucks to purchase something delicious to eat. Learn more and start planning what you're going to see and do in [visitpenrith.com.au](http://visitpenrith.com.au).

We are inviting your feedback on our draft Community Safety Plan for 2018-20. Have we got it right? Council is working to improve how we protect, and feel, in our City. We have a lot of ideas to share with you in our community safety survey. We are looking for your feedback and working with the police and other community partners. Priorities for action in the draft plan include:

- safe, well-maintained and well-lit public spaces
- electronic and family violence and
- bringing people together, building positive relationships and community connections.

Visit [yourpenrith.com.au](http://yourpenrith.com.au) by 10 October 2018 to read the draft plan and comment, or call 4732 7777 if you'd like more.

The 2018 Transport Plan is now open for public input. Council is looking for your feedback on the draft plan. Areas for comment include: Children's Services, Business, Environment and Infrastructure, Technology.

Successful applicants will have an opportunity to fast track their own building and/or parking infrastructure. Penrith City Council welcomes, awarded and increased individual to 2018. Applications are now open and close on Sunday, 24 October 2018. Apply online at [penrithcity.nsw.gov.au](http://penrithcity.nsw.gov.au) or call 4732 7777 for more information about the process.

**NOTICE OF PUBLIC HEARING**

Planning Proposal Reclassifying Public Land at 11-13 Chesham Street, St Marys

Council has arranged an independently chaired public hearing for its Planning Proposal to amend the Penrith Local Environmental Plan 2015 (L1) to vary Council-owned land parcels at 11-13 Chesham Street (St Marys) (L1, 2 & 3 DP 542707).

The Planning Proposal recommends changing the classification of the land from Community to Operational. The reclassification will enable Council to consider opportunities for the future use of the land, including options to sell or develop the site for community benefit. Any future development will need to go through the development application process.

The proposed reclassification will also remove all trusts that currently apply to the land. The public exhibition of the proposal commenced on 8 August 2018 and concluded on 4 September 2018. Information on the Planning Proposal is available to view online at [yourpenrith.com.au/public-exhibition-off-plan-proposal-for-chesham-street-at-energy](http://yourpenrith.com.au/public-exhibition-off-plan-proposal-for-chesham-street-at-energy).

The process that Council must follow to reclassify the land requires an independently chaired public hearing. The chair of the hearing will provide Council with a report on the hearing, which will also be made public.

The public hearing is also to take place on Wednesday, 24 October 2018 between 7:00pm and 9:00pm at St Marys Community Centre (142) - 29 Swanston Street, St Marys. Access to the hall is from Collins Street or Swanston Street.

If you wish to address the hearing, please complete the form available on Council's website, Penrith City Centre or Council's Open Office Centre (St Marys). Completed forms need to be submitted to Council before 20 October 2018. You do not need to complete a form to address the hearing, but priority will be given to people who do.

If you have any queries about the public hearing, please contact Freeman Dier on 4732 8186 or at [freeman.dier@penrithcity.nsw.gov.au](mailto:freeman.dier@penrithcity.nsw.gov.au).

**TENDER**

Studies and Strategies for Penrith's LEP Review

Reference RPT 18/18-14

The LEP Review has released new strategic planning documents for Greater Sydney, including the Greater Sydney Region Plan - A Metropolis of Three Cities and the Western City District Plan. These documents require the review of certain elements of Penrith City Council's strategic planning documents. Penrith City Council is therefore seeking tenders from suitably qualified and experienced consultants for one or more of the following items of work:

- Rural Land and Village Study and Strategy 2018 (including a City-wide Rural and Cultural Landscape Study)
- Local Housing Study and Strategy 2018
- St Marys Town Centre Economic Profile and Economic Development Strategy 2018

Visit [penrithcity.nsw.gov.au/Our-Council/Tenders](http://penrithcity.nsw.gov.au/Our-Council/Tenders) to register and download tender documents free of charge. Alternatively a tenders fee is available for a non-refundable fee of \$75 (inc GST) by email.

For queries about the work please contact Alison Langdon on 4732 7767 or at [alison.langdon@penrithcity.nsw.gov.au](mailto:alison.langdon@penrithcity.nsw.gov.au).

All expressions should be lodged on the forms provided in accordance with the tendering instructions contained in the documents no later than 11am Wednesday, 24 October 2018. The Closing Date/Tender opening after closing will not be considered.

**PENRITH CITY COUNCIL**

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Figure 1 – Copy of Newspaper Advertisement – 28 September 2018



The hearing was chaired by Monique Darcy. The Public Hearing was also attended by the following Council staff:

- Breannan Dent - City Planner
- Nicole Dunkinfield – Principal Planner

Two people attended the Public Hearing.

The Public Hearing followed the ensuing protocol:

- Welcome and introduction to hearing from Chairperson
- Council presentation
- Community submission
- Concluding remarks and comments on next steps from Chairperson

The Public Hearing concluded at 7.55pm.

## 8 Council Presentation to the Public Hearing

Council's Nicole Dukinfield (Principal Planner) made a short presentation outlining the chief elements of the Planning Proposal. The highlights of the Council submission are detailed below:

- A Planning Proposal was lodged by Council's Property Development department in March 2018. The Planning Proposal seeks to reclassify Council-owned land from Community to Operational. The reclassification will enable Council to consider the sale or development of the land.
- The land was rezoned to R4 High Density Residential as part of the transition to the new planning instrument format in 2015. This rezoning was based on the recommendations of an Urban Design Study carried out for the Glossop Street Precinct in 2008. There is no rezoning required as part of this Planning Proposal.
- The land is not a 'public reserve' under the provisions of the *Local Government Act*.
- Details on the history of the land.
- An overview of the planning proposal process.
- The reclassification does not include a proposal to sell or develop the land – this will be subject to other processes including further community consultation.
- Next steps including a report to Council recommending either to: endorse, amend or not proceed with the Planning Proposal.

## 9 Community Public Hearing Submissions

The Public Hearing was attended by two community members with one member of the community addressing the hearing. The community member who addressed the hearing requested to remain anonymous.

The comments made by the community member have been captured below.

Table 1 Summary of Community Submissions to the Public Hearing	
Community Member	Issues
Anonymous	Lives in Blair Ave to the south of the subject sites
	Requested information on whether: <ul style="list-style-type: none"><li>• Blair Ave will be affected</li><li>• their property will be acquired for development</li><li>• the Planning Proposal is linked with the development of the Badgerys Creek airport</li></ul>
	<ul style="list-style-type: none"><li>• Concerned with on-street carparking in the general locality</li><li>• On-street carparking will be made worse with an increase of flats and apartments</li></ul>
	<ul style="list-style-type: none"><li>• Concerned with access and traffic issues in Blair Ave</li><li>• Difficult to move around the locality (especially in a truck) and safety concerns</li></ul>
	Requested a copy of Council's presentation
	May have further comments that will be sent directly to Council

Key issues raised in submissions on the draft Planning Proposal and at the Public Hearing can be broadly summarised as follows:

- Any future development to have regard to relevant State Government legislation and policy and be referred to Sydney Trains and TfNSW for review and comment
- On-street carparking in the general locality
- Access and traffic issues in the general locality

## 10 Planning Discussion on the Reclassification

11- 13 Chesham Street, St Marys (Lots 1 - 3 DP 542707) is a vacant site located less than 400m from St Marys Railway Station and town centre.

The Planning Proposal outlines the ownership history of Lots 1- 3 DP 542707. The site was vested to Council in 1969 under Section 20 of the *Public Roads Act 1902 – 1968*. The land was later subdivided into its current subdivision pattern<sup>3</sup>. Girl Guides Australia constructed a Guide Hall on Lot 2 DP 542707 in the early 1970s and continued until the organisation relinquished their agreement in 2007 due to 'poor membership numbers'<sup>4</sup>. In 2011 Council demolished the Guide Hall.

The site was previously zoned 6(a) Public Recreation and Community Uses under Penrith Local Environmental Plan 1998 (Urban Land). The Glossop Street Precinct Urban Design Study prepared by

<sup>3</sup> Page 3 Planning Proposal Reclassify Council-owned Land (Community Land to Operational Land) 11 -13 Chesham Street, St Marys (SJB Planning for Penrith City Council)

<sup>4</sup> Page 4 Planning Proposal Reclassify Council-owned Land (Community Land to Operational Land) 11 -13 Chesham Street, St Marys (SJB Planning for Penrith City Council)

consultants in 2008 identified Chesham Street as a key site for redevelopment due to its close proximity to St Marys Railway Station. The site was subsequently rezoned to R4 High Density Residential under Penrith LEP 2010.

The surrounding land is predominately low-density housing stock although the area will transition to higher density apartments and townhouses having regard to the R4 High Density Residential zone. The R4 High Density Residential zone is considered consistent with its proximity of the St Marys Railway Station and nearby town centre and the general State Government policy of locating higher density in close proximity to public transport and commercial/retail hubs.

Whilst the site is now zoned R4 High Density Residential, consideration needs to be given to its past 6(a) Public Recreation and Community Use zone and current supply of public recreation land in the locality. The site is long and narrow parcel of land adjoining a rail corridor to the north and busy Glossop Street to the east, arguably not an optimal configuration for active open space although it may have some application to a passive recreational park.

In reviewing surrounding open space there is RE1 Public Recreation zoned land to the south-east (Brisbane and Australia St), further to the south a large open space parcel known as Bennett Park, and additional open space is located to the west and south-west of the site. The review has been limited to south of the St Marys Railway station as a railway line may form a natural barrier to user preferences for open space. Given the future redevelopment of the area to higher density residential, Council may need to consider the open space requirements in the locality to ensure the future population's recreational needs are met.

Concern was raised by one community member about on-street carparking and traffic issues. These issues however were not specific to the subject site but more general in the St Marys locality especially around Blair Ave (south-west of the subject site).

In terms of the subject site, a Transport Impact Assessment was prepared by GTA Consultants (January 2018). The report sets out an assessment of the anticipated transport implications of a proposed development of 102 apartments over three residential flat buildings, including consideration of the following:

- i. Existing traffic and parking conditions surrounding the site
- ii. Parking requirements for the development
- iii. Service vehicle requirements
- iv. Pedestrian and bicycle requirements
- v. The traffic generating characteristics of the proposed development
- vi. Suitability of the proposed access arrangements for the site
- vii. The transport impact of the development proposal on the surrounding road network.

The report made a series of recommendations and provided an overall conclusion that *'the traffic and parking implications associated with the proposed residential redevelopment is considered acceptable'* (page 19). Any future Development Application would need to further consider traffic, transport and parking issues in further detail.

Finally, the issues raised by Sydney Trains relating to future development and the need for that development to have regard to relevant legislation and State Government policy is noted. In this respect any future development applications should be referred to Sydney Trains for input and comment.

## 11 Conclusion and Recommendations

In conclusion, I have carefully considered the issues surrounding the reclassification of 11 - 13 Chesham Street, St Marys (Lots 1 - 3 DP 542707) including the issues raised in the written submission to the Planning Proposal exhibition, the submission made at the Public Hearing, Council's own presentation at the Public Hearing and my review of relevant Council reports, strategies and plans. I am of the view that the reclassification of the 3 lots from 'community' land to 'operational' land is appropriate having regard to the circumstances of the site.

The following recommendations are made:

- a) Council proceed with the reclassification of Lots 1 – 3 DP 542707 from 'community' to 'operational' land.
- b) Council write to all persons that made a submission to the Public Hearing thanking them for their input and advising them of Council's decision.
- c) A copy of this report be made available to the public in accordance with Section 47(G)(3) of the *Local Government Act 1993*.