



Planning Proposal

Reclassification of Public Land in Union Road and Welch Place Car Park, Penrith City Centre

December 2016

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Documents Supporting Public Exhibition

1. Penrith Progression – A Plan for Action
<https://www.penrithcity.nsw.gov.au/Building-and-Development/Penrith-New-West/Penrith-Progression/>
2. Penrith Local Environmental Plan 2010
www.legislation.nsw.gov.au
3. Department of Planning and Environment's *Guide to Preparing Local Environmental Plans* and *Guide to Preparing Planning Proposals*
<http://www.planning.nsw.gov.au/Plans-for-Your-Area/Local-Environmental-Plans/The-Gateway-Process>
4. A Plan for Growing Sydney
www.strategy.planning.nsw.gov.au/sydney/
5. Department of Planning and Environment's LEP Practice Note 09-003 – Classification and reclassification of public land through a local environmental plan
<http://www.planning.nsw.gov.au/Plans-for-Your-Area/Local-Planning-and-Zoning/~media/F8657A00B21D4A888E80FAB699803EB9.ashx>
6. Council's Community Plan
www.penrithcity.nsw.gov.au/Resources-and-Documents/Documents/Community-Plan/
7. Penrith City Centre Plan – Vision <https://www.penrithcity.nsw.gov.au/Building-and-Development/Planning-and-Zoning/Studies-and-strategies/>
8. City Strategy
<https://www.penrithcity.nsw.gov.au/Building-and-Development/Planning-and-Zoning/Studies-and-strategies/>
9. State Environmental Planning Policies
www.legislation.nsw.gov.au
10. Ministerial Directions (s.177 directions)
<http://www.planning.nsw.gov.au/Plans-for-Your-Area/Local-Planning-and-Zoning/Policy-Directions-for-Plan-Making>
11. Council's Cooling the City Strategy
<https://www.penrithcity.nsw.gov.au/Waste-and-Environment/Sustainability/Sustainable-City/>
12. Penrith CBD Overland Flow Flood Study
<https://www.penrithcity.nsw.gov.au/Documents/Services/Penrith-CBD-Overland-Flow-Flood-Study/>
13. Penrith City Centre Parking Strategy
<https://www.penrithcity.nsw.gov.au/Building-and-Development/Planning-and-Zoning/Studies-and-strategies/>
14. Penrith Development Control Plan 2014
www.penrithcity.nsw.gov.au/Building-and-Development/Planning-and-Zoning/Planning-Controls/Development-Control-Plans/

INTRODUCTION

This Planning Proposal recommends an amendment to *Penrith Local Environmental Plan 2010* (LEP 2010) to change the classification of three parcels of Council owned land. Two land parcels are located at 13-61 Union Road (the Union Road car park) and one parcel is located at 154 Henry Street (the Welch Place car park).

This Planning Proposal recommends the three parcels of land be reclassified to Operational land. This document sets out the justification for and explains the intended effect of the recommended amendment.

The preparation of a Planning Proposal is the first step in NSW Planning and Environment's Gateway Process, the process for making or amending local environmental plans. It has a number of steps, set out in Table 1, that require this document to be revised as it progresses through the Gateway Process. The document is currently at Step 3: Community Consultation.

No.	Step	Explanation
1	Planning Proposal	Council prepares a document explaining the effect of and justification for making or amending a local environmental plan.
2	Gateway Determination	The Greater Sydney Commission, acting as a checkpoint, determines whether a Planning Proposal should proceed.
3	Community Consultation	The Planning Proposal is publicly exhibited.
4	Assessment	Council considers any submissions it receives in response to the public exhibition, changing the Planning Proposal as necessary.
5	Drafting	Parliamentary Counsels Office prepares a draft of the local environmental plan.
6	Decision	The Minister (or delegated plan making authority) approves the local environmental plan, making it law.

Table 1: Gateway Process

All planning proposals reclassifying public land must address matters outlined in NSW Planning and Environment's LEP Practice Note 16-001 *Classification and reclassification of public land through a local environmental plan*. Appendix 1 provides responses to these matters.

The Penrith Progression – A Plan for Action has identified the Union Road car park as a strategic site in the City Centre (See Figure 1). This plan aims to transform the City Centre and deliver jobs for the future. Development of the site with a multi-level car park will enable redevelopment of the site and other sites in the City Centre that are currently used as car parks. Potential benefits include reducing the number of cars in the City Centre, improving amenity, creating more jobs and activity.

The Welch Place car park provides at grade and upper level car parking. The upper level spaces at the site and adjoining site (the Trade Secret building) are inaccessible due to the closure of the unsafe Allen Place ramps (to be demolished). Council has decided to transfer the Welch Place car park to the owner of the Trade Secret building to allow them to construct an alternative access to the upper level car park spaces. The proposed alternative access will be provided by a new ramp within the Welch Place car park.

The reclassification of this site will allow the transfer of the land, construction of the new ramps and the demolition of the Allen Place ramps. The demolition removes a significant constraint on the proposed City Park and reinstates some car parking spaces in the City Centre.

The *Local Government Act 1993* requires all public land (any land vested in, or under the control of Council, except for roads, Crown Land or a common) to be classified as one of two categories: *Community* or *Operational*. Community Land is generally open to the public and includes parks, reserves and sports grounds. Operational Land is generally land held as a temporary asset or used by Council to carry out its functions (work depots and garages) or to provide car parking. Community Land cannot be sold and cannot be leased or licensed for more than 21 years. No such restrictions apply to Operational Land.

The reclassification of the Land does not commit Council to the sale or development of the land, nor does it remove the land from Council's ownership or prevent the current use of the Land from continuing. Such considerations will be subject to separate processes and decisions. Appendix 1 outlines current business dealings with regard to the Welch Place car park.

Detailed property information is provided in Appendix 2.

The remainder of this document is split into the following parts:

Part	Explanation
1	The objectives and intended outcomes of the proposal
2	An explanation of the provisions to be included in LEP 2010
3	Justification for the objectives and intended outcomes
4	Mapping
5	Details of the Community Consultation
6	Projected timeline

Table 2: Parts of a Planning Proposal

PART 1 – OBJECTIVES AND INTENDED OUTCOMES

The objective and intended outcome of this Planning Proposal is to reclassify 154 Henry Street, Penrith and two lots of land at 13-61 Union Road, Penrith¹ from Community to Operational Land. This land is identified in Table 3 and Figures 1 and 2. The reclassification will allow Council to consider opportunities for the development of the land and that implement the aims of the Penrith Progression – A Plan for Action.

The proposed reclassification will also remove all trusts for car parking that currently apply to the land. The trust over the two lots in Union Road exists because of Council's acquisition of these properties with funds collected through development contributions (Section 94). The trust over 154 Henry Street exists because part of the site was transferred to Council for a public purpose (car parking). Appendix 2 provides more detail on these trusts.

Union Road car park

The Union Road car park provides at-grade spaces in Penrith City Centre. It is bound by Union Road, Worth Street, Union Lane and Station Street, and is zoned B4 Mixed Use in Penrith LEP 2010. The Union Road car park is classified as Operational, with the exception of three lots that are classified as Community. This Planning Proposal seeks to reclassify two of these three² lots to Operational.

On 7 December 2015, Council decided to proceed with the proposed reclassification of the land from Community to Operational. Appendix 3 contains the Council report and minutes supporting this Planning Proposal.

In January 2016 Council completed an expression of interest process for the development of the Union Road car park. This process sought innovative and creative projects to help implement Penrith Progression. The process requires any future development of the car park to provide at least 1,000 additional public car spaces (increasing the current 412 spaces). The current classification of the Land as Community means that Council's ability to trade, lease, or use the Land is limited.

Appendix 4 contains the City Centre Expression of Interest for Union Road.

¹ The two parcels of land were previously known as 53 and 55 Union Road. This is the description used in the Council reports and minutes about this planning proposal.

² The reclassification of the remaining lot (17 Union Road – Lot 1 DP 198656) will be managed as and when any development of the site is planned.

Welch Place car park

The Welch Place car park provides 71 spaces on two levels in the City Centre (undercover at-grade and upper level). The site adjoins commercial buildings on the remaining sides and is zoned B3 Commercial Core in Penrith LEP 2010. The Trade Secret building (521 High Street Penrith) is one of the adjoining properties.

The at-grade entrance and exit is from Henry Street. The upper level car parking spaces are currently not accessible as the access ramps are closed due to safety concerns. Access to the upper level parking area is via ramps from Allen Place car park that extend over Station Street (Allen Place ramps). These ramps also provide access to 107 car parking spaces on the first level of the Trade Secret building. The ramps have been permanently closed due to safety concerns. See Appendix 6.

On the 28 September 2015, Council decided to transfer the Welch Place car park to the owner of the Trade Secret building. This is to provide the adjoining owner an alternative form of access to the upper level car parking which forms the first level of the Trade Secret building. A development application for the Welch Place car park site for construction of a dual carriageway ramp has been approved. See Appendix 7. If constructed, this proposal will restore access to the upper level parking spaces in the Welch Place car park and Trade Secret building.

On 10 October 2016, Council resolved to support the preparation of this Planning Proposal, combining the reclassification of the Welch Place car park and two lots at the Union Road car park. See Appendix 5.

The reclassification of the Welch Place car park will:

- Remove any apparent trust or covenant on the site that restricts the use of the land for any purpose other than a public car parking area,
- Enable the transfer of the site to the adjoining owner, and the development of the site to provide an alternative form of access to the upper level car parking spaces as per the approved development application,
- Allow Council to proceed with the demolition of the Allen Place ramps over Station Street (once an alternative access form is constructed), and,
- Support the aims of the Penrith Progression with regard to City Park (the ramp demolition removes a significant site constraint on the proposed City Park site) and provision of car parking infrastructure in the City Centre.

Map Ref.	Site	Address	Legal Description
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Figure 1

1	Public car park	13-61 Union Rd Penrith (previously known as 53 Union Road)	Lot 16 Sec 2 DP976320
2	Public car park	13-61 Union Rd Penrith (previously known as 55 Union Road)	Lot 17 Sec 2 DP976320

Figure 2

3	Public car park	154 Henry Street PENRITH	Lot 100 DP 872220
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Table 3: Land proposed to be reclassified

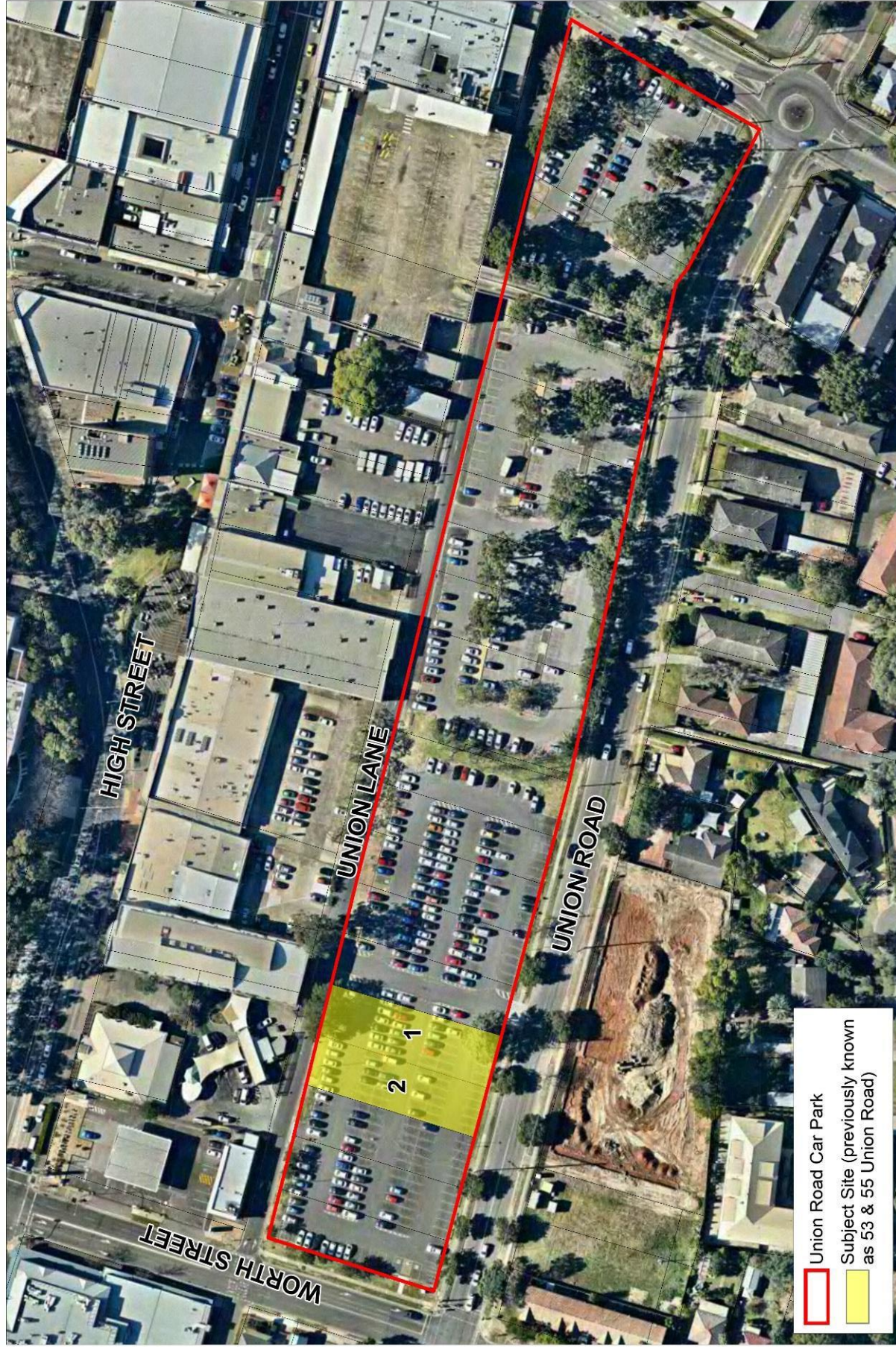


Figure 1 Union Road car park

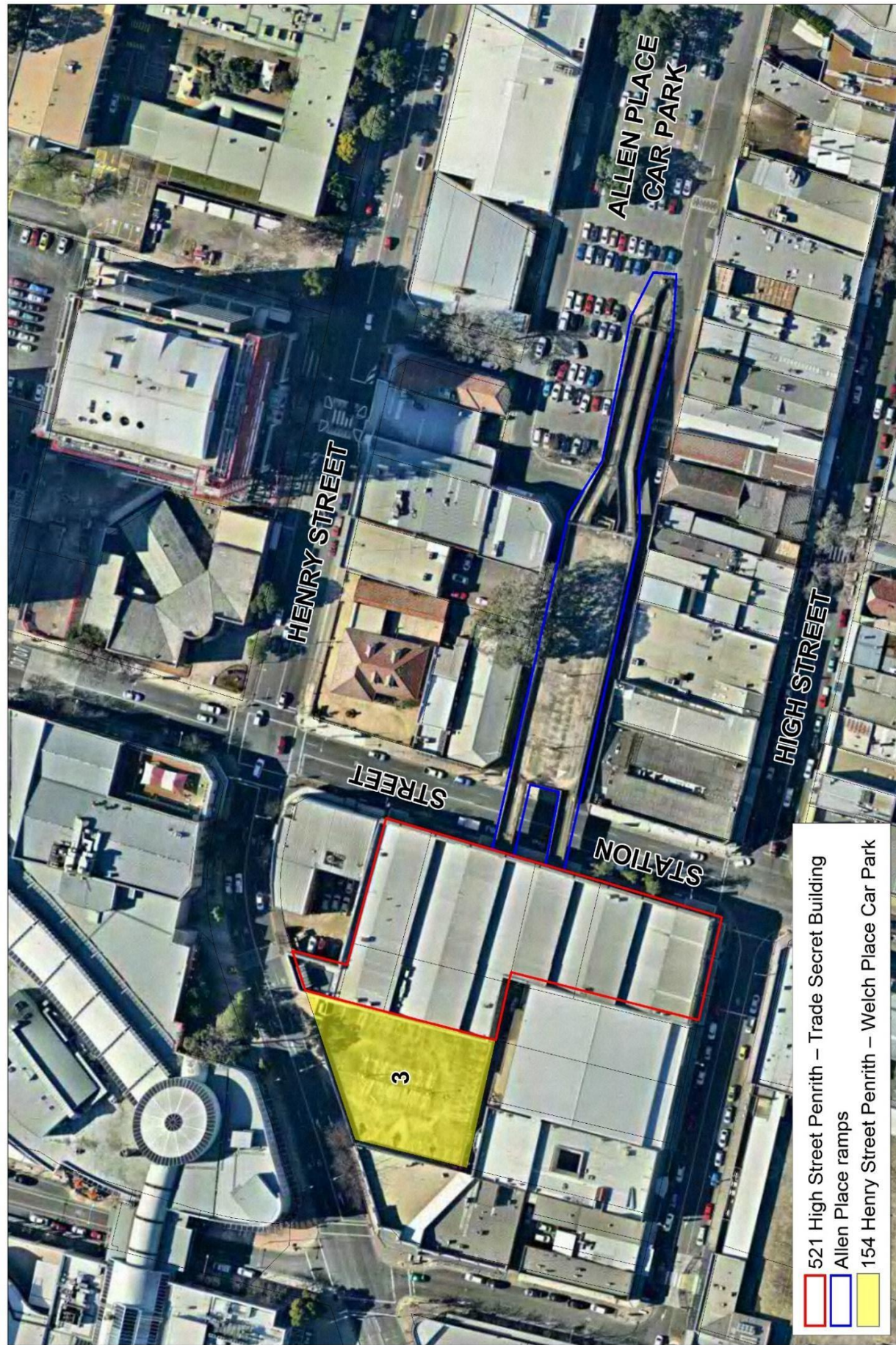


Figure 2 Welch Place car park

PART 2 – EXPLANATION OF PROVISIONS

This Planning Proposal recommends that LEP 2010 is amended by adding the Land to *Schedule 4 Classification and reclassification of public land*. Specifically, the Land is proposed to be inserted into *Part 2 Land classified, or reclassified, as operational land – interests changed*.

The trust applying to the subject land for the purpose of public car parking is to be discharged.

Appendix 8 provides a copy of the proposed *Schedule 4 Classification and reclassification of public land*.

PART 3 – JUSTIFICATION

This part of the Planning Proposal is spilt into the following sections:

Section	Title
A	Need for the Planning Proposal
B	Consistency with Strategic Planning Framework
C	Environmental, Social and Economic Impacts
D	State and Commonwealth Interest

Table 4: Sections in Part 3 of the Planning Proposal

Section A – Need for the Planning Proposal

Q1. Is the planning proposal a result of any strategic study or report?

Union Road car park

Yes. The Planning Proposal is a result of the Penrith Progression – A Plan for Action. The Penrith Progression process was a collaboration with the community of Penrith and a range of other stakeholders over more than 12 months. Penrith Progression established a vision for the City Centre and identified a number of Opportunity Precincts and associated sites. It aims to transform the City Centre and deliver jobs for the future.

This document provides a strategy for using Council land to meet strategic objectives. The Union Road precinct is nominated as an important site to assist the delivery of a vibrant City Centre. Development opportunities for this site include, apartments, shop top housing, aged care and seniors housing, restaurants, cafes and bars, commercial, retail and community uses. The Union Road car park is surrounded by medium density residential development, retail and commercial development.

The development opportunities for the site will complement surrounding development by strengthening the local economy and attracting strategic investment. More local jobs will help existing entertainment, leisure and retail sectors flourish.

The requirement for any development on this site to provide an additional 1000 car parking spaces will support existing uses. Conveniently located parking will connect services and businesses, allowing for a pedestrian friendly City Centre. The site is well serviced by public transport with close access to the railway station and numerous public bus routes.

Welch Place car park

No. The reclassification of this site is not a result of any strategic study or report.

This Planning Proposal is a result of investigations into the land classification on the site. Investigations found that a public trust over part of the site (stating the land will not be used nor permitted to be used for any purpose other than a public car parking area) exists. The property was classified as Operational land in 1993. The existence of a trust means that the land should be treated as Community. Accordingly Council resolved that it is prudent to prepare this planning proposal for the reclassification of the land prior to the transfer of the site to the adjoining property owner. This Planning Proposal would confirm the current classification of Operational, extinguish any possible trust and allow Council to consider opportunities to trade, lease or develop the site.

A development application for a new ramp has been approved on the site. The new ramp will restore car parking infrastructure in the city centre and enable the closed Allen Place ramps to be demolished. Removal of the Allen Place ramps will remove a significant site constraint on the proposed City Park site in Allen Place. Penrith Progression has identified the City Park site as a key location within its Central Park Village opportunity precinct.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes, the Planning Proposal is the only way to achieve the intended outcomes and objectives.

The reclassification of the Land from Community to Operational is considered to be the best means of achieving the objectives and intended outcomes. Community land cannot be sold and cannot be leased or licensed for more than 21 years. This means that Council's ability to trade, lease, or use the land for any future development or mixed use proposal is limited. No such restrictions apply to Operational Land.

The Welch Place car park was classified as Operational in 1993. Investigations have revealed that a possible trust (for the purposes of car parking) may exist on a portion of the land. As a result of this trust, a classification of Community should have been made in 1993 and the land should be treated as Community land as per the Local Government Act 1993 Appendix 9 provides a relevant extract of the Local Government Act. As a result of these circumstances and following a period of due diligence, it was considered prudent that Council pursue the reclassification of the land. Treatment of the land as Community means Council's ability to trade, lease or use the Land is limited. No such restrictions

apply to Operational land.

Section B – Relationship to Strategic Planning Framework

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy or district plan or strategy (including any exhibited draft plans or strategies)?

Yes. This Planning Proposal is consistent with regional and sub-regional plans and draft plans.

A Plan for Growing Sydney

In December 2014, the NSW Government published *A Plan for Growing Sydney*, setting out its vision for Sydney to be a strong global city and a great place to live. *A Plan for Growing Sydney* also sets a number of goals for the economy, housing choice, healthy communities and a sustainable and resilient city. The plan also sets actions to deliver these goals, including:

- Transforming the productivity of Western Sydney through growth and investment.
- Delivering the infrastructure that is needed.
- Promoting Sydney's arts and culture, tourism and entertainment industries.
- Managing long-term growth.

The NSW Government is also undertaking District Planning to implement the directions in *A Plan for Growing Sydney*. Relevant draft priorities for this Planning Proposal include:

- The identification of opportunities to strengthen investment for employment growth in Western Sydney.
- Work with Penrith Council to retain a commercial core in Penrith as required for long-term employment growth
- Work with Penrith Council to provide capacity for additional mixed-use development in Penrith including offices, retail, services and new homes close to transport.

The proposed reclassification of the land, when complete, will allow Council to consider opportunities to trade, lease or develop the land. These opportunities are considered to be consistent with *A Plan for Growing Sydney* and draft priorities proposed in the Subregional Plans, as they may:

- Leverage the under-developed public and private landholdings in the City Centre to strengthen the local economy, attract investors, and create more jobs, strengthening the role of Penrith's City Centre.

- Manage the long-term growth of the City Centre by providing quality and diverse homes improving housing supply and choice (mixed use developments).
- Deliver additional physical infrastructure such as roads, pathways, car parking, stormwater channels and drainage pipes. As the City Centre grows the construction of a multi-storey car park will enable redevelopment of land for higher order uses in the City Centre, helping to improve pedestrian amenity.

Q4. Is the planning proposal consistent with a Council's local strategy or other local strategic plan?

Yes, the Planning Proposal is consistent with the following strategies and plans:

- *Penrith Community Plan 2013*: The Community Plan identifies our residents' aspirations for Penrith, outlining outcomes and strategies for Council to achieve over the long term.
- *Penrith City Centre Plan – Vision*: The Penrith City Centre Plan sets a strategic framework for the city centre to grow into a prosperous, vibrant and attractive city.
- *City Strategy*: The Penrith City Strategy seeks to help build a sustainable future for the Penrith community, by summarising the key issues facing the LGA over the next 10-20 years, and outlining how Council will respond. The issues and policy responses in the Penrith City Strategy inform the Community Plan and Council's 4 year Delivery Program.
- *Penrith Progression*: Penrith Progression aims to transform the City Centre and deliver jobs for the future. It seeks to identify new economic, social and environmental drivers. It addresses barriers to investment and identifies catalyst projects.
- Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014.

This Planning Proposal does not seek to change the planning controls set by these documents. The reclassification does not seek to change the objectives of the relevant zones affecting the sites. Any development will need to consider the objectives of the relevant zone as part of a separate development application process.

All outcomes and goals of these plans have been considered. Appendix 10 demonstrates the consistency of this Planning Proposal with the relevant outcomes and goals.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Yes. This Planning Proposal is considered to be consistent with relevant State Environmental Planning Policies. The NSW Government publishes *State Environmental Planning Policies (SEPPs)* for matters of State or regional planning significance. Appendix 11 examines the consistency of this Planning Proposal with the relevant SEPP's.

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Yes. The Planning Proposal has considered all Ministerial Directions and is consistent with all Local Planning Directions.

The Minister for Planning issues *Local Planning Directions* that Council must follow when preparing a Planning Proposal. The directions cover the following broad categories:

- Employment and resources
- Environment and heritage
- Housing, infrastructure and urban development
- Hazard and risk.

Appendix 12 examines the consistency of the Planning Proposal with the relevant local planning directions.

Section C – Environmental, Social and Economic Impacts

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

This Planning Proposal will not affect any critical habitat or threatened species, populations or ecological communities, or their habitats. There is no vegetation at present.

In addition, this Planning Proposal does not recommend changing the application or intent of the provisions in LEP 2010 that require new development to identify and manage its environmental impacts, such as the preservation of trees and vegetation and the management of stormwater. These provisions will continue to apply to the Land.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No. This Planning Proposal seeks to reclassify the land. The reclassification will not have any environmental effects, however it will enable the land to be developed. Any future impacts will be managed through the development application consent process.

Any future development proposal must demonstrate consistency with Council's adopted Cooling Strategy. The subsequent development of the Land may help manage existing environmental impacts and respond to a changing climate.

The Penrith CBD Detailed Overland Flow Flood Study (2015) indicates the subject properties are coded as flood affected because they are affected by the 1% AEP (100 year ARI) local overland flow path from the Penrith CBD catchment.

Clause 7.2 Flood Planning within the Penrith LEP 2010 applies to land at or below the flood planning level. Any future development on the subject Land would need to comply with the flood related controls in this clause and will be considered at development assessment stage.

Q9. Has the planning proposal adequately addressed any social and economic effects?

Yes. This planning proposal will enable development opportunities to be considered that will facilitate positive social and economic outcomes for the city including new jobs and housing in the City Centre.

The Planning Proposal provides an opportunity to further develop the underutilised site and integrate the various land uses within the Penrith City Centre to improve the economic vitality and amenity of the Centre.

The *Penrith Progression A Plan for Action* is premised on key opportunity sites within the City Centre being developed in joint ventures and public private partnerships for new employment generating uses and new housing choice, which could provide public domain works or generate revenue for Council to be used to fund improvements to the public domain, community and car parking facilities.

Section D – State and Commonwealth interests

Q10. Is there adequate public infrastructure for the planning proposal?

This Planning Proposal will not generate a need for additional public infrastructure as it does not seek the rezoning of land for additional uses. Any subsequent proposal to develop or use the Land will need to address the suitability of current infrastructure, proposed funding and delivering solutions to overcome any identified shortfall and can be addressed at development application stage.

Union Road car park

Rearranging the current surface car park into a multi-storey structure is recommended in the *Penrith City Centre Strategy (2006)* and the *Penrith City Centre Car Parking Strategy (2011)*. This will enhance the City's urban form, improve its viability and provide more car parking spaces. Any future development must provide 1,000 public car spaces in perpetuity to Council.

Welch Place car park

The reclassification will allow development on the site. A development application for the construction of a dual carriageway ramp has been approved. This development will result in a net loss of 34 car parking spaces to the Welch Place car park, however it will provide new access to the upper level car park which has been inaccessible since the closure of the Allen Place ramps. The new ramp will also restore access to 107 car parking spaces at the upper level car park of the Trade Secret building. The Planning Proposal will restore existing car parking infrastructure in the City Centre.

Q11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

No consultation with State or Commonwealth agencies has been carried out to date. Council will consult with any public agencies and the community as directed by the Gateway Determination.

PART 4 – MAPPING

This Planning Proposal does not recommend any changes to the maps in LEP 2010. Penrith LEP 2010 maps can be viewed online on the NSW Legislation website:

www.legislation.nsw.gov.au.

PART 5 – COMMUNITY CONSULTATION

This Planning Proposal will be publicly exhibited for 28 days in accordance with the Department's Practice Note regarding *classification and reclassification of public land through a LEP* and *Best Practice Guideline for LEP's and Council Land*. Exhibition venues will include Penrith's Civic Centre, Council's Queen Street Office, St Marys, and the Penrith and St Marys libraries. The exhibition material will also be available on Council's website.

An independently chaired public hearing will also be arranged for the Planning Proposal. This will take place approximately three weeks after the close of the public exhibition. Notice of the public hearing will be given in local papers and on Council's website. Notification letters will also be sent to any person or organisation who makes a submission in response to the public exhibition.

PART 6 – PROJECT TIMELINE

No	Action	Date
1	Gateway Determination	November 2016
2	Public Authority Consultation	December 2016-January 2017
3	Public Exhibition	December 2016-January 2017
4	Public Hearing	February 2017
5	Consideration of community feedback	March 2017
6	Resubmission to NSW Planning & Environment	April 2017
7	Anticipated publication of amendment to LEP 2010 / reclassification	May 2017

Table 6: Project Timeline