



Monday, 18 May 2020

Department of Planning  
Level 16, 320 Pitt Street,  
Sydney NSW 2001

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**PROPOSED AMENDMENTS TO THE STATE ENVIRONMENTAL PLANNING POLICY (PENRITH LAKES SCHEME) 1989 (PENRITH LAKES SEPP).**

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We refer to the Draft Amendment to the Penrith Lakes SEPP which has been on Exhibition from 27/04/2020 - 11/05/2020. Please find within this letter our submission to the proposed amendments. This submission has been prepared on behalf of the owners of 39-45 Old Castlereagh Road, Castlereagh. i.e: Clear Rock Investments Pty Ltd.

We thank you for granting an extension of time to make this submission and considering our comments and requests within.

Our submission is made in reference to item 2 of the Draft Amendment as excerpted from the Consultation Paper as highlighted in Figure 1(page 5.).

## **Our Submission:**

In reference to item 2 Of the proposed amendments, we request that the proposed 'Environment'(E) zoned land to the northern boundary of the Employment(EP) zoned land be deleted and be zoned 'Employment'(EP) Land instead. We request that a different mechanism is used to protect the existing landscaping buffer between the 'EP' zoned land and Old Castlereagh Road other than creating a new 'E' zone.

This could be achieved by including additional clauses which apply to the EP zoned land to the effect that the requirements and objectives of the 'E' zone be adopted within the 'EP' zone. The clause could read that a 20m wide landscape buffer measured from the property lot boundary be provided to the full extent of the land adjoining Old Castlereagh Road. This clause could be reciprocated on the tourism land which in turn will form a tree lined gateway procession to the Penrith Lakes Parkland areas.

The Removal of the Environment zone would reinforce the reasons for extending the size of the employment zoned land to the north by way of permitting the adjacent 'T' zone land to benefit from Claus 19 of the LEP.



The apparent primary reason for increasing the size of the 'EP' is for 'Supporting Employment Opportunities in Western Sydney and the Penrith LGA'.

The permitted uses within the 'T' zone and 'EP' zoned lands are limiting when in isolation of each other. To a greater extent the 'T' zoned land is more restricted as demand for the limited permitted land uses is typically low in most markets. Low demand for tourism land will stifle development in the Penrith Lakes Scheme. Therefore if the employment and tourism zones are permitted to adjoin then there is greater flexibility of uses to both the tourism and employment zoned land within 100m either side of the zone boundary. A greater flexibility of the tourism zoned land will enhance the merits of extending the EP zone by 'Supporting Employment Opportunities in Western Sydney and the Penrith LGA'. We anticipate that by increasing the land use possibilities this would 'kick start' development in the Tourism zone which will otherwise be stagnant for the foreseeable future.

If the proposed 20m wide 'E' zone is to be retained in its current form, it will drive a wedge between the employment and tourism zones, which in turn will result in the developments within the 'EP' zone to internalise away from Old Castlereagh road and effectively separate from the Penrith Lakes Precinct. This division does not permit an effective transition of uses from the Industrial Land to the East(IN1) and 'EP' Land to the South from the to the 'T' zoned Land to the north.

The current zoning strategy siloes off each zone fracturing and fragmenting the vehicular approach to the Penrith Lakes Parkland

The emerging opportunity is to create more logical and appropriate development between the adjoining zones 'T' and 'EP'. The compatibility will achieve greater activation to the streetscape of Old Castlereagh Road by providing greater variety and more integrated uses. The uses to Old Castlereagh Road would provide a greater potential of balance and interactivity to the streetscape and a more effective transition between IN1, EP and T.

### Summary of Submission:

- A comprehensive review of the Proposed Amendment to the State Environmental Planning Policy (Penrith Lakes Scheme) 1989 has been undertaken. It is our opinion that the proposed amendment has been prepared without due regard to the ramifications it will have on the future development of land currently zoned for tourism purposes.
- Under the current zoning boundary arrangements, development within the tourism zone was separated from the Employment zone via a "no zone". It is recommended that the zoning boundary between the Tourist zone and the Employment zone become a Common Zone Boundary. This arrangement would allow for a far more flexible tool to achieve developments that comprise the same characteristics as developments within the Employment Zone. To create a 20m environmental zone between the land zoned for tourism purposes and the land zoned for employment purposes completely removes the ability to use Clause 19, which will have a direct negative result on the economic viability of future developments within the restricted Tourism zoned area.
- The proposed amendment is a direct contradiction to the EP&A 1979 (as amended) Object, which is set out below:

### 1.3 Objects of Act (cf previous s 5)

*The objects of this Act are as follows—*



- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,**
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,**
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*

It is important for the DoP to ensure that land in this locality, which has been earmarked for tourism, is allowed to be developed in an orderly and economic manner and not be sterilised by an ad hoc planning proposal which could destroy the economic viability of future development within the Tourism zone. The relevant Objectives of this zone are set out below:

#### **1 Objectives of zone**

- To provide for a variety of tourist-oriented development and related uses.*
- To provide for diverse tourist and visitor accommodation and activities that are compatible with the promotion of tourism in Penrith that utilises the public assets of the Penrith Lakes Scheme.*
- To create an appropriate scale that maintains important views to and from the Nepean River as well as to the Blue Mountains escarpment, while also improving important connections to the Penrith City Centre and the Nepean River.*

The above Objectives of the Tourism zone can all be achieved with appropriate development under the current zoning boundaries that abut the Tourism zone north of Old Castlereagh Road.

- The Penrith Lakes area is recognised as a major recreation and sporting facility within the region and has been developed to international sporting standards. Nonetheless, this facility lacks tourist-type accommodation and business premises which would be aligned with sporting and tourism activities that take place in this area. At present, this tourist area is devoid of such facilities and visitors to this region and the local community are disadvantaged and deprived of having the benefit of land uses that complement the Objective of the Tourism zone and the EP&A Act.
- It is reasonable to assume that one of the objectives of creating a 20m environmental protection zone along, adjacent to or within the Old Castlereagh Road Reservation is to protect the row of trees located on private property south of the Old Castlereagh Road alignment. This objective could be achieved by creating a 20m wide reservation as opposed to creating a proposed environmental zone in this locality which completely destroys the future economic viability of development earmarked for tourism. The recommendation that the Tourism zone and the Employment zone should share a common zoning boundary has merit and would enable the utilisation of Clause 19 of Penrith Lakes SEPP.



- The land currently zoned for tourism and the land currently zoned for employment under Penrith Lakes SEPP comprise the exact same characteristics such as topography, flood affectation, and environmental features. To differentiate between these two zonings by way of a separation of 20m with a proposed environmental zone lacks substance and foresight and could severely prejudice any future development within the Tourism zone.

It is respectfully submitted that the boundary line between the Tourism and Employment zones between Old Castlereagh Road should remain, as per the current provisions of Penrith Lakes SEPP and the Department should abandon the proposal to introduce a new environmental zone between the two zones, as per the Penrith Lakes Scheme Locality – Proposed Rezoning.

If the Department is adamant that the amendments in their current form are to be instigated, it is also respectfully suggested that the types of land uses permitted under the current Tourism zone be expanded to permit business premises and office premises (associated with the recreation use of the Nepean Lake system) and “development of business incubators, and other employment opportunities relating to tourism and water-based sport and recreation” (Objectives of Employment Zone, Penrith Lakes SEPP 1989).

If you have any queries with the above please do not hesitate to contact me.

Yours faithfully

**Morson Group**  
Peter Morson  
Director



Figure 1: Excerpt from Consultation Paper:

**The proposed amendment (amending SEPP) seeks to:**

1. Extend some of the boundaries of the Employment zone to support employment opportunities in Western Sydney;
2. Zone unzoned land adjoining the employment zone to 'Environment' to protect the natural environment;
3. Rezone land from 'Employment' to 'Environment' to support its planned use as a wetland area;
4. Amend the satisfactory arrangements clause for designated State public infrastructure;
5. Refine the geotechnical assessment requirements to ensure development platforms are adequately protected during flood events;
6. Amend clauses that refer to a plan of management for the Penrith Lakes Scheme; and
7. Update outdated references to other legislation.

**PROPOSED AMENDMENTS**

**Rezoning to Employment zone**

The Department has undertaken a strategic review of the Penrith Lakes SEPP within the context of the overall plan for the Scheme and other relevant strategic plans and considers there is merit in the extension of the Employment zone boundaries into the unzoned land to the north, east, southeast and southwest of the current Employment zoned land. The proposed rezoning will support employment opportunities in Western Sydney and the Penrith local government area in particular. The proposed rezoning will also remove the uncertainty surrounding future use of the unzoned land surrounding the Employment zone and promote the economic use and development of the Employment land precinct. The proposed Zoning Map depicts the area of the proposed extension of the Employment zone shaded red.

**Rezoning to Environment zone**

A 20m buffer along the southern edge of Old Castlereagh Road is proposed to be rezoned to Environment to facilitate and ensure a landscaped approach to the future Penrith Lakes parkland. The residual unzoned land adjacent to the Nepean River proposed to be zoned to Environment is consistent with the Government's intent to accommodate a walking trail along the Nepean River. The current Employment zoned land proposed to be Environment reflects the planned future use of the land as a constructed wetland. The proposed rezoning to Environment will apply appropriate planning controls in areas of environmental value and prevent development that could adversely affect those values. The proposed Zoning Map depicts the area of the proposed Environment zone shaded orange.



Figure 2: Existing Penrith Lakes Scheme Zoning Map:

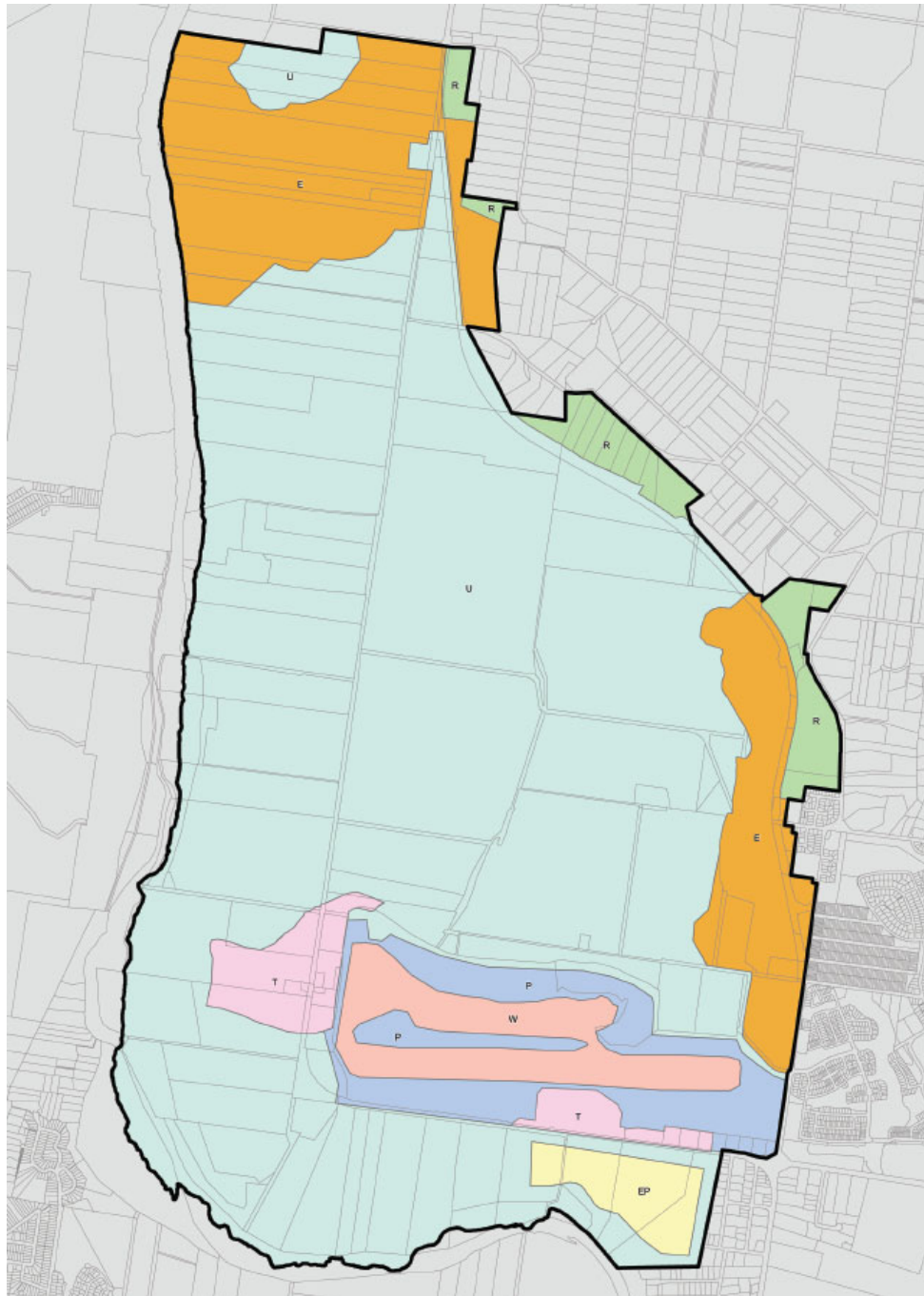




Figure 3: More Logical & Appropriate Development of the site capable of being developed both sides of the zone and either side of Old Castlereagh road.





Figure 4: Siloed Zoning configuration Separates EP and IN1 zone from T zone featuring a poor transition between zones and furthermore a poor street address to Old Castlereagh Rd.

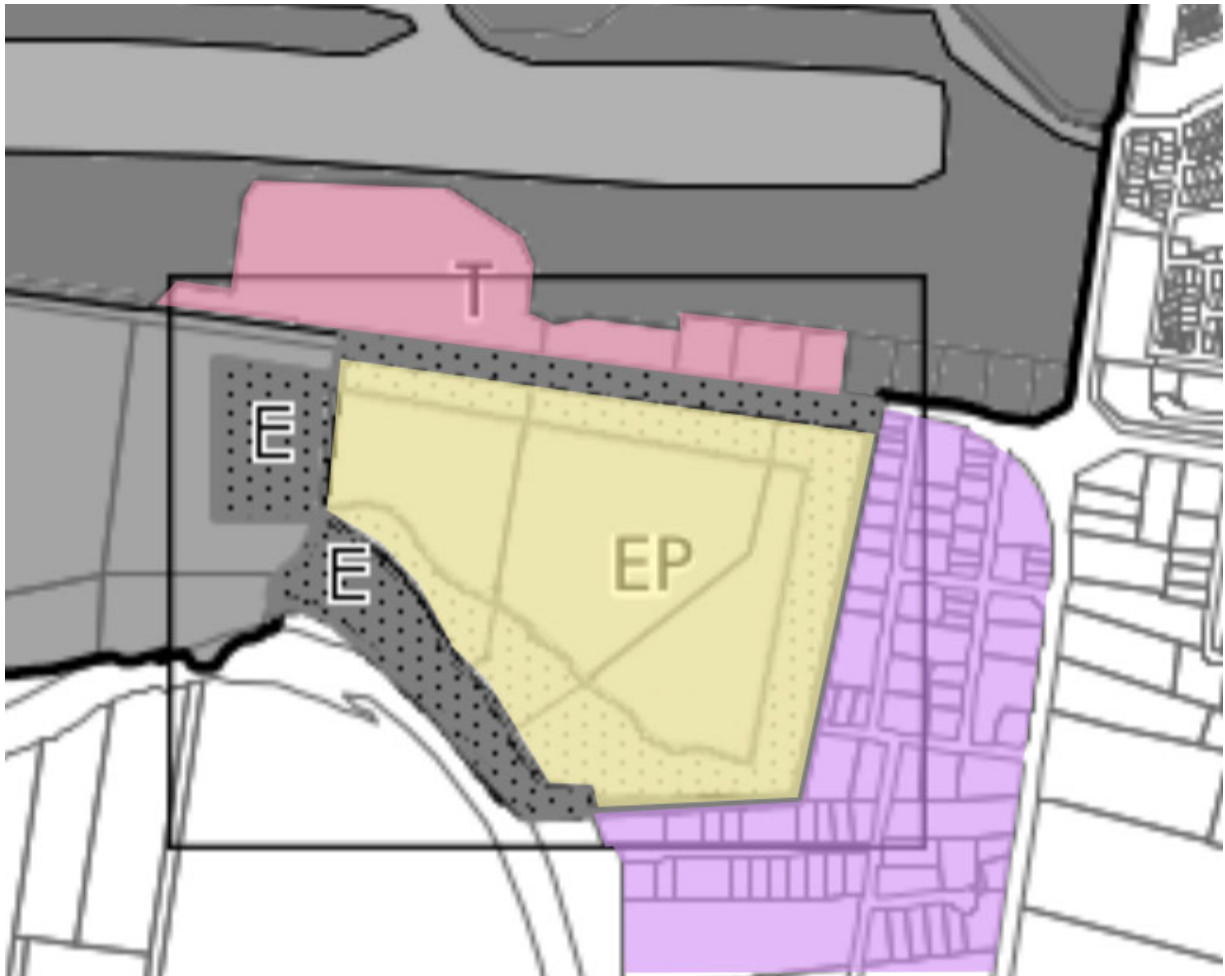






Figure 5: Excerpt from SEPP(Penrith Lakes Scheme) 1989.

**State Environmental Planning Policy (Penrith Lakes Scheme) 1989**

Current version for 1 February 2020 to date (accessed 12 May 2020 at 07:57)

**Part 4 Clause 19**

**19 Development near zone boundaries**

- (1) *The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.*
- (2) *This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 100 metres.*
- (3) *This clause does not apply to unzoned land.*
- (4) *Despite the provisions of this Policy relating to the purposes for which development may be carried out, development consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that—*
  - (a) *the development is not inconsistent with the objectives for development in both zones, and*
  - (b) *the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.*