

Recommendations of the Corporate Services Committee

16 August 2010

Presentations:

Social and Community Planning Coordinator Stephen McAlister and Youth Council Chair Nicole Molyneux presented an Award to the Mayor in recognition of Council's success in winning Most Innovative Youth Week program in 2010 as a part of the 2010 Local Government Week Awards.

Corporate Services Committee Meeting - Monday 16 August 2010

10CORP052 Proposed Reclassification to Operational Land - 11 13 and 21 John Street Warners Bay

Folder No: F2010/01017

Report By: Reclassification Property Officer - Vanessa Hitchcock

Submission and Committee's Recommendation: No. 1

- A. Council authorises the commencement of action to prepare a Planning Proposal, as follows:
- Reclassification from Community Land to Operational Land, lot 10 DP 1128914 (11 John Street, Warners Bay),
 - Reclassification from Community Land to Operational Land, lots A and B DP 162087 (13 John Street, Warners Bay), and
 - Reclassification from Community Land to Operational Land, lot 53 DP 1128122 (21 John Street, Warners Bay).
- B. Council authorises the notification of Council's resolution, and submits a Planning Proposal pursuant to section 55 of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979), to the Department of Planning (DoP).
- C. Upon receipt of DoP's Gateway Determination under section 56 of the EP&A Act 1979, and in accordance with DoP's direction, Council authorises the exhibition of the Planning Proposal.
- D. Council authorises notification of the public hearing, in a local newspaper, in accordance with section 29 of the Local Government Act 1993.
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**10CORP052 Proposed Reclassification to Operational Land - 11 13 and 21
John Street Warners Bay**

Council Ref: F2010/01017 - D01801838
Report By: Reclassification Property Officer - Vanessa Hitchcock

Précis:

The parcels of land, which are the subject of this report, are Council-owned and classified as Community Land under the provisions of the Local Government Act 1993. Council is considering the future development of this site and it is considered prudent to commence reclassification of the land to Operational Land.

Recommendation:

- A. Council authorises the commencement of action to prepare a Planning Proposal, as follows:
- Reclassification from Community Land to Operational Land, lot 10 DP 1128914 (11 John Street, Warners Bay),
 - Reclassification from Community Land to Operational Land, lots A and B DP 162087 (13 John Street, Warners Bay), and
 - Reclassification from Community Land to Operational Land, lot 53 DP 1128122 (21 John Street, Warners Bay).
- B. Council authorises the notification of Council's resolution, and submits a Planning Proposal pursuant to section 55 of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979), to the Department of Planning (DoP).
- C. Upon receipt of DoP's Gateway Determination under section 56 of the EP&A Act 1979, and in accordance with DoP's direction, Council authorises the exhibition of the Planning Proposal.
- D. Council authorises notification of the public hearing, in a local newspaper, in accordance with section 29 of the Local Government Act 1993.

Background:

The land the subject of this report, comprising lot 10 DP 1128514; lots A and B DP 162087; and lot 53 DP 1128122, illustrated by hatching on attachment 1, were acquired by Council during the 1970's for car parking purposes. The lands are therefore subject to an implied trust for car parking purposes (a community purpose) and were not able to be advertised as Operational Land with the enactment of the Local Government Act 1993.

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The subject lands are zoned 3(1) Urban Centre and are tar sealed and in use for on grade car parking providing 158 car spaces. Any worthwhile redevelopment will require reinstatement of public car parking displaced by any future development.

Council-owned lot 10 DP 1128914 is separated from the remaining Council-owned land by lot 1 DP 773475 that is illustrated by yellow colour and dotting on attachment 1.

This land is in private ownership and will form an integral component of any proposed development of the subject lands.

To allow for proper consideration of redevelopment options for the site it is necessary that the Council-owned land be reclassified to Operational Land so that future disposal or development of the land can proceed when appropriate.

Proposal:

It is proposed that Council authorises the commencement of action to prepare a Planning Proposal for the reclassification of 11, 13 and 21 John Street Warners Bay from Community Land to Operational Land, submission to the DoP, exhibition and notification of the public hearing as recommended.

Consultation:

As part of the process to determine if the subject reclassification actions should commence, the subject lands have been submitted to Council's Rezoning Appraisal and Prioritisation meeting (RAP). Council officers raised the following concerns and comments:

"The Warners Bay proposal to future develop has merit. It was recommended that the proposal proceed in anticipation of resolution of the car parking issue by way of development application determination consistent with the area plan."

The following authorities will be consulted, pursuant to section 62 of the EP&A Act 1979, following Council's decision to reclassify the land. The Department of Planning; Department of Lands, Mine Subsidence Board, Hunter Water Corporation, Parks and Playgrounds Movement Inc, Total Environment Care Centre Inc, Board of Fire Commissioners, Department of Primary Industries, Roads and Traffic Authority, Energy Australia, and the relevant State Members.

If Council resolves to proceed with the preparation of the planning proposal, exhibition of the proposal and a public hearing will occur in accordance with the provisions of the EP&A Act 1979 and the Local Government Act 1993.

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Implications:

Policy Implications:

The proposal is consistent with relevant State environmental planning policies, section 117(2) directions and the Lower Hunter Regional Strategy 2006. No significant issues or areas of concern have been identified.

The following table outlines the Ministerial direction:

Ministerial Direction	Relevance	Implications
1.1 – Business and Industrial Zones	Requires that business and industrial lands are maintained and that new zones are established in accordance with strategic policy directions.	The Planning Proposal does not propose to rezone any lands to a business or industrial zone.
2.1 – Environmental Protection Zones	Requires that a draft LEP contain provisions to facilitate the protection of environmentally sensitive land	The Planning Proposal does not propose to alter any environmental provisions or environmental land use zones.
2.2 – Coastal Protection	Requires a draft LEP to include provisions that are consistent with State Government coastal policy documents.	The Planning Proposal does not propose to rezone any sites within the coastal zone to facilitate residential development.
2.3 – Heritage Conservation	Requires that a draft LEP include provisions to facilitate the protection and conservation of aboriginal and European heritage items.	There are no locally listed items of heritage significance located on the lands.
2.4 – Recreation Vehicle Areas	Restricts a draft LEP from enabling of a recreation vehicle area	The Planning Proposal will not propose a recreation vehicle area, and is consistent with the direction.
3.1 – Residential Zones	Requires a draft LEP to include provisions that facilitate housing choice, efficient use of infrastructure, and reduce land consumption on the urban fringe.	The Planning Proposal does not propose to rezone any land for residential purposes.
3.2 – Caravan Parks and Manufactured Home	Requires a draft LEP to maintain provisions and land use zones that allow	The Planning Proposal will not affect provisions relating to Caravan Parks

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Estates	the establishment of Caravan Parks and Manufactured Home Estates.	or Manufactured Home Estates.
3.3 – Home Occupations	Requires that a draft LEP include provisions to ensure that Home Occupations are permissible without consent.	The Planning Proposal will not affect provisions relating to Home Occupations, and will retain the provisions of the principal LEP in this regard.
3.4 – Integrating Land Use and Transport	Requires consistency with State policy in terms of positioning of urban land use zones.	Land will only be released for urban purposes where there is adequate access to public transport, services, and community facilities.
4.1 – Acid Sulfate Soils	Applies to land that has been identified as having a probability of containing acid sulfate soils, and requires that a draft amendment be consistent with the Acid Sulfate Soil component of the model Local Environmental Plan (ASS model LEP), or be supported by an environmental study.	Lake Macquarie LEP 2004 is consistent with the ASS model LEP. The Planning Proposal does not propose to alter any of these provisions.
4.2 – Mine Subsidence and Unstable Land	The direction requires consultation with the Mine Subsidence Board where a draft LEP is proposed for land within a mine subsidence district.	The Mine Subsidence Board will be consulted pursuant to Section 62 of the Environmental Planning and Assessment Act 1979.
4.3 – Flood Prone Land	Applies where the draft LEP will effect provisions to flood prone land.	Land will only be released for development purposes where it is above the 100 year ARI flood level.
4.4 – Planning for Bushfire Protection	Applies to land that has been identified as bushfire prone, and requires consultation with the NSW Rural Fire Service, as well as the establishment of Asset Protection Zones.	None of the lands have been identified as bushfire prone.
5.1 – Implementation of	The direction requires a	The Planning Proposal is

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Regional Strategies	draft amendment to be consistent with the relevant State strategy that applies to the Local Government Area.	consistent with the Lower Hunter Regional Strategy.
6.1 – Approval and Referral Requirements	Prevents a draft LEP from requiring concurrence from, or referral to, the Minister or a public authority.	The Planning Proposal does not propose to require concurrence from, or referral to a public authority.
6.2 – Reserving Land for Public Purposes	The direction prevents a draft LEP from altering the availability of land for public use.	The Director-General's concurrence will be sought regarding this matter.
6.3 – Site Specific Provisions	The direction requires that a draft LEP make use of existing land use zone categories and not introduce additional controls.	The Planning Proposal does not propose to implement provisions in addition to those already existing within Lake Macquarie LEP 2004.

SEPPs	Relevance	Implications
SEPP 19 – Bushland in Urban Areas	The SEPP aims to prioritise the conservation of bushland in urban areas, and requires this to be considered in preparing a draft LEP.	The Planning Proposal does not propose to release land for development that currently contains urban bushland.
SEPP 44 – Koala Habitat Protection	The SEPP aims to provide proper conservation and management of Koala habitat by requiring the identification, conservation, and management of actual and potential Koala habitat.	The Planning Proposal does not propose to rezone land that would result in a loss of actual or potential Koala habitat or other bushland.
SEPP 55 – Remediation of Land	The SEPP requires the subject land to be suitable for its intended use in terms of the level of contamination, or where the land is unsuitable due to the level of contamination, remediation measures are required to ensure that the subject land is suitable for	Investigations will be undertaken to determine whether any of the subject sites contain contaminants. Where contaminants are identified, remediation will be required in accordance with State Government guidelines and regulations prior to development

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	its intended use.	occurring.
SEPP 71 – Coastal Protection	The SEPP requires Council to consider whether a draft LEP will restrict access to, or reduce the amenity of coastal reserves or foreshore areas, including overshadowing, loss of views, or reduction in scenic quality.	The Planning Proposal does not propose changes that will adversely impact upon access to, or amenity of coastal reserves or foreshore areas.
Draft SEPP 66 – Integrating Land Use and Transport	The draft SEPP requires that land use zones be distributed to enable the integration of effective transport and access to services and facilities.	Land will only be released for urban purposes where there is adequate access to public transport, services, and community facilities.

The proposal is consistent with the Lifestyle 2020 Strategy and the Lower Hunter Regional Strategy and will not affect upon heritage items.

Environmental Implications:

An environmental study under section 57 of the EP&A Act 1979 is not necessary as there is no flora or fauna on the lands which are tar sealed.

Social Implications:

The land is constructed as and used for car parking, servicing the commercial precinct of Warners Bay. The proposal does raise question as to the future provision of public car parking in the commercial precinct, however potential loss of the community facility can be minimised by following RAP's recommendation that the car parking issue be dealt with by way of development consent in accordance with area plan provisions.

Financial Implications:

Council will fund the reclassification of the subject lands.

Risk and Insurance Implications:

The level of risk associated with the preparation of a Planning Proposal is minimised by following due process as established by the EP&A Act 1979 and the Environmental Planning and Assessment Regulation 2000. This action is covered by Council's professional indemnity insurance as a standard activity.

Options:

1. To proceed as recommended. This option is favoured as the reclassification is a prerequisite to any sale or development, which could generate substantial funds for Council for re-investment and future use, as well as employment and economic activity whilst at the same time eliminating Council's maintenance liability of the lands.

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2. Not to reclassify the lands. This option is not favoured as a greater net community benefit could be obtained by the redevelopment of the lands by way of increased employment opportunities and economic activity.

Conclusion:

The proposed reclassification is a prerequisite to any sale or redevelopment of the lands, which could generate substantial funds for Council as well as viable employment and economic activity for the community. There are also measures in place to ensure the risk of loss of a public car parking facility is minimised.

As a successful reclassification of the lands does not guarantee a change in their use it is recommended that Council proceed with the reclassification so that a possible overall better use of the land can be pursued.

Manager - Property & Business Development - Peter Coburn

Attachments:

1. Diagram showing land to be reclassified to Operational Land - 11, 13 & 21 John Street Warners Bay D01820698
2. Aerial photograph showing land proposed to be reclassified as Operational Land - 11, 13 & 21 John Street Warners Bay D01811385



