

ANNEXURE C

TUMUT RECLASSIFICATION SITE COUNCIL REPORT AND RESOLUTION

REPORT NUMBER: DES 3
SUBJECT: Disposal of Vacant Council Land - Capper Street
Tumut (.)
REPORT AUTHOR: John Maxwell
RESPONSIBLE MANAGER: J Maxwell

PURPOSE OF REPORT: To seek Council direction to either retain or dispose of vacant land in Capper Street Tumut.

KEY ISSUES

1. Land was previously transferred to Council from State Forests for future use as an Interpretive Centre.
2. Council has not provided a budget in the long term plan to establish an interpretive Centre.
3. If Council wishes to dispose of the land it will need to be reclassified from Community land to Operational land.

BUDGET IMPACTS

The Valuer General has valued the land at \$140,000.

SOCIAL IMPACTS

Should Council decide retain and develop the land in future years, it will certainly be of community benefit, however Council has not identified such development in its long term financial plan. If Council decides to dispose of the land, the revenue could also be directed to community projects.

ENVIRONMENTAL IMPACTS

Nil

OPERATIONAL PLAN IMPACTS

Nil

INTRODUCTION

Over recent years Council has identified Council lands surplus to needs and has disposed of them and utilised the proceeds for community projects. In some cases the process to sale was straight forward as the land was classified as 'Operational Land'.

Where the land was classified as 'Community Land', to enable disposal it has to be reclassified to Operational Land in accordance with the procedures provided for in s.55 of the EP&A Act 1979, which includes a public hearing and amendment to the Local Environment Plan; this is a lengthy process. Council is in the process of reclassifying other lands and if Council wishes to dispose of this land it would be included with other lands for the reclassification process.

BACKGROUND

In 1999 State Forests gifted what was previously a forest reserve No.798, No.6. At that time it was intended to the land as an Interpretive Centre, the land area is 0.759 hectares.

Council has not provided any budget to construct an Interpretive Centre in the adopted recently long term financial plan.

We believe the land was compulsorily acquired from a Crown agency (Forest NSW) for a particular community purpose, and a statutory trust was created by the acquisition.

If Council wished to dispose of the land it should first seek Forestry Corporation's opinion of the proposal. Council would also need to have the Minister extinguish any trust that may have been created by the acquisition from Forests.

COMMENTS

The current water and sewerage annual access charges are \$841.

COUNCIL SEAL REQUIRED

Yes

RECOMMENDATION

That the Council

1. Not dispose of the land at Lot 1 DP 1163661, Capper Street Tumut.

OR

2. Seek Forestry Corporation's opinion on the proposed reclassification of land for the purpose of disposal of the land and if they have no objection to the disposal of the land, then reclassify the land to Operational status in accordance with s.55 of the EP&A Act 1979; and dispose of the land Lot 1 DP 1163661, Capper Street Tumut, and;
3. Request the Minister to revoke any trusts applying to the land.
4. Provide the General Manager the delegated authority to sell the land at market value.
5. Affix the Seal of Council to Contract of Sale documents.

ATTACHMENTS

Copy of report – Tumut State Forest No. 798, No.6 Extension – Proposed Acquisition by Council – 15th June 1999.

General Manager's Report to the ORDINARY MEETING of Tumut Shire Council, held on Tuesday, 15th June, 1999, commencing at 5.00 p.m.

SUBJECT: Tumut State Forest No. 798, No. 6 Extension – Proposed Acquisition by Council. (F.6)

PURPOSE OF REPORT – To recommend that procedures be commenced to acquire this land from State Forests.

Council will recall a previous report regarding a proposed Interpretive Centre to be constructed on Tumut State Forest No. 798, No. 6 Extension, Capper Street, Tumut.

Whilst funding was not granted for the Interpretive Centre State Forests is still willing to transfer this land for a nil consideration.

A historical search for the purpose of determining whether or not Native Title has been extinguished in the subject land was carried out by Department of Land & Water Conservation (DLWC) following a request made in October 1997. The reply received this year advises that no evidence of a past Act which would have extinguished Native Title has been found.

Consequently the matter can now proceed in either of the following ways:

- Council could acquire the land directly from State Forests under its own powers;
- The dedication for State Forest could be revoked and the land re-reserved for Council's purposes.

If revocation is required land assessment would have to be completed and the issue of Native Title resolved by lodgement of a non-claimant application at the Federal Court. Land assessment requires statutory advertising and no guarantee can be given that reservation for Council's purposes would be recommended.

State Forests have also received a copy of the response from DLWC and their subsequent letter (copy attached) states that this would seem to indicate that the preferred alternative is acquisition of the land by Council.

Attached is a plan showing the location of the land. The land is zoned part Residential 2(a) and part Open Space Recreation 6(a). The area of the land zoned 6(a) is mainly flood-prone land that could not be built upon. The area zoned 2(a) is large enough for an Interpretive Centre. An Interpretive Centre would fall within the definition of "educational establishment" in the Model Provisions 1990 and this use is permissible in the 2(a) zone with development consent.

124 General Manager's Report to the ORDINARY MEETING of Tumut Shire Council, held on Tuesday, 15th June, 1999, commencing at 5.00 p.m.

State Forests have agreed to transfer this land to Council on the basis that its use is for an Interpretive Centre. It would therefore be necessary to classify the land as "Community Land for the purposes of an Interpretive Centre". This would be in accordance with Section 186 of the Act which empowers Council to acquire land for the purpose of exercising any of its functions i.e. the functions conferred or imposed on it by or under the Local Government Act or any other Act or law.

Should Council decide in the future to reclassify the land to "Operational" this can be done by a resolution of Council to prepare an LEP. This would be followed by a public hearing and on gazettal of the LEP amendment the Minister would revoke the classification of "reserve" on the land. Whilst it is a lengthy process it can be done as long as there is justification for the change of the status of the land from "Community" to "Operational".

As agreement has been reached between Council and State Forests as to the amount of compensation involved the first step necessary is a resolution by Council to proceed with compulsory acquisition of the land. Consent will then be sought from the Minister for Local Government and Minister for Forestry to proceed with the acquisition.

RECOMMENDATION:

1. That compulsory acquisition of Tumut State Forest No. 798, No. 6 Extension be commenced.
2. That Tumut State Forest No. 798, No. 6 Extension be classified as "Community Land for the purposes of an Interpretive Centre".
3. That the Common Seal of Council be affixed to all documents necessary for the acquisition of Tumut State Forest No. 698, No. 6 Extension by Council.



S J Thatcher
GM Personal Assistant



C E Adams
General Manager

37841TSC.DOC

Your reference
Our reference

CEA:ST F6
37841 Estates Unit
Neil Saunders
Tel. No.(02) 9980 4256
Fax No. (02) 9484 0142

19 May 1999

Acting General Manager
Tumut Shire Council
81 Capper St.
TUMUT NSW 2720

Attn: Ms.Sue Thatcher

TUMUT SHIRE COUNCIL	
Council	☒
Mayor	☐
RECEIVED	27 MAY 1999
Assets	1 x F. 6
Works	☐
Corp. Serv.	☐
	Water & Wastewater ☐



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State Forests of
New South Wales

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423 Pennant Hills Road
Pennant Hills NSW 2120
Locked Bag 23
Pennant Hills NSW 2120
Phone (02) 9980 4100
Fax (02) 9484 1310
DX 4713 Pennant Hills

Dear Ms.Thatcher,

Re: Tumut State Forest No.798, No.6 Extension
Proposed Acquisition by Council

I refer to your letter of 21 September 1997 and enclose a copy of the response from the Department of Land & Water Conservation at Wagga. This would seem to indicate that the option to revoke the State forest dedication of the subject land in favour of a reservation for Council purposes under the Crown Lands Acts, as an alternative to acquisition by Council, would not be appropriate.

Please advise if Council wishes to proceed to compulsory acquisition and I will seek the Minister for Forestry's consent.

Yours faithfully,


D. M. RIDLEY
General Manager
Forest Policy and Programs Division

State Forests is the
registered business name
of the Forestry Commission

MINUTES of the **ORDINARY MEETING** held on **TUESDAY, 24 SEPTEMBER, 2013**
in the **VALMAR MEETING ROOM** 75 Capper Street Tumut.
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DES 3 - Disposal of Vacant Council Land - Capper Street Tumut

PURPOSE OF REPORT: To seek Council direction to either retain or dispose
of vacant land in Capper Street Tumut.

523 RESOLVED that the Council

1. Not dispose of the land at Lot 1 DP 1163661, Capper
Street Tumut and seek reclassification of land to
Operational status under section 55 of the *EPA ACT*
1979.

Cr S Stevenson/Cr M Isselmann