



# PITTWATER COUNCIL

**SUBJECT: Reclassification of units 9, 11, 12, 13, 14 and 16, No. 5 Vuko Place, Warriewood**

**Meeting:** Planning an Integrated Built Environment Committee

**Date:** 16 November 2009

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**STRATEGY:** Business Management Strategy

**ACTION:** Effectively manage Council's corporate governance responsibilities.

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## PURPOSE OF REPORT

The purpose of the report is for Council to formally consider a planning proposal to reclassify public land at units 9, 11, 12, 13, 14 and 16, No. 5 Vuko Place, Warriewood (owned by Council and being used as Pittwater Council's administration offices) from "community" to "operational" land within the meaning of the Local Government Act 1993.

The report seeks Council's endorsement to proceed in the statutory reclassification process and forward the attached planning proposal to the Department of Planning (DoP) for assessment and Gateway Determination in accordance with the requirements of section 56 of the Environmental Planning and Assessment Act 1979.

### 1.0 THE SITE

1.1 The report focuses on units 9, 11, 12, 13, 14 and 16, No. 5 Vuko Place, Warriewood (being Lots 9, 11 and 12 of Strata Plan 36126 & Lots 13, 14 and 16 of Strata Plan 42156). The subject units are located at the southern end of Vuko Place and on the western side of Pittwater Road. No. 5 Vuko Place contains a total of eighteen (18) strata units which are all zoned 3(e) (OFFICE BUSINESS "E") under the Pittwater Local Environment Plan (LEP) 1993.

### 2.0 BACKGROUND

- 2.1 Prior to their purchase in May 2000 Council leased units 9, 11 and 12 and used these as Council's administrative offices.
- 2.2 During May 2000 Council acquired units 9, 11 and 12 at No. 5 Vuko Place Warriewood for continued use as Council's administration offices. In October 2003 Council acquired three further units being units 13, 14 and 16, for the same purpose.
- 2.3 Section 31 of the Local Government Act 1993 requires that any land acquired by Council after 1 July 1993 be classified as "community" or "operational" land within three (3) months of the date of acquisition. It further states that land not classified under section 31(2) of the Act is, at the end of the period of three (3) months taken to have been classified under a local environment plan (LEP) as "community" land. In this case the land was not classified as "operational" within three (3) months of the acquisition.
- 2.4 It is confirmed that units forming part of a strata plan are to be considered "land" for the purpose of section 31 of the Act.

- 2.5 The classification of Council's administration offices as "community" land is inconsistent with the use of the land, as the land has at all times since acquisition been used for Council's "operational" purposes.
- 2.6 At the Council meeting on 20<sup>th</sup> April 2009 Council resolved for Planning to begin the reclassification process to amend the classification of the site from "community" to "operational". This report represents the first step in this process.
- 2.7 Schedule 13 of Pittwater LEP 1993 contains details of properties within the Pittwater LGA that have been reclassified. Any reclassification of land must be recorded in Schedule 13. Accordingly, the formal process necessary to amend the LEP must be followed when public land is reclassified.
- 2.8 The proposed change from "community" to "operational" will have no impact on the zoning of the land or on the uses permitted in the zoning table of Pittwater LEP 1993.

### **3.0 ISSUES**

- 3.1 All public land must be classified as either "community" or "operational" land as described in sections 25 and 26 of the Local Government Act 1993.
- 3.2 Land classified as "community" cannot be sold and has restrictions relating to how it can be leased, licensed, or have any other estate granted over it. "Community" land must also have a plan of management prepared for it. Generally, it is land intended for public access and use. Land classified as "operational" has no special restrictions other than those that may apply to any piece of land.
- 3.3 Under section 31 of the Local Government Act 1993 councils may classify public land as either "community" or "operational" by resolution before or within three (3) months from the date of acquisition of public land. If no resolution is made then at the end of the period of three (3) months the land is taken to have been classified under a local environmental plan as "community".
- 3.4 To support the continued use of the land for "operational" purposes an amending Local Environment Plan (LEP) must be made to reclassify the land to "operational".
- 3.5 Recent planning reforms regarding the preparation of LEPs was introduced on 1 July 2009, intended to simplify the Plan-Making (LEP) process. A diagram of the new LEP process is shown in Attachment 2. Under this process, it is noted that the community consultation is undertaken after Council and the Department of Planning (DoP) has considered and subsequently approved the proposal to proceed.
- 3.6 Given the matters raised above and the resolution made by Council at the Governance Meeting on 20 April 2009 to commence the reclassification process, Council's officers have prepared the 'planning proposal' document which will be submitted to the Department of Planning. The planning proposal provides justification for the reclassification and will be exhibited during the community consultation process.
- 3.7 Under the new process, the NSW Department of Planning needs to issue approval to progress the LEP process and will advise Council how the community will be consulted.

## **4.0 FORWARD PATH**

- 4.1 If Council agrees with the recommendation, the planning proposal will be forwarded to the Department of Planning.
- 4.2 The Department of Planning will then assess the proposal and issue a Gateway Determination informing the Council of whether or not the proposal will proceed and the requirements and timeframes for the remaining portion of the LEP making process.
- 4.3 Council will be advised of the outcome of the request and, when available, the form of community consultation that will be undertaken (as advised by the DoP).
- 4.4 After public exhibition of the planning proposal a public hearing will be held, as required by section 29 of the Local Government Act 1993.
- 4.5 If progressed, a report will be presented to Council on the outcome of the community consultation process and the public hearing.

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## **5.0 SUSTAINABILITY ASSESSMENT**

### **5.1 Supporting & Connecting our Community (Social)**

- 5.1.1 The proposed reclassification does not change the use of the land or involve any provisions for development that would have any additional social impacts.

### **5.2 Valuing & Caring for our Natural Environment (Environmental)**

- 5.2.1 The proposed reclassification does not change the use of the land or involve any provisions for development that would have any additional environmental impacts.

### **5.3 Enhancing our Working & Learning (Economic)**

- 5.3.1 The proposed reclassification does not change the use of the land or involve any provisions for development that would have any additional economic impacts. The proposed reclassification would allow for the continued use of the premises in accordance with the current zoning provisions.

### **5.4 Leading an effective & Collaborative Council (Governance)**

- 5.4.1 The reclassification is necessary to ensure Council's operations do not continue to contravene the requirements of the Local Government Act 1993.

The reclassification of Council's offices to the logically correct classification of "operational" will allow for the continued use of the property for its intended purpose and allow Council to deal in the land by way of lease or sale as required.

### **5.5 Integrating our Built environment (Infrastructure)**

- 5.5.1 The proposed reclassification does not change the use of the land or involve any provisions for development that would have any additional infrastructure requirements.

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## **6.0 EXECUTIVE SUMMARY**

- 6.1 Due to Council's administrative offices at 5 Vuko Place being inadvertently classified as "community" land within the meaning of the Local Government Act 1993, Council resolved at the Governance meeting on 20 April 2009 to commence the reclassification process.
- 6.2 The attached planning proposal has been prepared in accordance with the Department of Planning's guidelines and proposes reclassification of the land from "community" to "operational" consistent with Council's past and continued use of the land.
- 6.3 This report recommends commencement of the process to amend the Pittwater Local Environment Plan (LEP) 1993 in relation to the reclassification of the Council offices at No. 5 Vuko Place, and that the planning proposal is forwarded to the Department of Planning for assessment and determination in accordance with the procedure outlined in Attachment 2.

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## **RECOMMENDATION**

- 1 That Council endorse the statutory process for amending the Pittwater LEP 1993 in relation to the reclassification of the Council owned land at No. 5 Vuko Place from "community" to "operational".
- 2 That Council resolve to forward the planning proposal to the Department of Planning.
- 3 That a public hearing will be held as part of the reclassification process.

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**MANAGER, PLANNING AND ASSESSMENT**