
GENERAL MANAGER

**ITEM 9.6 SF600 160519 99-101 OCEAN VIEW DRIVE, VALLA BEACH - PROPOSED
RECLASSIFICATION FROM COMMUNITY TO OPERATIONAL LAND FOR PROPOSED
SALE**

AUTHOR/ENQUIRIES: Michael Coulter, General Manager

SUMMARY:

The recommendation in this report was carried on the casting vote of the Mayor at Council's meeting on 24 April 2019.

However it was not the subject of a division for a "Planning Decision". On review the second recommendation which was introduced at the Council meeting is likely a "Planning Decision" and to avoid the risk of a procedural challenge it is recommended that the matter be recommitted with a division. The mistake occurred because the matter primarily involves a process under the Local Government Act (for which a division is not required) but there is also a component under the Environmental Planning and Assessment Act for which a division is required.

The second recommendation adopts the same planning controls as apply to the adjoining residential land.

In other respects the report is the same as that considered by Council on 24 April 2019 except that the extension of the Nambucca Heads library is nominated as an additional option for the proceeds of any sale.

NOTE: This matter requires a "Planning Decision" meaning a decision made in the exercise of a function of the council under the Environmental Planning and Assessment Act 1979 including a decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan. Under Section 375A of the Local Government Act 1993 it requires the General Manager to record the names of each Councillor supporting and opposing the decision.

RECOMMENDATION:

That Council prepare a planning proposal to:

- 1 Reclassify the land shown highlighted in pink on the attached plan from community land to operational land with the intention of selling the land and applying the proceeds to community infrastructure in Valla Beach.**
- 2 Rezone the land shown highlighted in pink R1 General Residential with a minimum lot size of 450m²; a height limit of 8.5m; and a floor space ratio of 0.55:1.**

OPTIONS:

Council has the option of taking no action or seeking to reclassify a smaller or larger section of land.

DISCUSSION:

Council owns 99-101 Ocean View Drive, Valla Beach. The land is Lot 45 DP 228703 and has an area of 1.8 hectares. It is classified as community land and categorised as Natural Area – Bushland.

This is an appropriate classification and categorisation for the large majority of the land but not the section fronting Ocean View Drive between no's 97 and 103. As per the **attached** Google street view and the **attached** Google aerial view this section of the land is largely cleared and is unused.

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The street and aerial views do not support its current categorisation as Natural Area – Bushland. In terms of opportunities for other open space use, with the close proximity of Lions Park 300m to the south it is difficult to conceive this relatively small section of land will ever have a functional open space value.

Conversely the land does have a very significant capital value which can be realised for community projects in Valla Beach

The **attached** plan shows in pink highlight a proposed reclassification of part of the land from community land to operational land. The pink shaded land contains an area of approximately 1,300m². An access handle approximately 7m in width is proposed to be retained to allow bush fire and council vehicles to obtain access to the bushland located at the rear and behind No's 89 to 119 Ocean View Drive. If necessary there would be an opportunity to provide a linking fire trail along the rear of the properties between 103 Ocean View Drive and 119 Ocean View Drive. Alternatively residents could be provided with a right through an easement to undertake hazard reduction in the reserve immediately at the rear of their properties

The purpose of the reclassification would be to sell the land and apply the proceeds to community infrastructure in Valla Beach or to the extension of the Nambucca Heads library.

Section 27 of the *Local Government Act 1993* provides that a Council can only reclassify community land as operational land via a local environmental plan.

Section 29 of the Act provides that a council must arrange a public hearing under section 57 of the *Environmental Planning and Assessment Act 1979* in respect of a planning proposal to reclassify community land as operational land. The public hearing has to be conducted by a person independent of Council.

The process of preparing a local environmental plan incorporating a public hearing conducted by a person independent of Council will provide many opportunities for the recommendation in this report to be reviewed and the process discontinued.

In the first instance the Council prepares a planning proposal and then seeks a gateway determination.

The gateway determination normally specifies the minimum level of public consultation. At a minimum should notify all property owners who adjoin or are adjacent to the reserve plus the Valla Beach Community Association. There is also a requirement that the proposal be advertised in a local newspaper.

CONSULTATION:

There has been consultation with the Manager Business Development and the Manager Development & Environment.

SUSTAINABILITY ASSESSMENT:
Environment

There are no significant implications for the environment.

Social

There are no significant social implications.

Economic

There are no significant economic implications.

Risk

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There is likely to be some negative community reaction to the proposal but equally the community would be pleased with the funding of new community infrastructure in Valla Beach or the extension of the Nambucca Heads library.

FINANCIAL IMPLICATIONS:**Direct and indirect impact on current and future budgets**

At this stage there is no budgetary impact.

Working funds – justification for urgency and cumulative impact

At this stage there is no impact on working funds.

Service level changes and resourcing/staff implications

If a gateway determination is made which allows Council to proceed to consult with the community via direct notification and advertising then there will be staff resources required in administering the planning proposal and arranging a public hearing.

ATTACHMENTS:

- 1 14266/2019 - 99-101 Ocean View Drive - google street view
- 2 14271/2019 - 99-101 Ocean View Drive - google aerial view
- 3 14272/2019 - Proposed Reclassification