

Recommendations of the Corporate Services Committee

20 September 2010

Corporate Services Committee Meeting - Monday 20 September 2010

10CORP047 Proposed Reclassification and Rezoning of Various Lands

Folder No: F2007/02154

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 3 DP 350518 (36c Marks Point Road, Marks Point), shown hatched on Attachment 1;
 - Reclassification from Community Land to Operational Land, lot 21 DP 620675 (39 Gerald Street, Belmont), shown hatched on Attachment 3;
 - Reclassification from Community Land to Operational Land, lot 1341 DP 592683 (86a Northcote Avenue, Swansea), shown edged in red on Attachment 5;
 - Reclassification from Community Land to Operational Land, and rezone from 6(1) Open Space to 2(2) Residential, lot 10 section 12 DP 2472 (1 Bank Street, Cardiff), shown edged in red on Attachment 7; and
 - Reclassification from Community Land to Operational Land, lot 2 in DP 841357 (29 Arnott Street, Edgeworth), shown in bold on Attachment 10.
- 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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**Corporate Services Committee Meeting
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10CORP047

Proposed Reclassification and Rezoning of Various Lands

Council Ref:

F2007/02154 - D01796341

Report By:

Reclassification Property Officer - Vanessa Hitchcock

Précis:

The subject parcels of land are Council-owned and classified as Community Land under the Local Government Act 1993 (LG Act 1993). This report seeks Council's consent to consider reclassification of the lands.

Recommendation:

- A. Council authorises the commencement of action to prepare a Planning Proposal, as follows:
- Reclassification from Community Land to Operational Land, lot 3 DP 350518 (36c Marks Point Road, Marks Point), shown hatched on Attachment 1;
 - Reclassification from Community Land to Operational Land, lot 21 DP 620675 (39 Gerald Street, Belmont), shown hatched on Attachment 3;
 - Reclassification from Community Land to Operational Land, lot 1341 DP 592683 (86a Northcote Avenue, Swansea), shown edged in red on Attachment 5;
 - Reclassification from Community Land to Operational Land, and rezone from 6(1) Open Space to 2(2) Residential, lot 10 section 12 DP 2472 (1 Bank Street, Cardiff), shown edged in red on Attachment 7; and
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Background:

Lot 3 DP 350518 (36c Marks Point Road, Marks Point) – shown by hatching on Attachment 1

The land was acquired in 1946 for town planning purposes, along with a number of other parcels between Marks Point Road and Docker Street.

The land has been used as a road since approximately 1960, is constructed, and remains in use for that purpose.

Classification of the land as operational was overlooked with the enactment of the Local Government Act 1993 and as such, automatically became community land.

Council wishes to dedicate the land as road consistent with its existing use but it is first necessary to reclassify the land as Operational Land.

Lot 21 DP 620675 (39 Gerald Street, Belmont) – shown by hatching on Attachment 3

At the time of enactment of the Local Government Act 1993, the subject land (shown by hatching on Attachment 3) was classified as Community Land under the transitional provisions of that Act as it was occupied by the Boy Scouts Association under a long standing lease from Council.

The occupation of lot 21 DP 620675 by the Boy Scouts Association has now ceased and the lease has been surrendered and Council has development approval to demolish the improvements.

Adjoining Lot 20 DP 620675 and the adjacent lot 100 DP 620636 (shown in bold outline on attachment 2) have been occupied under a lease from Council since 1982 and operated as a caravan park for many years. These lots were classified as Operational Land in 1998.

The lessee of the privately owned caravan park has expressed an interest in having the subject land included in the caravan park lease so that it may be maintained in a manner which enhances the access to the park in the location.

The subject land in isolation is a small area of land that is considered unsuitable for use as a park. Extensive open space areas, including Belmont foreshore area, are located in close proximity to the subject lands.

It is therefore proposed to reclassify lot 21 DP 620675, 39 Gerald Street Belmont, to Operational Land, to facilitate it being leased as part of the caravan park.

Lot 1341 DP 592683 (86a Northcote Avenue, Swansea) – shown edged in red on Attachment 5

The subject land, shown in red edge on Attachment 5, is dedicated public reserve zoned for residential use. The subject land is bounded by road on three boundaries and is not utilised for open space purposes.

The owner of adjoining 86 Northcote Avenue Swansea has approached Council with a request to purchase the subject land with the intention of adjusting the common boundary between 86 and 86a Northcote Avenue Swansea (shown on Attachment 6) , and developing the lands with a view to sale.

The reclassification and sale of this land will produce income for other community projects, possibly create housing on what was an unusable block of land without the need for further infrastructure, and will reduce Council's maintenance liability.

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Lot 10 section 12 DP 2472 (1 Bank Street, Cardiff) – shown edged in red on Attachment 7

The subject land, illustrated by red edging on Attachment 7, is vacant land with no formed street frontage. The land is zoned 6(1) Open Space.

The adjoining properties, shown on Attachment 7 in yellow colour, front the same unformed road and are also zoned 6(1) Open Space. All other lands adjoining these parcels are zoned 2(2) Residential and are used for residential purposes.

In 2000 Council resolved, subject to the owners making formal application to Council, to rezone the land fronting Bank Street Cardiff (shown in yellow colour and red edging on Attachment 7) from 6(1) Open Space to 2(2) Residential. However, no applications were received from the owners at that time.

The property at 5 Bank Street (shown by hatching on yellow colour on Attachment 7) was subsequently acquired by Council, at the owner's request, in 2004 and is currently being rezoned to 2(2) Residential.

The owners of the adjoining parcel (known as Part 13 Henry Street and shown in yellow colour on Attachment 7) has now also requested Council to rezone their land and a rezoning of that land to 2(2) Residential is now underway.

On completion of the rezonings of adjoining 3 and 5 Bank Street the subject land will be an isolated parcel of open space land. It is therefore proposed to reclassify the land as Operational Land and rezone from 6(1) Open Space to 2(2) Residential in line with the adjoining properties.

Council's Infrastructure and Transportation Planning Engineer has advised that if the reclassification and rezoning actions are successful, it will be the developer's responsibility to construct access to their parcel of land and this will be dealt with at development application stage.

Lot 2 in DP 841357 (29 Arnott Street, Edgeworth) – shown in bold in Attachment 11

The subject land is the residue from the dedication of an expansion to Superior Way in 1982.

The land became community land in error as it was omitted from the advertisement notice for the classification of various lands as operational land at the time of enactment of the Local Government Act 1993.

The land is zoned 4(2) Industrial General in line with the surrounding properties. It is a relatively small parcel of vacant land, containing an area of 385.1m², and is bordered by:

- Arnott Street to the north,
- Superior Way to the east,
- Lot 2001 DP 776809 to the south - common boundary of 6.925m, and
- Lot 100 DP 811985 to the west – common boundary of 45.265m²

The owner of adjoining Lot 100 DP 811985 has approached Council with a request to purchase Lot 2 and as the land, as an isolated parcel, is not appropriate for development in that it does not comply with the development standards set out in section 3.6 of DCP No. 1, it would therefore seem most appropriate to offer the land for sale to an adjoining owner.

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Proposal:

It is proposed that Council prepares a Planning Proposal seeking to:

- Reclassify lot 3 DP 350518 (36c Marks Point Road, Marks Point) from Community Land to Operational Land so that the land may be dedicated as road consistent with its existing use.
- Reclassify lot 21 DP 620675 (39 Gerald Street, Belmont) from Community Land to Operational Land for the purpose of lease to the adjoining Belmont Bay Caravan Park.
- Reclassify lot 1341 DP 592683 (86a Northcote Avenue, Swansea) from Community Land to Operational Land for the purpose of sale to the adjoining landowner.
- Reclassify lot 10 section 12 DP 2472 (1 Bank Street, Cardiff) from Community Land to Operational Land and rezone from 6(1) Open Space to 2(2) Residential for future sale purposes.
- Reclassify lot 2 DP 841357 (29 Arnott Street, Edgeworth) from Community Land to Operational Land for the purpose of sale to the adjoining owner.

Consultation:

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

Lot 3 DP 350518 (36c Marks Point Road, Marks Point)

No concerns or comments raised.

Lot 21 DP 620675 (39 Gerald Street, Belmont)

No concerns raised. Proposal is considered to have merit.

On 7 October 2009, following an inspection of the premises, Council's Community Land Liaison Officer (Buildings) recommended the hall be demolished due to its extremely poor state of repair, and the Manager Community Planning recommended that following termination of the lease and demolition of the building "...that the land be reclassified to Operational Land and incorporated into the Caravan park."

There is approximately 3,400m² of 6(1) zoned Open Space land immediately adjoining the existing caravan park site and located opposite the waterfront reserve.

The lands subject of the lease to the caravan park are zoned 6(1), consistent with the subject land and surrounding open space areas and it is therefore not proposed to alter the zoning.

Lot 1341 DP 592683 (86a Northcote Avenue, Swansea)

The matter was originally considered by RAP in August 2009. Overall, the proposal was given merit subject to a small number of considerations being met.

Concerns were raised with the size of the lot, however it was noted that the small size was acceptable having regard to the provisions of the LEP.

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The applicant has been advised that if the action proceeds it will be a condition of the sale that the subject land be consolidated with his adjoining parcel of land. The applicant has indicated his agreement to this and proposes to re-subdivide the land once consolidated, as shown on Attachment 6.

A small portion of the land in the north-western corner is to be retained for road/footpath purposes and this is to be dedicated to Council, at no cost to Council, at the time of consolidation.

Lot 10 section 12 DP 2472 (1 Bank Street, Cardiff)

It is noted that size of the lot is relatively small and it is anticipated that only low density, single dwelling development is likely to occur.

The land does not have any formed street access as required under the proposed 2(2) zone, however Council has resolved to proceed and is currently proceeding with the rezoning of adjoining parcels which also lack formed street access. Council's Infrastructure and Transportation Planning Engineer has advised that an access driveway servicing all three properties will be constructed by the registered proprietors, at their expense, at the time of construction of any dwelling.

Lot 2 DP 841357 (29 Arnott Street, Edgeworth)

No concerns or comments raised. The Panel unanimously voted in favour of the proposal.

Generally

The following authorities will be consulted, pursuant to section 62 of the EP&A Act 1979, following Council's decision to reclassify the lands. 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.

Implications:

Policy Implications:

The proposal has been assessed against relevant State environmental planning policies, section 117(2) directions and the Lower Hunter Regional Strategy 2006 and no inconsistencies have been identified. A table outlining the Ministerial direction is Attachment 11.

All rezonings in the proposal are also consistent with the Lake Macquarie Local Environmental Plan 2004, Lifestyle 2020 Strategy and the Lower Hunter Regional Strategy in terms of their location, proposed land uses, and their context in the existing urban fabric. The proposal will not impact upon heritage items.

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Environmental Implications:

Due to the small scale nature of the proposal it is not necessary to prepare an environmental study under section 57 of the EP&A Act 1979.

Lot 3 DP 350518 (36c Marks Point Road, Marks Point)

This land is constructed as a road and has been used as such since approximately 1960. There is no flora or fauna on the land.

Lot 21 DP 620675 (39 Gerald Street, Belmont)

The land is improved and contains a former scout hall which is now in disrepair. The land is otherwise cleared with no flora or fauna on the land.

Lot 1341 DP 592683 (86a Northcote Avenue Swansea)

The land is vacant with no significant flora or fauna.

Lot 10 section 12 DP 2472 (1 Bank Street, Cardiff)

The land is vacant land and although vegetated with trees and shrubs, there is no significant flora or fauna on the land.

Lot 2 DP 841357 (29 Arnott Street, Edgeworth)

The land is vacant and cleared with no significant vegetation.

Social Implications:

Lot 3 DP 350518 (36c Marks Point Road, Marks Point)

This land is constructed as a road and has been used as such since approximately 1960. It is not proposed to change the current use and therefore will not adversely impact on the community.

Lot 21 DP 620675 (39 Gerald Street, Belmont)

The land is improved and contains a former scout hall which is now in disrepair and not fit for use. The Scout Association occupied the land from 1978 but surrendered their lease in March 2010.

Council has development approval for the demolition of the existing hall and the owners of the adjoining Belmont Bay Caravan Park have requested to lease the land, following demolition, to expand their existing facilities.

Lot 1341 DP 592683 (86a Northcote Avenue Swansea)

This land is not utilised by the community, adjoins road on three boundaries and a residence on the remaining boundary. The land is also adjacent to a larger parcel of community land which will be retained by Council for public use.

It is proposed to sell the subject land to the adjoining owner who proposes to construct a residential dwelling.

Lot 10 section 12 DP 2472 (1 Bank Street, Cardiff)

This land is unused, surrounded by residential homes and has no social benefit to the community.

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Lot 2 DP 841357 (29 Arnott Street, Edgeworth)

The land is unused, bordered by road on two boundaries and industrial land on two boundaries. Due to its locality and small and irregular shape, the land is not appropriate for community use.

Financial Implications:

Council will fund the reclassification of the following matters:

- Lot 3 DP 350518 (36c Marks Point Road, Marks Point),
- Lot 21 DP 620675 (39 Gerald Street, Belmont),
- Lot 10 section 12 DP 2472 (1 Bank Street, Cardiff), and
- Lot 2 DP 841357 (29 Arnott Street, Edgeworth)

The costs of reclassification of Lot 10 section 12 DP 2472 (1 Bank Street, Cardiff) and Lot 2 DP 841357 (29 Arnott Street, Edgeworth) will be recovered from the proceeds of sales.

The applicant in lot 1341 DP 592683 (86a Northcote Avenue, Swansea) will pay the costs associated with the reclassification, by way of an administration and advertising fee.

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 each matter has been investigated by the RAP panel and identified as being surplus to Council's Open Space requirements.
2. To reclassify lot 3 DP 350518 (36c Marks Point Road, Marks Point) to rectify the classification anomaly and defer the remaining parcels pending further investigation. This option is not favoured as all remaining parcels have been identified as surplus to Council's Open Space requirements.
3. Not to reclassify any parcel of land. This option is not favoured as the land in each case is not being used or developed to its potential.

Conclusion:

As the subject lands have been investigated and found to be surplus to Council's open space requirements, it is appropriate in the circumstances to reclassify the lands and rezone where necessary. The subsequent disposal of the Cardiff and Swansea lands and lease of the Belmont lands will generate funds for use on necessary Council projects and the zoning and classification anomaly of the Marks Point land will be rectified.

Manager - Property & Business Development - Peter Coburn

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Attachments:

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|-----|---|-----------|
| 1. | Diagram showing land proposed to be reclassified - 36c Marks Point Road Marks Point | D01831660 |
| 2. | Aerial photograph showing land proposed to be reclassified - 36c Marks Point Road Marks Point | D01831681 |
| 3. | Diagram showing land proposed to be reclassified - 39 Gerald Street Belmont | D01831722 |
| 4. | Aerial photograph showing land proposed to be reclassified - 39 Gerald Street Belmont | D01831741 |
| 5. | Aerial photograph showing land proposed to be reclassified - 86a Northcote Avenue Swansea | D01831952 |
| 6. | Diagram showing adjustment to common boundary between 86 and 86a Northcote Avenue Swansea | D01831878 |
| 7. | Diagram showing land proposed to be reclassified - 1 Bank Street Cardiff | D01831917 |
| 8. | Aerial photograph showing land proposed to be reclassified - 1 Bank Street Cardiff | D01831926 |
| 9. | Zoning Diagram showing land proposed to be rezoned and reclassified - 1 Bank Street Cardiff | D01831930 |
| 10. | Aerial and zoning maps - 29 Arnott Street Edgeworth | D01881949 |
| 11. | Table outlining Ministerial directions - Amendment 54 | D01853625 |