

5 RECLASSIFICATION OF COUNCIL OWNED DRAINAGE RESERVE LAND - AMENDMENT OF CANTERBURY LOCAL ENVIRONMENTAL PLAN 2012

FILE NO: C-140-2 PT2

REPORT BY: DIRECTOR CORPORATE SERVICES

Summary:

- On 23 May 2013 Council adopted the Strategic Property Portfolio Policy and resolved that a broader review be undertaken to identify properties that might be surplus to our needs.
- It is recommended that a planning proposal be prepared and submitted to the Minister for Planning (under Section 55 of the Environment Planning and Assessment Act 1979) to amend the Canterbury Local Environment Plan 2012 to reclassify the five drainage reserves identified in the report.
- The proposed course of action will facilitate Council being legally able to dispose of or licence the properties. However, should the properties eventually be reclassified, more detailed reports will be prepared seeking Council's approval for the sale of any parcel of land.

Council Delivery Program and Budget Implications:

The adoption of the report's recommendation will have no immediate implications for the budget. The actions recommended are administrative in nature and involve a process of public participation on the prospect of changing the status of land to facilitate sale. This report supports our Community Strategic Plan long term goal of Healthy Finances.

Report:

Background

Council on 23 May 2013 adopted the Property Portfolio Policy. In accordance with the provisions of the policy, we are reviewing all of our property assets to determine their civic usefulness and to identify those properties that may be surplus to our needs. As a result of ongoing review and assessment the parcels of drainage reserve land listed below have been identified as being possibly surplus to our needs.

This report is seeking to commence the process to lift the restriction dealing with community land to allow us to deal more readily with the land, by having it reclassified as operational land. However, no changes to the zoning/land uses are required.

Description of Properties to be reclassified

The strategic review of our properties has identified a number of community-classified, Council-owned drainage reserve parcels of land that may be surplus to our needs and therefore capable of being sold or licenced to adjoining owners. Those properties are as follows:

- 13A Denman Avenue, Wiley Park
- 71A Denman Avenue, Wiley Park
- 61A Beauchamp Street, Wiley Park

RECLASSIFICATION OF COUNCIL OWNED DRAINAGE RESERVE LAND - AMENDMENT OF CANTERBURY LOCAL ENVIRONMENTAL PLAN 2012 (CONT.)

- 66A Beauchamp Street Wiley Park
- 69A Ferguson Street Wiley Park

The five properties the subject of this report are classified as community land for the purposes of the public land provisions in the Local Government Act 1993. The effect of this classification is to prohibit dealing with the land, including sale or licence. None of the land identified in the body of the report is considered capable of, nor suitable for an alternative public use. The properties have relatively small areas and frontages, are awkwardly shaped and do not adjoin properties identified by Council for acquisition to serve public purposes. This report is seeking to commence the process to lift the prohibition and allow us to deal with the land, by having it reclassified as operational land.

Description of Properties to be Reclassified

The strategic review of our properties has identified the following community-classified, Council-owned drainage reserve land that appear to be surplus to our needs and therefore capable of being licensed to adjoining owners or sold and replaced by more suitable properties. The five parcels of land are as follows:

Drainage Reserve: 13A Denman Avenue. Wiley Park

The land is zoned R4 High Density and comprises a single parcel of land identified as Lot 106 in Deposited Plan 6480 with a total land area of 123.8 m².

Aerial view



RECLASSIFICATION OF COUNCIL OWNED DRAINAGE RESERVE LAND - AMENDMENT OF CANTERBURY LOCAL ENVIRONMENTAL PLAN 2012 (CONT.)

Street frontage

**Drainage Reserve: 71A Denman Avenue, Wiley Park**

The land is zoned R4 High Density and comprises a single parcel of land identified as Lot 107 in Deposited Plan 6480 with a total land area of 122.7 m².

Aerial view



RECLASSIFICATION OF COUNCIL OWNED DRAINAGE RESERVE LAND - AMENDMENT OF
CANTERBURY LOCAL ENVIRONMENTAL PLAN 2012 (CONT.)

Street frontage

**Drainage Reserve: 61A Beauchamp Street, Wiley Park**

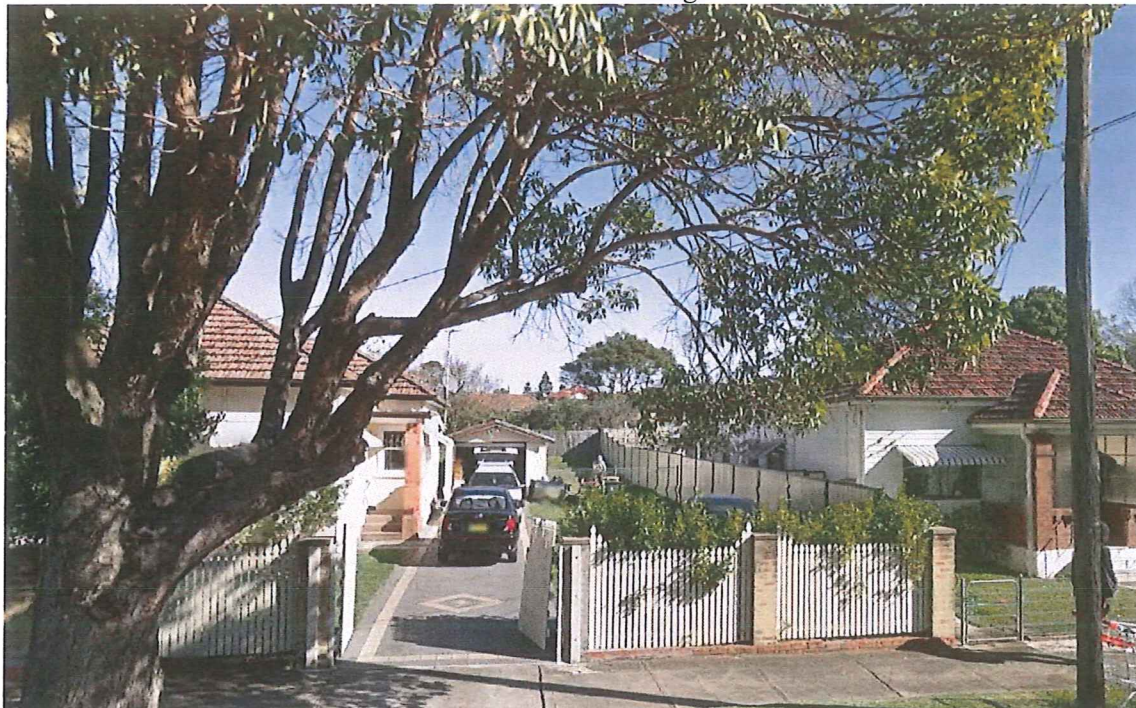
The land is zoned R3 Medium Density and comprises a single parcel of land identified as Lot 35 in Deposited Plan 10980 with a total land area of 206.65m².

Aerial view



RECLASSIFICATION OF COUNCIL OWNED DRAINAGE RESERVE LAND - AMENDMENT OF
CANTERBURY LOCAL ENVIRONMENTAL PLAN 2012 (CONT.)

Street frontage

**Drainage Reserve: 66A Beauchamp Street, Wiley Park**

The land is zoned R3 Medium Density and comprises a single parcel of land identified as Lot 36 in Deposited Plan 10980 with a total land area of 255.96 m².

Aerial view



RECLASSIFICATION OF COUNCIL OWNED DRAINAGE RESERVE LAND - AMENDMENT OF
CANTERBURY LOCAL ENVIRONMENTAL PLAN 2012 (CONT.)

Street frontage

**Drainage Reserve: 69A Ferguson Avenue, Wiley Park**

The land is zoned R3 Medium Density and comprises a single parcel of land identified as Lot 79 in Deposited Plan 8034 with a total land area of 242.74 m².

Aerial view



RECLASSIFICATION OF COUNCIL OWNED DRAINAGE RESERVE LAND - AMENDMENT OF CANTERBURY LOCAL ENVIRONMENTAL PLAN 2012 (CONT.)

Street frontage

**Procedure**

The above properties are classified as community land for the purposes of the public land management provisions of the Local Government Act, 1993. The effect of this classification is to prohibit dealing with the land in the nature of a title transfer (either wholly or in part) or licence to adjoining owners. However Council has discretion to attempt to “lift” this prohibition in respect of the land. The way for the prohibition to be lifted is for Council to follow the process for public land reclassification (as set out in the Local Government Act) which involves the following general steps:

1. Resolve to initiate the preparation of a draft Local Environmental Plan, which provides for reclassification of the identified land.
2. Prepare and exhibit (as a catalyst for eliciting expressions of public opinion from interested parties) the draft LEP, observing the requirements also of Section 29 of the Local Government Act, 1993, requiring a public hearing (pursuant to Section 57 of the Environmental Planning and Assessment Act) in respect of the reclassification proposal inherent in the draft LEP.
3. Following closure of both the exhibition period and the period for public submissions; and the holding of the public hearing, consider a report detailing the submissions received (and our position relative to each) and the outcome of the public hearing and then decide whether to either:
 - (a) Abandon the proposition (to reclassify) in the draft LEP; or
 - (b) Continue with the proposition by resolving to seek the “making” of the LEP by the Minister (by means of formal gazettal).

RECLASSIFICATION OF COUNCIL OWNED DRAINAGE RESERVE LAND - AMENDMENT OF
CANTERBURY LOCAL ENVIRONMENTAL PLAN 2012 (CONT.)**Conclusion**

Council on 23 May 2013 adopted the Property Portfolio Policy. The policy requires that we review each parcel of property that we own and assess its value to Council in terms of the services we provide and our statutory responsibilities. Should any parcel be identified as surplus to our needs or not meeting our requirements, it would be recommended for sale and proceeds of the sale placed in a Property Fund and used to purchase assets that better meet our needs and provide a continuing income stream for Council. Our initial investigations have shown that the properties identified in this report may be surplus to our needs and therefore capable of being sold or licenced.

The process to determine whether these properties can be divested or licensed commences with their reclassification. The initiation of a draft LEP, and the public notice thereby given to the community and nearby property owners by its public exhibition, will elicit feedback from the community to enable Council to consider its strategic position relative to each property, with the benefit of that opinion.

It is recommended that a planning proposal be prepared and submitted by Council to the Minister for Planning under section 55 of the Environmental Planning and Assessment Act 1979 to commence the reclassification process. This process will include extensive public consultation, including the conduct of a public hearing that will be chaired by a person that is independent of Council.

Council's authority to sell or licence the land is not being sought at this point. This will be the subject of further reports to Council, should the parcels be reclassified. Support of the report's recommendation will provide for the commencement of the reclassification process.

RECOMMENDATION:

THAT Pursuant to Section 55 of the Environmental Planning and Assessment Act 1979, a draft Local Environmental Plan be prepared in respect of those parcels of land described in Schedule 1 hereto, so as to reclassify the land in Schedule 1 from "Community land" to "Operational land" under the Local Government Act 1993 and to provide in the said draft Local Environmental Plan that, upon commencement of the Plan, the land described in the first schedule being drainage reserves and community classified land shall cease to be public reserve and community classified land and the land will by operation of the Plan be discharged from any trusts, estates, interests, dedications, conditions and covenants affecting the land (or any part) except for those kinds set out in Section 30(1) of the Local Government Act 1993.

SCHEDULE 1

- 13A Denman Ave. Wiley Park, legal description of Lot 106 in Deposited Plan 6480
- 71A Denman Ave. Wiley Park, legal description of Lot 107 in Deposited Plan 6480
- 61A Beauchamp St. Wiley Park, legal description of Lot 35 in Deposited Plan 10980
- 66A Beauchamp St. Wiley Park, legal description of Lot 36 in Deposited Plan 10980
- 69A Ferguson Ave, Wiley Park , legal description of Lot 79 in Deposited Plan 8034