

ORDINARY MEETING
SECTION 3 – Reports for Determination
Meeting Date: 11 September 2018

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PLANNING DECISIONS

Item: 221 **SS - Classification of Land - Industry Road Reserve, Industry and Windsor Roads, Vineyard - (95496)**

Directorate: Support Services

PURPOSE OF THE REPORT:

The purpose of this report is to seek Council's endorsement to lodge a Planning Proposal to reclassify three parcels of land located in Industry and Windsor Roads, Vineyard from 'Community' land to 'Operational' land under the Local Government Act, 1993.

EXECUTIVE SUMMARY:

Council owns land known as Industry Road Reserve, which comprises of four parcels of land which are located between Industry and Windsor Roads, Vineyard. Three of these parcels of land are classified as 'Community' and one is classified as 'Operational' under the Local Government Act, 1993.

To change the classification of the three parcels of land to 'Operational', Council is required to lodge a Planning Proposal. Changing the classification to 'Operational' will allow Council to lease the parcels for purposes such as advertising.

RECOMMENDATION SUMMARY:

That a Planning Proposal be prepared and lodged regarding the reclassification of Council owned properties located between Industry and Windsor Roads, Vineyard.

REPORT:

Context and Background

Between the years of 2003 and 2010, Council undertook the construction of Industry Road, Vineyard. As part of the Deed with the adjoining landowners Council would take ownership of a strip of land 45 metres wide, 20 metres for road and 25 metres for public recreation across the frontage of their land.

By 2010 Council had completed all the construction works, including the creation of Industry Road, Industry Road Reserve, and the creation and registration of the properties along Industry Road. On 22 December 2010, Industry Road Reserve was dedicated as 'Community' land under the Local Government Act, 1993. A plan of Industry Road Reserve is attached as Attachment 1 to this report.

The four parcels owned by Council are:

- Lot 8 in Deposited Plan 804460 – classified as 'Operational'
- Lot 9 in Deposited Plan 1149340 – classified as 'Community'
- Lot 13 in Deposited Plan 815849 – classified as 'Community'
- Lot 6 in Deposited Plan 777933 – classified as 'Community'

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As part of Council's conversion of the Hawkesbury Local Environmental Plan 1989 to the NSW Government Standard Local Environmental Plan, one of the Industry Road Reserve parcels, being Lot 8 in DP 804460, was reclassified as 'Operational'. This was due to 'Sewer Pumping Station R' being located on this lot.

When Council took ownership of Lot 9 in DP 1149340 there was a billboard advertising sign located on the site, which had been approved under DA0289/95. The billboard advertising sign was originally constructed by APN Outdoor and they had an agreement with the previous owner of Lot 9 in DP 1149340 to lease the area where the sign is located. In late 2017, it was discovered that when Council took ownership of the subject land, no agreement between Council and APN Outdoor was ever entered into.

Council sought legal advice to rectify this matter and to pursue appropriate compensation for use of the sign on Council property. Council's Solicitors advised that whilst existing use rights remain for the sign, the Local Government Act 1993 prohibits Council from entering into a lease or licence agreement because the land is classified as 'Community' under the Local Government Act 1993.

Section 46 of the Local Government Act 1993, deals with the leasing of 'Community' land, and states that Council is not authorised to use public reserves for an advertising structure regardless of the Plan of Management for the property. To remedy this abnormality, Council is required to reclassify the land via the Local Environmental Planning amendment process.

For Council to be able to legally lease the site for advertising purposes, the three parcels would need to be reclassified to 'Operational'. The reclassification of these parcels requires an amendment to the Hawkesbury Local Environmental Plan and a Planning Proposal is required to be prepared and submitted. Once assessed, the Planning Proposal would proceed through the State Government Gateway process, seek appropriate approval by the Minister for Planning, and gazetted accordingly.

Council has been approached by APN Outdoor and also neighbouring retailers to continue to utilise the space for advertising purposes. If Council were to reclassify the parcels of land it would create an opportunity to look at new advertising models such as electronic signage, updated billboard signage or another advertising structure for multiple businesses.

It is recommended that Council prepare and submit the Planning Proposal Application to commence the process and necessitate the immediate assessment of the proposal.

The associated fees total approximately \$16,975, which includes application fees, advertising and notification fees, as well as the fee for the required public hearing to be held. The fees for this Planning Proposal would be paid out of the Property Development Reserve. Once reclassified, the income generated from any potential agreement entered into for advertising signage will be used to repay the cost of the fees back to the Property Development Reserve.

Under Section 57 of the Environmental Planning and Assessment Act 1979, Council will need to undertake community consultation in the form of public exhibition of the LEP Amendment and a public hearing.

Detailed History, including previous Council decisions

No previous Council decisions applicable to this report.

Consultation

The issues raised in this report concern matters which constitute a trigger for Community Engagement under Council's Community Engagement Policy. The community engagement required for this matter will be undertaken as part of the public exhibition process for the planning proposal.

Conformance to the Hawkesbury Community Strategic Plan 2017-2036

The proposal is consistent with the following Focus Area, Direction and Strategy within the CSP.

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Our Leadership

1.3 Financial Sustainability - Build strong financial sustainability for now and future generations.

1.3.1 In all of Council's strategies, plans and decision making there will be a strong focus on financial sustainability

Financial Implications

The matters raised in this report have direct financial implications. The expenditure applicable of approximately \$16,975 for the planning proposal fees, is not provided for in the 2018/2019 Adopted Operational Plan. The funds for the planning proposal fees will be paid out of the Property Development Reserve.

Once reclassified, the income generated from any potential agreement entered into for advertising signage will be used to repay the cost of the fees back to the Property Development Reserve. This adjustment will need to be addressed as part of the next Quarterly Budget Review.

Fit For The Future Strategy Considerations

The proposal is aligned with Council's long term plan to improve and maintain organisational sustainability and achieve Fit for the Future financial benchmarks. The proposal will enable Council to continue to provide and maintain service levels to meet established community expectations as budgeted for in the Long-Term Financial Plan.

Planning Decision

As this matter is covered by the definition of a "planning decision" under Section 375A of the Local Government Act 1993, details of those Councillors supporting or opposing a decision on the matter must be recorded in a register. For this purpose a division must be called when a motion in relation to the matter is put to the meeting. This will enable the names of those Councillors voting for or against the motion to be recorded in the minutes of the meeting and subsequently included in the required register.

Conclusion

Industry Road Reserve is located, between Industry and Windsor Roads, Vineyard. The Reserve comprises of four parcels of land, three of these parcels of land are classified as 'Community' and one is classified as 'Operational' under the Local Government Act, 1993.

It is recommended that Council proceed with the lodgement of a Planning Proposal to have the three parcels listed in the report reclassified from 'Community' to 'Operational' land. The reclassification will enable Council to generate income by leasing the site for advertising purposes and accordingly, the matter is submitted for the consideration of Council.

RECOMMENDATION:

That:

1. Council lodge a Planning Proposal to reclassify for the following properties from 'Community' land to 'Operational' land, in accordance with the Local Government Act, 1993:
 - a) Lot 9 in Deposited Plan 1149340
 - b) Lot 13 in Deposited Plan 815849
 - c) Lot 6 in Deposited Plan 777933

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2. The Planning Proposal be prepared in accordance with the Environmental Planning and Assessment Act 1979 and the Department of Planning and Environment guidelines.

ATTACHMENTS:

AT - 1 Map of the Subject Properties