



Ordinary Meeting

19 February 2008

SUPPLEMENTARY REPORT 3

ITEM NO: S3

SUBJECT: PURCHASE AND REZONING OF 14 ARTHUR STREET WARRIMOO
FOR THE PURPOSE OF DEVELOPING A NEIGHBOURHOOD PARK

FILE NO: A61432-E

Recommendations:

1. *That the Council note the successful outcome of negotiations to purchase the land at 14 Arthur Street Warrimoo and the agreed price of \$575,000.*
 2. *That the Council proceed with the purchase of 14 Arthur Street Warrimoo, for the purposes of developing a neighbourhood park and re-subdivision and the sale of the residual surplus land, not required for park development, as resolved at the Council Meeting of 9 October 2007.*
 3. *That the Council proceed with the sale of 3 Wascoe Street Glenbrook as resolved at the Council Meeting of 15 May 2007.*
 4. *That the Council, pursuant to Section 54 of the Environmental Planning and Assessment Act, 1979, prepare a draft Local Environmental Plan which applies to No. 14 Arthur Street, Warrimoo, Lots 1, 2 and 3 in DP 11486, that rezones part of the land from Living – Bushland Conservation to Recreation – Open Space under Blue Mountains Local Environmental Plan 2005.*
 5. *That the Director General of the Department of Planning be informed that:*
 - a. *in Council's opinion, a Local Environmental Study is not required to be carried out in accordance with Section 57 of the Environmental Planning and Assessment Act 1979.*
 - b. *Council intends to exercise its delegations with respect to Section 65 and Section 69 of the Environmental Planning and Assessment Act 1979.*
 6. *That the Council publicly exhibit the proposed draft Local Environmental Plan in accordance with the Best Practice Guideline published by the former Department of Urban Affairs and Planning in January 1997 titled 'Local Environmental Plans and Council Land - Guideline for Council using delegated powers to prepare Local Environmental Plans involving land that is or was previously owned or controlled by Council'.*
 7. *That the General Manager be delegated all authorities, as required, in order to complete the sale of 3 Wascoe Street Glenbrook, the purchase of 14 Arthur Street Warrimoo, and the rezoning of part of 14 Arthur Street Warrimoo.*
 8. *That the common seal of the Council be affixed, as required, to documents relating to the above matters.*
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Report by Acting Group Manager Community and Corporate

Introduction

The purpose of this report is to advise Council on the outcome of the purchase of 14 Arthur Street Warrimoo. Further, the report advises Council of an error contained in a previous report to the Ordinary Meeting of 9 October 2007 regarding zoning of the land at 14 Arthur Street, and to recommend a process to ensure the land is secured in Council ownership, and appropriate rezoning of the land is progressed.

Background

At the Council Meeting of 15 May 2007 the Council resolved as follows:

- “1. That Council sell to the Anglican Church Lot L 2 Deposited Plan 966721 being 3 Wascoe Street, Glenbrook for \$100,000 subject to successful negotiations for the purchase of the required land in South Warrimoo.
2. That Council continue to negotiate for the land at 14 Arthur Street, Warrimoo for a neighbourhood park.
3. That the common seal of Council be affixed to the necessary documents relating to this matter.”

(Minute No. 125, 15/05/2007)

At the Council Meeting of 9 October 2007 the Council resolved as follows:

- “1. That the Council adopt Option 3 of this report being the purchase of all of 14 Arthur Street Warrimoo, re-subdivision and the sale of residual surplus land, not required for park development.
2. That the Council negotiate the purchase of 14 Arthur Street Warrimoo, being Lots 2, 3 and 4 in Deposited Plan 0011486, from the Anglican Church Property Trust under the terms and conditions contained in this report.
3. That consistent with Section 31 of the Local Government Act the subject land be classified operational upon purchase to allow the on-sale of the residual surplus land.
4. That the residual surplus land identified in Option 3 be sold at auction in accordance with the Council’s adopted Corporate Property Policy.
5. That the funds achieved from the sale of the residual surplus land be deposited in the Property Investment Fund in accordance with the Council adopted Corporate Property Policy.
6. That the General Manager or his assignee be delegated the authority to set the reserve price for the sale of the residual surplus land in consultation with a registered valuer and local agent.

7. *That if the residual surplus land does not sell at auction it be immediately placed on the open market at the reserve price or an alternative price agreed to by the General Manager or his assignee.*
8. *That the Common Seal of the Council be affixed as required, to documents relating to this matter.*
9. *That a submission be made for funding of \$100,000 in the 2008/09 Capital Works program for the purposes of developing a passive recreation park on the subject land.*
10. *That a further report be provided to the Council on the outcome of the proposed land purchase by March 2008.”*

(Minute No. 282, 09/10/2007)

Purchase of 14 Arthur Street, Warrimoo

The current situation is that the Council resolution of 9 October 2007 has been acted upon in that a price of \$575,000 has been negotiated with the Anglican Church Property Trust for the purchase of 14 Arthur Street, Warrimoo. The offer has been formalised and accepted by the vendor. The offer included confirmation that the sale of 3 Wascoe Street, Glenbrook to the Anglican Church Property Trust for \$100,000, could proceed in accordance with the Council resolution of 15 May 2007.

The contracts for the sale of 3 Wascoe Street, Glenbrook, and the purchase of 14 Arthur Street, Warrimoo have been received by Council in preparation for exchange.

Correction to Council Report of 9 October 2007

In reference to the purchase of 14 Arthur Street, Warrimoo, the report to Council of 9 October 2007 included a statement as follows: “The land is zoned ‘Living - Bushland Conservation’ under LEP2005. The existing zoning allows for the use of the land for special purposes including passive recreation.” This is incorrect. While the description of the zoning is accurate, a neighbourhood park (or recreation area) is not an allowable use within this zone.

The issue before the Council involves consideration of the previous decision to purchase 14 Arthur Street, Warrimoo based on the incorrect advice that the current zoning of the land allowed the use for which the land was being purchased.

Alternative sites for the establishment of a neighbourhood park in South Warrimoo have previously been considered by the Council and determined to be unsuitable.

Under LEP2005 zones that allow ‘recreation areas’ are as follows:

- Village - Town Centre Zone
- Village - Neighbourhood Centre Zone
- Village - Tourist Zone
- Employment - General Zone
- Employment – Enterprise Zone
- Recreation – Private Zone
- Recreation – Open Space Zone

None of these zones exist within the South Warrimoo area. There are no sites within the built up area of South Warrimoo area appropriately zoned under LEP2005, for the development of a neighbourhood park.

If the zoning was correctly reported to the Council at the 9 October 2007 meeting, the recommendation to proceed with the purchase may have been the same, with the additional requirement that Council rezone the land to allow delivery of the neighbourhood park.

Rezoning Matters

The current zoning of 14 Arthur Street Warrimoo is ‘Living – Bushland Conservation’ under LEP 2005. It is proposed that the Council, pursuant to Section 54 of the Environmental Planning and Assessment Act, 1979, prepare a draft Local Environmental Plan which applies to No. 14 Arthur Street, Warrimoo, Lots 1, 2 and 3 in DP 11486, that rezones part of the land from ‘Living – Bushland Conservation’ to ‘Recreation – Open Space’ under Blue Mountains Local Environmental Plan 2005. The residual land not proposed for use as a neighbourhood park will remain as ‘Living – Bushland Conservation’, to enable resale as per the Council resolution of 9 October 2007.

Council currently has a submission with the Department regarding the rezoning of 219 Great Western Highway, Warrimoo, from ‘Recreation – Open Space’ to ‘Living – Bushland Conservation’. This land has previously been assessed as inappropriately zoned, and is better suited to use applicable to the ‘Living – Bushland Conservation’ zone.

The proposed rezoning submission relevant to part of 14 Arthur Street, Warrimoo, therefore may be viewed more favourably by the Department of Planning, as it off sets the loss of land zoned ‘Recreation – Open Space’ created by the proposed rezoning of 219 Great western Highway, Warrimoo.

It is proposed the two rezonings be combined into the one rezoning process with the Department of Planning. Each strengthens the other, and minimises the processing required to progress the recommendations to the Minister for Planning.

Past experience indicates that a rezoning of this nature can take upwards of 18 months.

Sustainability Assessment (Triple Bottom Line Reporting):

Effects	Positive	Negative
<u>Environmental</u>	Recreation – Open Space allocation within the City is maintained, and improved.	Nil
<u>Social</u>	Provision of desired park in South Warrimoo is progressed.	Nil
<u>Economic</u>	Income from sale of residual land.	Time lost and cost of rezoning process.

Financial implications for the Council

Financial implications regarding the matter were detailed in the report to the Council Meeting of 9 October 2007. In summary, loan funding of \$590,000 has been made available for the purchase of 14 Arthur Street, Warrimoo in the 2007/08 Management Plan. A submission for

\$100,000 for the construction of the neighbourhood park has been included in the bids for capital funding in 2008/09. This capital work will most likely need to be delayed if the recommendations of this report are adopted by the Council.

Legal and risk management issues for the Council

If the Council were to withdraw from either the sale of 3 Wascoe Street, Glenbrook, or the purchase of 14 Arthur Street, Warrimoo at this stage, it is likely that Council would be exposed to litigation.

It is possible that the Department of Planning may not allow rezoning of part of the Arthur Street land as is proposed. This risk however may be offset if linked with the previously reported proposed rezoning of 219 Great Western Highway, Warrimoo.

Should the rezoning proposal for 14 Arthur Street, Warrimoo not be successful, Council would be in a position of owning the subject land without any viable community use for the site. The Council may then be at risk of not recouping the full initial investment in the land, should it be determined to resell all of it. However, the Council would be in a position of owning 3 lots of land, which could be sold if that course of action was chosen.

External consultation

No further external consultation has been undertaken since the report to the Council of 9 October 2007.

Conclusion

This report redresses the incorrect information regarding zoning of 14 Arthur Street Warrimoo included in the report to the Council of 9 October 2007. Further it concludes that notwithstanding the error, the recommendations in the said report to proceed with the purchase of 14 Arthur Street, Warrimoo may have remained the same. Additional recommendations may also have been included regarding the rezoning of the land to allow the delivery of a park.

Adoption of the recommendations will ensure the best option for the development of a neighbourhood park in South Warrimoo, is progressed in line with the original Council resolution, and achieves the outcomes sought by the Council with low financial risk.

It is therefore recommended that Council proceed with the purchase of 14 Arthur Street, Warrimoo, the sale of 3 Wascoe Street, Glenbrook, and the rezoning of part of 14 Arthur Street Warrimoo for the purpose of developing a neighbourhood park on the site.

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