

ITEM 6

AMENDMENT TO LAND CLASSIFICATION OF PROPOSED ACQUISITIONS UNDER THE VOLUNTARY PURCHASE SCHEME FOR FLOOD AFFECTED PROPERTIES - NO 23 AND NO 25 BURRENGBAR STREET, DAPTO

Council at its meeting of 16 March 2020 resolved to purchase No 23 and No 25 Burringbar Street, Dapto identified under the Mullet and Brooks Creeks Floodplain Risk Management Plan. The purchase of these properties is under the Voluntary Purchase Scheme.

This report is submitted to Council to seek amendment to the classification of the lands upon acquisition from the current resolved classification of Community to Operational Land. This will enable the vendor to remain in occupation of her principle residence following completion and settlement of the sale to Council, under a short-term tenancy arrangement.

### RECOMMENDATION

- 1 Upon the acquisition being finalised pursuant to Council resolution dated 16 March 2020, Lot B DP 160530, No 23 Burringbar Street, Dapto and Lot 15 Sec H DP 192051, No 25 Burringbar Street, Dapto be classified as Operational Land in accordance with the Local Government Act 1993.
- 2 Council grant authority for the use of the Common Seal of Council on all documents relevant to this matter, should it be required to give effect to this resolution.

### REPORT AUTHORISATIONS

Report of: Lucielle Power, Manager Property + Recreation  
Authorised by: Kerry Hunt, Director Community Services - Creative and Innovative City

### ATTACHMENTS

There are no attachments for this report.

### BACKGROUND

Council at its meeting of 16 March 2020, resolved to acquire No 23 and No 25 Burringbar Street, Dapto under the Voluntary Purchase Scheme. Item 2 of the Council resolution resolved that upon acquisition being finalised, Lot B DP 160530, No 23 Burringbar Street, Dapto and Lot 15 Sec H DP 192051, No 25 Burringbar Street, Dapto be classified as Community Land in accordance with the Local Government Act, 1993.

Acquisition of properties under the Voluntary Purchase Scheme is a voluntary process, although Council has resolved to the acquisitions, if the property owner decides not to proceed and withdraws from the sale, prior to exchange of contracts, it is at the property owner's discretion. Unfortunately, the property owner of No 23 and No 25 Burringbar Street has advised Council that, as she was unable to secure another property to relocate to, she would not be proceeding with the sale of her properties to Council.

Council's Floodplain and Stormwater Unit has requested consideration from the NSW Department of Planning Industry and Environment (NSW DPIE) to consider a proposal to permit the property owner to remain in occupation of the properties under a short-term tenancy arrangement following completion of the settlement of the sale. The owner has indicated agreement to this proposal. However, the NSW DPIE conditional approval to this is on the understanding that settlement of the sale of both properties would need to be completed prior to the end of this financial year to enable Council to meet its obligations under the funding agreement.

The classification of the land from Community to Operational will not be in breach of the NSW DPIE Funding Agreement. The consideration of proposal by Council will secure the sale of these properties identified under the Mullet and Brooks Creeks Floodplain Risk Management Plan.

As Council's Generic Plan of Management in respect to Community Land does not expressly authorise such a lease, licence or other estate of Community Land in particular Section 46 of the Local

Government Act, 1993 to be granted, noting the circumstances, it is recommended the land be classified as Operational, in order to allow Council and the vendor to complete the property transactions.

## PROPOSAL

The amendment to the classification of the subject land acquisitions to Operational Land will not breach the Funding Agreement between Council and the NSW DPIE for the acquisition of these properties. The NSW DPIE has conditionally agreed to permit the property owner to remain in the property until 1 February 2021 in respect to No 25 Burringbar Street, Dapto.

The licence agreement between Council and the property owner will be for an agreed licence fee to be determined by market valuation and the licensee may end the licence agreement prior to 1 February 2021 if needed, without penalty. Upon expiration of the licence all improvements will be demolished, and the site will become open space. The licence agreement will include special clauses exempting Council and NSW DPIE from any liability should a flood occur during that time.

## CONSULTATION AND COMMUNICATION

- Owner of Lot B DP 160530, No 23 Burringbar Street, Dapto and Lot 15 Sec H DP 192051, No 25 Burringbar Street, Dapto.
- Floodplain Management and Stormwater Section
- NSW Department of Planning Industry and Environment
- General Counsel
- Bartier Perry Solicitors.

## PLANNING AND POLICY IMPACT

This report contributes to the delivery of Our Wollongong 2028 Goal “The potential impacts of natural disasters, such as those related to bushfires, flood and landslips are managed and risks reduced to protect life, property and the environment” under the community Goal “We value and protect the environment”.

It specifically delivers on core business activities as detailed in the Property Services Service Plan 2019–20.

## FINANCIAL IMPLICATIONS

Council will receive an additional income for the short-term licence of No 25 Burringbar Street, Dapto at an agreed market rental yet to be determined.

## CONCLUSION

The acquisition of Lot B DP 160530, No 23 Burringbar Street, Dapto and Lot 15 Sec H DP 192051, No 25 Burringbar Street, Dapto is consistent with the recommendations in the Floodplain Risk Management Plan. It is recommended Council enter into a short-term licence agreement with the vendor in respect of No 25 Burringbar Street, Dapto. The licence would expire on 1 February 2021, on condition that at the expiration of the licence or earlier, Council receive vacant possession of the property.

This is considered a good outcome for Council ensuring it meets obligations under the Funding Agreement with NSW DPIE and securing these property purchases to assist with mitigating the flood risk in the Mullet Creek catchment areas.