

ORDINARY MEETING - 24 MARCH 2009 NOTICE OF MOTION

Subject: Notice of Motion 1 - Rezoning Request - Manning Street, Tuncurry - Cllr Roberts
Index: Notice of Motion
Author: General Manager - Keith O'Leary

Cllr Len Roberts has given notice that he intends to move the following motion in relation to Item 8 of the report of the Director Planning & Environmental Services to Council's Ordinary meeting of 24 February 2009 (Rezoning Request - Manning Street, Tuncurry) on the basis that no decision was made on this issue following consideration by Council at its most recent meeting.

PROPOSED MOTION:

1. *That the information be noted.*
2. *Council wishes to proceed with the request to rezone the land known as the "triangular" area bordered by Manning and Wilson Streets, Tuncurry and Council resolves:*
 - i. *To review and finalise the Draft Manning Street Landuse and Zoning Study and place it on public exhibition for a period of 40 days, followed by a report to Council detailing the findings of the draft Study and submissions received, and*
 - ii. *Incorporate the action above into the work program once the Development Control Plan (DCP) Review Project (Stages 1 and 2) has been complete, prior to resubmitting Council's comprehensive Local Environmental Plan (LEP) 2008 to the Department of Planning for public exhibition.*

NOTE (GENERAL MANAGER):

In order that Council is fully informed on this issue, a copy of the subject report, that was presented to Council's most recent meeting on 24 February 2009, is attached.

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ITEM 8 - DIRECTOR PLANNING & ENVIRONMENTAL SERVICES' REPORT

Subject: PES - Rezoning Request - Manning Street, Tuncurry
Index: Rezoning General
Author: Strategic Landuse Planner - Rebecca Underwood

SUMMARY OF REPORT:

This follows on from the report to the 9 December 2008 Ordinary Meeting concerning a request for Council to reconsider the rezoning of the land known as the "triangular" area bordered by Manning and Wilson Street, Tuncurry.

A more detailed history of this matter is provided for Council's consideration, followed by a discussion of what is required should Council wish to place this rezoning on the Strategic Planning Work Program as a priority matter.

SUMMARY OF RECOMMENDATION:

1. That the information be noted.
2. If Council wishes to proceed with the request to rezone the land known as the "triangular" area bordered by Manning and Wilson Street, Tuncurry as a matter of priority, that Council resolves:
 - (i) to review and finalise the Draft Manning Street Landuse and Zoning Study and place it on public exhibition for a period of forty (40) days, followed by a report to Council detailing the findings of the draft Study and submissions received;
 - (ii) Incorporate the action above into the Strategic Planning Work Program once the Development Control Plan Review Project (Stages 1 and 2) has been completed, prior to resubmitting Council's comprehensive Local Environmental Plan (LEP) 2008 to the Department of Planning for public exhibition.

FINANCIAL/RESOURCE IMPLICATION:

If Council chooses to include the rezoning as a matter of priority on the Strategic Planning Work Program Council will need to review and finalise the Draft Manning Street Landuse and Zoning Study. This can only occur once the DCP Review projects have been finalised, but prior to finalisation of Council's comprehensive LEP.

POLICY IMPLICATIONS:

Nil.

LEGAL IMPLICATIONS:

Nil.

LIST OF ANNEXURES:

Nil

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- **14 December 1999 - Ordinary Meeting**

Consideration of rezoning request. Council resolved:

"...refuse the request to rezone Lots, 1 & 2 DP 21966, 156-158 Manning Street Tuncurry for use as a Motor Showroom/Car Repair Yard/Manager's Residence."

- **5 April 2000**

Request from applicant for records check to establish existing use rights to conduct "Motor Vehicle Services".

- **18 April 2000**

Applicant advised that existing use rights could not be established for Motor Vehicle Services on subject land.

- **14 July 2000**

Further request from applicant to reconsider rezoning of subject land for purpose of caryard.

- **8 August 2000 - Ordinary Meeting**

Reconsideration of rezoning request for subject land. Council resolved:

"... that further consideration of this matter be deferred pending a report on future urban growth strategies relating to the entrance to Tuncurry (between Chapman's Road and South Street) with the report to be received by Council within a period of twelve (12) months."

- **29 April 2002**

Applicant expresses concern at time taken to prepare future urban growth strategy & further requests to spot rezone subject land.

- **9 July 2002 - Ordinary Meeting**

History and status of the matter provided. Council resolved:

"...that the matter be deferred pending a report from the Director Planning & Environmental Services to the next meeting of the Committee to provide details as to the means and methods of preparing a "mini strategy" for Tuncurry Road/Manning Street and outlining the associated costs and timeframe."

- **12 November 2002 - Ordinary Meeting**

Advising that data collection had commenced and the preparation of the "mini strategy" was underway.

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- **17 December 2002 - Ordinary Meeting**

Advising that a draft "mini strategy" (*Draft Manning Street Landuse and Zoning Study*) prepared for public exhibition. Study findings propose possibility of rezoning subject land (156-158 Manning Street, Tuncurry) for Medium Density Residential. Council resolved:

"...not support the rezoning of land near the industrial area to the north of the study area for the establishment of a car yard for the reasons set out in the report.

Council publicly exhibit the "Draft Manning Street Landuse and Zoning Study" including direct notification to persons affected by the proposed actions, with a view to including any rezonings in the 2003-2004 Strategic Planning Branch work program.

Council consider allocating funds in the 2003-2004 budget for the preparation of a retail strategy for the Forster/Tuncurry catchment area and that a further report be submitted on the cost and scope of such a strategy.

A further report be provided on the possibility and process to rezone blocks on the eastern side of Manning Street (near Gilmat Motors) and Wallis Street."

- **22 January - 22 February 2003**

Public Exhibition of *Draft Manning Street Landuse and Zoning Study*. A total of 14 submissions received.

- **28 January 2005**

Applicant requesting that the issue of rezoning subject land be resolved.

- **9 March 2005**

Applicant advised of Council's resolution of December 2002 and staff shortages in the Strategic Planning Section. Indicated the possibility that Council would include the rezoning of this section of Manning Street to 2(b) Medium Density Residential under General Amendments.

- **22 November 2005 - Ordinary Meeting**

Reconsideration of rezoning of subject land for the purposes of a caryard based on an alternative access proposal over an existing driveway via adjacent neighbouring property. Council resolved:

"...that consideration of rezoning of Lots 1 and 2 DP 21966 be deferred for further discussions at the first available workshop in conjunction with the appropriate future use of the larger "triangular" area."

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- **14 March 2006 - Strategic Committee**

Discussion regarding appropriate uses of the larger "triangular area". Council resolved:

"...not support the spot rezoning of Lots 1 and 2, 156-158 Manning Street, Tuncurry.

Council proceed with an investigation of the future rezoning of the whole area bordered by Manning and Wilson Streets, Tuncurry."

- **24 March 2006**

Property owner advised of Council's resolution from March Strategic Committee not to support proposed rezoning of Lots 1 and 2, DP 21966 for purpose of a car yard.

- **17 July 2006**

Correspondence from property owner to Mayor indicating disappointment at length of time Council taking to reach decision regarding rezoning of 156-158 Manning Street and request for a conclusion to the matter.

- **1 September 2006**

Correspondence to property owner confirming resolution from March Strategic Committee Workshop and advising that investigations into future rezoning of area bordered by Manning and Wilson Street, Tuncurry remains on Council's Strategic Planning Work Program as a matter for future investigation.

- **15 September 2006**

Reply from Mayor indicating that Council and the Department of Planning do not support the subject rezoning due to unsupported practise of "spot" rezonings. Further, that subject site is unsuitable for rezoning for the purposes of a caryard based upon planning considerations.

- **9 December 2008 - Ordinary Meeting**

Request to reconsider rezoning of larger area land known as "triangular area" bordered by Manning and Wilson Street, Tuncurry. Council resolved:

"...A further report be brought back on placing this rezoning on the Strategic Planning Work Program as a priority matter."

Strategic Planning Work Program - Current priority projects.

The following projects listed below currently have the highest priority within the Strategic Planning Work Program:

- DCP Review Stage 1 (subject to Memorandum of Understanding (MoU) between Department of Planning and Council);
- DCP Review Stage 2 (consultants engaged, currently underway);

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- Comprehensive LEP 2008 (Department of Planning directed);
- Crown Harbour Project (Department of Lands and MoU funding);
- Civic Centre Masterplan

Accordingly, all efforts are being directed towards the completion of these projects during the next 12 – 16 months. The only opportunity to progress this rezoning request would be firstly to finalise the *draft Manning Street Landuse and Zoning Study* and then, in respect of any adopted zoning recommendations for this site incorporate these into the new comprehensive LEP 2008. However the draft Study will need to be reviewed to ensure consistency with latest planning legislation (such as current 117 Directions and including Department of Planning Strategies and Guidelines). There is the possibility that the findings of the draft Study may change as a result of the review. In any case the draft Study will need to be re-exhibited due to the time period that has lapsed (6 years) since it was initially exhibited.

Also, as the Strategic Planning Work Program is currently at full capacity finalisation of the draft Study can only proceed after completion of the DCP Review projects (Stages 1 & 2). This is expected to be sometime in November of this year, well before the new comprehensive LEP 2008 is resubmitted to Department of Planning for exhibition.

Traffic Access

The following preliminary comments were provided by Council's Transport Assets Division regarding the rezoning of the lots facing Manning Street bordered by Manning and Wilson Street as identified by the draft Study:

- There may be sight distance issues at the intersection of Wilson and Manning Streets in relation to development of No.150 Manning Street (corner block) depending on setback provisions;
- The existing pedestrian refuge that services school children crossing from the western side of Manning Street effectively restricts redevelopment of No 150 Manning Street with regards to vehicular access. A restriction would need to be placed on the lot ensuring that vehicular access must be taken from the Wilson Street frontage only.
- All lots may require the provision of interlot drainage depending on which way they grade.
- The site is currently above the 1% flood level, however without level detail, it is unclear whether the lots may be affected by climate change in the future.
- As Manning Street is a Regional Road comments from the Roads and Traffic Authority will need to be sought regarding potential traffic issues.

Conclusion

In accordance with Council's resolution from the Strategic Committee Workshop of 14 March 2006, investigations into the future rezoning of the whole area bordered by Manning and Wilson Streets, Tuncurry remains on the Strategic Planning Work Program. This area includes *Lots 1 & 2 DP 21966, 156-158 Manning Street Tuncurry* which has been the subject of continued requests by the landowner to resolve the future zoning of the subject lands. If Council wishes to proceed with this rezoning as a matter of priority the *Draft Manning Street Landuse and Zoning Study* will first need to be reviewed (to ensure consistency with latest planning legislation such as current 117 Directions and including Department of Planning Strategies and Guidelines), re-exhibited and then finalised for Council's adoption.

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As indicated this can only occur once the DCP Review projects have been finalised. Depending on the findings of the Study (once adopted), this rezoning may be placed as a priority matter on the Strategic Planning Work Program for inclusion in Councils comprehensive LEP.

RECOMMENDATION:

1. That the information be noted.
2. If Council wishes to proceed with the request to rezone the land known as the "triangular" area bordered by Manning and Wilson Street, Tuncurry as a matter of priority, that Council resolves:
 - (i) To review and finalise the *Draft Manning Street Landuse and Zoning Study* and place it on public exhibition for a period of forty (40) days, followed by a report to Council detailing the findings of the draft Study and submissions received;
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