PROPOSED ACQUISITION OF LAND AT SANDON POINT, BULLI
Report of Manager Property and Recreation (WD) 13/05/09 05.02.04.075

PRECIS

In 2001, Council adopted Wollongong City Council Section 94A Contributions Plan for the acquisition of public open space at Sandon Point. The land identified in that Plan has been the subject of ongoing negotiations between Stockland Development Pty Ltd (owner) and Council in respect to the terms and conditions of the acquisition.

Negotiations on this matter have now been completed and this report sets out the details of the proposal for Council’s consideration.

RECOMMENDATION

1 Council authorise the acquisition from Stockland Development Pty Ltd of:
   a Lots 3 and 4 DP 588060 and Lot 238 DP 1048602 for the consideration of $1,520,000;
   and
   b Part of Lot 235 DP 1048602 as shown in Attachment 1 for the consideration of $315,000.

2 Upon acquisition, the land be classified as Community land.

3 Authority be granted to affix the Common Seal of Council to the contracts for sale and plan of dedication for the Wrexham Road extension, together with any other documentation required to give effect to this resolution.

BACKGROUND

In 2001, Council adopted the Wollongong City Council Section 94A Contributions Plan that provides for the acquisition of 4 parcels of land owned by Stockland Development Pty Ltd (Stockland) at Sandon Point. These parcels of land are zoned 6(a) Public Recreation in LEP 1990 and were identified for future acquisition by Council for open space purposes.

Negotiations have been ongoing for a number of years and a draft Voluntary Purchase Agreement (VPA) was prepared setting out the details of the acquisitions and other land matters relating to Sandon Point development. A proposal based on the VPA was submitted to Council in June 2008 and Council resolved not to proceed with the acquisition at that time and to seek an independent review of Council’s obligations to acquire the land identified in the Section 94A Contributions Plan.

This review was conducted by Professor John Whitehouse of Minter Ellison Lawyers in September 2008 and his advice provides that Council has no legal obligation to acquire the subject land, notwithstanding that they were identified in the Section 94A Contributions Plan. This review also concluded that the previous valuation advice obtained by Council was made appropriately.

On this basis, further negotiation has occurred between representatives of Stockland and Council’s General Manager in consultation with Council’s Administrators. An independent auditor, Mr W Shanks of KPMG Audit and Risk Advisory Services, was also present during the negotiations and he has provided a report that supports the transparency of these negotiations.
These negotiations have resulted in an agreement between the parties as set out below:

a) Council will acquire Lots 3 and 4 DP 588060 and Lot 238 DP 1048602 (known as the “beachside land”) for the consideration of $1,520,000. These lots are considered to be suitable for public open space and will form the missing link between adjoining properties owned by Council that currently provide large expanses of public open space between Sandon Point and Thirroul. The price negotiated is significantly less than the value of $2,700,000 assessed by Council’s consultant valuer.

b) Subject to registration of the subdivision plan, Council will acquire that part of Lot 235 DP 1048602 (known as the “pathway land”) as shown on Attachment 1 for the consideration of $315,000. This land, whilst not identified in the Section 94 Contributions Plan, is currently within the residential zone for Sandon Point, but will adjoin other land identified in the Sandon Point Master Plan to be set aside for dedication to Council as open space in future stages of the Sandon Point development. The acquisition of this land will enhance the public amenity of this open space area.

c) Council will not proceed with the acquisition of Lot 2003 DP 1047366 (known as the “Hill Street land”) and this land is proposed to be removed from the Section 94A Contributions Plan. This land is considered to be unsuitable for acquisition for public open space due to its generally remote location, configuration, value and size.

d) At the completion of the road construction by Stockland, Council will dedicate as public road that part of Lot 1 DP 204631 set aside for the Wrexham Road extension. This area of land is classified Operational and its dedication can be effected when the final subdivision plan is prepared defining its boundaries. No compensation will be paid by Stockland for the use of this land to construct the new road, although the previous assessed valuation of $700,000 is more than compensated by the reduced purchase price for the “beach front land”.

PROPOSAL

It is proposed that Council acquire Lots 3 and 4 DP 588060 and Lot 238 DP 1048602, together with that part of Lot 235 DP 1048602 as shown on Attachment 1 from Stockland for the total consideration of $1,835,000.

Upon acquisition, it is proposed that the land be classified as Community land under the provisions of the Local Government Act 1993.

Council will dedicate that part of Lot 1 DP 204631 (as shown on Attachment 1) as public road at the completion of the construction of the Wrexham Road extension by Stockland.

CONSULTATION AND COMMUNICATION

This matter has been the subject of an independent review by Mr J F Whitehouse of Minter Ellison Lawyers and a valuation review by consultant valuers, Jackson and Co Pty Ltd. This valuation review generally found that there had been up to 10% reduction in value for properties similar to the land to be acquired by Council from Stockland. The basis of this advice assisted the General Manager in his negotiations.

An independent probity auditor has also participated in the negotiations in respect to the terms of the proposed purchase and dedication of the future extension of Wrexham Road.

PLANNING AND POLICY IMPACT

The acquisition of the “beach front land” is consistent with the Wollongong City Council Sec 94A Development Contributions Plan and this land is zoned 6(a) Public Recreation in LEP 1990.
In respect to Lot 2003 DP 1047366 (known as the Hill St land) a further report will come before Council to authorise the removal of this lot from the Sec 94A Contributions Plan.

This land is affected by a declaration under Sec 84 of the National Parks and Wildlife Act 1974 that provides this land to be an Aboriginal Place. This declaration also includes a substantial area of adjoining Council owned land and does not impact on the proposed use of the land for passive open space.

Upon acquisition, the land being acquired will be classified Community land and will be incorporated into the proposed Sandon Point Plan of Management.

**RISK ASSESSMENT**

There is minimal risk to Council in proceeding with this acquisition. Due diligence enquiries are being carried out by Council’s lawyers and the terms and conditions of the contract to be approved by the General Manager will reflect the outcome of these enquiries.

**FINANCIAL IMPLICATIONS**

Funds in the amount of $4.08 million are included in the 2008/09 budget for these acquisitions. The negotiated price for the acquisitions totalling $1,835,000 falls well within this budget and reflects the value of the total package negotiated to include the acquisition of the open space land and the proposed dedication of the Wrexham Road extension land.

**CONCLUSION**

The acquisition of the land will bring into Council’s ownership a significant area of open space as provided in the Wollongong City Council Section 94A Contributions Plan and it is therefore recommended that Council endorse the proposal as set out in this report to enable the acquisitions to be completed.

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<tr>
<td>Author:</td>
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<td>Rose Cronin</td>
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<td>Director Infrastructure + Works</td>
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<td>David Farmer</td>
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**ATTACHMENTS**

1. Sandon Point Location Plan
ATTACHMENT I - Sandon Point Location Plan

Key

- Land proposed to be dedicated for the Wollongong Road extension
- Land proposed to be acquired from Stockland Development Pty Ltd
- Land proposed to be removed from the Section 94A Contributions Plan

Note: All boundaries shown on this map are indicative only.