

AMENDED REPORT



Item No: 3.1
Title: Deferred Item - Response to Notice of Motion - Proposed Sale - 4 and 10 Warren Road, Warnervale
Department: Innovation and Futures

25 November 2019 Ordinary Council Meeting

Trim Reference: F2019/00041-003 - D13718717

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Manager: Jamie Barclay, Unit Manger Economic Development and Project Delivery

Executive: Ricardo Martello, Executive Manager Innovation and Futures

Summary

At its meeting held on 11 November 2019, the Council resolved as follows;

1095/19 That Council defer consideration of this item until the 25 November 2019 Ordinary Meeting to allow a meeting to be held with interested Councillors and to provide specific information as to how this land had previously been sold without biocertification issues being resolved.

Report Purpose

The purpose of this report is to respond to Resolution Nos 1082/18, 1083/18 and 333/19, regarding the sale and bio-certification history of land at 4 and 10 Warren Road, Warnervale, being Lots 1 and 2 DP 1230740, and to consider the future direction of the Wyong Employment Zone.

Recommendation

- 1 That Council receive the report on Deferred Item - Response to Notice of Motion - Proposed Sale - 4 and 10 Warren Road, Warnervale.***
- 2 That Council defer any sale of 4 and 10 Warren Road, Warnervale and develop a strategic direction for the Wyong Employment Zone; including bio-certification, infrastructure and servicing strategy as well as a development masterplan.***

Background

Although this report relates primarily to Council's land at 4 and 10 Warren Road, Warnervale, consideration of the broader context of the Wyong Employment Zone (WEZ) should also be undertaken as the subject sites are significant in unlocking the full potential of this precinct.

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By way of summary, there are several key resolutions surrounding the previous consideration and future direction of the WEZ.

With regards to the biodiversity of the subject sites, the former Wyong Council initiated the preparation of a Biodiversity Certification application for the land south of Sparks Road, Warnervale (within part of the WEZ). This was commenced under the former biodiversity legislation being known as the *Threatened Species Conservation Act 1995*.

As such, at its Ordinary meeting of 13 July 2016 it was resolved *inter alia*:

194/16 *That Council prepare a draft Biodiversity Certification Assessment and Biodiversity Certification Strategy covering the land in Figure 1.*

195/16 *That Council resolve to apply to Office Environment and Heritage (OEH) to lodge an application to biodiversity certify land in Figure 1 in accordance with a draft Biodiversity Certification Assessment and Strategy (which is in the process of being prepared).*

Although Council commenced its application for certification of the WEZ on 23 December 2016, the application was timed out prior to the deadline for assessment under clause 37(2) of the Biodiversity Conservation (Savings and Transitional) Regulations 2017. This means that Council will require a new certification under the current legislation (*Biodiversity Conservation Act, 2016*) for the land within the WEZ, including 4 and 10 Warren Road (the *Threatened Species Conservation Act, 1995* was replaced by the *Biodiversity Conservation Act, 2016*).

It is important to recognise the area within the WEZ and the subject sites have been identified of having an outstanding biodiversity value (refer to **Attachment 2** which provides a copy of the OEH Biodiversity Values Map for the subject sites). As such, the provision of any services to these sites (such as water, sewer and associated infrastructure) would require a biodiversity assessment in accordance with the *Biodiversity Conservation Act, 2016*.

Regarding the sale of the subject sites, at the Ordinary Meeting of Council held on 8 October 2018, Council resolved *inter alia*:

1082/18 *That Council request that the Chief Executive Officer proceed with the sale of 4 and 10 Warren Road, Warnervale, being Lots 1 and 2 in DP 1230740.*

i) Whether it is recommended that the land be sold through an expressions of interest process (EOI), a tender process (Tender), sale at auction (Auction), or sale at market value;

ii) Identification of the estimated current market value price as determined by a valuation assessment

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A further report was referred to the Ordinary Meeting of Council held on 29 April 2019 addressing Resolution No 1082/18 (as above). At this Council meeting it was resolved *inter alia*:

- 332/19 *That Council receive the report on Response to Notice of Motion - Proposed Sale - 4 and 10 Warren Road, Warnervale.*
- 333/19 *That Council request that the Chief Executive Officer provide a further report on the progress of this matter at the 27 May 2019 Ordinary Meeting and such report include a list (in confidential if appropriate) of all inquiries already made in respect to the purchase of the Warren Road property and the responses given.*

Notwithstanding these resolutions, the sale of 4 and 10 Warren Road, has been to date subject to a receipt of an estimated current market value price as determined by a valuation assessment, in accordance with resolution 1082/18 subsection (ii), as noted above. Which, as indicated earlier, requires a bio-certification of the land so as to ascertain the value of offset credits in the provision of services to the site. At the Ordinary Meeting of 11 November 2019 Council resolved the following:

- 1095/19 *That Council defer consideration of this item until the 25 November 2019 Ordinary Meeting to allow a meeting to be held with interested Councillors and to provide specific information as to how this land had previously been sold without biocertification issues being resolved.*

The meeting was held on 11 November 2019 and attended by Councillors Greenaway, Sundstrom and MacGregor. A follow up email detailing items discussed in the meeting was distributed to all Councillors on 14 November 2019.

Currently there is also a Notice of Motion (NoM), Item No. 6.6, to be heard before Council within this meeting, entitled "Identification and allocation of necessary resources to progress the Wyong Employment Zone." It is understood that the intent of this NoM is to provide a way forward for the consideration of the whole of the WEZ given the regional significance of this precinct.

Options

Moving forward, Council needs to consider whether the short-term financial gain of selling and disposing of 4 and/or 10 Warren Road, outweigh the benefits from strategically considering these lots in the broader context of the development of the WEZ.

There are a number of factors to consider in this regard. Firstly, Council has previously reviewed several subdivision and development options for the WEZ (refer to **Attachment 3** which provides of a copy of these previous designs). Importantly, if Council intends to act upon any of these options, or to keep these options available for future development, it is

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crucial that the infrastructure planning has been considered up front. In the example of the WEZ, if 4 and 10 Warren Road were developed separately, this would mean that the service authorities would only consider the servicing and development needs of this individual site. However, if Council proceeds to a whole of precinct masterplan, then an infrastructure strategy could be developed which considers the density of the current, proposed as well as future development needs of the whole precinct.

As mentioned earlier, irrespective of how Council chooses to progress this matter, as the subject sites have been declared an area of outstanding biodiversity value, bio-certification of the land will be required. Due to the nature of the ecological communities concerned this will include at least 12 to 18 months of survey field work. The certification of the land would provide a way to manage planning and development approval risks by removing the uncertainty around the planning of infrastructure, development, employment and investment within the WEZ.

Option 1 – Defer the sale of 4 and 10 Warren Road, Warnervale and develop a strategic direction for the Wyong Employment Zone, including bio-certification, infrastructure and servicing strategy as well as a development masterplan. It is understood that this option would be in keeping with the intent of the NoM Item 6.6 within this meeting. **This is the preferred option.**

Option 2 – Progress to sell either 4 and 10 Warren Road, separately or collectively. It should be noted that in order to progress the sale of either 4 and 10 Warren Road, Council will still be required to undertake the necessary bio-certification of the subject sites. This is because the subject sites are potentially undevelopable unless a biodiversity assessment has been undertaken. If Council wish to pursue Option 2, a budget adjustment of \$30,000 will be required to undertake the necessary biodiversity study.

The sites are currently un-serviced and would also require the provision of infrastructure (water, sewer, electricity, gas, NBN) which subject to the development of approved designs, would traverse the neighbouring land which has also been identified of having an outstanding biodiversity value.

Subsequent to the bio-certification assessment, Council would then be able to appoint a valuer to determine a market value for the sites. The valuation can only be undertaken once the bio-certification assessment has been completed, as this assessment will determine the extent and value of credits required to develop the site.

Link to Community Strategic Plan

Theme 2: Smart

Goal C: A growing and competitive region

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S-C3: Facilitate economic development to increase local employment opportunities and provide a range of jobs for all residents.

Risk Management

If Council proceeds to sell 4 and 10 Warren Road, Warnervale without any bio-certification then there would be risks associated with receiving discounted offers or otherwise conditional offers subject to bio-certification. Selling the land without a valuation would not be in accordance with both the former Gosford and Wyong's Councils Land Transaction policy. It would also result in Council having to enter a conditional contract which would unnecessarily delay the settlement and expose Council to a third party's assessment which may not favour Council financially.

Further, any resolution Council makes to sell the land needs to be established in view of the market value, which can only be arrived at through an independent valuation. Without an understanding of the bio-certification it would be impossible for Council to establish a market value as the cost of credit offsets are undeterminable. It should also be noted that by separately selling either 4 and 10 Warren Road, this would limit the viability of the sale, as offset credits are better leveraged against land holdings rather than from buying the credits from the market at a premium.

As such, even if Council resolves to sell the land, then a consultant ecologist should be engaged to undertake a bio-certification assessment of both 4 and 10 Warren Road and the land which is required to provide services to both lots. This would include the mapping of habitat trees and locations of threatened fauna and flora communities. Typically, the assessment would require a full calendar year of survey work in order to assess specified flowering periods that may occur on the site. It is known, for instance, that the area is habitat to the Mahony's Toadlet, as well as the Wyong Sun Orchid and any survey of these communities requires mapping over various seasons.

Attachments

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| 1 | Attachment 1- Response to Notice of Motion - Proposed Sale - 4 and 10 Warren Road, Warnervale | D13718746 |
| 2 | Attachment 2 - Biodiversity Values Map | D13727998 |
| 3 | Attachment 3 - Previous WEZ Concept Options | D13728001 |



Item No: 3.5
Title: Response to Notice of Motion - Proposed Sale - 4 and 10 Warren Road, Warnervale
Department: Innovation and Futures

11 November 2019 Ordinary Council Meeting

Trim Reference: F2018/00020-07 - D13535836

Author: Joe O'Connor, Property Development Manager

Manager: Jamie Barclay, Unit Manager, Economic Development and Project Delivery

Executive: Ricardo Martello, Executive Manager Innovation and Futures

Report Purpose

The purpose of this report is to provide an update to Resolution Nos 1082/18, 1083/18 and 333/19, regarding the sale of land at 4 and 10 Warren Road, Warnervale, being Lots 1 and 2 DP 1230740. Additionally, this report seeks endorsement of expenditure associated with consultant reports required for the sale of the lots.

Recommendation

- 1 That Council receive the report on Response to Notice of Motion - Proposed Sale - 4 and 10 Warren Road, Warnervale.**
- 2 That Council authorises the budget adjustment for the preparation of consultant reports associated with an ecological assessment of the lots.**

Background

At the Ordinary Meeting of Council held on 8 October 2018, Council resolved:

1082/18 That Council request that the Chief Executive Officer proceed with the sale of 4 and 10 Warren Road, Warnervale, being Lots 1 and 2 in DP 1230740.

1083/18 That Council requests the Chief Executive Officer to bring a report to Council by the Ordinary Meeting of 26 November 2018 in relation to listing for sale 4 and 10 Warren Road, Warnervale, being Lots 1 and 2 DP 1230740, being the site of the formerly proposed Australian Chinese Theme Park. The Report is to include:

- i Whether it is recommended that the land be sold through an expressions of interest process (EOI), a tender process (Tender), sale at auction (Auction), or sale at market value;*
- ii Identification of the estimated current market value price as determined by a valuation assessment;*

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- iii *The "Land Economics Report" and the "Chinese Theme Park Proposal – Site Evaluation" (confidential attachment D0318469) referred to on page 215 of the staff report (TRIM F2011/00192 – D03176019) in the business paper of the Ordinary Meeting of Council held on 14 November 2012.*

A further report was referred to the Ordinary Meeting of Council held on 29 April 2019 addressing Resolution Nos 1082/18 and 1083/18. At this Council meeting it was resolved:

- 332/19 *That Council receive the report on Response to Notice of Motion - Proposed Sale - 4 and 10 Warren Road, Warnervale.*
- 333/19 *That Council request that the Chief Executive Officer provide a further report on the progress of this matter at the 27 May 2019 Ordinary Meeting and such report include a list (in confidential if appropriate) of all inquiries already made in respect to the purchase of the Warren Road property and the responses given.*

Since the making of these resolutions it has been identified that there are potential ecological communities which should be investigated to either ensure their preservation or address this matter to avoid price discounting during the sales negotiation. It should be noted that between the years 2000 and 2005 Council conducted various flora and fauna investigations to accompany a development application (DA 3130/2004) to subdivide the area resulting in the subject lots. During this period various subject species were encountered. However, as a considerable amount of time has lapsed as well as the passing of new legislation (Biodiversity Conservation Act 2016), a new ecology assessment is now required.

It is proposed that a consultant ecologist be engaged to undertake a high-level ecology constraints assessment of the area. This would include the mapping (if identified) of habitat trees and locations of threatened fauna and flora populations. Typically, the assessment would require a full calendar year of field work in order to assess specified flowering periods of threatened species (such as orchids) that may occur on the site.

A budget adjustment of \$30,000 should be allowed for these works, with a timeframe of twelve (12) months from the appointment of the consultant to receive the report and recommendations.

Once the ecology assessment has been received and reviewed, Council would then be able to appoint a valuer to undertake an assessment of the site in accordance with **Resolution No 1083/18 subsection (ii)**. The valuation can only be undertaken once the ecological assessment has been completed, as this assessment will determine the extent or value of credits required to develop the site. At this time, a further report will be put to Council recommending the preferred method for selling the lots (i.e. expressions of interest process (EOI), a tender process (Tender), sale at auction (Auction), or sale at market value).

3.5 Response to Notice of Motion - Proposed Sale - 4 and 10 Warren Road, Warnervale (contd)

On the basis that Council resolves to sell the lots, Council would then be in the position to commence the process to prepare a scope, tender evaluation and engage a real estate agent to market and sell the lots. This process, including preparation of marketing campaign and contract of sale, could take another 2–3 months. Feedback from the real estate market indicate that Council should allow at least 6–8 months for the sales campaign.

Link to Community Strategic Plan

Theme 2: Smart

Goal C: A growing and competitive region

S-C3: Facilitate economic development to increase local employment opportunities and provide a range of jobs for all residents.

Attachments

Nil.

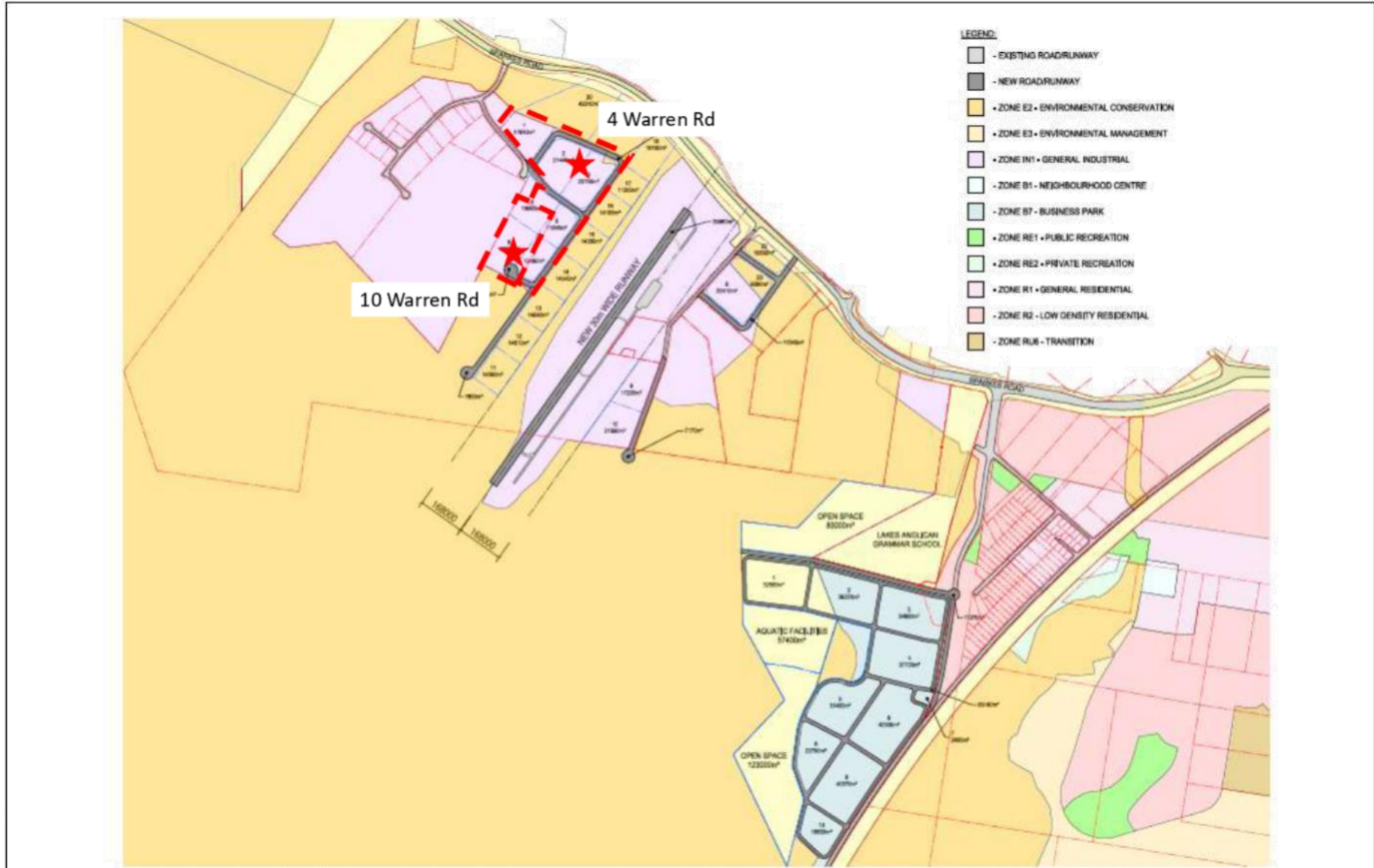


 BIODIVERSITY VALUES MAP DATA (Source OEH)

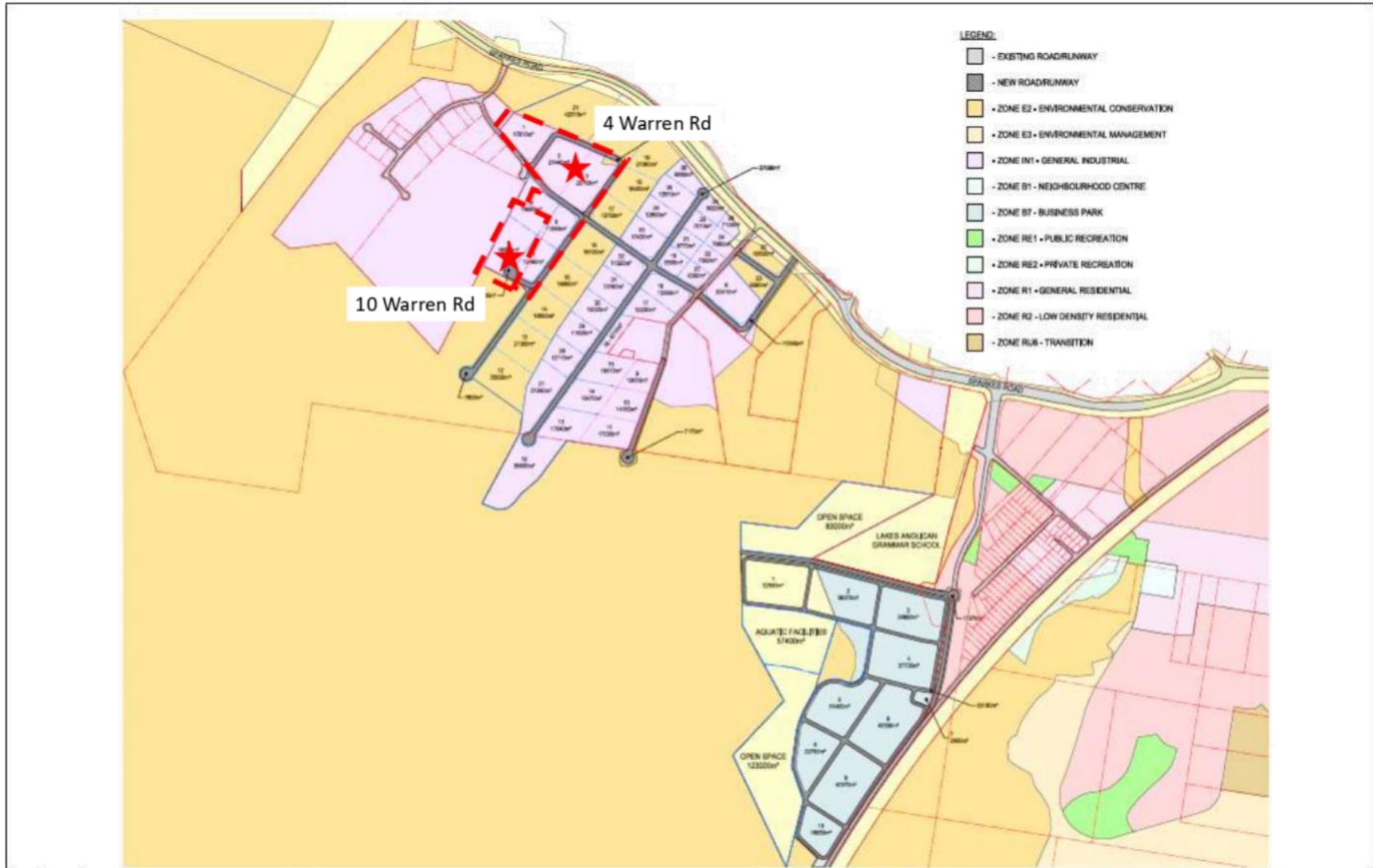
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