

## **7.9. APPLICATION TO PURCHASE STATE LAND - PART OF LOT 11 N7853 PHIL LUNN PARK, NEWELL**

<b>REPORT AUTHOR</b>	Property Officer
<b>MANAGER</b>	Manager Community Services
<b>DEPARTMENT</b>	Community Services
<b>DATE</b>	24 February 2026

### **RECOMMENDATION**

**That Council:**

- 1. Support an application by the registered owner of 50 Marine Parade, Newell, formally described as Lot 5 N7852, to purchase approximately 171m<sup>2</sup> of adjoining State land, being part of a reserve known as Phil Lunn Park and described as Lot 11 N7853.**
- 2. Advise the Department of Natural Resources and Mines, Manufacturing and Regional and Rural Development that Council, as the trustee of the reserve, supports the application, by completion of LA30 statement: Statement in relation to an application under the *Land Act 1994* over State land.**

### **EXECUTIVE SUMMARY**

Council has received a request from the Department of Natural Resources and Mines, Manufacturing and Regional and Rural Development (the Department) to review an application to purchase State land. Council is the trustee of the subject land, a reserve known as Phil Lunn Park located at Newell, formally described as Lot 11 N7853.

An adjoining owner at 50 Marine Parade, Newell, lot on plan description Lot 5 N7852 (Lot 5), has applied to the Department to purchase State land to resolve multiple encroachments that originate from Lot 5 into the reserve.

### **PREVIOUS COUNCIL CONSIDERATIONS / RESOLUTIONS**

Not applicable.

### **REPORT/BACKGROUND**

Phil Lunn Park was dedicated as a reserve in 1961. The original purpose of the reserve was 'recreation' with a sub-purpose 'public hall'. Under the new categorisation of trust land for community purposes, the reserve is taken to be for 'parks and recreational purposes' and 'community facility purposes'.

A swimming pool and associated infrastructure, including fencing, as well as a patio/carport that is attached to the main dwelling encroach into the reserve. To resolve the encroachments, it is proposed that an area of approximately 171m<sup>2</sup>, as identified in Attachment 1, be excised from the reserve and amalgamated into Lot 5.

A former owner of Lot 5 had received approval for building works on 24 September 2001 for the patio/carport (approval no 228/01) and 13 November 2002 for the swimming pool (approval no 340/02). It was the responsibility of the owner, at that time, to determine the exact property boundaries.

An email from the Department was received by Council on 5 November 2025 requesting a review of the application, as the trustee of the reserve, and completion of LA30 statement: Statement in relation to an application under the Land Act 1994 over State land.

## FINANCIAL AND RESOURCE IMPLICATIONS

Nil financial or resource implications to Council.

The Department will ultimately decide whether it approves or refuses the application to purchase State land. If approved, the applicant is responsible for all associated costs, including surveying of the balance lot, purchase price of the land (usually determined by valuation arranged by the Department), regulatory fees and charges and, if required, the applicant must address any Native Title considerations.

## RISK MANAGEMENT IMPLICATIONS

In accordance with s91 of the *Land Act 1994*, trustees are taken to be the owner of trust land from a legal perspective. On that basis and having regard for potential liability implications, it is in Council's interest to have the encroachments into the reserve resolved.

## ENVIRONMENTAL IMPLICATIONS

Nil.

## SOCIAL IMPLICATIONS

The identified encroachments have been in-situ for over 20 years, hence, excision of the proposed part of the reserve for amalgamation into Lot 5 will not impact the existing useable footprint of Phil Lunn Park.

## HUMAN RIGHTS IMPLICATIONS

Under the Human Rights Act 2019 (Qld), Council must not make a decision which is incompatible with human rights. Council must also give proper consideration to any human rights relevant to its decision. Officers consider that there are no Human Rights implications relevant to Council's decision in this matter.

## CORPORATE AND OPERATIONAL PLAN

This report has been prepared in accordance with the following:

### Corporate Plan 2025-2030 Initiatives:

#### Theme 3 - Service Delivery

We deliver Council services effectively and efficiently to meet community expectations, focusing on the wellbeing of both the community and our employees.

**3.5 - *Employ a proactive and preventative approach to asset management.***

### Operational Plan 2025-2026 Actions:

Legislative requirement.

## **LEGISLATION AND POLICY**

*Land Act 1994.*

## **CONSULTATION**

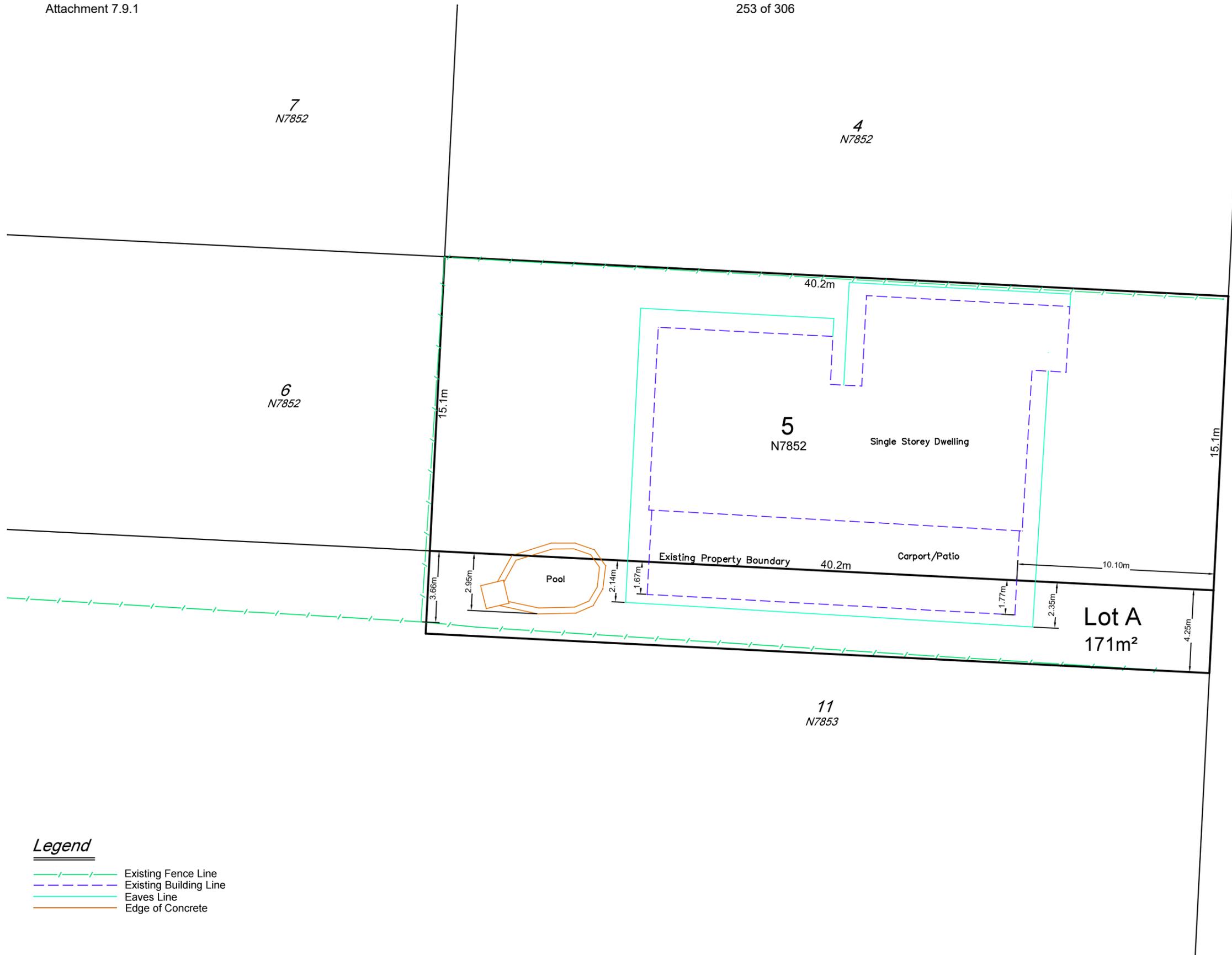
Internal consultation with Councillors, Planning, Asset Management, Infrastructure, Water and Wastewater.

## **CONCLUSION**

It is recommended that Council, as the trustee and deemed owner of the reserve, support the application in the interest of resolving the encroachments.

## **ATTACHMENTS**

1. Plan showing Encroachments and Proposed Area of State Land to be purchased  
[7.9.1 - 1 page]
2. Plan showing Proposed Area of State Land to be purchased relevant to Phil Lunn Park  
[7.9.2 - 1 page]



- Legend**
-  Existing Fence Line
  -  Existing Building Line
  -  Eaves Line
  -  Edge of Concrete



**Plan Showing Area of State Land to be Purchased - Lot A**  
 Cancelling part of Lot 11 on N7853  
 Marine Parade, Newell Beach



(c) Douglas Shire Council



10 m

Scale = 1:525.420

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