

10.15.Update on Acquisition of Lease by Transport for NSW for construction of Sydney Harbour Cycleway

AUTHOR	Gary Parsons, Director Open Space & Infrastructure
ENDORSED BY	Therese Cole, Chief Executive Officer
ATTACHMENTS	<ol style="list-style-type: none"> 1. CONFIDENTIAL - 20.069.2024- 10161737 VVG C. J T 05077 - VG - Determination of Compensation [10.15.1 - 3 pages] 2. CONFIDENTIAL - 23.09.2024 - Offer of Compensation - TfNSW to NSC [10.15.2 - 135 pages] 3. Letter from TfNSW 8 October 2024 Sydney Harbour Bridge Cycleway Project - proposed lease acquisition of additional land in Bradfield Park, Alfred Street, Milsons Point [10.15.3 - 1 page] 4. SR 10393 (drawn 03.09.2024) [10.15.4 - 2 pages]
CSP LINK	<ol style="list-style-type: none"> 2. Our Built Infrastructure 2.1 Infrastructure and assets meet diverse community needs

PURPOSE:

This report provides Council with advice in relation to the Valuer General’s determination regarding land within Bradfield Park recently compulsorily acquired by Transport for NSW (TfNSW), and recent correspondence received from TfNSW regarding the acquisition of additional land for the construction of the Sydney Harbour Bridge Cycleway.

EXECUTIVE SUMMARY:

- On 14 May 2024, Council’s Chief Executive Officer (CEO) submitted a claim for compensation in accordance with the Land Acquisition (Just Terms Compensation) Act for land within Bradfield Park to be compulsorily acquired by TfNSW for the construction of the Sydney Harbour Bridge Cycleway.
- The NSW Government formally acquired the subject land on the 21 June 2024.
- The Valuer General issued its final determination on the 20 September 2024 advising compensation of \$773,655.42 for the subject land within Bradfield Park compulsorily acquired by TfNSW.
- TfNSW has recently approached Council advising of further land to be compulsorily acquired within Bradfield Park for the construction of the Sydney Harbour Bridge Cycleway, and requesting a reduction in the proposed ninety (90) day notification period required to be provided under a Proposed Acquisition Notice.

RECOMMENDATION:

1. THAT Council note the Valuer General’s determination regarding land within Bradfield Park recently acquired under leasehold by Transport for NSW (TfNSW) through the Land Acquisition (Just Terms Compensation) Act for the construction of the Sydney Harbour Bridge Cycleway.

2. THAT Council authorises the Chief Executive Officer (CEO) to complete the claim form together with a Deed of Release and Indemnity to acquire the compensation proposed for the leasehold of the subject land within Bradfield Park for the construction of the Sydney Harbour Bridge Cycleway by TfNSW.

3. THAT Council notes correspondence received from TfNSW dated 4 October 2024, regarding their intention to issue a Proposed Acquisition Notice regarding the further acquisition of land within Bradfield Park for the construction of the Sydney Harbour Bridge Cycleway.

4. THAT Council authorises the CEO to write to TfNSW advising that Council will require the maximum time available to consider the Proposed Acquisition Notice, which TfNSW intends to issue to Council regarding the further acquisition of land within Bradfield Park for the construction of the Sydney Harbour Bridge Cycleway.

5. THAT Council authorises the CEO to submit a claim for compensation in accordance with the Land Acquisition (Just Terms Compensation) Act, in response to the Proposed Acquisition Notice, which TfNSW proposes to issue to Council for the further acquisition of additional land within Bradfield Park for the construction of the Sydney Harbour Bridge Cycleway.

6. THAT Council notes that a further report will be brought back to Council in relation to the Valuers General determined compensation for the additional land to be acquired by TfNSW within Bradfield Park for the purposes of the construction of the Sydney Harbour Bridge Cycleway.

Background

At its meeting of 13 May 2024, Council resolved:

1. *THAT Council note Transport for NSW (TfNSW) has approached Council to lease land within Bradfield Park for the construction of the Sydney Harbour Bridge Cycleway, to be constructed by TfNSW.*
2. *THAT Council note the legal advice dated 21 April 2024 confirming that Council is prohibited under s45(2) of the Local Government Act from granting a lease to TfNSW for the subject land within Bradfield Park for the construction of the Sydney Harbour Bridge Cycleway.*
3. *THAT Council note TfNSW's intention to compulsorily acquire land within Bradfield Park for the construction of the Sydney Harbour Bridge Cycleway if it is not able to enter into a lease agreement with Council for the subject land.*
4. *THAT Council authorise the Council's Chief Executive Officer to not seek agreement with Transport for NSW to lease the land, and instead submit a claim for compensation in accordance with the Land Acquisition (Just Terms Compensation) Act for the land within Bradfield Park to be compulsorily acquired by TfNSW for the construction of the Sydney Harbour Bridge Cycleway using the independent valuation advice and the recommendations included within the confidential attachment of this report.*
5. *THAT Council note approaches from TfNSW seeking 'early access' to land within Bradfield Park for site investigation and survey works related to the construction of the Sydney Harbour Bridge Cycleway; and the restrictions on Council's ability to grant a lease or licence for the required access and occupation for these works.*
6. *THAT Council continue to lobby Transport for NSW to change the design of the ramp.*
7. *THAT Council write to the Minister seeking an urgent meeting in relation to the design of the Sydney Harbour Bridge Cycleway.*

This report provides advice in relation to item 4 of the above resolution, and information regarding TfNSW's intention to acquire additional land within Bradfield Park for the construction of the Sydney Harbour Bridge Cycleway.

Report

On 14 May 2024, Council's CEO submitted a claim for compensation in accordance with the Land Acquisition (Just Terms Compensation) Act for land within Bradfield Park to be compulsorily acquired by TfNSW for the construction of the Sydney Harbour Bridge Cycleway.

The NSW Government Gazette confirms the acquisition of the subject land for a specific period of three years under the Land Acquisition (Just Terms Compensation) Act on 21 June 2024.

On 9 August 2024, the NSW Valuer General formally advised Council as to their preliminary valuation of the subject land and provided Council with ten (10) working days to respond. Council subsequently responded and the Valuer General issued its final determination on 20

September 2024, advising a recommended compensation of \$773,655.42 for the subject land. A copy of this determination is attached to this report.

Council is required to complete the claim form along with a Deed of Release and Indemnity to acquire the compensation proposed for the leasehold of the subject land.

If Council is not satisfied with the amount of compensation determined by the Valuer General and offered to Council by TfNSW, it is entitled to lodge an objection with the Land and Environment Court (LEC). Any objections would need to be lodged within 90 days of the receiving the Compensation Notice (19 December 2024).

It should be noted that any objection lodged to the LEC could only concern the amount of compensation proposed by the Valuer General for the subject land, not the legalities of the acquisition of the land.

If an offer is not lodged within 90 days, the offer of compensation is deemed to be accepted by Council. However, Council will not receive the compensation until a completed claim for compensation form, along with a deed of release and indemnity, are submitted.

On 8 October 2024, TfNSW advised Council of further land to be acquired for the construction of the Sydney Harbour Bridge Cycleway under the Land Acquisition (Just Terms Compensation) Act, with compensation to be determined by the Valuer General. TfNSW has advised that they will shortly issue a Proposed Acquisition Notice (PAN) for the subject land. A copy of the letter and land proposed to be acquired forms Attachment 3 to this report.

Acquiring authorities are required to provide ninety (90) days' notice prior to acquiring land through a PAN. TfNSW has requested that Council consider reducing the stipulated period to seven (7) days given its previous position of not negotiating with TfNSW for lands previously acquired for the construction of the Sydney Harbour Bridge Cycleway.

Accepting a reduction in the period of notice would reduce Council's time to consider and prepare a response to the PAN.

Consultation requirements

There is no community consultation required by Council in relation to this report.

Financial/Resource Implications

There are no costs associated with responding to TfNSW correspondence dated 8 October 2024, however there will be costs associated with land valuation in response to the PAN to be issued by TfNSW, which will be covered within existing operational budgets.

Legislation

Land Acquisition (Just Terms Compensation) Act 1991.

Transport for NSW



Ms Therese Cole
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North Sydney Council
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NORTH SYDNEY NSW 2060

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Sydney Harbour Bridge Cycleway Project - proposed lease acquisition of additional land in Bradfield Park, Alfred Street, Milsons Point

08 October 2024

Ref: SF2021/314054

Dear Therese,

I refer to the telephone conversation you had with Kandice Wright from Transport for NSW on 4 October 2024.

As briefly discussed, we have identified the need to lease some additional small areas of land adjacent to the recently compulsorily acquired lease over parts of Bradfield Park, as shown respectively by green hatching and purple hatching on the enclosed Plan SR 10393 (drawn 03/09/2024).

It is understood from the earlier acquisition, that Council resolved not to negotiate with us for an agreement to lease the land, so it was progressed by compulsory process under the *Land Acquisition (Just Terms Compensation) Act 1991* (the Act), with compensation determined by the Valuer General.

We respect Council's decision in this regard so we will follow the same process for the additional land and will soon issue a Proposed Acquisition Notice (PAN).

Regarding the period of the PAN, s13(2) of the Act allows the parties to agree to a shorter period than 90 days, so we kindly request that Council agree to reduce the period to 7 days, this enabling the determination of compensation by the Valuer General and payment of compensation sooner. Council will retain the right of appeal to the Land and Environment Court regarding the determination.

We look forward to hearing from you.

Yours sincerely,

Louise de Savery
Senior Manager, Valuations and Acquisitions
Infrastructure and Place
Transport for NSW

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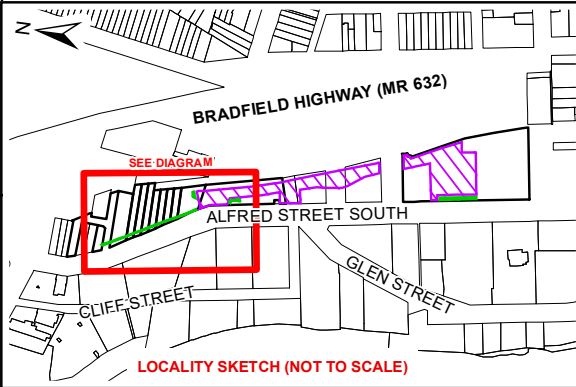
Enclosure: Plan SR 10393

Cc: gary.parsons@northsydney.nsw.gov.au

PLAN
SHOWING LAND TO BE LEASED FOR
CONSTRUCTION PURPOSES AT MILSONS POINT

Reduction Ratio 1:350
Lengths are in metres

**TRANSPORT FOR NSW
INFRASTRUCTURE & PLACE**
LGA: NORTH SYDNEY Locality: MILSONS POINT
Parish: WILLOUGHBY County: CUMBERLAND



*Refer Government Gazettes No. 66 of 29 March 1935 folios 1346-1347 and No. 32 of 24th February 1939 folios 912-913 for reservation to North Sydney Council



**Transport
for NSW**

File No: SF2021/314054

Dimensions and positions of improvements in relation to the boundaries are subject to final survey
Offsets are 90° to property boundaries



LAND TO BE LEASED FOR CONSTRUCTION PURPOSES
Total land to be leased ABT 439m²

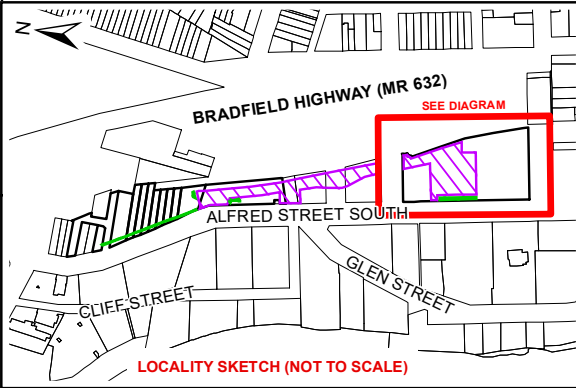
TFNSW LEASE (REFER GOVERNMENT GAZETTE NO 227 OF 21 JUNE 2024)

PLAN
SHOWING LAND TO BE LEASED FOR
CONSTRUCTION PURPOSES AT MILSONS POINT

Reduction Ratio 1:350
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LGA: NORTH SYDNEY **Locality:** MILSONS POINT
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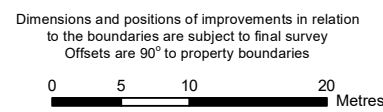
*Refer Government Gazettes No. 66 of 29 March 1935 folios 1346-1347 and No. 32 of 24th February 1939 folios 912-913 for reservation to North Sydney Council

ALFRED STREET SOUTH



**Transport
for NSW**

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TFNSW LEASE (REFER GOVERNMENT GAZETTE NO 227 OF 21 JUNE 2024)