

8.11. Neutral Bay Club/Ilbery Park Land Swap Lease Proposal

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ATTACHMENTS:

1. Attachment 1 Survey Plan - levels and details of Neutral Bay Club land [8.11.1 - 1 page]

PURPOSE:

The purpose of this report is to outline a proposal to fundamentally undertake a land lease swap between the Neutral Bay Club and the Council.

The proposal includes leasing a small section of Community land in Ilbery Reserve that can't be effectively used as public parkland to the Neutral Bay Club and in return leasing a small amount of land owned by the Neutral Bay Club that could be effectively used as an extension of Ilbery Reserve for public recreation.

EXECUTIVE SUMMARY:

Council has been approached by the Neutral Bay Club to lease a small section of Ilbery Reserve that is located at the base of the retaining wall at the southern end of the park and is generally inaccessible due to the level change.

During discussion of their request, it was determined that a section of land that forms their Anderson Street rear access to the Club and adjoins the park is generally at grade with the existing park levels and if leased by the Council would increase the usable open space of Ilbery Reserve.

FINANCIAL IMPLICATIONS:

Whilst both leases are envisaged to be offered at a peppercorn rent there is a cost of preparing the two leases that would need to be borne equally by the two parties. It is envisaged that the total cost would be in the order of \$3,500.

RECOMMENDATION:

- 1. THAT** Council proceeds with the required process of progressing a lease for a period of less than five years with the Neutral Bay Club for the identified 50m² of Ilbery Reserve Community land that is located at the base of the Council retaining wall.
- 2. THAT** on completion of the required consultation process a further report be provided identifying any public submissions received by Council for consideration and determination.
- 3. THAT** Council enters into an agreement to lease for a period of less than five years from the Neutral Bay Club the identified 45m² of the Neutral Bay Clubs property that fronts Anderson Street to be used as an extension of Ilbery Reserve.

LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

1. Our Living Environment
 - 1.3 Quality urban greenspaces
 - 1.4 Public open space and recreation facilities and services meet community needs

BACKGROUND

In 2020 Council was approached by the Neutral Bay Club to lease a small section of Ilbery Reserve that is located below the existing timber retaining wall at the southern end of the park.

CONSULTATION REQUIREMENTS

Consultation will occur in accordance with section the requirements of the Local Government Act 1993 as described within the body of this report.

DETAIL

The section of land in question is generally inaccessible to park users due to the level change (approximately 1m-1.2m in height) caused by the Council retaining wall.



Council land proposed to be leased to the Neutral Bay Club



Neutral Bay Club land proposed to be leased to the Council

The Neutral Bay Club is located at 3 Westleigh Street, Neutral Bay and is a registered Club under the Registered Clubs Act. The Club operates as a not-for-profit organisation managed by a volunteer Board of Management, any profit attained by its operation is

the existing park and if leased by the Council would increase the usable open space of Ilbery Reserve by forty-five square metres.

Ilbery Park is owned by North Sydney Council, classified as community land and zoned as public open space.

The Council's core objectives for the management of community land categorised as a park including Ilbery Reserve are described in Councils Neighbourhood Park Plan of Management and include:

(a) to encourage, promote and facilitate recreational pursuits in the community involving organised and informal sporting activities and games, and (b) to provide for passive recreational activities or pastimes and for the casual playing of games, and (c) to improve the land in such a way as to promote and facilitate its use to achieve the other core objectives for its management.

The current adopted Neighbourhood Plan of Management articulates the requirements for leasing community lands that includes:

The granting of a lease, licence or other estate formalises the use of community land by groups such as sporting clubs, commercial organisations or individuals who are providing facilities or services for public use.

A lease, licence or other estate is required where exclusive control of all or part of an area by a party is proposed or desirable in the interests of management of an area. Activities under a lease should be compatible with any zoning or reservation, provide benefits, services or facilities for users of the land, and be authorised under the Plan of Management. The terms and conditions of a lease should ensure that the lessee undertakes proper management of the facility such that it is maintained in a safe and visually pleasing condition, and that the interests of Council and the public are protected.

In order for Council to grant a lease of a portion of Ilbery Park as proposed for a period that does not exceed 5 years as proposed, Council must:

Give public notice of the proposal, and - exhibit notice of the proposal on the land to which the proposal relates, and - exhibit notice of the proposal to such persons as appear to it to own or occupy the land adjoining the community land, and - give notice of the proposal to any other person, appearing to the Council to be the owner or occupier of land in the vicinity of the community land, if in the opinion of the Council the land the subject of the proposal is likely to form the primary focus of the person's enjoyment of community land.

The notice of the proposal must include:

- Information sufficient to identify the community land concerned.
- The purpose for which the land will be used under the proposed lease.
- The term of the proposed lease.
- The name of the person to whom it is proposed to grant the lease.
- A statement that submissions in writing may be made to the Council concerning the proposal within a period, not less than 28 days, specified in the notice.

Other requirements include:

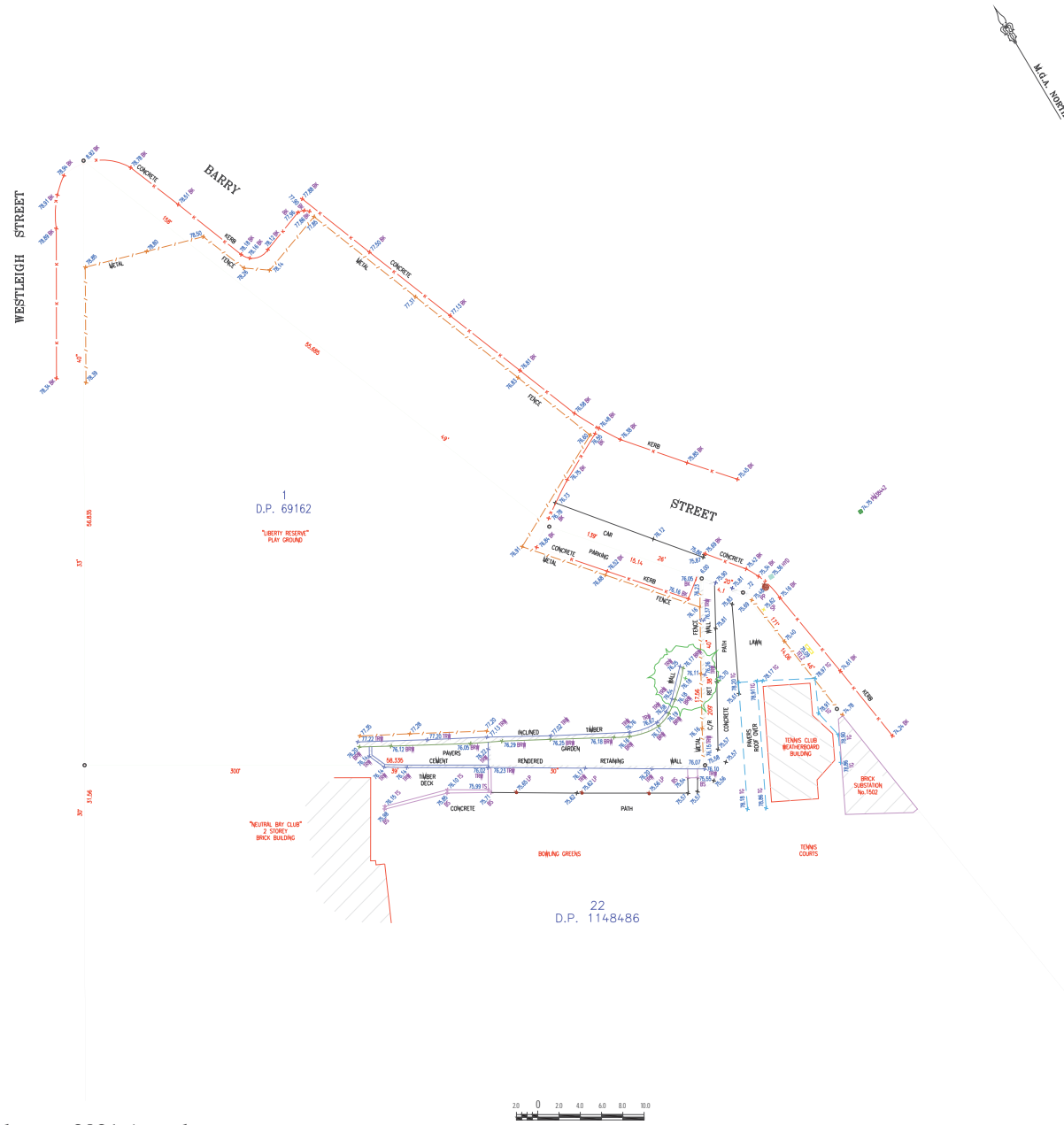
Any person may make a submission in writing to the Council during the period specified for the purpose in the notice. Before granting the lease, the Council must consider all submissions.

Final approval of a lease rests with Council however, in unusual circumstances, the Minister for Local Government has the discretion to 'call-in' a proposed lease and determine the matter in place of the Council.

Leases for a period of 5 years or less for use of a neighbourhood park for cultural or recreational purposes are not required to be tendered.

Beyond general standard conditions of lease, both leases between the Council and the Neutral Bay Club would also need to contain replicated specific conditions that generally would include:

- That the term of the lease be less than five years and that both leases commence and conclude on the same dates.
- That the lease fees be a peppercorn amount
- That Council and the Neutral Bay Club provide appropriate insurances to indemnify each other's interest.
- That no permanent structures are to be constructed on the leased land
- That in the event the Council's timber retaining wall fails or becomes unsafe and requires to be significantly reconstructed during the lease term then both leases will be extinguished without penalty and the retaining wall reconstructed on the proper and surveyed boundary.



- LEGEND
- BR - BOTTOM OF KERB
 - BR - BOTTOM OF ROCK WALL
 - BRW - BOTTOM OF RETAINING WALL
 - BS - BOTTOM OF STAIRS
 - DECK - TIMBER DECK
 - GM - GAS METER
 - HYD - HYDRAV
 - LP - LIGHT POLE
 - PAR - PAMPET
 - PP - POWER POLE
 - RR - ROOF RIDGE
 - SMM - SEWER MANHOLE
 - SP - SIGN POST
 - SW - STORMWATER PIT/GRATE
 - TEL - TELSTRA
 - TC - TOP OF GUTTER
 - TR - TOP OF ROCK WALL
 - TRW - TOP OF RETAINING WALL
 - TS - TOP OF STAIRS
 - WM - WATER METER

REV	DATE	DESCRIPTION	BY
A	07.09.2020	ORIGINAL ISSUE	MM/LS

- NOTES:
- NO BOUNDARY SURVEY HAS BEEN UNDERTAKEN. BEARINGS & DISTANCES HAVE BEEN COMPILED FROM TITLE AND/OR DEED INFORMATION SUPPLIED BY DEPARTMENT OF LANDS. N/S.
 - RELATIONSHIP OF IMPROVEMENTS AND DETAIL TO BOUNDARIES IS DIAGNOSTIC ONLY AND SPECIFIC DETAILS, IF CRITICAL, WILL REQUIRE FURTHER SURVEY.
 - NO SERVICES OR UNDERGROUND SERVICES SEARCH HAS BEEN UNDERTAKEN. SERVICES SHOWN ARE BASED ON VISIBLE SURFACE INDICATORS EVIDENT AT THE DATE OF SURVEY & ARE CHARTED AS A GUIDE TO THE POSITION & NATURE OF THE SERVICE. ALL SERVICE AUTHORITIES SHOULD BE CONTACTED PRIOR TO ANY DEVELOPMENT.
 - RIDGE, EAVE & GUTTER HEIGHTS HAVE BEEN OBTAINED BY AN INDIRECT METHOD AND ARE ACCURATE FOR PLANNING PURPOSES ONLY.
 - ADJOINING BUILDINGS AND DWELLINGS HAVE BEEN PLOTTED FOR DIAGNOSTIC PURPOSES ONLY AND SPECIFIC DETAILS, IF CRITICAL, WILL REQUIRE FURTHER SURVEY.
 - THE SPREAD & HEIGHT OF EACH TREE IS INDICATIVE ONLY AND SPECIFIC DETAILS, IF CRITICAL, WILL REQUIRE FURTHER SURVEY.
 - CONTOURS ARE AN INDICATION OF THE TOPOGRAPHY ONLY. SPOT LEVELS SHOULD BE USED IF DETAILED DESIGN IS TO BE UNDERTAKEN. CONTOUR INTERVALS: MAJOR - N/A, MINOR - N/A.

HORIZONTAL SYSTEM:
 COORD SYS: MARK ADOPTED: PM 38442
 MGA E 335 389 361
 NORTH N 6 254 633 859

VERTICAL SYSTEM:
 DATUM A.H.D. BM ADOPTED PM 38442
 R.L. 74.75 CLASS D ORDER ...

CLIENT:
 NORTH SYDNEY COUNCIL

PROJECT:
 PLAN SHOWING DETAIL AND LEVELS
 AT "NEUTRAL BAY CLUB"
 NEUTRAL BAY

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SCALE: HOR 1:200	VER 1:200	A1
LGA: NORTH SYDNEY	SHEET 1 OF 1 SHEETS	
DRAWN: MM	SURVEYED: LS	
REFERENCE: 20132	REVISION: A	