

10.4. North Sydney Council - Compensation Claim submitted to the NSW Valuer General-TfNSW Compulsory Acquisitions - Councils Parks & Reserves- Warringah Freeway Upgrade

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ENDORSED BY: Ken Gouldthorp, General Manager

ATTACHMENTS: Nil

PURPOSE:

The purpose of this report is to inform Council of the compensation claim that has been lodged with the NSW Valuer General under the “Just Terms Act” on 9 July 2021 in relation to land that has been acquired by TfNSW at the Cammeray Golf Course (2 sites), St Leonards Park and ANZAC Park for the purposes of the Warringah Freeway upgrade.

EXECUTIVE SUMMARY:

A report from the Engineering and Property Services Division was brought to the 30 November 2020 Council Meeting, informing Council that two letters had been received from TfNSW in relation to the issuing of a Proposed Acquisition Notice (PAN) for parts of the Cammeray Golf Course (2 sites), St Leonards Park and ANZAC Park for the purposes of the Warringah Freeway upgrade. The report also identified that Council would be seeking compensation from TfNSW under the “Land Acquisition (Just Terms Compensation) Act 1991” for the proposed acquisition of these four (4) sites and that legal advice was being sought on Councils right to compensation. The actual Proposed Acquisition Notice (PAN) on the compulsory acquisition of the sites was issued to Council by TfNSW on 14 December 2020.

The purpose of this report is to inform Council that the Legal advice sought in November 2020 confirmed that Council does have a right to compensation and that a compensation claim has now been lodged with the NSW Valuer General under the “Just Terms Act”– on 9 July 2021.

The relevant sections of the Act that Council has lodged its compensation claim are 2.24 (3) (a) (b) (d) and (e) of the Crown Lands Act for compensation relating to any “*Improvements*”, loss of “*Public Benefit*”, “*Acquiring Additional Land*” that has similar environmental benefits that are comparable to the land that has been acquired and loss attributable to “*Disturbance*”.

The NSW Valuer Generals final report and determination on Councils Claim must be provided to both Council and Transport for NSW under (s 41(3), Just Terms Act). There is no set time frame specified for the Valuer General to provide a final determination, but generally this process takes 4-6 weeks from the time that the Claim is lodged.

If Council is not satisfied with amount awarded by the Valuer General, Council may appeal to the Land and Environment Court in Class 3 of the Court’s jurisdiction, within 90 days of receipt of the compensation notice under (s 45). At that point, Council receives 90% of the compensation awarded by the Valuer General.

The Legal Advice that Council has received in relation to its Compensation Claim is from Senior Counsel – Clifford Ireland and is attached to the Confidential Report.

The Confidential report prepared on Councils Compensation Claim and all attachments to the report are confidential in accordance with Section 10A (2) of the Local Government Act and the Local Government (General) Regulation 2005.

The associated Confidential Report to this item addresses information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. If the Council wishes to discuss the report, the meeting should be closed to the public to do so in accordance with s10A(2)(c) of the Local Government Act (LGA).

RECOMMENDATION:

- 1. THAT** the meeting be closed to the public in accordance with Section 10A(2) (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business..
- 2. THAT** Council notes this report
- 3. THAT** Council notes that a further report will be brought back to Council on this matter as soon as any determination is made by the NSW Valuer General on Councils Compensation Claim.
- 4. THAT** the report be treated as confidential and remain confidential until Council determines otherwise.

LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

2. Our Built Infrastructure

2.1 Infrastructure and assets meet community needs

BACKGROUND

Refer to the Confidential Report and accompanying attachments on the North Sydney Council - Compensation Claim submitted to the NSW Valuer General-TfNSW Compulsory Acquisitions - Councils Parks & Reserves- Warringah Freeway Upgrade

CONSULTATION REQUIREMENTS

Community engagement on the Warringah Freeway Upgrade Project will be undertaken by TfNSW.

DETAIL

Refer to the Confidential Report and accompanying attachments on the North Sydney Council - Compensation Claim submitted to the NSW Valuer General-TfNSW Compulsory Acquisitions - Councils Parks & Reserves- Warringah Freeway Upgrade