

ITEM 11 PROPOSED GRANT OF EASEMENT FOR DRAINAGE OVER LOT 4 DP 235364 GEORGE HANLEY DRIVE, NORTH WOLLONGONG

This report is submitted to obtain Council’s authority to the grant of an easement for drainage over part Lot 4 DP 235364 George Hanley Drive, North Wollongong (subject site).

The subject site makes up an extension to the existing road reserve along George Hanley Drive. The proposed easement is to allow adequate drainage to be installed at the proposed development on Lots 13, 14, and 15 in DP 12417 and in accordance with the conditions imposed, and approvals provided, by Council through DA-2023/743.

RECOMMENDATION

- 1 Pursuant to Section 46(1)(a1) of the *Local Government Act 1993*, Council resolves to grant an easement to drain water one and a half (1.5) metres wide over Council land known as Lot 4 DP 235364 George Hanley Drive, North Wollongong in favour of Lot 13 DP 12417, Lot 14 DP 12417, and Lot 15 DP 12417, as shown by the shaded yellow line on the attachment to this report.
- 2 The applicant will be responsible for compensation to Council for the grant of the easement in accordance with the amount assessed by an independent certified valuer.
- 3 The applicant be responsible for all costs relating to the easement including valuation, survey, plan registration and legal costs, and any other costs incurred in this matter.
- 4 Approval be granted to affix the Common Seal of Council and/or delegation pursuant to section 377 of the *Local Government Act 1993* to the survey plan, Section 88B Instrument and any other documentation required to give effect to this resolution.
- 5 The General Manager be authorised to execute any documents to give effect to this resolution

REPORT AUTHORISATIONS

Report of: Roisin OSullivan, Manager Commercial Operations + Property
 Authorised by: Kerry Hunt, Director Community Services - Creative and Innovative City

ATTACHMENTS

- 1 Map of proposed easement on Subject Site

ACRONYMS USED IN REPORT

Abbreviation	Meaning
Act	Local Government Act 1993

BACKGROUND

The subject site is Community Land and categorised as Park pursuant to the *Local Government Act 1993* (NSW). It is zoned RE1 Public Recreation.

The subject site is unused landscaped land that essentially makes up part of the road reserve along George Hanley Drive. As the land itself is not road reserve, but Community Land, Council has limitations on how it can deal with Community land, in particular to the granting of leases, licences and other estates. The granting of easements is deemed an ‘other estate’ for the purposes of the Act.

Section 46(1)(a1) of the Act gives Council the power to grant easements over Community Land for the following purpose: providing pipes, conduits, or other connections under the surface of the ground for the connection of premises adjoining the community land to a facility of the council or other public utility provider.

The proposed drainage infrastructure is existing and connects to Council’s existing stormwater drainage facility located within the road reserve of George Hanley Drive. The use of infrastructure for drainage of private land through Council owned Community Land to connect to Council’s stormwater network is a permissible use described under Council’s Wollongong City Foreshore Plan of Management.

The easement location is shown by the shaded area on Attachment 1. The proposed easement will have no impact upon the public’s current use and amenity of the land.

Council has sought a valuation report from an independent certified valuer to assess the amount of compensation payable by the applicant to Council for the grant of the easement. Details of the compensation payable has been circulated to Council under separate cover.

By granting a drainage easement over the land, Council will receive compensation for the easement and be able to identify the exact location of the underground drainage infrastructure which will be recorded in a registered deposited plan. Council will also formalise maintenance obligations to ensure it is not responsible for future maintenance of the underground drainage infrastructure.

PROPOSAL

It is proposed that Council approve the grant of an easement to drain water one and a half (1.5) metres wide over Lot 4 DP 235364 George Hanley Drive, North Wollongong in favour of Lot 13 DP 12417, Lot 14 DP 12417, and Lot 15 DP 12417, as shown on the attachment to this report.

CONSULTATION AND COMMUNICATION

Council officers have consulted and communicated internally with the below Council teams and divisions to determine the suitability of the proposed easement for drainage:

- Infrastructure Strategy + Planning – Floodplain + Stormwater
- City Strategy – Land Use Planning
- Legal Services

Council officers also considered all commentary and advice provided by Council officers from the Development Assessment and Certification division during the assessment of DA-2023/743.

Council obtained independent valuation advice on the compensation payable for the easement for drainage.

Council also gave Statutory Notice of the proposed granting of an easement over Council’s Community land pursuant to the *Local Government Act 1993*, by way of a letter to adjoining residents and a physical notice placed on the proposed easement site. No submissions were received.

PLANNING AND POLICY IMPACT

This report is in accordance with Council’s Land and Easement Acquisition and Disposal Policy.

This report contributes to the delivery of Our Wollongong Our Future 2035 Goal 2 ‘We have well planned, connected, and liveable places’. It specifically delivers on the following:

Community Strategic Plan 2035	Delivery Program 2025-2029
Strategy	Service
2.3 Deliver high quality, fit for purpose and sustainable infrastructure to support a growing and resilient city	Property Services

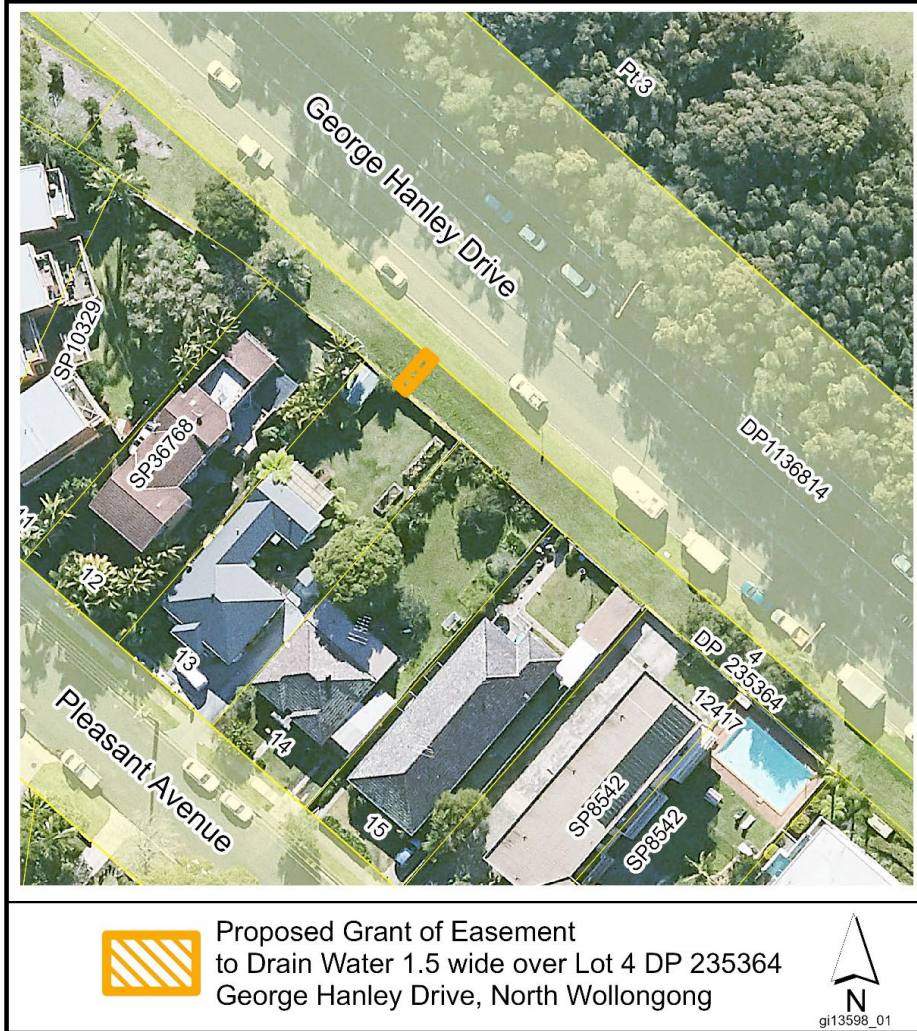
FINANCIAL IMPLICATIONS

The applicant, being the owner and developer of Lots 13, 14, and 15 in DP12417 has paid the application fee for the creation of an easement over Council Owned or Managed Land. Council will receive compensation prior to the grant of the easement in accordance with the information circulated to Council under separate cover.

The applicant will also be responsible for all costs in the creation of the easement including valuation, survey, plan lodgement and legal costs, and any other costs associated with the grant/registration of the easement.

CONCLUSION

By granting a drainage easement over the land, Council will receive compensation for the easement, be able to identify the exact location of the underground drainage infrastructure and will formalise maintenance obligations to ensure Council is not responsible for future maintenance of the underground drainage infrastructure.



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