

ITEM 7

PROPOSED GRANT OF EASEMENT TO DRAIN WATER OVER COUNCIL COMMUNITY LAND, LOT C DP 36592, MOUNTBATTEN PARK, CORRIMAL

As a condition of consent of DA-2021/1325 relating to Lot 152 DP 36592 5 Pamela Street, Corrimal, the applicant requires an easement to drain water through the adjoining Council owned Community Land known as Lot C in DP 36592, Mountbatten Park. This report seeks approval to the grant of the easement.

RECOMMENDATION

- 1 Pursuant to section 46 (1) (a1) of the *Local Government Act 1993*, Council resolves to grant an easement to drain water 1.0m wide over Council Community Land known as Lot C DP 36592, Mountbatten Park, in favour of Lot 152 DP 36592 5 Pamela Street, Corrimal, as shown hatched on the attachment to this report.
- 2 Council accept payment in the amount of \$1,000 from the owner of Lot 152 DP 36592 5 Pamela Street, Corrimal, as compensation for the grant of the easement.
- 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 affect to this resolution.
- 5 The General Manager be authorised to execute any documents to give effect to this resolution.

REPORT AUTHORISATIONS

Report of: Lucielle Power, Manager Property + Recreation

Authorised by: Kerry Hunt, Director Community Services - Creative and Innovative City

ATTACHMENTS

- 1 Map of Proposed Easement to Drain Water over Council Community Land Lot C DP 36592 Mountbatten Park

BACKGROUND

Development consent for DA-2021/1325 (the Consent) for Residential – demolition of carport and shed, construction of new dwelling to create dual occupancy and subdivision; Torrens title – two lots in respect of Lot 152 DP 36592 5 Pamela Street, Corrimal, was granted on 29 March 2022 as a deferred commencement.

Pursuant to condition (i) (b) of the deferred commencement conditions of the Consent, requires an easement to drain water through the adjoining Council owned Community Land known as Mountbatten Park, Lot C DP 36592, Corrimal, (the subject Council Land) to connect to Council's stormwater system.

In addition, to the above requirement, and as part of the deferred commencement conditions, requires the applicant to also seek Council's Development Engineering team's review and approval of the detailed design, that is, condition (i) (a) requires the applicant to submit the detailed design of the proposed drainage works within Council's Land, and any supporting documentation for approval of Council's Development Engineering Manager. Council's Development Engineering Manager has indicated that given the minor nature of the pipe, and the provided supporting information, that the plans are suitable for the construction of the stormwater connection within Council's Land and the proposed width of easement of 1.0 metre wide is satisfactory.

Council Land Lot C DP 36592 is classified as 'Community Land' and categorised as 'Park' pursuant to the *Local Government Act 1993* (the Act). Deposited plan 36592 indicates this Council Land to be a Recreation and Drainage Reserve. The proposed grant of the easement will not adversely impact the

current use of the subject Council Land which is currently used as a passive recreation and drainage reserve.

Council has limitations in how it can deal in Community land, in particular to the granting of leases, licences and other estates. The granting of easements is deemed another 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 use of infrastructure for drainage of private land through Council owned Community Land to connect to Council's stormwater network or natural drainage/watercourses is also a permissible use and development described under Council's 2022 Community Land Plan of Management for Council Owned Land categorised as Park.

The Consent proposes to install a 150mm diameter pipe and two sealed buried junction pits (600 x 600mm and 600 x 900mm in size) to connect to Council's existing stormwater drainage facility located within the Council Land to connect to an existing headwall (Council facility).

Council sought a valuation report from Certified Practising Valuers, Walsh & Monaghan Pty Ltd to assess the amount of compensation that would be payable by the applicant to Council for the grant of the proposed easement. The amount of compensation was assessed at \$1,000 which has been agreed by the applicant.

In addition to the compensation payable, the applicant will 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.

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

It will also satisfy the deferred commencement conditions of the Consent which is to be satisfied by 29 March 2023.

PROPOSAL

It is proposed that Council approve the grant of an easement to drain water 1.0 metre wide over Council land known as Lot C DP 36592 Mountbatten Park, in favour of Lot 152 DP 36592 5 Pamela Street, Corrimal, as shown hatched on the attachment to this report.

CONSULTATION AND COMMUNICATION

- The applicant
- Walsh and Monaghan Pty Ltd
- Council's Finance Division
- Council's Floodplain and Stormwater Team
- Council's Development Engineering Team
- Development Assessment and Certification – City Wide and Development Team

Council also gave Statutory Notice of the proposed granting of easement over Council's Community land pursuant to the *Local Government Act 1993*, with the close of submission period being 11 October 2022. 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 2032 Goal 'We are a connected and engaged community' through managing easement and other encumbrances on Council land.

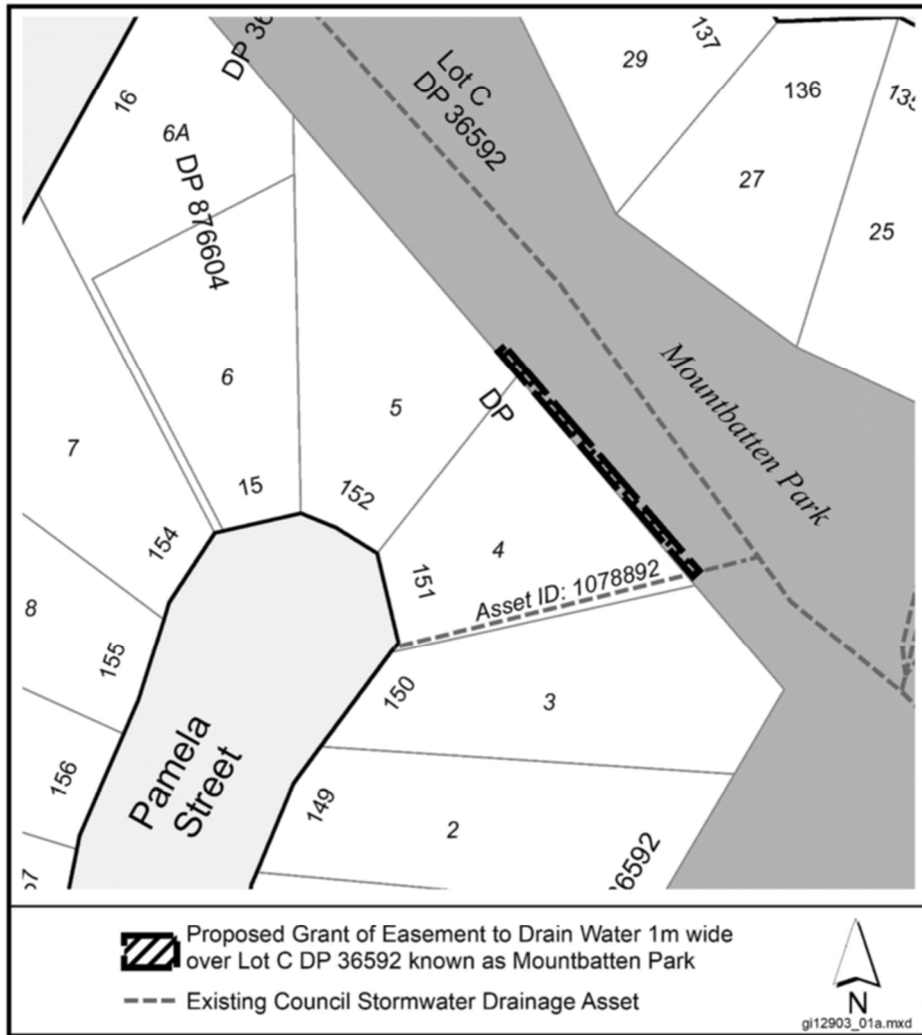
It specifically delivers on core business activities as detailed in the Property Services Service Plan 2022-23.

FINANCIAL IMPLICATIONS

Council will receive \$1,000 as compensation for the grant of the easement which is considered to be fair and reasonable based on the valuation report obtained. The compensation amount is not consideration for a supply therefore the amount received has no GST implications. The applicant is also responsible for all costs in creation of the easement including valuation, survey, plan lodgement and legal costs, and any other costs associated with the grant/registration of the easement. The applicant has also paid the Easement Application fee of \$2,295 (GST Inclusive) as part of Council's Fees and Charges.

CONCLUSION

The granting of the drainage easement will identify the exact location of the underground drainage infrastructure on Council Land, will formalise maintenance obligations and ensure Council is not responsible for any future maintenance obligations of the underground drainage infrastructure. Council will also receive compensation for the easement.



While every effort has been made to ensure the highest possible quality of data, no liability will be accepted for any inaccuracy of the information shown.
Copyright © Wollongong City Council, Mapping Services Section. This map may not be reproduced in any form whatever without the express written permission of Wollongong City Council.