

## ITEM 7

## GRANT OF EASEMENT OVER COUNCIL COMMUNITY LAND AT LOT 187 DP 15363 KNOWN AS HAROLD COX PARK, WOLLONGONG

As a condition of consent of DA-2022/146 relating to Lot 84 in DP 15363, 21 Jutland Avenue, Wollongong, the applicant requires an easement to drain water through the adjoining Council owned land known as Lot 187 in DP 15363, Harold Cox 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 land known as Lot 187 DP 15363, Harold Cox Park, in favour of Lot 84 DP 15363, 21 Jutland Avenue, Wollongong, as shown crosshatched on the attachment to this report.
- 2 Council accept payment in the amount of \$1,000.00 from the owner of Lot 84 DP 15363, 21 Jutland Avenue, Wollongong, 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 effect 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 1.0m wide over Council land known as Lot 187 DP 15363

## BACKGROUND

Deferred development consent for DA-2022/146 at 21 Jutland Avenue, Wollongong, for the demolition of the existing dwelling and the construction of a dual occupancy and subdivision was granted on 9 August 2022. Development consent shall not operate until the applicant has demonstrated that an easement to drain water has been registered over the adjoining Council land known as Lot 187 DP 15363, Harold Cox Park in favour of Lot 84 DP 15363, 21 Jutland Avenue, Wollongong.

Council land at Lot 187 DP 15363, Harold Cox Park, is classified as 'Community Land' and categorised as 'Park' pursuant to the *Local Government Act 1993* (the Act). 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 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 proposed works are to install a 150mm uPVC drainage line to connect to Council's existing stormwater drainage facility located within Council's Land to connect to an existing Council stormwater pit.

The easement location is shown as crosshatched on Attachment 1. The easement will allow the applicant to construct underground drainage infrastructure which will be owned and maintained by the applicant or any subsequent owners of the land. The proposed easement will have minimal impact upon the public's current use and amenity of the land as the pipes are underground and will connect to an existing stormwater pit.

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

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 of the underground drainage infrastructure 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 1.0 metres wide over Lot 187 DP 15363, Harold Cox Park, in favour of Lot 84 DP 15363, 21 Jutland Avenue, Wollongong, as shown crosshatched on the attachment to this report.

## CONSULTATION AND COMMUNICATION

- Applicant
- Walsh and Monaghan Valuers
- Development Assessment and Certification – City Wide and Development team
- Council's Finance Division

Council also gave Statutory Notice of the proposed granting of an easement over Council's Community land pursuant to the *Local Government Act 1993*, with the close of submission period being 26 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 easements and other encumbrances on Council land.

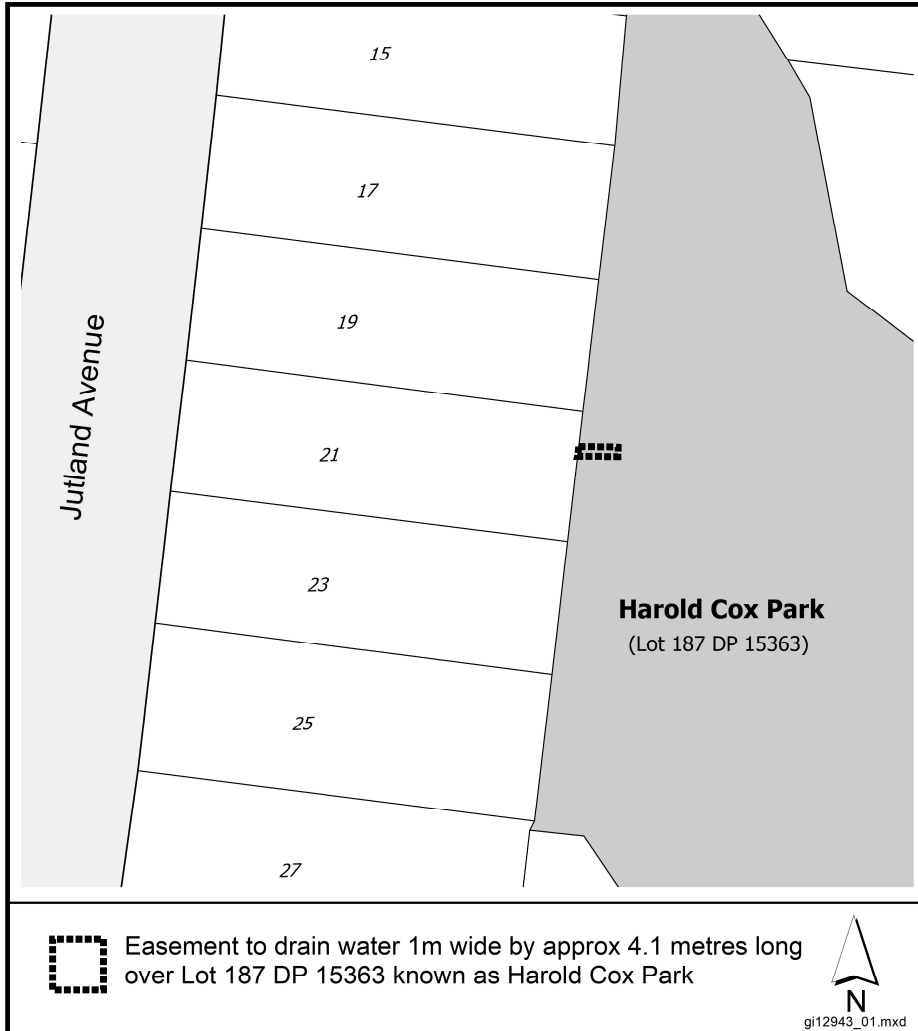
It specifically delivers on core business activities as detailed in the Property Services Service Plan 2022-23.

## FINANCIAL IMPLICATIONS

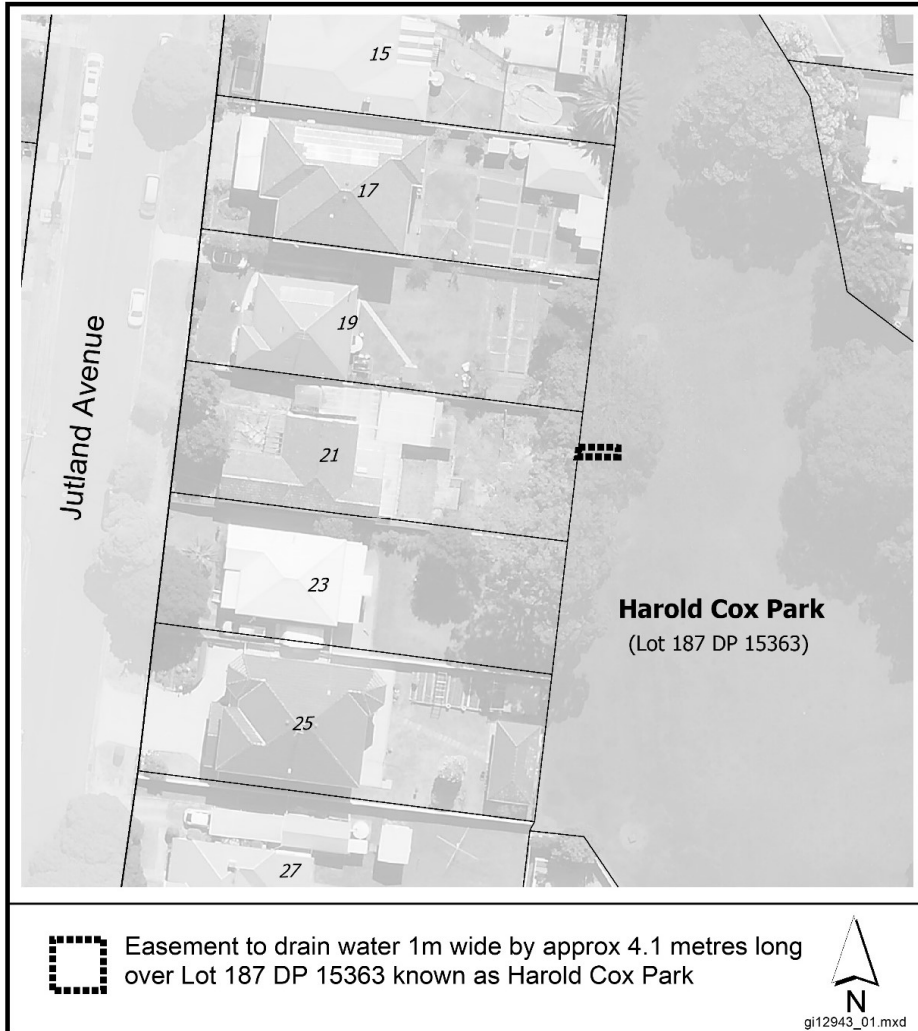
The applicant has paid the application fee of \$2,340 for the creation of an easement over Council Owned or Managed Land. Council will receive \$1,000 as compensation for the grant of the easement which is considered to be fair and reasonable based on the valuation report obtained. The applicant will 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 of the underground drainage infrastructure to ensure Council is not responsible for future maintenance of the underground drainage infrastructure.



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