

ITEM 13

PROPOSED ACQUISITION OF LAND AT SCARBOROUGH OWNED BY AUSTRALIAN SECURITIES AND INVESTMENT COMMISSION

The Scarborough/Wombarra Surf Club is encroaching on privately owned land known as Portion 28 Volume 7524 Folio 80 which was (old system title) originally owned by South Clifton Colliery Pty Limited. The company was taken over by BP Minerals (Roxby Downs) Pty Ltd in 1987 and this company was de-registered in 2005. The land is now owned by the Australian Securities and Investment Commission (ASIC). To legalise the encroachment Council is required to acquire the land. This report is submitted for Council's consideration.

RECOMMENDATION

- 1 Council authorise the acquisition of Portion 28 Volume 7524 Folio 80 from the Australian Securities and Investment Commission (ASIC) for \$1 (GST free) as shown on the attached plan.
- 2 The General Manager and Lord Mayor be authorised to sign any legal documentation necessary to complete the acquisition.
- 3 Each party be responsible for their own costs in association with the matter.
- 4 Upon the acquisition being finalised, the land be classified as Community Land under the Local Government Act 1993.

REPORT AUTHORISATIONS

Report of: Peter Coyte, Manager Property and Recreation
Authorised by: Renae Elrington, Director Community Services - Creative and Innovative City

ATTACHMENTS

- 1 Map

BACKGROUND

In 2017 the Project Delivery Division advised the Property and Recreation Services Division that it wished to undertake extensive design and refurbishment works on the Scarborough/Wombarra Surf Club. Whilst confirming the ownership of the land on which the club sits, it was discovered that the majority of the club was located on what was originally thought to be Crown Land for which Council was not the Trust Manager and therefore the club house was encroaching. A small part of the club house is located on Jim Allen Oval which is Crown Land that is Trust Managed by Council.

Council contacted Crown Lands and enquired about the ownership of the encroached land. Originally Crown Lands advised that the land was in its ownership under the identifier Lot 7317 DP1165768. It then advised that the land was in the ownership of South Clifton Colliery Pty Ltd contained within the old system title Volume 7524 Folio 80 and that the creation of the Certificate of Title being Lot 7317 DP1165768 over the land had occurred in error. It further advised that it would contact the Land Registry Services to have the title (Lot 7317 DP1165768) cancelled. Finally it advised that it believed the subject land to be a Reserve in the ownership of Council as per the Southend parish map.

In order to definitively confirm the ownership of the land Council obtained a manual search of the ownership through SAI GLOBAL. The search report received confirms that the land is in the ownership of South Clifton Colliery Pty Ltd.

A company search undertaken through SAI GLOBAL confirms that South Clifton Pty Ltd was taken over by BP Minerals (Roxby Downs) Pty Ltd in 1987 and BP Minerals (Roxby Downs) Pty Ltd was de-registered in December 2005.

When a company is de-registered the property of the company normally vests in ASIC due to the transitional provisions between the Act under which the company was de-registered and the Corporations Act 2001. The Corporations Act 2001 provides:

- All property the company held on trust vests in the Commonwealth.
- All of the company's non-trust property belongs to ASIC.
- ASIC is generally the only party legally able to deal with the property of the company.

Therefore to acquire the land Council must apply to ASIC. As the land is being used for an existing public purpose ie the Scarborough/Wombarra Surf Club, it is proposed to seek to acquire the land for \$1 (GST free). In 2014 Council acquired a drainage reserve in Coledale from ASIC for \$1 (GST free) due to it being required for an existing public purpose.

Council has advised Crown Lands of the confirmed ownership of the land and enquired whether it was interested in acquiring it. Crown Lands have advised Council that it has no interest in acquiring the land.

PROPOSAL

As Council wishes to undertake extensive refurbishment and design works on the Surf Club and the Surf Club encroaches onto privately owned land, Council must firstly acquire the land before the works can be begin.

CONSULTATION AND COMMUNICATION

Crown Lands

SAI GLOBAL

Project Delivery Division

Finance Division

ASIC

PLANNING AND POLICY IMPACT

This acquisition is in accordance with Council's policy "Land and Easement Acquisition and Disposal".

Wollongong 2022 Community Goal – This report contributes to the Wollongong 2022 Community Goal "*We are a healthy community in a liveable city*".

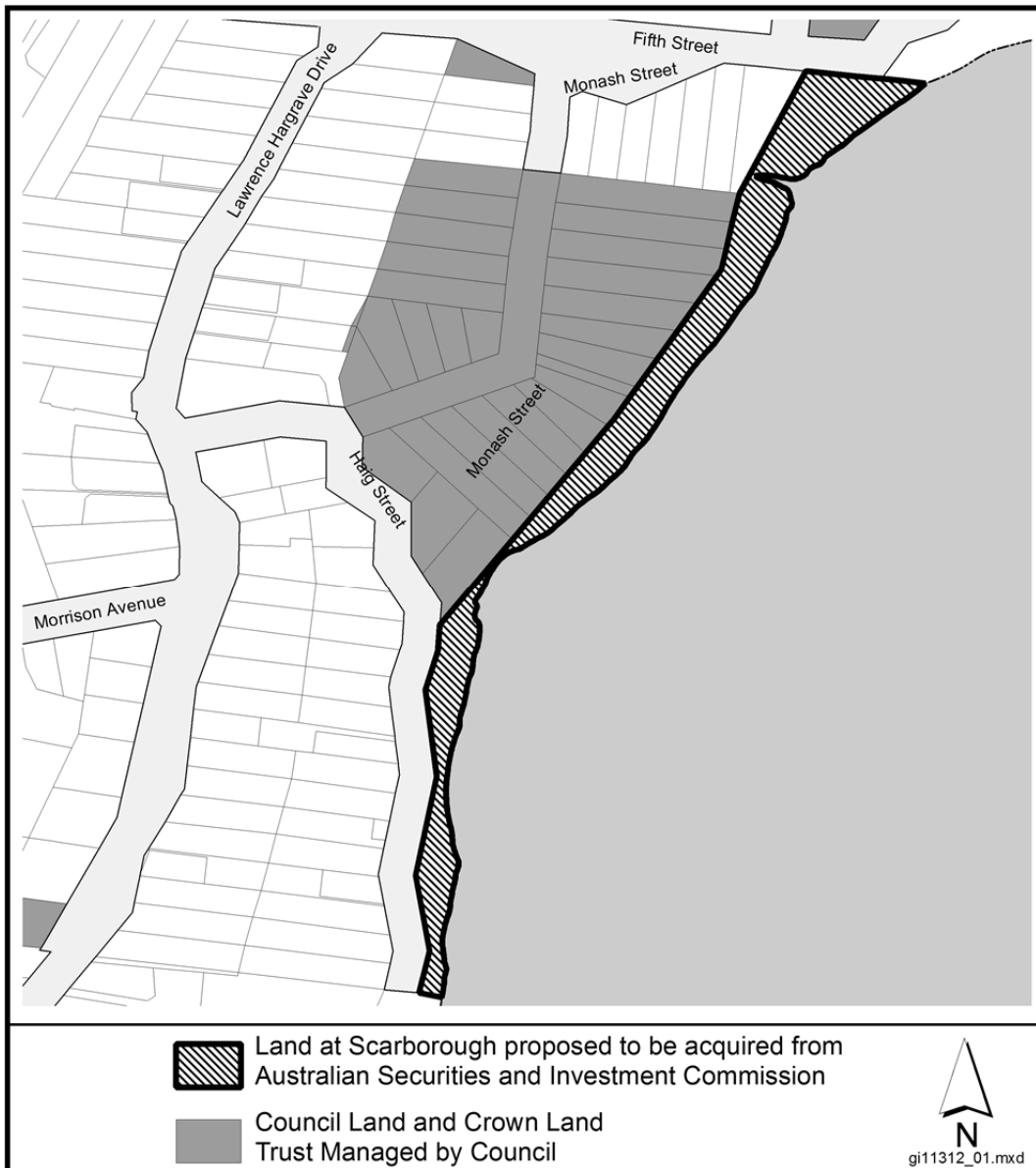
It specifically delivers on core business activities as detailed in the Property Services Service Plan 2017-18 "sale and purchase of land on behalf of Council".



FINANCIAL IMPLICATIONS

Each party will be responsible for its own costs in the matter. Council will apply to ASIC to purchase the land for \$1 (GST free). If this is not possible Council has obtained a market valuation report from the registered valuer, Walsh and Monaghan, which has valued the subject land at \$185,000 (exc GST) and Council will negotiate with ASIC based on this.

CONCLUSION

To legalise the encroachment and undertake extensive refurbishment and design works on the Scarborough/Wombarra Surf Club, it is necessary to acquire the land.



-  Land at Scarborough proposed to be acquired from Australian Securities and Investment Commission
-  Council Land and Crown Land Trust Managed by Council



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