

ITEM 9

GRANT OF EASEMENT OVER COUNCIL COMMUNITY LAND AT OSBORNE PARK, WOLLONGONG

The owner of 3-9 Wilson Street, Wollongong seeks to formalise arrangements for the drainage infrastructure located in the adjoining Council land known as Lot 1 in DP 62257, Osborne Park through the grant of an easement to drain water. 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 one (1) metre wide over Council land known as Lot 1 DP 62257, Osborne Park, Wollongong in favour of Lot 4 DP 17709, Lot 5 DP 17709 and Lot 1 DP 223450, 3-9 Wilson Street, Wollongong, 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: Lani Richardson, Manager Commercial Operations + Property
Authorised by: Kerry Hunt, Director Community Services - Creative and Innovative City

ATTACHMENTS

- 1 Map of proposed easement to drain water 1.0 metre wide over Council land at Lot 1 DP 62257 known as Osborne Park, Wollongong

BACKGROUND

A licence has been ongoing since 1976 between Council and the owners of 3-9 Wilson Street, Wollongong for the drainage of stormwater under Osborne Park. In lieu of continuing with a licence arrangement, the applicant has requested that an easement be granted.

Council's land at Lot 1 DP 62257, Osborne 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 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 drainage infrastructure is existing, and the location of the pipes was confirmed by a certified locator using a combination of instruments including the placement of a tracing wire through the stormwater pipe until it met the larger discharge system. As such, the drainage line connects to Council's existing stormwater drainage facility located within Council's Land.

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 as the pipes are existing.

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 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 one (1) metre wide over Lot 1 DP 62257, Osborne Park, Wollongong in favour of Lot 4 DP 17709, Lot 5 DP 17709 and Lot 1 DP 223450, 3-9 Wilson Street, Wollongong, as shown on the attachment to this report.

CONSULTATION AND COMMUNICATION

- Applicant
- Council's Floodplain and Stormwater Division
- Council's Open Space Division
- Council's Legal Division
- Council's Land Use Planning 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 10 April 2024. 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 2024-25.

FINANCIAL IMPLICATIONS

The applicant 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 amount determined by an independent certified valuer.

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.



