



Business Paper

Shire Services Committee

Monday, 6 May 2019

6:30pm

**Committee Rooms 203 and 204,
Level 2, Administration Building,
4-20 Eton Street, Sutherland**

SUTHERLANDSHIRE

ORDER OF BUSINESS

- 1. ACKNOWLEDGEMENT OF COUNTRY**
- 2. APOLOGIES**
- 3. DISCLOSURES OF INTEREST**
- 4. CONFIRMATION OF MINUTES OF THE PREVIOUS MEETINGS**
- 5. PRESENTATIONS**
- 6. REPORTS FROM OFFICERS**
 - SER005-19 Proposed Drainage Easement - 30-32 Premier St, Gymea
 - SER006-19 Proposed Drainage Easement - 12 Sunnyside Ave, Caringbah
- 7. QUESTIONS**
- 8. CONSIDERATION OF BUSINESS IN CLOSED SESSION**
- 9. CONFIDENTIAL REPORTS FROM OFFICERS**
 - SER003A-19 Proposed changes to terms and conditions for sale of Council Land at 45
- 49 Croydon Street, Cronulla

SER005-19 PROPOSED DRAINAGE EASEMENT - 30-32 PREMIER ST, GYMEA

SER005-19

Attachments: Appendix A [↓](#)**EXECUTIVE SUMMARY**

- The owner of 34 Premier Street, Gymea (Lot 173 DP 9461) will be constructing 3 townhouses on the site.
- In accordance with development consent DA18/0084 the owner is required to obtain a drainage easement for the discharge of stormwater from the property into the nearest Council drainage system located downhill from the development.
- The easement is to be located on Council owned land at 30-32 Premier Street, Gymea (Lots 171 & 172 DP 9461). The land is classified as Community Land under the Local Government Act.
- The compensation payable to Council for encumbering its land with a drainage easement has been calculated as per Council's adopted Fees and Charges rate. The property owner will be responsible for all costs associated with the granting of the easement.

REPORT RECOMMENDATION

THAT:

1. An Easement for Services (Drainage) be granted over Council land described as 30-32 Premier Street, Gymea (Lots 171 & 172 DP 9461) in favour of 34 Premier Street, Gymea (Lot 173 DP 9461).
2. In accordance with the Power of Attorney dated 24 October 2018 (Registered 29 October 2018, Book 4751 No. 700) Manjeet Grewal, Council's Chief Executive Officer, execute any necessary documentation to give effect to this resolution.

PURPOSE

To inform Council as to the reasons for the request to seek an easement for services (drainage) over 30-32 Premier Street, Gymea (Lots 171 & 172 DP 9461) in favour of 34 Premier Street, Gymea (Lot 173 DP 9461) (see Appendix A) and to recommend granting the request.

BACKGROUND

Council's Development Control Plan (DCP) requires new development applications to drain stormwater downhill into Council stormwater infrastructure. This may mean supplying and installing infrastructure across adjoining properties to connect to Council infrastructure located in the street or within Council owned drainage reserves. Where the land has a Lot and DP the development consent requires the registered owner to secure a drainage easement over the land prior to the issuing of a construction certificate.

The owner of 34 Premier Street, Gymea has applied to Council for consent under DA18/0084 to construct 3 townhouses and has been given Deferred Commencement condition, subject to the owner obtaining all necessary easements for drainage to enable connection into Council's existing drainage system located within 30-32 Premier Street, Gymea.

Deferred Commencement consent 1 states:

i) Easement to drain water

Evidence of the creation of an easement to drain water over 30-32 Premier Street GYMEA (Lots 171 & 172, DP 9461) to facilitate stormwater drainage of the development.

DISCUSSION

The easement can only be granted with the express resolution of Council. The registered owner of the benefited property will undertake construction of the stormwater infrastructure and any necessary upgrade of existing infrastructure at their cost. The location of the infrastructure and easement has been positioned to avoid tree roots and retain trees located with the Gymea Pedestrian Link parkland. It is proposed Council enter into Transfer Granting Easement to allow the easement matter to be finalised and allow the Construction Certificate to be issued.

The issuing of development consent with a condition requiring a drainage easement to be obtained does not bind Council or any other adjoining property owner to grant an easement. If the property owner seeking the easement is not able to negotiate an easement or have one granted by the court, another solution would need to be found (where possible) or the approved development would not be able to proceed.

RESOURCING STRATEGY IMPLICATIONS

The consideration paid to Council will go into the Property Fund to be allocated to future investment options to be considered by Council and will assist in meeting Council's Delivery Program and Long Term Financial Plan.

The financial consideration for the granting of this easement, as per Council's adopted Fees and Charges, is \$17,473.37 based on 1.5% of the cost of constructed works plus \$100 per lineal meter of easement being granted (1.5% x \$1,031,558 plus \$100 x 20m).

STRATEGIC ALIGNMENT

The granting of the easement meets the strategies in our adopted Delivery Program of:

Community Strategic Plan Strategy	Delivery Program (2017-2021) Deliverables
2.3 Protect our beaches, rivers and oceans 2.3.1 Manage catchments effectively to improve the cleanliness, health and biodiversity of our waterways	2G Develop and implement a Catchment and Waterway Management Strategy.
6.2 Facilitate a diverse housing mix that provides choice and meets the needs of all community members	6B Manage new and existing development within a robust and effective framework

POLICY AND LEGISLATIVE REQUIREMENTS

The granting of the easement to benefit the subject property will ensure that stormwater runoff will be contained within the existing Council drainage system which is consistent with the objectives of Council's DCP. Connection of a private easement into existing Council facilities is permitted under Section 46 of the Local Government Act 1993.

CONCLUSION

The proposed easement will have negligible effect on the use of the Council land and minimal impact on any future proposed development of the sites. Granting of the appropriate easement rights to the owner of the benefited property will enable them to comply with Council's development consent as well as containing potential nuisance rainwater runoff by piping the properties to existing Council drainage infrastructure.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is Manager Property Services, Lani Richardson, who can be contacted on 9710 0614.

File Number: 2018/301590



**SER006-19 PROPOSED DRAINAGE EASEMENT - 12 SUNNYSIDE AVE,
CARINGBAH**

SER006-19**Attachments:** Appendix A [↓](#)**EXECUTIVE SUMMARY**

- The owners of 16 Gordon Street, Caringbah (Lot 64 DP 8599) will be constructing a dual occupancy dwelling on the site.
- In accordance with development consent DA18/1150 the owners will be required to obtain a drainage easement for the discharge of stormwater from the property into the nearest Council drainage system located downhill from the development.
- The easement is to be located on Council owned land at 12 Sunnyside Avenue, Caringbah (Lot C DP380862). The land is classified as Community land under the Local Government Act.
- The compensation payable to Council for encumbering its land with a drainage easement has been calculated as per Council's adopted Fees and Charges rate. The property owner will be responsible for all costs associated with granting the easement.

REPORT RECOMMENDATION

THAT:

1. An Easement for Services (Drainage) be granted over Council land described as 12 Sunnyside Avenue, Caringbah (Lot C DP 380862) in favour of 16 Gordon Street, Caringbah (Lot 64 DP 8599).
2. In accordance with the Power of Attorney dated 24 October 2018 (Registered 29 October 2018, Book 4751 No. 700) Manjeet Grewal, Council's Chief Executive Officer, execute any necessary documentation to give effect to this resolution.

PURPOSE

To inform Council as to the reasons for the request to seek an easement for services (drainage) over 12 Sunnyside Avenue, Caringbah (Lot C DP 380862) in favour of 16 Gordon Street, Caringbah (Lot 64 DP 8599) (see Appendix A) and to recommend granting the request.

BACKGROUND

Council's Development Control Plan (DCP) requires new development applications to drain stormwater downhill into Council stormwater infrastructure. This may mean supplying and installing infrastructure across adjoining properties to connect to Council infrastructure located in the street or within Council owned drainage reserves. Where the land has a Lot and DP the development consent requires the registered owner to secure a drainage easement over the land prior to the issuing of a construction certificate.

The owner of 16 Gordon Street, Caringbah has applied to Council for consent under DA18/1150 to construct a dual occupancy dwelling. This consent will be subject to the owner obtaining all necessary easements for drainage to enable connection into Council's existing drainage system located within 12 Sunnyside Avenue, Caringbah.

The draft consent condition states:

Before Construction

- i) *Prior to the release of any Construction Certificate, evidence that the registration of the required drainage easement burdening No. 12 Sunnyside Avenue, Caringbah has been lodged with NSW Land Property and Information must be provided to the Principal Certifier and to Sutherland Shire Council (SSC).*

Consent is expected, in the coming month, with an easement being necessary as part of the development proposed. This report has been progressed to enable both the development consent and granting of easement to coincide.

DISCUSSION

The easement can only be granted with the express resolution of Council. The registered owner of the benefited property will undertake construction of the stormwater infrastructure and any necessary upgrade of existing infrastructure at their cost. It is proposed Council enter into Transfer Granting Easement to allow the easement matter to be finalised and allow the Construction Certificate to be issued.

The issuing of development consent with a condition requiring a drainage easement to be obtained does not bind Council or any other adjoining property owner to grant an easement. If the property owner seeking the easement is not able to negotiate an easement or have one granted by the court, another solution would need to be found (where possible) or the approved development would not be able to proceed.

RESOURCING STRATEGY IMPLICATIONS

The consideration paid to Council will go into the Property Fund to be allocated to future investment options to be considered by Council and will assist in meeting Council's Delivery Program and Long Term Financial Plan.

The financial consideration for the granting of this easement, as per Council's adopted Fees and Charges, is \$10,110 based on 1.5% of the cost of constructed works plus \$100 per lineal meter of easement being granted (1.5% x \$670,000 plus \$100 x 0.6m).

STRATEGIC ALIGNMENT

The granting of the easement meets the strategies in our adopted Delivery Program of:

Community Strategic Plan Strategy	Delivery Program (2017-2021) Deliverables
2.3 Protect our beaches, rivers and oceans 2.3.1 Manage catchments effectively to improve the cleanliness, health and biodiversity of our waterways	2G Develop and implement a Catchment and Waterway Management Strategy.
6.2 Facilitate a diverse housing mix that provides choice and meets the needs of all community members	6B Manage new and existing development within a robust and effective framework

POLICY AND LEGISLATIVE REQUIREMENTS

The granting of the easement to benefit the subject property will ensure that stormwater runoff will be contained within the existing Council drainage system which is consistent with the objectives of Council's DCP. Connection of a private easement into existing Council facilities is permitted under Section 46 of the Local Government Act 1993.

CONCLUSION

The proposed easement will have negligible effect on the use of the Council land and minimal impact on any future proposed development of the sites. Granting of the appropriate easement rights to the owner of the benefited property will enable them to comply with Council's development consent as well as containing potential nuisance rainwater runoff by piping the properties to existing Council drainage infrastructure.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is Manager Property Services, Lani Richardson, who can be contacted on 9710 0614.

File Number: 2018/320104



CONFIDENTIAL REPORTS FROM OFFICERS

In accordance with Section 10A(1) of Local Government Act 1993, the following matters will be considered in the Closed Session:

**SER003A-19 PROPOSED CHANGES TO TERMS AND CONDITIONS FOR SALE OF
COUNCIL LAND AT 45 - 49 CROYDON STREET, CRONULLA**

Section 10A(2)(c)(pur) Information that would, if Disclosed, Confer a Commercial Advantage on a Person with Whom the Council is Conducting (or Proposes to Conduct) Business:

This matter is being considered in Closed session as it relates to a proposal for the sale or purchase of land where prior knowledge of this proposal could confer an unfair financial advantage on any person. On balance, the public interest in preserving the confidentiality of information about the reserve price outweighs the public interest in maintaining openness and transparency in council decision-making because the disclosure of this information would put the Council at a competitive disadvantage in its negotiations with a prospective purchaser, preventing it from achieving a 'best value for money' outcome for the community.