

**ITEM 8. PROPOSED LEASE OF SUB STRATUM MACQUARIE STREET
SYDNEY TO MACROLINK & LANDREAM AUSTRALIA LAND PTY
LTD**

FILE NO: S094584.055

SUMMARY

By Resolution of Council dated 18 May 2015, approval was granted for a lease of a sub stratum of approximately 490 square metres adjacent to 71 -79 Macquarie Street for a lease term of approximately 80 years to AMP Life Limited, as shown at Attachment A. The sub stratum space of 490 square metres incorporates an existing sub stratum lease of approximately 251 square metres. AMP Life Limited has subsequently sold the 71-79 Macquarie Street development to Macrolink & Landream Australia Land Pty Ltd.

Macrolink & Landream Australia Land Pty Ltd propose to redevelop the adjoining site at 71-79 Macquarie Street. The proposed development will comprise: 109 residential/serviced apartments; associated communal areas and facilities; retail tenancies; 6 basement levels accommodating 103 basement car spaces; and public domain improvement works.

The stratum adjacent to 71-79 Macquarie Street is proposed to be utilised initially for construction purposes and on completion for circulation space, commercial and residential garbage rooms and car parking for the benefit of the proposed adjoining mixed use development.

A further Council approval is now required for this stratum lease as there is a new lessee and the lease payment structure has changed from an annual rent for the term of the lease to a single lump sum payment at completion of building construction. This is required to ensure a future owners' corporation is not burdened with an annual rental.

The City has now agreed lease terms with Macrolink & Landream Australia Land Pty Ltd. The summary of essential lease terms is detailed at confidential Attachment D.

The previously approved lease term of approximately 80 years will remain unchanged, ensuring the lease expiry date is the same as that for the stratum adjoining the neighbouring property at 61 Macquarie Street (Quay Grand), as the basement parking for both buildings will be connected following completion of the development at 71-79 Macquarie Street.

The Director of the NSW Department of Planning has delegated consent for leases over land above or below a public road to Council.

This report recommends Council's approval to issue a stratum lease to Macrolink & Landream Australia Land Pty Ltd for stratum premises situated below Macquarie Street, Sydney. The stratum lease will comprise an area of approximately 490 square metres and be located adjoining the ground floor and basement levels of Macrolink & Landream Australia Land Pty Ltd development at 71-79 Macquarie Street, Sydney, as shown at Attachment B.

RECOMMENDATION

It is resolved that:

- (A) pursuant to section 149 of the Roads Act 1993, Council approve the grant of a stratum lease to Macrolink & Landream Australia Land Pty Ltd for the proposed stratum under Macquarie Street adjacent the proposed mixed use development at 71-79 Macquarie Street, Sydney;
- (B) authority be delegated to the Chief Executive Officer to finalise the terms of the stratum lease and authorise its execution on behalf of Council; and
- (C) authority be delegated to the Chief Executive Officer to finalise terms of the stratum lease assignment from Macrolink & Landream Australia Land Pty Ltd to the Owners' Corporation of 71-79 Macquarie Street, Sydney, and authorise its execution on behalf of Council.

ATTACHMENTS

Attachment A: Resolution of Council dated 18 May 2015.

Attachment B: Proposed leasehold diagram 71-79 Macquarie Street sub stratum.

Attachment C: Council stratum leases - revised policy and rent determination 28 March 1994.

Attachment D: Essential lease terms and conditions (Confidential).

Attachment E: Supplementary valuation letter dated 22 December 2016 - BEM Property Consultants and Valuers (Confidential).

Attachment F: Supplementary valuation letter dated 20 January 2015 - BEM Property Consultants and Valuers (Confidential).

Attachment G: Valuation report dated 28 November 2014 - BEM Property Consultants and Valuers (Confidential).

(As Attachments D, E, F and G are confidential, they will be circulated separately from the agenda paper and to Councillors and relevant senior staff only.)

BACKGROUND

1. By Resolution of Council dated 18 May 2015, approval was granted for a lease of the subject sub stratum adjacent to 71-79 Macquarie Street, Sydney for a lease term of approximately 80 years to AMP Life Limited, as shown at Attachment A. AMP Life Limited has subsequently sold the development site to Macrolink & Landream Australia Land Pty Ltd.
2. A further Council approval is now required for this stratum lease as there is a new lessee and the lease payment structure has changed from an annual rent for the term of the lease to a single lump sum payment at completion of building construction. This is required to ensure a future owners' corporation is not burdened with an annual rental. The lease term of approximately 80 years is unchanged.
3. Macrolink & Landream Australia Land Pty Ltd propose to redevelop the adjoining site at 71-79 Macquarie Street. The proposed development will comprise: 109 residential/serviced apartments; associated communal areas and facilities; retail tenancies; 6 basement levels accommodating 103 basement car spaces; and public domain improvement works.
4. These works have been approved under three separate Development Applications: DA 1 demolition and early works; DA 2 construction of a 19 storey mixed use development; and DA 3 public domain works.
5. Under DA 2, a condition of consent at clause 132 requires the developer to enter into a formal lease for the proposed stratum under Macquarie Street adjacent to 71-79 Macquarie Street prior to the commencement of any work associated with development within the public way. The payment of rent and the lease term are to be to the satisfaction of Council.
6. The proposed stratum will adjoin the ground floor and six basement levels of the proposed development, comprising approximately 70 square metres per floor. The total area of the proposed stratum is 490 square metres. The plan is shown at Attachment B.
7. The stratum is to be utilised by Macrolink & Landream Australia Land Pty Ltd initially for construction purposes and following completion of the development for circulation space, commercial and residential garbage rooms and car parking for the benefit of the proposed adjoining mixed use development.
8. Macrolink & Landream Australia Land Pty Ltd also has the benefit of an expired stratum lease at 71-79 Macquarie Street. This stratum contains male and female amenities, workshop and storage below Macquarie Street, Sydney. It comprises an area of 251 square metres at an annual rental of \$36,280 plus GST. This rent aligns with the rent for the construction term. The total area of 490 square metres incorporates this existing stratum area.
9. A stratum lease term of approximately 80 years to expire on 10 January 2098 is proposed. This expiry date is the same as that for the stratum adjoining the neighbouring property at 61 Macquarie Street (Quay Grand). A co terminus lease term is recommended as the basement parking for both of these buildings will be connected following completion of the development at 71-79 Macquarie Street.

RENTAL DETERMINATION

10. The City has a policy, adopted by Council on 28 March 1994, for the assessment of the initial rental and reassessment of rentals for stratum leases (the Policy). The Policy is shown at Attachment C.
11. In accordance with the above Policy, the City's appointed Valuer, BEM Property Consultants and Valuers, has assessed the rental for the term of 80 years to provide the lump sum instalment as detailed in the supplementary valuation letter dated 22 December 2016 shown at confidential Attachment E.
12. BEM Property Consultants and Valuers has also undertaken an assessment of the commencing annual rental for the proposed stratum lease (which is shown at confidential Attachments F and G)
13. Macrolink & Landream Australia Land Pty Ltd propose to assign the stratum lease to the building owners' corporation following completion of the development and strata subdivision.

KEY IMPLICATIONS

Strategic Alignment - Sustainable Sydney 2030

14. *Sustainable Sydney 2030* is a vision for the sustainable development of the city to 2030 and beyond. It includes 10 strategic directions to guide the future of the city, as well as 10 targets against which to measure progress. This report is aligned with the following strategic directions and objectives:
 - (a) Direction 10 - Implementation through Effective Governance and Partnerships – specifically, Action 10.5.1 Expand revenues from commercial operations, property portfolio and other income generating assets.
15. The outcome of the high level lease terms negotiated with Macrolink & Landream Australia Land Pty Ltd is consistent with what City Property needs to achieve to meet Action 10.5.1.

BUDGET IMPLICATIONS

16. There will be no ongoing operational costs to Council arising from it granting the proposed stratum lease.
17. The annual rental in the construction term and lump sum payment for the operation term will be included in the City's long term financial forecasts. The annual rental will commence upon the date the lease is signed.
18. Macrolink & Landream Australia Land Pty Ltd will be responsible for the cost of establishing the structure and maintaining the stratum.

RELEVANT LEGISLATION

19. The Local Government Act 1993.

20. The Roads Act 1993. Section 149 of the Roads Act 1993 titled 'Leasing of land above or below public road' permits the roads authority (Council), with the consent of the Director of Planning, to lease the air space above, or land below the surface of, any public road (other than a Crown road) that is owned by the authority for a term, together with any option to renew, not exceeding 99 years. This proposal is in accordance with this section of the Act. The Director of the Department of Planning has delegated its consent right under this section of the Roads Act to Council.
21. Attachments D, E, F and G contain confidential commercial information and details which, if disclosed, would confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business
22. Discussion of the matter in an open meeting would, on balance, be contrary to the public interest because it would compromise Council's ability to negotiate fairly and commercially to achieve the best outcome for its ratepayers.

PUBLIC CONSULTATION

23. There is no requirement for public consultation or public notification prior to granting a lease or executing a lease above or below a road.
24. A survey plan, defining the leased area, will be created following construction. The plan of subdivision for lease purposes will require notification and development consent under clause 2.6 of the Sydney Local Environmental Plan 2012.

AMIT CHANAN

Director City Projects and Property

Ruth Jeffries, Acting Commercial Manager Public Domain