

**ITEM 6. LONG TERM LEASE TO AMP: STRATUM BELOW LOFTUS LANE,
QUAY QUARTER SYDNEY PRECINCT**

FILE NO: S094584.042

SUMMARY

In December 2012, AMP Capital Office & Industrial Pty Limited (AMP) submitted a planning proposal request to the City of Sydney detailing its master plan concept for the AMP Circular Quay Precinct (Precinct).

The master plan concept vision sets out to create a new and revitalised destination for Sydney within an historic location, and presents a unique opportunity for a major city-making and regeneration project which will: act as a catalyst for the renewal of Circular Quay; reinforce the City of Sydney's global status through the 'recycling' of a commercial tower; release 'latent' commercial floor space, provide for improved sunlight access to Macquarie Place, and create a vibrant fine grain and mixed use '24/7' precinct focussed on Loftus Lane.

This Precinct is a strategically important location and comprises two distinct blocks, being Young and Loftus Street which contains significant heritage items and Loftus Lane, and Bridge and Alfred Street containing the 1962 heritage listed 33 Alfred Street and the 1976 AMP Tower building. The Precinct is also in close proximity to entertainment and tourist sites, public transport and key public spaces including Customs House and forecourt.

The Loftus Lane Precinct is characterised by buildings of significant heritage including the Gallipoli Memorial Club, located in the former FL Barkers Wool Store at 12-14 Loftus Street. It was first associated with noted wool merchants and brokers F.L. Barker's and more recently with the Gallipoli Legion Club.

An important design objective of AMP's concept is to provide for an efficient basement design and to limit vehicle entry and exit points. In order to achieve this, AMP needs to lease a stratum below Loftus Lane to enable the construction of a car park, linking the existing parking areas below buildings fronting Loftus and Young Streets.

This report seeks Council endorsement of AMP's request to a 99 year lease for a proposed sub stratum of 108m² below Loftus Lane, and to request the CEO to finalise the negotiations of the terms and conditions.

RECOMMENDATION

It is resolved that:

- (A) Council endorse granting a 99 year lease for a sub stratum below Loftus Lane, Sydney for the purposes of fulfilling, in part, the property needs detailed in the AMP Circular Quay Precinct Planning Justification Report to support a request for amendments to the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012; and
- (B) authority be delegated to the Chief Executive Officer to finalise negotiations, execute and administer the draft commercial terms as detailed in the subject report.

ATTACHMENTS

Attachment A: Identification Plan – AMP Circular Quay Precinct

Attachment B: Identification Plan – Stratum Loftus Lane Sub Stratum

Attachment C: Essential lease terms and conditions (Confidential)

(As Attachment C is confidential, it will be circulated separately from the agenda paper and to Councillors and relevant senior staff only.)

BACKGROUND

1. The AMP Circular Quay Precinct (Precinct) is located in Central Sydney adjacent to Circular Quay and consists of the area bounded by Loftus, Bridge, Phillip and Alfred Streets, but excludes land to the north of Customs House Lane and south of the east-west leg of Loftus Lane. The Precinct comprises two street blocks - being the 'Bridge and Alfred Street' block and the 'Young and Loftus Street' block.
2. AMP owns all properties within the two blocks except for the Gallipoli Club located at 12 Loftus Street, which is owned by the Gallipoli Club Ltd. These properties are shown in Attachment A.
3. AMP's Master Plan Concept detailed in their planning proposal provides a significant opportunity to 'recycle' an existing office tower to contemporary commercial and environmental standards, activate the Precinct and add vibrancy including late night and weekend activity. The Precinct is currently characterised by poor amenity and out-dated commercial buildings of secondary quality. The Precinct needs intervention to improve street activation, increase use of public spaces, activate laneways, improve engagement with heritage buildings, and improve the quality of streetscapes.
4. The Master Plan Concept transfers the available density in the 'Young and Loftus Street' block. The AMP Planning Proposal requires site-specific amendments to Sydney Local Environmental Plan 2012 (SLEP2012) and Sydney Development Control Plan 2012 (SDCP2012) to enable this significant redevelopment and a revitalisation of the AMP Circular Quay Precinct. These matters, including the proposed planning offer made by AMP, public exhibition and timing are the subject of a concurrent report to the Planning and Development Committee.
5. The Street block to the adjoining block enables unique development opportunities including residential, retail, commercial, hotel, serviced apartments, bars and restaurants with active frontages to Loftus Lane, Young and Loftus Streets.
6. An important design objective of AMP's concept is to provide for an efficient basement design and to limit vehicle entry and exit points. In order to achieve this, AMP would need to lease a stratum below Loftus Lane to enable the construction of a car park, linking the existing parking areas below buildings fronting Loftus and Young Streets.
7. The ability to use the sub-terrain of Loftus Lane forms an important element in the Master Plan vision for the site that will enable:
 - (a) an underground connection between the various properties within the Young and Loftus Block, allowing for a shared basement car parking arrangement, maximising efficiency of design in what is a very constrained environment;
 - (b) the constraints created by two existing heritage buildings and the Bennelong sewer which bisects the site, to be dealt with so as to achieve an efficient basement design layout;
 - (c) the opportunity to reduce the number of vehicle access locations within the Precinct to a single point of access. This approach would allow the removal of three existing vehicle access points off Loftus Lane; and

- (d) the opportunity to close the north-south leg of Loftus Lane to vehicle access allowing for pedestrian use only.
- 8. The site is known as the Young and Loftus Street Precinct. The Precinct is bound by Customs Lane to the north, Young Street to the east, Loftus Lane to the south and Loftus Street to the west. Once constructed, the site will comprise three mixed use buildings known as Building A, B and C, in addition to a series of through-site links and a pedestrianised laneway.
- 9. The approximate area of the proposed stratum is 165 square metres over one level

Policy

- 10. The City has a policy for the assessment of the initial rental and reassessment of rentals (Policy).
- 11. The AMP proposal departs from the Policy in several areas; however, the two proposed variations can be supported in the context of the Master Plan Concept.
- 12. Clause (B) of the Policy states that where possible all leases granted pursuant to Section 149 of the Roads Act 1993 have as lessee/s the owner/s or lessee/s of both adjoining sites.
- 13. AMP is the owner of all property in the block bounded by Loftus and Young Streets, as shown in Attachment B, with the exception of the Gallipoli Memorial Club.
- 14. There are numerous stratum leases where the adjoining sites have different owners. The support by the Gallipoli Club for the AMP Master Plan reasons this departure.
- 15. Clause (C) of the Policy restricts the lease term for a maximum period of 40 years unless exceptional circumstances apply.
- 16. The City's Planning Unit have confirmed their support of a 99 year lease to align with AMP's proposed stratum dedication of air space above the AMP owned buildings within the Loftus and Young Street Precincts to the City.
- 17. The City's Policy does not contemplate one-off payments; however, there are precedents. These are detailed below.
- 18. To facilitate the objectives of the City's Planning Unit and guide negotiations, the City and AMP jointly appointed an independent valuer to assess the value of a 99 year lease on the basis of the City's Policy.
- 19. The valuer's assessment of an initial annual rental has been undertaken in accordance with the City's Policy and the assessment of a one off payment is based on capitalising this initial annual rental.
- 20. Condition 40 of Development Application D/2015/930, requires AMP to enter into a formal lease for the proposed stratum under Loftus Lane 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.

21. The proposed stratum lease is governed under the Roads Act 1993 and the consideration of the right to use or occupy this space cannot be offset against developer works as part of a development consent or forming part of a voluntary planning agreement.
22. The City's appointed valuer has undertaken an assessment of the commencing annual rental for the proposed stratum lease in accordance with the Policy at confidential Attachment C.
23. The valuer's assessment of an initial annual rental has been undertaken in accordance with the City's Policy and the assessment of a one off payment is based on this initial annual rental.

Long Term Lease and Prepayment Precedents

24. There are numerous precedents in the Sydney Central Business District where leases have been granted of similar duration as proposed by AMP.
25. Similarly, long term leases sub stratum leases below roads are often characterised by the prepayment of rent.
26. Examples include:
 - (a) dealing U974405: Lease to Maritime Service Board for 97 years, 11 months and 7 days of a stratum beneath Kent Street, Sydney;
 - (b) dealing 6738417W: Lease to 155 Macquarie St P/L and Ranec P/L 95 years, 4 months and 19 days of a stratum beneath Phillip Lane adjoining 155 Macquarie Street, Sydney;
 - (c) dealing 5846391: Lease to Strata Plan No. 58841 for 99 years of a stratum beneath Macquarie Street adjoining No.1 Macquarie Street, Sydney; and
 - (d) dealing 5577666: Lease to Perpetual Trustee Company Limited and Mirvac Projects Pty Ltd for 99 years of a stratum beneath Macquarie Street adjoining 61 Macquarie Street, Sydney.

KEY IMPLICATIONS

Strategic Alignment

27. 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. The planning proposal is aligned with the following SS2030 strategic directions and objectives.
28. Direction 3 - Integrated Transport for a Connected City - The Precinct can take advantage of excellent public transport links nearby, but also reduce the number of private vehicle access points and potentially restrict overall vehicle movements through the Precinct.
29. Direction 4 - A City for Walking and Cycling - Improvements to the local traffic network and public domain will enhance pedestrian activity and safety, connecting through the front of the site to other parts of Circular Quay. Permeability through the site will be improved with new east-west links across the block.

Social / Cultural / Community

30. The concurrent 'AMP Circular Quay Precinct Planning Proposal' indicates significant social, cultural, community and economic details will be derived from the Precinct redevelopment and the expansion of current car parking in the Loftus and Young Street precinct through the proposed sub stratum below Loftus Lane.

BUDGET IMPLICATIONS

31. There will be no ongoing operational costs to Council arising from it granting the proposed lease.
32. The annual rental will be included in the City's long term financial forecasts.
33. The annual rental during construction and lump sum payment during occupation will be included in the City's long term financial forecasts.
34. AMP will be responsible for the cost of establishing the stratum.

RELEVANT LEGISLATION

35. Section 149 of the *Roads Act 1993* entitled 'Leasing of land above or below public road' permits the roads authority (Council) 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.
36. Attachment C contains confidential commercial information which, if disclosed, would:
- (a) confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business; and
 - (b) prejudice the commercial position of the person who supplied it.
37. 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

38. There is no requirement for public consultation or public notification prior to granting a lease or executing a lease above or below a road.
39. A survey plan, defining the leased area, will be compiled 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

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