

ITEM 5. RELEASE OF EASEMENT – ASX, 20 BRIDGE STREET, SYDNEY

FILE NO: X011946

SUMMARY

This reports seeks Council endorsement to the release of an easement (right of carriageway), currently held by the City, running north from Bridge Street to Dalley Street at the ground floor level of the Australian Stock Exchange building at 20 Bridge Street, Sydney.

The easement exists over Lots 50 and 51 of Deposited Plan 1038651 and is approximately 170m², of variable width and provides pedestrian thoroughfare access between Bridge and Dalley Streets. The easement originates from the 1999 resolution of ownership of Manning Lane between the City and the (then) owners, Sun Alliance.

Investa Management, representing the current owners of 20 Bridge Street, Sydney has sought to release the easement. Once released, this area could be used for retail and commercial purposes and/or redeveloped, subject to relevant planning controls.

The request to release the easement has the support of the City's Planning Unit and requires the payment of consideration (compensation) by the current owners to the City for extinguishing its property rights over the building. All parties have reached agreement at \$1.5M excluding GST as consideration for release of the easement, which is supported by an independent valuation.

It is recommended that the amount of consideration received from releasing the easement be appropriated to the Commercial Properties Reserve for future reinvestment.

RECOMMENDATION

It is resolved that Council:

- (A) endorse the release of the easement (right of carriageway) over Lots 50 and 51 of Deposited Plan 1038651 within the ASX building at 20 Bridge Street, Sydney;
- (B) endorse the negotiated consideration amount as supported by independent valuation for the release of the easement;
- (C) delegate authority to the Chief Executive Officer to negotiate, execute and administer any contractual documentation relating to the release of the easement referred to in clause (A) as is necessarily required for the purpose of protecting the City's interests; and
- (D) endorse that the consideration received from the release of the easement referred to in clause (A) is to be appropriated to the Commercial Properties Reserve for future reinvestment.

ATTACHMENTS

Attachment A: Street View

Attachment B: Easement Plan

BACKGROUND

1. The City holds an easement (right of carriageway) through the 'W Exchange Centre' also referred to as the ASX Building at 20 Bridge Street, Sydney built on the site of the former Sun Alliance & Royal Insurance Building, Orient Overseas Building, and London Assurance House which were demolished in 1997.
2. The ASX Building was completed in mid-1999 and comprises a 16-level commercial building with two levels of basement parking for 34 cars, ground floor retail and offices on levels 1-14. There is an 8m high section to Bridge Street, known as Exchange Square (18 Bridge Street), comprising a financial plaza, a retail/function centre and auditorium.
3. The Transfer Granting Easement describes the easement as being a right of carriageway that is:
 - (a) unlimited as to height over that part of the site of the right of way which is not built over at the date of this transfer;
 - (b) limited to the height of (the least of):
 - (i) 3.5 metres measured from the surface of the laneway; or
 - (ii) the distance between the existing surface of the laneway and the underside of the existing building over the laneway; and
 - (c) limited in depth to the surface of the pavement of the site of the right of way.

Proposed Release of Easement

4. The City is generally reluctant to give up public benefits gained through past approvals, especially public connectivity.
5. The City's Planning Unit has inspected the easement to review the benefit and notes that the utility is minimal, given that it has approved doors on either end, and Dalley Street has no economic activity.
6. City Planning supports the release of the easement for commercial consideration.

Manning Lane – Easement Origin

7. Sun Alliance owned 6-12 Bridge Street and 16-30 Bridge Street, with Manning Lane separating the parcels of land and running between Bridge Street and Dalley Street. Sun Alliance proposed to develop all three parcels of land, including Manning Lane, however, the ownership of the southern part of Manning Lane was unclear.
8. In the mid 1990's, Sun Alliance lodged a primary application 62043 to the NSW Land Titles Office for a title in fee simple to the southern part of Manning Lane. Council claimed the southern part of the lane is public road.
9. In this regard, Council lodged proceedings in the District Court of NSW and, subsequently, in the Supreme Court against Sun Alliance and the Registrar General (Land Titles Office). Council also lodged a caveat to prevent the Director of Land Titles Office from granting a title to Sun Alliance over the southern part of the lane.

10. Council and Sun Alliance agreed to compromise the Supreme Court Litigation and resolved the dispute by entering into a Deed of Agreement in part on terms and conditions as follows:
 - (a) Council had to withdraw and terminate the Supreme Court Litigation and both parties had to pay its own costs in relation to the litigation;
 - (b) Council could not do anything to prevent the grant to Sun Alliance of a fee simple title to the southern part of the Manning Lane; and
 - (c) Sun Alliance had to use its best endeavours to obtain a fee simple title to the southern part of the lane and grant to Council an easement over the entire lane for public right of way.
11. On 24 June 1996, Council resolved to grant development consent for the redevelopment of 16-30 Bridge Street that included the demolition of two existing buildings and construction of a new 14 storey commercial building. Condition 8 states in part that the owners of the site shall grant a documentary right of way over Manning Lane from Bridge Street to Dalley Street, providing rights of pedestrian access to the public and in accordance with the Deed of Agreement attaching to the Transfer Granting Easement.
12. When the Sun Alliance site was redeveloped in the late 90's, a redevelopment easement had to be granted to Council in accordance with the following:
 - (a) a minimum width of 6 metres;
 - (b) a minimum height of 9 metres from the surface to the ceiling;
 - (c) open to the public during normal retail trading hours; and
 - (d) permit the public to pass on foot, without interference, from Bridge Street to Dalley Street.

COMPENSATION METHODOLOGY

13. To consider the value of the easement, it is common to have regard to the underlying value of the land and apply a percentage factor based on the affectation of the easement over the land.
14. The City appointed Preston Rowe Patterson to assess the compensation payable to the City to surrender the easement.
15. Preston Rowe Patterson principally considered development site sales within the Sydney CBD of similar zoning and reviewed these on a rate per square metre of developable floor space.
16. Values between \$10,000/m² and \$12,000/m² are suitable to derive an unencumbered value for the freehold of the property. The land value deduced lies in a range between \$1.7M and \$2.04M.
17. The following matters must be taken into consideration when valuing the City's interest in the property:

- (a) Council's interest is for the use of the land for pedestrian purposes only. Council has no right to develop the land.
 - (b) The easement does not cover a 24 hour period and is therefore not exclusive.
 - (c) The market to sell the easement is limited to one buyer.
 - (d) Council's interest in the land is not an unencumbered freehold interest as is represented by the sales evidence.
18. The affectation of the easement is not significant and City staff believe, based on the above, that the application of a 20 per cent factor would be appropriate to apply to the subject interest. This results in a range of between \$1.36M and \$1.63M, plus GST.
19. The consideration agreed between the parties of \$1.5M, plus GST, is considered reasonable compensation for the release of the easement.

BUDGET IMPLICATIONS

20. The cash compensation amount will be included in the City's long term financial forecasts.
21. It is recommended that the proceeds from the release of the easement be appropriated to the Commercial Properties Reserve for future reinvestment.
22. There will be no ongoing operational costs to Council arising from endorsing the release of the easement.

RELEVANT LEGISLATION

23. *Local Government Act 1993*.

PUBLIC CONSULTATION

24. The City is not required to publicly notify the release of the easement under the *Local Government Act 1993* as amended.

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