

Works on Private Land - 49 Henderson Road, Eveleigh (South Sydney Fitness Equipment)

File No: X114723.002

Summary

Council is required to approve the undertaking of work on private land. This report outlines the details of, and need for, a proposed agreement between the Council of the City of Sydney and the landowner of 49 Henderson Road, Eveleigh (the owners corporation of strata plan no.77095) to enable access to, and the demolition of, publicly accessible outdoor fitness equipment located on private land.

The existing residential development was approved in 2003 under DA 134-5-2002 by the Minister for Planning.

The property includes a publicly accessible, private landscaped area along Henderson Road. Existing outdoor fitness equipment is located in the private landscaped area and is understood to have been constructed by the developer. Although the City does not own the land or the outdoor fitness equipment, the community views the area as a City asset due to the publicly accessible nature of the site. The City has been maintaining the area in the absence of a formal agreement.

The outdoor fitness equipment and safety surfacing is in poor condition and at the end of its useful life. Given the location of the outdoor fitness equipment on private land and the close proximity to more modern outdoor gym facilities, it is not intended to renew the outdoor fitness equipment. Instead, the City is proposing to demolish the outdoor fitness equipment and reinstate turf across the area.

This report recommends that Council enters into an agreement with the owner of the land to enable the City to undertake the proposed works.

Recommendation

It is resolved that:

- (A) Council approve the entering into of an agreement with the owners of Strata Plan No. 77095 at 49 Henderson Road, Eveleigh, generally in accordance with Attachment B to the subject report, that allows the City to access and undertake demolition of existing fitness equipment and make good works on the land;
- (B) authority be delegated to the Chief Executive Officer to finalise, execute and administer the terms of the agreement as contemplated in Attachment B to the subject report; and
- (C) Council note the financial implications detailed in the subject report.

Attachments

Attachment A. Location and Photos of the Existing Outdoor Fitness Equipment

Attachment B. Construction Access Agreement

Background

1. 49 Henderson Road, Eveleigh is private land owned by the owners corporation of strata plan no. 77095. The existing residential development was approved in 2003 under DA 134-5-2002 by the Minister for Planning.
2. The development includes a privately owned landscaped area along Henderson Road which is publicly accessible. The development approval requires unrestricted public access to the private landscaped area. Existing outdoor fitness equipment is located in the private landscaped area and may have been constructed by the developer.
3. Around the time of the development there was correspondence between the developer and the former South Sydney City Council that sought for the Council to maintain the private landscaped setback area. However, South Sydney City Council was amalgamated soon after and a formal agreement was never finalised.
4. The City has been maintaining the turf within the private landscaped area and inspecting the outdoor fitness equipment on an informal basis for around the last 20 years.
5. The City does not own the land, the outdoor fitness equipment or other assets in the private landscaped area, predominantly turf and trees. Despite this, the community views the outdoor fitness equipment as a City asset due to the publicly accessible nature of the site.
6. The outdoor fitness equipment is in poor condition and at the end of its useful life. The safety surfacing beneath the fitness equipment has deteriorated, does not perform its intended purpose of impact attenuation and presents poorly to the public domain.
7. It is noted that there is alternative outdoor fitness equipment at the nearby South Eveleigh Wellness Precinct (Australian Technology Park), 300m to the east. This newer equipment has enhanced utility, a broader range of training equipment, is accessible with wheelchair access into and around the facility, includes seating, and has public toilets nearby.
8. Given the location of the outdoor fitness equipment on private land and the proximity to other more modern outdoor gym facilities, it is not intended to renew the outdoor fitness equipment. Instead, the City is proposing to demolish the outdoor gym and reinstate turf across the area.
9. With the landowner's consent, the City lodged a development application to demolish the outdoor gym and planning approval was granted in July 2025 under D/2025/299.

Access Deed

10. It is proposed that the City and the landowner of 49 Henderson Road, Eveleigh enter into an agreement for access and demolition substantially in accordance with the terms set out at Attachment B.
11. The agreement will define the proposed works to be undertaken by the City at its cost on the land and outlines each party's obligations.
12. The property owner has provided in-principle acceptance to the key terms of the access deed.

13. The ongoing maintenance of the area will be the sole responsibility of the land owner, Strata Plan No. 77095.

Key Implications

Strategic Alignment - Sustainable Sydney 2030-2050 Continuing the Vision

14. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the city to 2050. 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 1 - Responsible governance and stewardship - parks maintenance is an essential service providing infrastructure and services to support our community.
 - (b) Direction 3 - Public places for all - The proposed works will improve the safety, amenity and character of the existing site.

Risks

15. The City's Risk Appetite Statement requires staff to identify and manage risk within the scope of their responsibilities in accordance with the City's risk management framework. We maintain a low tolerance for risks that pose a threat to safety and wellbeing, and we comply with our legal and regulatory requirements.

Social / Cultural / Community

16. The City's Park Fitness Equipment Plan sets out the City's vision for the provision of publicly accessible outdoor gyms and aims to provide an outdoor gym within 10-minute walk for the majority of residential properties.
17. A recent internal review of the Plan identified that the outdoor gym on the subject site is no longer required due to the close proximity of the outdoor fitness equipment at South Everleigh, 300m to the east.

Financial Implications

18. The cost for the works on private property is estimated to be in the order of \$35,000 excluding GST.
19. Funding for the works will be accommodated within the City's existing parks operating budgets for the 2025/26 and 2026/27 financial years. Sufficient funds are available and no additional funding is required.
20. The works at 49 Henderson Road, Eveleigh will not create additional City-owned assets.
21. The ongoing maintenance of the area will be the sole responsibility of the land owner, Strata Plan No. 77095. There will be no ongoing costs borne by the City as a result of the works.

Relevant Legislation

22. Section 377(1)(n) of the Local Government Act 1993 states that only Council can resolve to carry out work on private land for an amount that is less than the amount or rate fixed by Council for the carrying out of any such work.
23. As there is no rate fixed for undertaking the type of work proposed on private land, Council approval is required before the works can proceed.

Critical Dates / Time Frames

24. The current delivery program proposes works commencing around June 2026 (pending execution of the access agreement). The substantive works would take one week, with a 6-week turf establishment period to follow.

Public Consultation

25. Consultation with the wider community was undertaken as part of the development assessment process. Development Approval was granted in July 2025 under D/2025/299.
26. If approval to enter into the agreement with the landowner is obtained, the City will seek to execute the agreement and notification will be sent to the property owner and surrounding residents prior to construction commencing.

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