

Proposed Lease - Pedestrian Link Stratum, Wynyard Lane**File No:** S094584.062**Summary**

This report seeks Council's approval to grant a stratum lease for a term of 99 years to BSREP Wynyard Place Retail Landowner Pty Ltd as trustee for BSREP Wynyard Place Retail Landowning Trust. The stratum is to be situated in air space above Wynyard Lane Sydney. The stratum will be utilised as a pedestrian bridge cantilevered over Wynyard Lane and comprise an area of approximately 77 square metres to 182 square metres, subject to final survey.

Brookfield Office Properties One Carrington Developer Pty Ltd received Development Consent from the Department of Planning on 30 November 2016 to build a 27-level office building with an area of 59,400 square metres of office space. The approval included part of the building which will be positioned over Wynyard Lane requiring a stratum lease to enable a pedestrian link over the site.

The City has now agreed lease terms with BSREP Wynyard Place Retail Landowner Pty Ltd as trustee for BSREP Wynyard Place Retail Landowning Trust. The summary of the essential lease terms are detailed at Confidential Attachment A to the subject report.

Council approval is required as the proposed term of the lease is 99 years. The Director of the Department of Planning has delegated its right of consent for leases over land above or below a public road pursuant to Section 149 of the Roads Act 1993 to Council.

Recommendation

It is resolved that:

- (A) pursuant to Section 149 of the Roads Act 1993, Council approve the granting of a stratum lease to BSREP Wynyard Place Retail Landowner Pty Ltd as trustee for BSREP Wynyard Place Retail Landowning Trust Pty Ltd ABN 91 865 529 217 for proposed stratum over Wynyard Lane as part the proposed office development known as One Carrington Street Sydney; and
- (B) authority be delegated to the Chief Executive Officer to negotiate, execute and administer the stratum lease referred to in Clause (A) above consistently with the Essential Lease Terms and Conditions in Confidential Attachment A to the subject report.

Attachments

Attachment A. Essential Lease Terms and Conditions (Confidential)

Background

1. Brookfield Office Properties One Carrington Developer Pty Ltd received development consent issued by the Department of Planning on 30 November 2016 to build a 27-level office building with an area of 59,400 square metres and with links to Wynyard Station. The development will be known as One Carrington Street. The site includes the following buildings: 301 George Street, Menzies Hotel, Shell House at the corner of Margaret Street and Carrington Street, and 285 George Street. All buildings with the exception of Shell House have been demolished.
2. Development Consent Final Approval, Determination of Modification Application for One Carrington (SSD 5824 MOD 2) was approved on 30 November 2016, by a delegate on behalf of the Minister for Planning.
3. The development will feature a highly anticipated commercial precinct in the northern precinct of the Sydney CBD. The project is described as a premium grade commercial office space which will be strategically located next to a major transport hub at Wynyard Station. The development will require a stratum lease to enable a pedestrian link over the site.
4. The proposed stratum is to be utilised as a pedestrian bridge and will have an approximate area of 77 square metres - 182 square metres subject to final survey.
5. A lease term of 99 years for the stratum lease is proposed.
6. An upfront rental sum will be paid for the stratum lease.

Rental Determination

7. The City has a policy for the assessment of the initial rental and reassessment of rentals for stratum leases.
8. The City's appointed Valuer, BEM Property Consultants and Valuers, have undertaken an assessment of the commencing annual rental for the stratum lease in accordance with the above Policy and has assessed the rental for 99 years to provide the lump sum instalment, shown at Confidential Attachment A.

Key Implications

Strategic Alignment - Sustainable Sydney 2030 Vision

9. 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.
10. The outcome of the high level lease terms negotiated with Brookfield is consistent with the above Action.

Budget Implications

11. Rent received in the financial year 2018/19 was not anticipated in the operating budget.
12. There will be no ongoing operational costs to Council arising from it granting the proposed stratum lease.
13. The rent for the full term of the agreement will be paid in one lump sum upon the date the lease is signed. The income will be recognised over the life of the lease and included in the City's long term financial forecasts.
14. BSREP Wynyard Place Retail Landowner Pty Ltd will be responsible for the cost of establishing the structure and maintaining the stratum.

Relevant Legislation

15. Local Government Act 1993.
16. 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 Planning has delegated its consent right under Section 149 of the Roads Act to Council.
17. Attachment A contains confidential commercial information and details of Council's valuation and contingencies 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.
18. 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.

Options

19. The City has the option not to proceed with the lease of the Stratum. This will likely result in a claim against the City and a significant loss of potential commercial revenue.
20. The City has considered the option to lease the stratum and believes it will achieve significant commercial income for the City of Sydney.

AMIT CHANAN

Director, City Projects and Property

Con Vafeas, Portfolio Manager Commercial