

Lease Approval - Campbell's Stores, Service Tunnel, Hickson Road, The Rocks

File No: S094584.049

Summary

This report seeks Council's approval to grant a lease for a term of 99 years for a stratum below Hickson Road within which has been constructed a tunnel servicing the recently refurbished Campbell's Stores owned by Place Management NSW.

The stratum which is subject to final survey is limited in height and depth and comprises an area of approximately 410.4 square metres.

The heritage-listed Campbell's Stores has recently completed a \$32 million refurbishment by private developer Tallawoladah, as approved by the Minister for Planning on 19 April 2017. The refurbishment included extensive landscaping of the Hickson Road footpath and reconstruction of some parts of the existing service tunnel.

The City has agreed in principle lease terms with Place Management NSW, as the landowner of Campbells Store and foreshore lands, for the sub stratum within which the service tunnel is constructed. The summary of the essential lease terms are detailed at Confidential Attachment D.

By an instrument of delegation dated 9 March 1995 (Delegation), the Director of Planning delegated functions conferred under section 149 of the Roads Act 1993 to the Council. As at the date of this document, the Delegation has not been revoked.

Council approval is required as the proposed term of 99 years is inconsistent with the Council adopted policy for leases and licences above or below roads.

The City has also undertaken a review of the current policy for leases above and below roads and believes that the Council Resolutions of 23 May 1983, 28 March 1994 and 7 August 1995 that form the Policy should be consolidated as a Divisional Procedure (Attachment A) expanding the interpretation and application of matters for consideration in establishing a market rent.

For the Divisional Procedure to take effect Council Resolutions of 23 May 1983, 28 March 1994 and 7 August 1995 must be rescinded (Attachment B).

Recommendation

It is resolved that:

- (A) Council note that the City has adopted a Divisional Procedure rather than a Policy for Leases Above and Below Roads;
- (B) having regard to (A) above, Council rescind the current policy for leases above and below roads in Attachment B to the subject report endorsed on 23 May 1983, 28 March 1994 and amended on 7 August 1995;
- (C) pursuant to Section 149 of the Roads Act 1993, Council approve the granting of a 99-year stratum lease to Place Management NSW for the proposed sub stratum below Hickson Road containing a service tunnel connecting with Campbells Stores at 7-27 Circular Quay West; and
- (D) authority be delegated to the Chief Executive Officer to undertake further negotiations as required to finalise the terms of the lease and to execute, administer and manage the stratum lease following execution.

Attachments

- Attachment A.** Divisional Procedure - Leases Above or Below Roads
- Attachment B.** Council Resolutions - Current Stratum Policy
- Attachment C.** Identification Plan
- Attachment D.** Commercial Terms (Confidential)

Background

1. In late 2014, the Sydney Harbour Foreshore Authority, now Place Management NSW, entered into an Agreement for Lease and Lease with Tallawoladah Pty Limited (Developer) for the remediation, restoration and adaptive re-use of the historic three-level Campbell's Stores.
2. Tallawoladah's vision to transform Campbell's Stores into a world class waterfront dining precinct that contributes to the vibrancy and vitality of The Rocks was completed in March 2019.
3. Place Management NSW's objective was to make Campbell's Stores an iconic food destination for international and domestic tourists, as well as Sydney residents, by providing a range of high quality restaurants, cafes and bars.
4. In addition to the restoration of Campbells Stores, Place Management NSW has undertaken works on the foreshore land to the east and the Hickson Road footpath along the western boundary of Campbells Stores which complement the remedial works being undertaken by the Developer in accordance with the preservation solution.
5. In terms of the public domain the following improvements have been made:
 - (a) a new 10-metre-wide lowered promenade;
 - (b) a new waterfront leisure area and amphitheatre for public events;
 - (c) a shared plaza/pedestrian square with reduced land levels, pedestrian circulation and truck access to the new Overseas Passenger Terminal wharf extension; and
 - (d) realignment of the public foreshore access with new east-west connections from the Campbell's Cove promenade to Hickson Road and The Rocks.
6. A service tunnel is located below the eastern footpath on Hickson Road and to the rear of the lower level of the Campbell's Stores and is principally used for the transfer of deliveries and waste between the loading dock and the tenancies within Campbells Stores (refer Attachment C - Identification Plan).
7. Access for deliveries and waste collection is via a loading dock, below the access driveway to the Overseas Passenger Terminal, which is accessed from Circular Quay West on Place Management NSW land.
8. Campbells Stores was refurbished in the early 1980s and has been completely remodelled throughout with an open plan arrangement at each level and connectivity between the original stores.
9. As part of the remediation, restoration and adaptive re-use of the historic Campbell's Stores the exiting service tunnel has been reconstructed to modern standards.
10. Approximately 50 per cent of the tunnel is used by the restaurants to specifically house equipment and goods that contribute to the restaurant sales such as cool rooms, store rooms, grease traps and fans. These items are essential to the operations of the restaurants and if not within the service tunnel would be housed within the restaurant tenancies themselves.

11. On 14 November 2016, the City entered into a licence with Place Management NSW facilitating access to the stratum for the purpose of providing access for 'demolition, investigation, design, construction, testing, commission and access for the purpose of carrying out the Project'. Under this licence, the annual rent is \$88,200 per annum plus GST and payable quarterly in advance.

Stratum Policy

12. The City's appointed Valuer, Preston Rowe Patterson, has undertaken an assessment of the lump sum rental instalment for a 99-year lease in accordance with the City's Stratum Policy. This is detailed in Confidential Attachment D.

Budget Implications

13. The rent for the full term of the agreement will be paid in one lump sum upon execution of the lease. The rent received in the financial year 2019/20 will result in income surplus to the operating budget.
14. There will be no ongoing operational costs to the City arising from granting the proposed stratum lease.
15. Place Management NSW is responsible for maintaining the stratum, removing the structure at the end of the lease and making good to Hickson Road.

Relevant Legislation

16. Local Government Act 1993.
17. Section 149 of the Roads Act 1993 entitled '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 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. Pursuant to section 23 of the Environmental Planning and Assessment Act 1979 the Director of Planning has delegated their right of consent for leases over land above or below a public road pursuant to Section 149 of the Roads Act 1993 to Council.
18. This proposed lease is in accordance with Section 149 of the Roads Act 1993.
19. Attachment D contains confidential commercial information and details of Council's valuation and contingencies which, if disclosed, would confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business; and prejudice the commercial position of the person who supplied it.
20. 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

21. In this instance, there are no options that would provide a superior financial outcome to the City.

Public Consultation

22. There is no public consultation required for this matter.

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