

Item 8.

Lease Approval and Permanent Road Closure - Part Jones Street, Ultimo

File No: X003280.001

Summary

This report seeks Council's approval to grant a lease for Jones Street, Ultimo, between Broadway and Thomas Street, to the University of Technology Sydney (UTS), for a term of forty years as outlined in Confidential Attachment I.

Council has previously endorsed the partial closure of Jones Street in 2007 and its full closure to traffic in 2010, subject to the delivery of traffic treatments, which have since been completed.

The City of Sydney is the road authority for Jones Street. This section of Jones Street is required to be permanently closed in order to grant exclusive use by way of a lease, to UTS.

UTS currently occupies this section of Jones Street under a short-term lease of an unused road. Upon publication of a Government Gazette to formalise the permanent road closure and vesting to the City of Sydney as operational land, the existing road lease to UTS will be surrendered and the new lease will commence.

The purpose of the lease is to enable UTS to deliver a long-term plan to integrate its City Campus buildings through the creation of a new pedestrian link and open space. During the lease term the UTS will occupy, maintain and manage Jones Street.

The essential terms and conditions of the proposed lease are shown in Confidential Attachment I.

Council is required to approve any lease where the term of the lease exceeds five years.

Recommendation

It is resolved that:

- (A) Council endorse the permanent road closure of Jones Street, Ultimo, between Broadway and Thomas Street, vesting in the City of Sydney as operational land, and as shown as Proposed Lot 100 in the Draft Plan of First Title Creation at Attachment B to the subject report;
- (B) Council approve the proposed 40 year lease to the University of Technology Sydney for the occupation of Jones Street, Ultimo, between Broadway and Thomas Street, in accordance with the terms and conditions contained in Confidential Attachment I to the subject report;
- (C) Council note the surrender of the existing short-term lease of an unused road to University of Technology Sydney will occur in accordance with the delegations from the Chief Executive Officer to Directors and staff, one day prior to the commencement of the new lease, subject to the terms and conditions outlined in Confidential Attachment I to the subject report; and
- (D) authority be delegated to the Chief Executive Officer to:
 - (i) negotiate, execute and administer the terms of the lease in accordance with the essential terms and conditions contained in the Confidential Attachment I to the subject report; and
 - (ii) approve the publication of a Government Gazette to give effect to the permanent road closure and classification as operational land.

Attachments

- Attachment A.** University of Technology Sydney Concept Design
- Attachment B.** Draft Plan of First Title Creation - Jones Street, Ultimo
- Attachment C.** Resolution of Council - Partial Road Closure Jones Street, Ultimo - 10 December 2007
- Attachment D.** Sydney Traffic Committee – Proposed Permanent Road Closure – Jones Street, Ultimo - 17 February 2010
- Attachment E.** Resolution of Council - Broadway Road Widening and Closure of Jones Street, Ultimo - 26 July 2010
- Attachment F.** Council Report - Partial Road Closure – Jones Street, Ultimo – 10 December 2007
- Attachment G.** Council Report - Broadway Road Widening and Closure of Jones Street, Ultimo – 26 July 2010
- Attachment H.** Sydney Traffic Committee – Proposed Permanent Road Closure – Jones Street, Ultimo – 19 December 2007
- Attachment I.** Essential Lease Terms and Conditions (Confidential)

Background

1. UTS has a long term proposal to redevelop various university buildings, which would ultimately achieve greater unity of the City Campus and enhance pedestrian safety and amenity for students.
2. The UTS Master Plan identifies the need to close Jones Street, Ultimo, between Broadway and Thomas Street, as it forms a barrier dividing the campus. The permanent closure of Jones Street would enable the two sides of the campus to be linked to form one integrated educational facility.
3. The vision would see the road section converted into open space and a pedestrian link, improving safety and connectivity for students accessing the adjoining facilities, and health and wellbeing through enhanced greenery - see UTS Concept Design (Attachment A).
4. UTS has agreed to fund the upgrade of Jones Street as a pedestrian space in connection with the proposed lease agreement.
5. UTS currently occupies this section of Jones Street under a short-term lease of an unused road for the purposes of public domain and outdoor student focused recreation and learning areas and ancillary uses, that support the operation of the university campus, including landscaping and street furniture.

Jones Street, Ultimo

6. Jones Street, Ultimo, between Broadway and Thomas Street, is a public road managed by the City of Sydney as the road authority (proposed Lot 100 in Attachment B). The road section also comprises three lots owned by the City of Sydney as operational land (proposed Lot 101 in Attachment B).
7. In December 2007, Council endorsed the partial road closure of Jones Street Ultimo between Broadway and Thomas Street and the in-principle long-term vision of a full road closure (Attachment C). This would link Mary Ann Street Park in the north, to the existing pedestrian mall in Jones Street.
8. In February 2010, the Sydney Traffic Committee endorsed the closure of Jones Street to traffic between Broadway and Thomas Street following public consultation (Attachment D). Four submissions were received in support of the proposal and no objections were received to the proposed road closure.
9. In July 2010, Council resolved to endorse the road closure of Jones Street between Broadway and Thomas Street, Ultimo, to traffic under section 116 of the Roads Act 1993 subject to the delivery of the identified traffic treatments (Attachment E).
10. Concurrent to the delivery of the identified traffic treatments (now since completed), Jones Street remained open for vehicular access enabling UTS to deliver staged redevelopment works on its adjacent City Campus buildings.
11. From 2014, kerb extensions were introduced to restrict vehicular access into Jones Street from Broadway.
12. Upon completion of the UTS Campus redevelopment in 2020, bollards were installed in Jones Street, intersecting with Thomas Street, closing the road to traffic and enabling UTS full occupation in accordance with their short-term lease of unused road, discussed below.

Lease Agreement

13. In 2019, a short-term lease of unused road was granted to the UTS to allow its use of the road which by then had restricted access for traffic with the full closure to traffic occurring in 2020. The proposed new lease will convert the current short-term lease of an unused road to a long-term ground lease with no significant changes to the terms and conditions of the current lease, and will provide UTS with the security of tenure required, in order to commence the process of upgrade works. Details of the proposed lease are contained within Confidential Attachment I.
14. The lease proposal provides a long-term income stream for the City of Sydney. The upgrade works to be carried out by UTS will transform this space currently closed to traffic by creating an open pedestrian link for students.

Key Implications

Strategic Alignment - Sustainable Sydney 2030-2050 Continuing the Vision

15. 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 2 - A leading environmental performer - UTS' proposed conversion of the road into dedicated areas of open space will support the reduction of the urban island heat effect within the UTS City Campus precinct.
 - (b) Direction 3 - Public places for all - the proposed creation of a new public space will support precinct activation and enable greater social outcomes for the UTS City Campus students and members of the community.
 - (c) Direction 5 - A city for walking, cycling and public transport - the permanent road closure and upgrade works to Jones Street will enable improved pedestrian access, safety and connectivity for student and community movement between the UTS City Campus buildings.

Risks

16. To mitigate the risk that UTS would not complete the upgrade works, there will be a condition in the lease that UTS undertake the works within three years from the commencement date of the lease.
17. To mitigate the risk that pedestrian public access and emergency services access would be restricted, it has been agreed that the afore-mentioned access will be maintained at all times. This condition will form part of the lease.

Social / Cultural / Community

18. Jones Street is a key outdoor link between significant UTS City Campus facilities. The proposed permanent road closure will enable UTS to improve amenities for students and community members accessing the area via the provision of new open space and social zones.

19. The Broadway footway is an important pedestrian route to the UTS campus which caters for substantial pedestrian activity in the peak hours especially between the campus and Railway Square bus stops and Central Station.
20. Jones Street is a key pedestrian and bicycle link. Improving facilities for pedestrians and cyclists would improve student amenity and outdoor activity.

Environmental

21. The section of road identified for closure is proposed for landscaping by UTS and is to include a green urban forest/garden concept zone and study lawn. The introduction of shade and greenery will assist in reducing urban heat impacts associated with the adjoining buildings and will support the City of Sydney in achieving its canopy targets, as identified in the Greening Sydney Strategy 2021.

Economic

22. The terms of the new lease are materially the same as the existing short-term lease of the unused road.

Financial Implications

23. The City of Sydney will be funding the administrative process for the permanent road closure through the operational budget. UTS will fund the design and implementation of the upgrade works for Jones Street.
24. The new lease will provide the security of a long-term income stream with increases annually throughout the term.

Relevant Legislation

25. The following sections of the Roads Act 1993 are relevant:
 - (a) Section 38A permits Council as the road authority to close a public road if it is not reasonably required for public use, does not provide continuity for an existing road network; and is not required for access to adjoining land;
 - (b) Section 38B requires Council to give notice of the proposed road closure for a minimum period of 28 days (this requirement only applies to notifiable authorities as public consultation was previously completed in 2007 and 2009);
 - (c) Under section 38C, public submissions and formal objections by notifiable authorities may be issued to Council during the notifiable period;
 - (d) Upon consideration of any submissions duly made, section 38D (1) authorises Council to close the public road via the publication of a Government Gazette however, this is subject to the withdrawal of any formal objection from a notifiable authority (s38D (2)(b)); and
 - (e) Under section 38E, upon publication of the Government Gazette, the road ceases to be a public road, whereby all rights of passage and access are extinguished. The land comprising of the former road remains vested in the Council as operational land.

26. Section 10A of the Local Government Act 1993 provides that a Council may close to the public so much of its meeting as comprises the discussion of information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.
27. Attachment I contains confidential commercial information and details, which if disclosed, would confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business.
28. 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.

Critical Dates / Time Frames

29. UTS are currently occupying the section of Jones Street, Ultimo, proposed for permanent closure under a five year lease of an unused road. Upon completion of the permanent closure of Jones Street and the publication of the Government Gazette, anticipated late 2023, the road lease will be surrendered and the long-term lease may commence, enabling UTS to carry out the proposed upgrade works to Jones Street.

Options

30. Council may choose not to endorse the permanent road closure and the subsequent conversion of Jones Street, Ultimo, between Broadway and Thomas Street, into operational land and forego the potential rental income. In this situation, UTS will be unable to facilitate the upgrade works proposed to Jones Street as part of its redevelopment of the City Campus.

Public Consultation

31. The City of Sydney completed the following public consultation processes on the permanent road closure of part Jones Street, Ultimo:

2007

- (a) The proposed permanent closure was advertised in The Sydney Morning Herald and the Daily Telegraph on 31 October 2007 for 28 days seeking public comment until 28 November 2007;
- (b) The local community was notified by way of letter box drop (Attachment F);

2009

- (c) The proposed permanent closure was advertised in The Sydney Morning Herald on 25 November 2009 for 28 days seeking public comment until 23 December 2009; and
- (d) Twelve letters were sent to properties within a 25 metre radius of Jones Street in accordance with Council's Development Application consultation policy (Attachment G).

32. The proposed permanent road closure was submitted to a Special Sydney Traffic Committee on 4 December 2007 (noted in a report dated 19 December 2007 - Attachment H) and again on 17 February 2010 (Attachment D). No objections to the proposal were raised however, the 2010 endorsement was subject to satisfying the following requirements which have since been completed:
- (a) The installation of traffic lights and road realignment works at the intersection of Broadway and Balfour Street, which will proceed only when the new right turn bay for buses and taxis is available to turn into Wattle Street together with adjustment to the Wattle Street median and provision of a bus stop in Thomas Street.
 - (b) The physical road closure of Jones Street should not proceed until Council's concerns over the road widening of Broadway, which narrows the footway, are resolved.
 - (c) A Traffic Management Plan for the road closure of Jones Street is to be submitted to the RTA for approval.
33. In accordance with the requirements under section 38B (1) of the Roads Act 1993, the City of Sydney has commenced consultation with Ausgrid and Sydney Water who may be affected by the proposed permanent closure. Additional public consultation is not required given the processes historically undertaken.

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