

## 10.12. Proposed Acquisition of Lease by Transport for NSW for construction of Warringah Freeway Upgrade

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<b>ATTACHMENTS</b>	1. TfNSW Sketch map P S 96 [10.12.1 - 2 pages]
<b>CSP LINK</b>	<b>Outcome 8 – An effective, accountable and sustainable Council that serves the community</b> G6. Commit to efficiency and value for money in service delivery

### PURPOSE:

The purpose of this report is to provide Council with an update on the approach by Transport for NSW (TfNSW) to extend the lease of land at Cammeray Golf Course, St Leonards Park, and Anzac Park, for the construction of the Warringah Freeway Upgrade (WFU).

### EXECUTIVE SUMMARY:

- TfNSW has approached Council to extend the lease of land at Cammeray Golf Course, St Leonards Park and Anzac Park for the purpose of constructing the Warringah Freeway Upgrade.
- Extension of the Construction Lease over areas at Cammeray Golf Course and St Leonards Park are proposed until 30 September 2029 (inclusive) being three (3) years, seven (7) months, and four (4) days.
- Extension of the Construction Lease over the area at Anzac Park is proposed until 30 August 2027 (inclusive) being one (1) year, six (6) months, and four (4) days.
- TfNSW have assessed compensation for Council's interest as Crown Land Manager pursuant to the Crown Land Management Act 2016 (the CLM Act) and Council's appeal proceedings in the Land Environment Court North Sydney Council v Transport for New South Wales [2024] NSWLEC 100 (the Proceedings).

### RECOMMENDATION:

- 1. THAT** Council note Transport for NSW (TfNSW) has approached Council to extend the lease of land within Cammeray Golf Course, St Leonards Park and Anzac Park.
- 2. THAT** Council accept the TfNSW offer of compensation for Council's interest in the lease areas outlined in this report in accordance with the CLM Act and Proceedings.
- 3. THAT** Council authorise the Chief Executive Officer to execute the Deed of settlement to move through the compulsory acquisition process for the construction lease only.

## Background

Council is the Crown Land manager of Crown land at Cammeray Park, St Leonards Park, and ANZAC Park under the Crown Land Management Act 2016 (CLM Act). On 26 March 2021, Transport for NSW (TfNSW) compulsorily acquired a leasehold interest in parts of those parks (the Land), for a term of 4 years and 11 months for the purposes of the Warringah Freeway Upgrade (WFU) project.

Council has been approached by TfNSW to extend these leases to continue the construction of the WFU project. TfNSW has also made an offer of compensation for this interest in accordance with the CLM Act and Proceedings, in full satisfaction of all claims arising from the acquisition.

## Report

To facilitate the completion of the WFU works, TfNSW stated that it required an extension of the compulsory acquired leases from Crown Land for the following terms:

- extension of the Construction Lease over areas at Cammeray Golf Course and St Leonards Park until 30 September 2029 (inclusive) being three (3) years seven (7) months and four (4) days; and
- extension of the Construction Lease over the area at Anzac Park until 30 August 2027 (inclusive) being one (1) year six (6) months and four (4) days.

The attached TfNSW Sketch Plan PS96 outlines the construction lease area denoted by green hatching and pink shade with green hatching. The area consists of the same parcels of land that were the subject of Land Environment Court North Sydney Council v Transport for New South Wales [2024] NSWLEC 100 (the Proceedings).

In their correspondence, TfNSW have assessed compensation for Council's interest as Crown Land Manager pursuant to the Crown Land Management Act 2016 (the CLM Act) and Council's appeal proceedings in the Land Environment. The offer for compensation is as follows:

Section 2.24 (3)(b)	\$390,000
Section 2.24 (3)(e)	<u>\$ 20,000</u>
<b>Total</b>	<b>\$410,000</b>

Should Council accept the offer, Transport for NSW will commence the preparation of a Deed to settle Council's interest in the lease area.

The alternative is for Council to submit a compensation claim for the consideration of the NSW Valuer General, leaving TfNSW to compulsorily acquire the land.

In the orders to the Proceedings dated 3 October 2024, for compulsory acquisition of the leasehold interest for a period of 4 years and 11 months, the following compensation was deemed payable:

Section 2.24 (3) (b)	\$481,813
Section 2.24 (3) (e)	<u>\$140,352</u>
<b>Total</b>	<b>\$622,165</b>

This was following a Valuer-General determined compensation of \$70,003.

Based upon this precedent, it is recommended that Council accept the offer presented by TfNSW.

### **Consultation requirements**

Community engagement is not required.

### **Legislation**

Crown Land Management Act 2016  
Land Acquisition (Just Terms Compensation) Act 1991



