



Lane Cove Council

48 Longueville Road, Lane Cove NSW 2066

Tel: 9911 3555

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Date: 7 January 2008
Ref: 639/08

Murlan Pty Ltd
Suite 110, Jones Bay Wharf
26 Pirrama Road.
PYRMONT NSW 2009

Attention Mr. Ben MacGibbon

Re: **PROPOSED CLOSURE AND SALE OF NIELD AVE**

Dear Ben,

At its meeting on 17 December 2007, Council considered your revised offer and the proposal to close part of Nield Ave and the pathway between Nield Ave and Morven Gardens and resolved as follows:

That:

1. Council, pursuant to Section 37 2 (b) of the Roads Act, consents to the closure of the lower part of Nield Ave and the public pathway between Nield Ave and Morven Gardens, being a total land area of 979 m2 as shown in Attachment 2;
2. Murlan P/L be advised that Council has agreed to the sale of the lower part of Nield Ave and the public pathway between Nield Ave and Morven Gardens, as recommended in Closed Committee of Council subject to formal closure of part of the road being completed and those conditions as recommended in Closed Committee.

In regard to Resolution 2 above, the sale offer in the sum of [REDACTED] as at 22/11/2007 exclusive of GST was subject to the following conditions being incorporated into the Contract of Sale special conditions with final wording of the contract of sale refined with legal advice:

- i. formal closure of part of the road being completed,
- ii. the final purchase price being subject to CPI adjustments;
- iii. if applicable, GST liability to be met by Waterbrook at Greenwich P/L;

- iv. current turning arrangements to remain in place until construction commences to provide an approved alternate turning arrangement for the public;
- v. consolidation of all lots which currently have a public road frontage to proposed closed section of Nield Ave being effected with the NSW Lands Department Land and Property Information NSW;
- vi. an easement in favour of the public being included on the consolidated lot to allow for a new turning facility for the public using Nield Ave. The easement terms will include maintenance of the turning facility to an acceptable standard as the responsibility of owner of the consolidated lot;
- vii. an easement(s) for drainage being registered on the consolidated lot title to provide for the future stormwater drainage of the upstream catchment including Nield Ave
- viii. all costs associated with the road closure including drainage and service / utility adjustments, road adjustments, turning, registration and legal fees including Council's direct costs being met by Waterbrook at Greenwich P/L
- ix. the Parties to attend to all necessary documents signing and requisitions necessary to complete the road closure and sale in a timely manner;

The sale is subject to a formal contract being entered into incorporating the above requirements and no binding legal obligation shall arise until such time as contracts have been formally exchanged.

Council will commence the lengthy process involved in closing a public road. As there is no certainty in achieving a road closure, any decisions taken by Murlan P/L or Waterbrook at Greenwich P/L or any related parties must take into consideration that the sale of the proposed closed section of road and pathway is fundamental to the formal closure of part of the road being completed, without which the sale cannot proceed.

Council will use the legal services of Mardsens Lawyers in reviewing all documentation prepared by either party. Could you please progress drafting the necessary documentation, including survey plans for the road closure and consolidation of the lots inclusive of easements for rights of carriageway and drainage.

Council will provide you with monthly invoices payable on 30 days for any costs it incurs associated with the road closure.

Yours faithfully,



John Lee
Director, Major Projects

Cc PETER CRITTENDEN,
MARSDENS LAWYERS