

REF: CM171/09

CREATION OF RIGHT-OF-WAY OVER LAND AT UNDERWOOD STREET, CORRIMAL
Report of Manager Property and Recreation (NR) 7/08/09 **05.02.09.006**

PRECIS

At its meeting on 16 October 2007, Council resolved to sell 46, 48 and 50 Underwood Street, Corrimal to DAA United Pty Ltd. This report seeks to create an easement to formalise access over these properties in favour of adjoining properties fronting Railway Street, Corrimal.

RECOMMENDATION

- 1 Approval be granted for the creation of a stratum right-of-way burdening Lots 3 and 4 in DP230191 and Lot 3 DP 513895 and benefiting Lots 1 and 2 DP231092 and Lots 1 and 2 DP513895. The right of way shall be limited in height to 4.8 metres above the existing surface level of the Council land.**
- 2 Approval be granted to affix the Common Seal of Council to the 88B instrument and plan.**

BACKGROUND

Following a public Expression of Interest, Council resolved to sell 46, 48 and 50 Underwood Street Corrimal to DAA United Pty Ltd. It was also resolved to close a portion of unnamed public road off Underwood Street. The unnamed road provided rear access to properties facing Railway Street, being Lots 1 and 2 in DP230192 and Lots 1 and 2 in DP513895. The position negotiated with the purchaser, and provided as a condition of contract, was that Council, in agreeing to sell the Underwood Street properties, would create a right-of-way in favour of those adjoining properties to formalise the existing access.

The right of way as shown on the attachment will be limited in height to a level of 4.8 metres above the existing surface level of the Council land. This stratum easement will enable the airspace above the right of way to be utilised by the developer in the proposed retail development.

PROPOSAL

Council's Development Control Plan provides for a right-of-way to be created over Lot 2 in DP230192 and Lot 1 in DP513895. Whilst this ensures the right-of-way if there is development on either of these lots, it does not ensure right-of-way if Council's property is developed. It is therefore proposed to create a right-of-way in terms of the negotiations with the purchaser and to satisfy Council's obligations under the contract for sale.

PLANNING AND POLICY IMPACT

The creation of the right-of-way does not impact upon any planning requirement or policy of Council.

FINANCIAL IMPLICATIONS

The cost of creating the right-of-way which is expected to be in the vicinity of \$2,200 to \$2,700.

CONCLUSION

In order to fulfil the requirements of the contract Council has entered into, the right-of-way must be created.

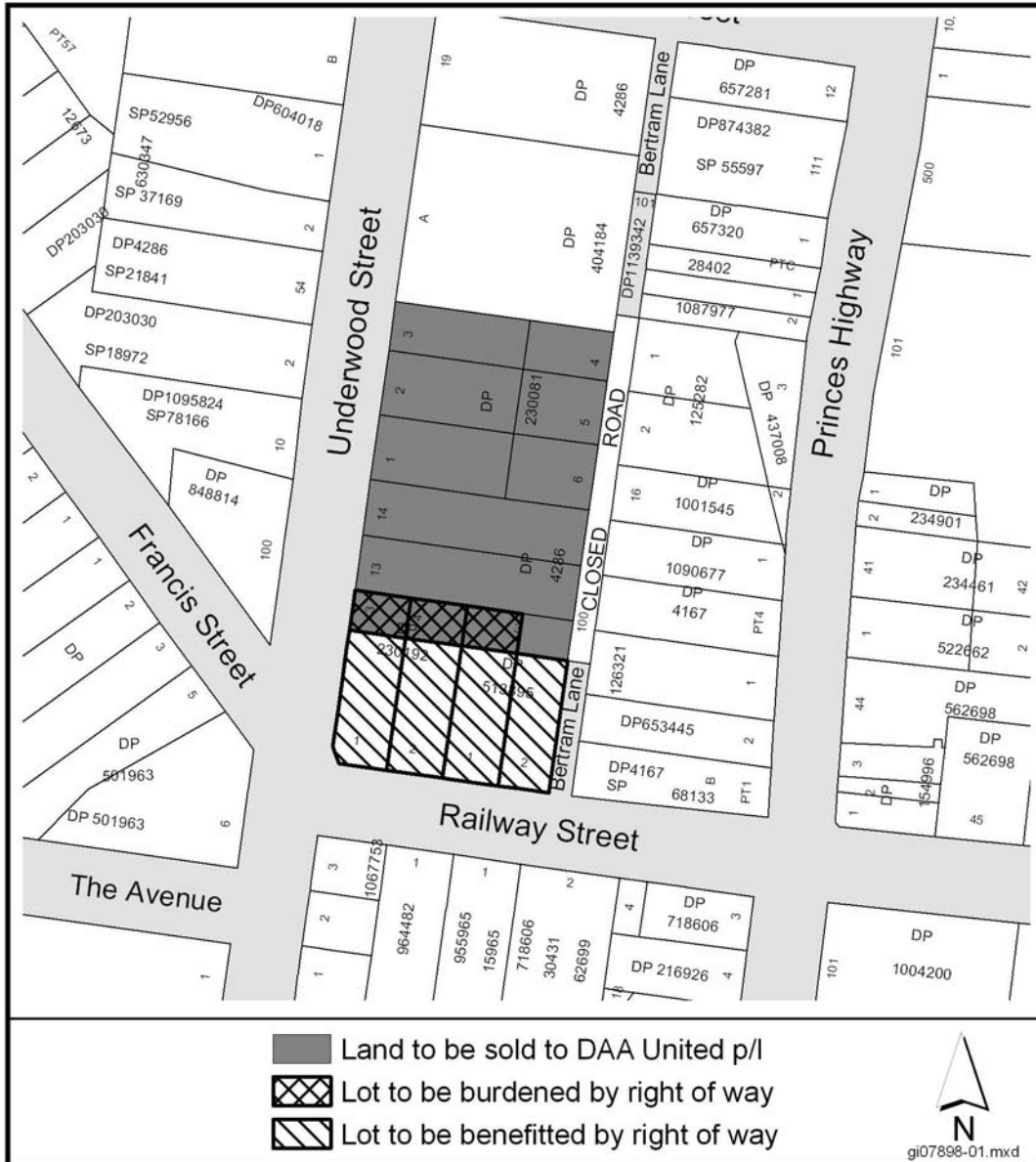
ITEM 6

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ATTACHMENTS

1. Plan identifying land sold and land affected by right-of-way



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