



DIRECTOR SHIRE SERVICES REPORT

10th May 2005

DSS14 LAND PURCHASE
FILE: LA 12592 Copy: R Phillip Dr KJF

SUMMARY:

Reporting on further enquiries regarding proposals to purchase land at South West Rocks.



Council, at its last meeting, when considering a report on proposals to purchase land from Lot 504, DP 774359, on Phillip Drive to allow for the continuation of the cycleway;

"That this matter be deferred until 26 April".

This resolution arose due to the perception that possessory right of title may exist on the land.

Subsequent investigations indicate that Council has no such claim. A possessory title application may only be made where the application is in respect of a whole parcel as defined in Section 45 (B) (i) of the Real Property Act 1900. Council's solicitors have advised:

"... we are of the view that no possessory claim would be available to Council at common law and, in any event the effect of the Real Property Act provisions is that a possessory claim is excluded."

Council considered a report at its December meeting regarding proposals to purchase land from Lot 504, DP 774359 on Phillip Drive to allow for the continuation of the cycleway.

Council Resolved:

" That this matter be deferred until a commitment from Telstra is received as to their contribution to the cost"

A copy of the report is attached at [\(Appendix L\)](#)

Telstra has been pursued with regard to a contribution and verbal advice received that they are prepared to contribute \$10,000 to the purchase.

The owner of the land, Mr Chris Beck, is very anxious to conclude the purchase settlement promptly. Correspondence from Mr Beck on 18th February 2005 is attached at [\(Appendix M\)](#) for Council's information.

Finalisation is recommended as a matter of urgency as any further delays may incur greater costs.

REPORT IMPLICATIONS

- ***Environmental Implications***

There are no environmental implications.

- ***Social***

It is essential that the cycleway be continuous along Phillip Drive and that the service conducts are on public land managed by Council.

- ***Economic (Financial)***

There is no vote provided for the purchase of this portion of land. It is proposed to draw funds from the Outdoor Recreation and Open Space Section 94 contributions for South West Rocks.

- ***Policy or Statutory***

There are no policy implications.

- ***Director's Review***

Council is encouraged to support the Recommendation.

RECOMMENDATION

That 542 m² be purchased from Lot 504 DP 774359, for \$151,500, with funding drawn from Section 94 Outdoor Recreation and Open Space contributions.

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K J Finnie
DIRECTOR SHIRE SERVICES