

OFFICIAL

FOI 22/89 - Document 1

PDR Number:
MS20-000912



Australian Government
Department of Finance



MINISTERIAL SUBMISSION

Copies to:
Secretary
Mr Jagers
Mr Hunt
Mr Scott
Mr Whitfort
Mr Stevens

Assistant Minister for Finance, Charities and Electoral Matters
CC: Minister for Finance

18 September 2020

Ms Fiona Martin MP – Sibbick Street Reserve, Russell Lea

Timing: Routine.

Recommendation:

That you:

- i. **agree** that gifting the Sibbick Street Reserve, Russell Lea to the City of Canada Bay Council (the Council) for a nominal fee of \$1 would not be consistent with the intent of the Commonwealth Property Disposal Policy;
AGREED / NOT AGREED / PLEASE DISCUSS
- ii. **agree** that it may be appropriate to negotiate an off-market sale of the Sibbick Street Reserve, Russell Lea, subject to the Council offering an appropriate price, based on an independent valuation, and committing to retain the Reserve as a public park;
AGREED / NOT AGREED / PLEASE DISCUSS
- iii. **sign** the attached draft letter to Mayor Angelo Tsirekas, requesting that the Council independently value the property, based on the current land use, and make a genuine financial offer by 30 November 2020; and
SIGNED / PLEASE DISCUSS
- iv. **sign** the attached draft replies to Dr Fiona Martin MP, Member for Reid and Mr John Sidoti MP, NSW Member for Drummoyne, outlining the Commonwealth's position in relation to the proposed divestment of Sibbick Street Reserve.
SIGNED / PLEASE DISCUSS

On 23 July 2020, Dr Martin wrote to Senator the Hon Mathias Cormann, Minister for Finance, asking that Sibbick Street Reserve remain as a community park at the conclusion of the current lease between the Commonwealth and the Council.

- (a) Dr Martin's letter included an attachment, dated 31 January 2020, from Mr Peter Gainsford, General Manager of the Council, proposing that the Commonwealth transfer Sibbick Street Reserve to the Council for \$1.00.
2. On 21 August 2020, Mayor Tsirekas wrote to the Minister for Finance, reiterating the importance of retaining the community park and requesting the transfer or dedication of the land to the Council.
3. On 4 September, Mr Sidoti wrote to the Minister for Finance, conveying the concerns of his local constituents that Sibbick Street Reserve be retained as a community park.

4. The Sibbick Street Reserve is a 3,194 square metre parcel in the inner Sydney suburb of Russell Lea. The 50 year lease between the Council and the Commonwealth, for a nominal annual fee of 10 cents (not collected), commenced on 1 May 1975 and expires on 30 April 2025. A map and images are included at Attachment A.

5. Sibbick Street Reserve has been established as a community park hosting a children's playground, a basketball half-court, seating, paving, gardens and open space. The Council advises that it has invested \$120,000 in the park over the past 10 years.

6. The property is surplus to Commonwealth requirements and in November 2019, as part of our review into property holdings, the Department of Finance (Finance) enquired about the Council's intentions following the expiry of the lease, and its interest in acquiring the property.

- (a) Council officials advised that the Council is interested in taking ownership of the property, but proposed that the land should be gifted. Finance requested that the Council consider its position more fully and make a reasonable financial offer.

7. On 9 December 2019, Treasury advised that the Minister for Housing and Assistant Treasurer's Office requested that the property be retained by the Commonwealth until the Government had considered its options in the coming Budget (then scheduled for May 2020). Subsequently, on 2 September 2020, Treasury advised that the property can be divested unless it can be rezoned for housing.

- (a) A change to zoning is highly unlikely as it would require the support of the Council and a variation to the *Canada Bay Local Environmental Plan 2013*.

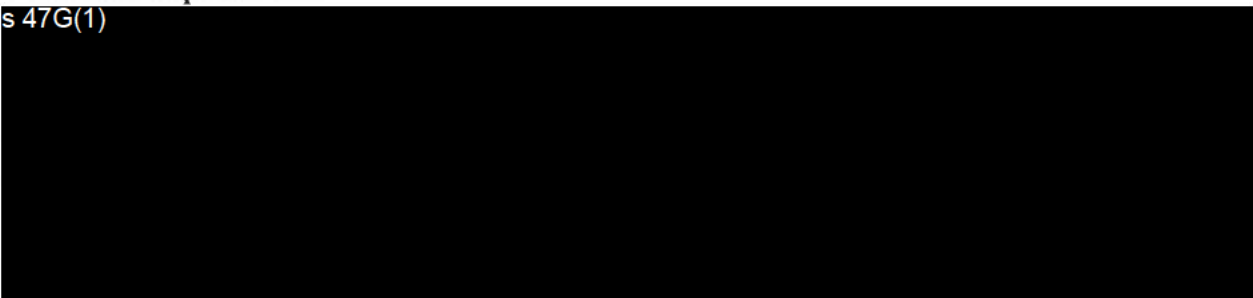
8. The Commonwealth Property Disposal Policy requires that surplus land must be sold on the open market at full market value, unless agreed otherwise by the Finance Minister. In particular, the policy advises that an off-market sale to a state, territory or local Government may be appropriate where the sale would optimise broader Government outcomes, including economic or social outcomes.

- (a) In this case, it may be arguable that there is a social outcome from an off-market sale to the Council for an amount that represents the current land use (playground and open space), subject to the inclusion of a security of purpose clause and covenant on Title to prevent the Council from profiting from a future repurposing, rezoning or divestment.

9. Subject to your consideration, Finance recommends that the Council should undertake its own independent valuation of the property under its current use and make a genuine offer to acquire the property by 30 November 2020. This timeframe provides a reasonable period to organise a valuation and carry out any other due diligence.

Financial Implications:

s 47G(1)



Background

12. Under the Commonwealth Property Disposal Policy, Commonwealth property, having no alternative efficient Government use, must be sold on the open market at full market value, unless agreed otherwise by the Finance Minister (authority is delegated to you in your role as Assistant Minister for Finance, Charities and Electoral Matters).

13. In 1977, a 50 year peppercorn lease was signed between the then Drummoyne Municipal Council (now the City of Canada Bay Council) and the then Department of Administrative Services (now Finance), commencing 1 May 1975 and expiring 30 April 2025.

14. Neither the Council nor Finance holds information that confirms the historic context of the site, in particular the very generous lease provisions.

15. Section 3, item 2, of the lease stipulates that the lessee (the Council) is to remove all fixtures erected and make-good any damage caused as a result of the removal, on or before the expiration of the lease.

Consultation:

16. The Minister for Housing and Assistant Treasurer's Office, through Treasury, was consulted.

Approved for electronic transmission

Jason Ford
Assistant Secretary
Property Projects Branch
Property and Construction Division
02 6215 3188

Contact Officer:

Job Title/Level:

Telephone:

PDR Number

s 22

MS20-000912

s 22

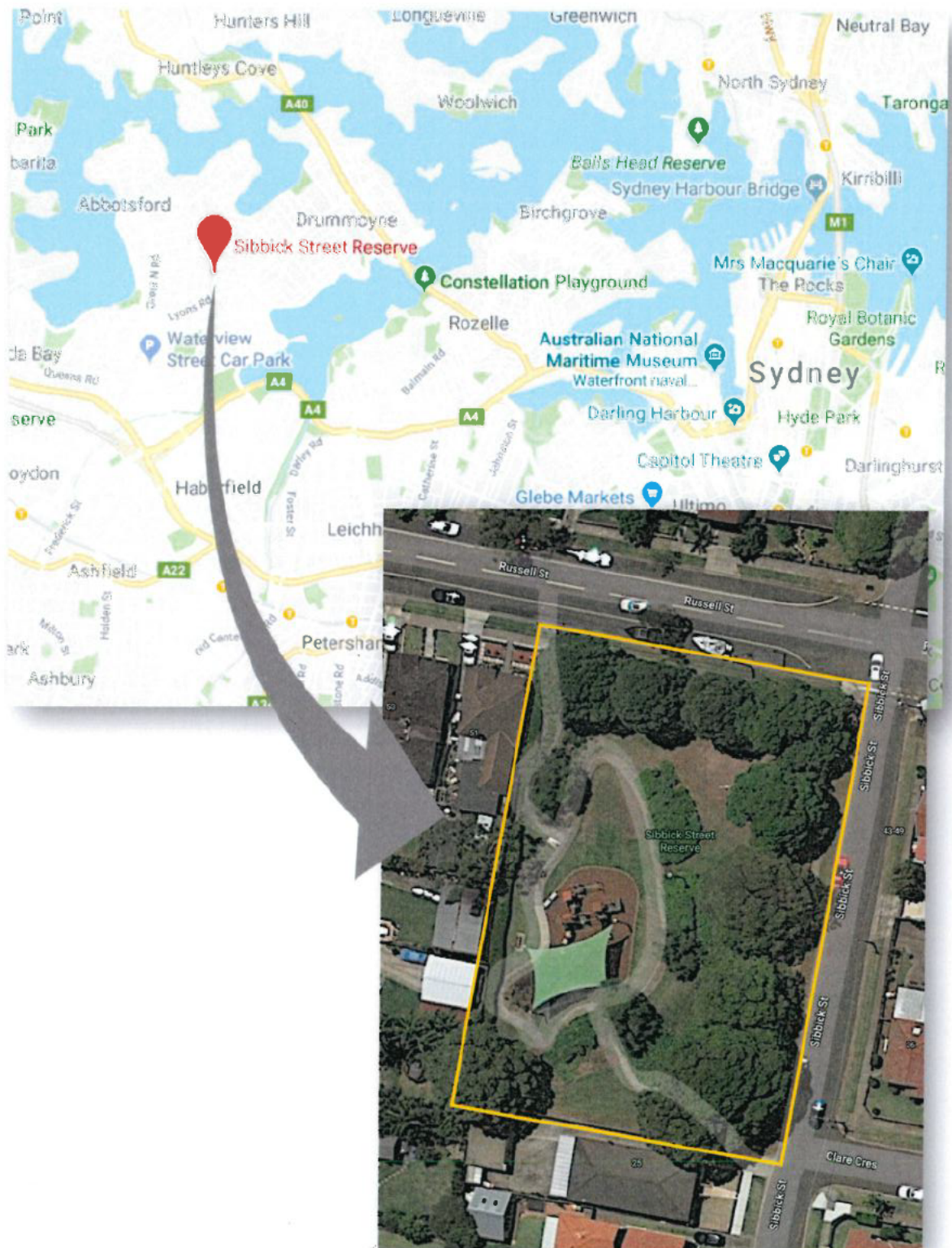
Zed Seselja

28/9/20

For Official Use Only

Sibbick Street Reserve – Map

Attachment A



For Official Use Only

For Official Use Only

Sibbick Street Reserve – Images



For Official Use Only



SENATOR THE HON ZED SESELJA
Assistant Minister for Finance, Charities and Electoral Matters

REF: MS20-000912

Dr Fiona Martin MP
 Federal Member for Reid
 Parliament House
 CANBERRA ACT 2600


 Dear Dr Martin

Sibbick Street Reserve, Russell Lea

Thank you for your letter of 23 July 2020 to Senator the Hon Mathias Cormann, Minister for Finance, seeking his support to retain Sibbick Street Reserve as a community space. As the issues raised fall within my portfolio responsibilities as Assistant Minister for Finance, Charities and Electoral Matters, your letter was referred to me for reply.

In 2019, as part of its review into property holdings, the Department of Finance (Finance) sought to clarify the City of Canada Bay's (the Council's) plans for the property following the expiry of the current lease in 2025, and whether it was interested in acquiring the property.

While I note your interest in the property remaining as a community facility in its current form when the lease expires, the Council's proposal that the land be dedicated or transferred for a nominal fee is not consistent with the requirements of the Commonwealth Property Disposal Policy, which imposes a general requirement that property that is surplus to the Commonwealth's needs must be sold on the open market at full market value.

However, the disposal policy enables me to agree to an off-market sale under certain circumstances, including where the sale would optimise broader Government economic or social outcomes. In this instance, I am open to further considering whether an off-market sale that retained the reserve as a park would deliver social benefits that are sufficient to depart from the general requirement for an open sale.

On this basis, I have written to Mayor Angelo Tsirekas requesting that the Council undertake an independent valuation and make a genuine offer to Finance to acquire the property by 30 November 2020. I would then consider whether the conditions for an off-market sale have been met.

In the absence of a reasonable offer from the Council, the property disposal policy requires the Commonwealth to sell the property on the open market.

s 22



Senator the Hon Zed Seselja

Assistant Minister for Finance, Charities and Electoral Matters


25 / 9 / 2020



SENATOR THE HON ZED SESELJA
Assistant Minister for Finance, Charities and Electoral Matters

REF: MS20-000912

Mayor Angelo Tsirekas
 City of Canada Bay
 Locked Bag 1470
 DRUMMOYNE NSW 2047


 Dear Mayor Tsirekas

Sibbick Street Reserve, Russell Lea

Thank you for your letter of 21 August 2020 to Senator the Hon Mathias Cormann, Minister for Finance, seeking his support to retain Sibbick Street Reserve as a community space. As the issues raised fall within my portfolio responsibilities as Assistant Minister for Finance, Charities and Electoral Matters, your letter was referred to me for reply.

In 2019, as part of its review into property holdings the Department of Finance (Finance) sought to clarify the Council's plans for the property following the expiry of the lease in 2025, and whether it was interested in acquiring the property.

While I acknowledge the Council's investment in the park over time and recognise your desire to retain the property as a community facility in its current form, the proposal that the land be dedicated or transferred for a nominal fee is not consistent with the requirements of the Commonwealth Property Disposal Policy, which imposes a general requirement that property that is surplus to the Commonwealth's needs must be sold on the open market at full market value.

However, the disposal policy enables me to agree to an off-market sale under certain circumstances, including where the sale would optimise broader Government economic or social outcomes. In this instance, I am open to further considering whether an off-market sale that retained the reserve as a park would deliver social benefits that are sufficient to depart from the general requirement for an open sale.

On this basis, I propose that the Council seek an independent valuation of the reserve, and make a realistic offer to Finance by 30 November 2020.

Once negotiations with Finance are finalised, I will consider whether the conditions for an off-market sale have been met. However, any agreement to an off-market sale would require a commitment to guarantee the relevant social outcome through a covenant on Title and an appropriate security of purpose clause that would prevent future repurposing, rezoning or divestment of the land.

In the absence of a reasonable offer from the Council, the property disposal policy requires the Commonwealth to sell the property on the open market, noting the make good provisions in the current lease.

Yours sincerely

s 22

Senator the Hon Zed Seselja
Assistant Minister for Finance, Charities and Electoral Matters

21/7/2020



SENATOR THE HON ZED SESELJA
Assistant Minister for Finance, Charities and Electoral Matters

REF: MS20-000912

Mr John Sidoti MP
 NSW Member for Drummoyne
 GPO Box 5341
 SYDNEY NSW 2001


 Dear Mr Sidoti

Sibbick Street Reserve, Russell Lea

Thank you for your letter of 4 September 2020 to Senator the Hon Mathias Cormann, Minister for Finance, seeking his support to retain Sibbick Street Reserve as a community space. As the issues raised fall within my portfolio responsibilities as Assistant Minister for Finance, Charities and Electoral Matters, your letter was referred to me for reply.

In 2019, as part of its review into property holdings, the Department of Finance (Finance) sought to clarify the City of Canada Bay's (the Council's) plans for the property following the expiry of the current lease in 2025, and whether it was interested in acquiring the property.

While I note your interest in the property remaining as a community facility in its current form when the lease expires, the Council's proposal that the land be dedicated or transferred for a nominal fee is not consistent with the requirements of the Commonwealth Property Disposal Policy, which imposes a general requirement that property that is surplus to the Commonwealth's needs must be sold on the open market at full market value.

However, the disposal policy enables me to agree to an off-market sale under certain circumstances, including where the sale would optimise broader Government economic or social outcomes. In this instance, I am open to further considering whether an off-market sale that retained the reserve as a park would deliver social benefits that are sufficient to depart from the general requirement for an open sale.

On this basis, I have written to Mayor Angelo Tsirekas requesting that the Council undertake an independent valuation and make a genuine offer to Finance to acquire the property by 30 November 2020. I would then consider whether the conditions for an off-market sale have been met.

In the absence of a reasonable offer from the Council, the property disposal policy requires the Commonwealth to sell the property on the open market.

Yours sincerely

s 22



Senator the Hon Zed Seselja

Assistant Minister for Finance, Charities and Electoral Matters

25/1 /2020

PDR Number:
MS21-000044



Australian Government
Department of Finance

MINISTERIAL SUBMISSION

Minister for Finance

28 January 2020

Copies to:
Secretary
Mr Jaggers
Mr Hunt
Mr Whitford
Mr Scott
Mr Stevens

Sibbick Street Reserve – Off-Market Concessional Sale

*Incorrectly dated, should
be 28 January 2021*

Timing: Routine

Recommendations:

That you:

- i. **note** that Senator the Hon Zed Seselja, then Assistant Minister for Finance, Charities and Electoral Matters, wrote to Mayor Angelo Tsirekas, City of Canada Bay on 25 September 2020 requesting that the Council independently value Sibbick Street Reserve, Russell Lea, New South Wales (the Property) and make a genuine financial offer by 30 November 2020 to acquire the property from the Commonwealth (MS20-000912 refers);

NOTED / PLEASE DISCUSS

- ii. **note** that on 19 January 2021, the City of Canada Bay Council offered to acquire the Property for \$245,000 (GST exclusive), subject to a number of conditions and agreeing to a restrictive covenant on the Property to remain as public open space (Attachment A); and

NOTED / PLEASE DISCUSS

- iii. **agree** to the off-market concessional sale of the Property to the Council for the offer of \$245,000 (GST exclusive), conditional on the inclusion of an appropriate security of purpose clause to ensure the Property remains as an open space or that the Commonwealth benefits from any future uplift in value should the Council vary the Property's permitted use.

AGREED / NOT AGREED / PLEASE DISCUSS

Key Issues:

Senator Seselja's letter to Mayor Tsirekas was in response to written representations from Mayor Tsirekas, Dr Fiona Martin MP, Member for Reid and Mr John Sidoti MP, NSW Member for Drummoyne requesting that the Property remain as a community park.

s 47G(1)

4. Following further negotiation between Finance and the Council, Finance received a revised offer from the Council of \$245,000 (GST exclusive) on 19 January 2021. Finance considers the revised offer to be acceptable as it is in line with the valuation, taking account of the restrictions on land use.

5. Subject to your consideration, Finance will confirm acceptance of the offer, subject to the security of purpose clause and restriction on Title, and enter into a contract of sale with the Council.

Commonwealth Property Disposal Policy:

6. Under the Commonwealth Property Disposal Policy, Commonwealth property, having no alternative efficient Government use, must be sold on the open market at full market value, unless agreed otherwise by the Finance Minister.

7. In particular, the policy advises that an off-market sale to a state, territory or local government may be appropriate where the sale would optimise broader Government outcomes, including economic or social outcomes.

8. In this case, there is a social outcome from an off-market sale to the Council for an amount that represents the current land use (playground and open space), subject to the inclusion of a security of purpose clause and covenant preventing the Council from profiting from a future repurposing, rezoning or divestment.

Financial Implications:

s 47G(1)



Background:

11. The Sibbick Street Reserve is a 3,194 square metre parcel in the inner Sydney suburb of Russell Lea. A map and images are included at Attachment B.

12. In 1977, a 50 year peppercorn lease was signed between the then Drummoyne Municipal Council (now the City of Canada Bay Council) and the then Department of Administrative Services (now Finance), for a nominal annual fee of 10 cents (not collected), commencing 1 May 1975 and expiring 30 April 2025.

13. Neither the Council nor Finance holds information that confirms the historic context of the site, in particular the generous lease provisions.

14. The Property has been established as a community park hosting a children's playground, a basketball half-court, seating, paving, gardens and open space. The Council advises that it has invested \$120,000 in the park over the past 10 years.

Consultation:

15. N/A.

Approved for electronic transmission

Craig Todd

A/g Assistant Secretary

Property Projects Branch

Property Construction Division

(02) 6215 2780

Contact Officer:

Job Title/Level:

Telephone:

PDR Number

s 22

MS21-000044

s 22

Simon Birmingham

29/1/21



20 November 2020

Your ref: MS20-000912

Jason Ford, Assistant Secretary
Property Projects Branch
Property and Construction Division
Commercial & Government Services
Department of Finance

Dear Sir/Madam,

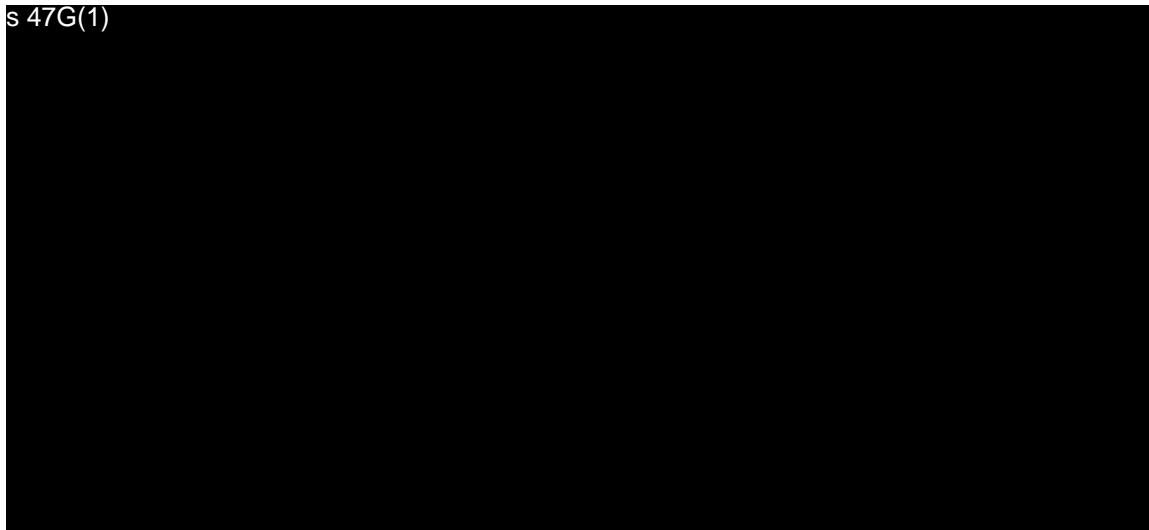
**RE: LETTER OF OFFER - SIBBICK STREET RESERVE - LOT 1 DP 1135704
25P SIBBICK STREET RUSSELL LEA NSW 2046**

Thank you for your correspondence dated 25 September 2020 in relation to Council making the Department of Finance a formal offer to purchase the abovementioned property.

Council has now prepared an offer for the abovementioned site, and has used the NSW Valuer General's current valuation, undertaken in July 2019. A copy of this valuation is attached for your reference.

This letter sets out a proposal for the purchase of the abovementioned site. The proposal is subject to the following:

s 47G(1)



Therefore, Council would like to make an offer of s 47G(1) for the abovementioned property. If you wish to discuss this matter please contact Council's Manager Buildings and Property s 22
@canadabay.nsw.gov.au.

Regards

s 22

Peter Gainsford
General Manager
City of Canada Bay



19 January 2021

Your ref: MS20-000912

s 22

Director

National Divestment

Property Projects Branch | Property and Construction Division

Department of Finance

One Canberra Avenue, FORREST ACT 2603

Dear s 22

**RE: RESPONSE LETTER - SIBBICK STREET RESERVE - LOT 1 DP
1135704 (25P SIBBICK STREET RUSSELL LEA NSW 2046)**

I refer to your email of 13 January 2021 responding to our letter of offer for the purchase of the Sibbick Street Reserve, dated 20 November 2020.

s 47G(1)

This letter sets out the revised proposal for the purchase of the abovementioned site. The proposal is subject to the following:

- (a) The purchase price being \$245,000;

s 47G(1)

Please contact our Manager Buildings and Property, s 22
[REDACTED] [@canadabay.nsw.gov.au](mailto:[REDACTED]@canadabay.nsw.gov.au) if you would like to discuss this matter.

Regards

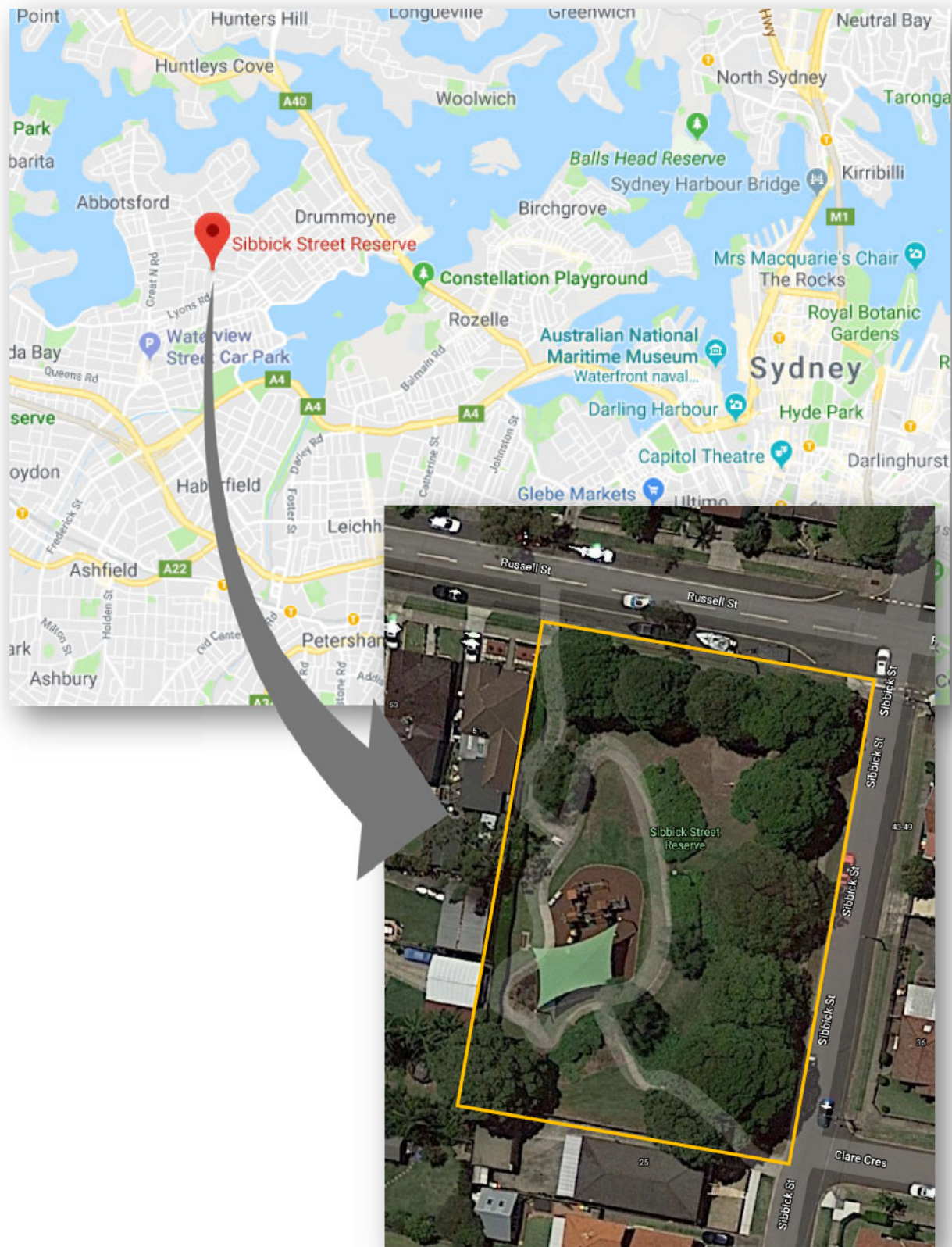
s 22
[REDACTED]

Kelly Loveridge
Acting General Manager
City of Canada Bay

For Official Use Only

Sibbick Street Reserve – Map

Attachment B



For Official Use Only

For Official Use Only

Sibbick Street Reserve – Images



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