

Report by Geoff Swinney, A/- Manager Parks

RECOMMENDATION

- 1. That Council note that the land known as Lot 1 in DP 726732 is under the care, control and management of Strathfield Municipal Council.**
- 2. That Council begin negotiations to return the access way being part of Lot 1 in DP 726732 to general community use.**
- 3. That Council offer to pay the full cost of fencing to ease the burden on the owner of the neighbouring property.**

PURPOSE OF REPORT

To advise Council of its obligation to make the walkway referred to as Lot 1 in DP 726732 known as 32 Ismay Avenue available for general community use and the benefits with the Powell's Creek Corridor.

BACKGROUND

Part of Ismay Reserve in Homebush and a strip of land 2.8 metres wide by 43 metres in length that links the reserve with Ismay Avenue, make up Lot 1 in DP726732 known as 32 Ismay Avenue. This lot is owned by the Department of Urban Affairs and Planning and was dedicated to Strathfield Council on the 15 April 1994 for the purposes of a public reserve, public park or public recreation area for passive recreation.

Mr Robert May wrote to Council in January 1996 advising that he had recently purchased the land at 28 Ismay Avenue, Homebush and advised that whilst he would like to erect a boundary fence (as no fence existed) along this strip, he did not want the expense of the fence and requested a gate be erected at both ends of the land and he would mow and maintain the land.

Council resolved on the 5 March 1996 to approve Mr May's request with the following conditions:

- That the resident be aware that Council has the power to access the site at any time,
- The Council has the power to remove the gates at any time,
- That the area be maintained by the resident,
- That the area be kept free of any permanent structure e.g. building or tree,
- That the inclusion of the access way does not create any rights for the residents of 28 Ismay Avenue.

The land has thus far provided enjoyment only to the owners of the private property of 28 Ismay Avenue and has not been used for the purposes of its dedication.

REPORT

Strathfield Council is preparing plans to improve the Powells Creek Corridor including bridges, cycleways and pedestrian bridges. Council has prepared a draft masterplan for the corridor and it identifies the importance of this access way to the corridor, in particular it will provide direct access to the Hamilton Street Bridge from Ismay Avenue and the planned amenities in Ismay Reserve.

Council is obliged to control the land and make it available for general public use pursuant to its dedication under the *Environmental Planning and Assessment Act 1979*.

Council is not obliged to contribute towards the cost of fencing along access ways by the *Dividing Fences Act 1991* or Councils 'dividing fences – public land policy'. Despite this it is recommended that Council contribute to the cost of installation of a fence to prevent hardship to the owner of the property.

REFERRAL FROM OTHER DEPARTMENT

Advice from Councils legal officer has been included within this report.

FINANCIAL IMPLICATIONS

The costs of installing a dividing fence between 28 Ismay Avenue and the accessway is estimated at approximately \$3,500.

Installation of the pathways will occur as part of the Powells Creek Corridor section 94 funding.

ATTACHMENTS

1. Ismay Reserve showing walkway.

Report approved by:

Rob Bourke
Director

ATTACHMENT 1 – Ismay Reserve showing walkway 32 Ismay Avenue (shaded with arrow)

