
Attachment Booklet 2

Narrabeen Lagoon Multi Use Trail – Stage 2B



Contents

1. Letter from Warringah Council to the Minister of Sport & Recreation – April 2008.....2
2. Letter from the Minister of Sport & Recreation to Warringah Council – August 2008.....4
3. Letter from Warringah Council to Cromer Golf Club – July 20115
4. Response from Cromer Golf Club to Warringah Council – August 20117
5. Council Considerations for Proposed \$400,000 Contribution to Golf Course Reconfiguration...8

Letter from Warringah Council to the Minister for Sport and Recreation and Attachment Map



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28 April 2008

Graeme West

Dear Mr West

Re: Approval for Narrabeen Lagoon Narrabeen Lagoon Multi Purpose Trail to through the Sydney Academy of Sport and Recreation

The purpose of this letter is to update you on the status of the Narrabeen Lagoon Multi-Use Trail project for the link adjoining the Sydney Academy of Sport and Recreation, and to request your support in finalising the proposed route and construction.

As you will recall, a meeting was held at the Sydney Academy of Sport and Recreation (Sydney Academy) on Monday 3 March 2008. Attending this meeting were representatives of the Department of Sport and Recreation, Local members Rob Stokes and Brad Hazzard, the Mayor of Pittwater, Warringah Council staff and myself. At this meeting, it was resolved that this project had your support, and that the Sydney Academy was to work with Warringah Council to agree on a solution allowing its construction.

Following on from this successful meeting, Council staff have met with Sydney Academy officers on several occasions to reach an agreement on the route of the trail and the details of its construction. To date consensus has been reached on the route of the trail (see attached map), however there is currently conflicting views relating to its construction. Whilst Council believes the trail should be constructed at ground level, Sydney Academy officers have indicated that their preferred option is to follow the same route using raised boardwalk at 2.5 metres above ground level for the entire length of the section (approx 250m).

Council does not believe the raised boardwalk is a tenable solution, it will be visually unappealing, cost approximately \$700,000 more than a path at ground level, and will have significant ongoing maintenance costs. Furthermore, a raised walkway could not be secured unless high tunnel fencing was placed on both sides further adding to the visual impact. This option would be unattractive and would alienate Sydney Academy and trail users from the Narrabeen Lagoon foreshore.

I am firmly of the view that a path at ground level as shown in the attached map is a vastly better one. This option has a much lower impact on the environment, attracts very little in the way of maintenance costs, and has a relatively low upfront cost (approximately \$45,000). It is also believed that this option would facilitate both security and safety concerns for Sydney Academy and trail users.



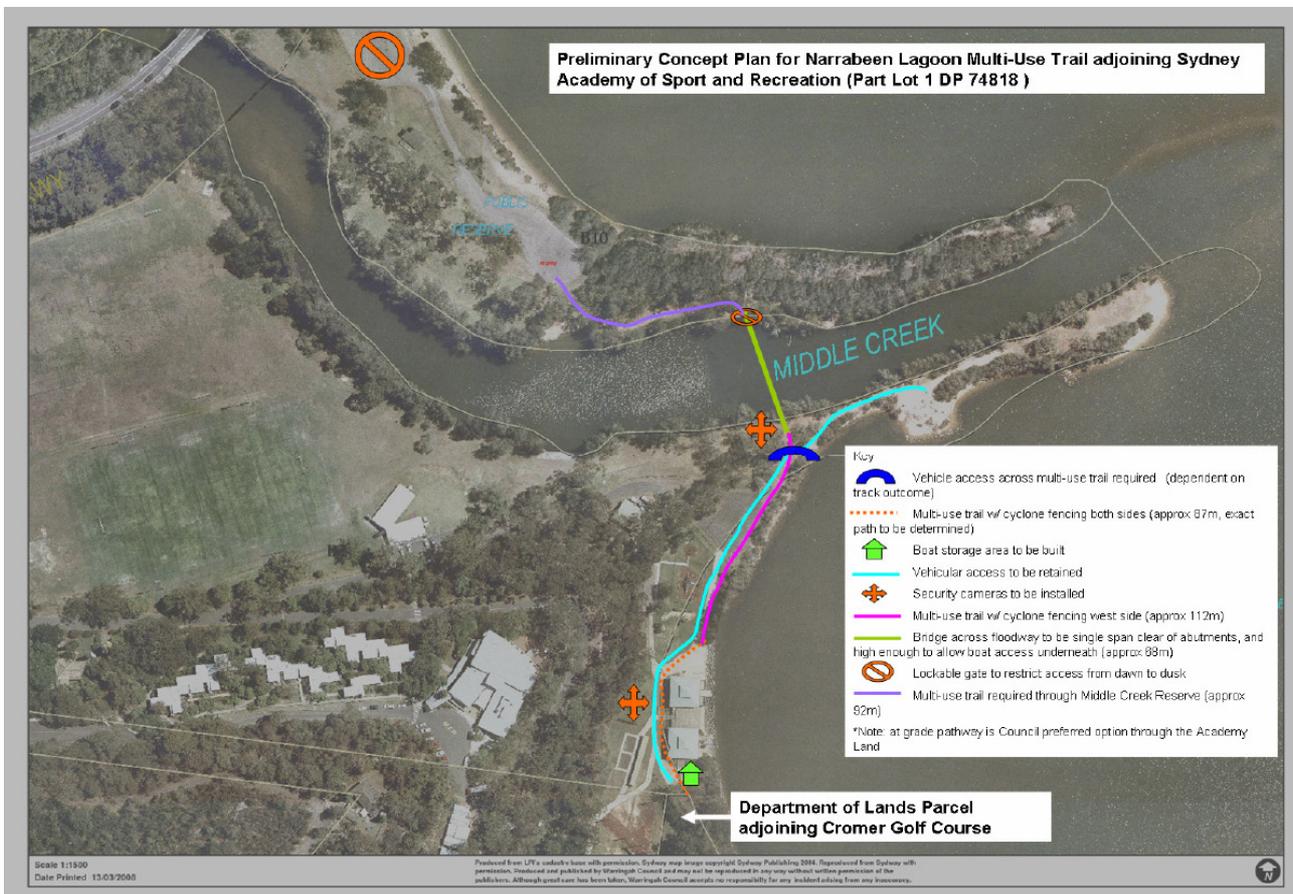
Council is keen to progress the Narrabeen Lagoon Multi-Use trail, as this project presents an opportunity to create an iconic recreational facility in partnership with the Sydney Academy of Sport and Recreation. I therefore request that you view the attached map and meet with me at your earliest convenience to finalise both the route and construction of the trail.

Yours faithfully

Dick Persson AM
ADMINISTRATOR

Attached Map: Preliminary concept plan showing proposed location of the Narrabeen Lagoon Multi-Use Trail adjoining the Sydney Academy of Sport and Recreation

Council Reference: 3042522



Council Reference: 3042525

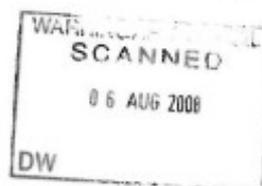
Response letter from Minister for Sport and Recreation



**MINISTER FOR GAMING AND RACING
MINISTER FOR SPORT AND RECREATION**

ODG-08-00489
File: 08/OP/27
EA1290637

Mr Dick Persson AM
Administrator
Warringah Council
Civic Centre
725 Pittwater Road
DEE WHY NSW 2099



Dear Mr Persson

I am writing to advise you that a further review of the options proposed for the construction of a walkway through the Sydney Academy of Sport at Narrabeen has been undertaken.

Following that review I have decided that the Council's original proposal is an acceptable option.

I understand this would involve the continuation of a similar type of path currently around a large section of the lake, with the cost of construction to be met by Council.

The Department is conducting an assessment of the proposed pathway and, as discussed, has agreed to meet any additional costs resulting from the continuation of the pathway on its land.

I would appreciate it if your officers could liaise with Mr Brendan Barrett, the Centre Manager, prior to and during construction to ensure that Council officers have sufficient access to the site and that Centre clients are aware of the works which will take place.

I trust this decision will be to the Council's and the local community's satisfaction.

Yours sincerely


04 AUG 2008
GRAHAM WEST MP
Minister for Gaming and Racing
Minister for Sport and Recreation

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25 July 2011

Mr Len Thomson
President
Cromer Golf Club
PO Box 1215
DEE WHY NSW 2099

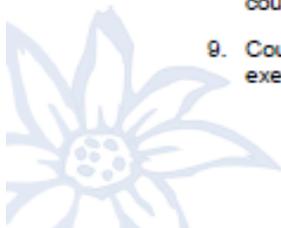
Dear Mr Thomson

Re: Narrabeen Lagoon Multi-Use Trail – Proposal for an Agreement between Warringah Council and the Cromer Golf Club

As you are aware the Mayor convened a meeting between senior Council staff and Cromer Golf Club, Friends of Narrabeen Lagoon Catchment and Mr Jim Somerville on 4 July 2011 to discuss the above matter. As indicated at this meeting Council has been investigating a number of potential actions that may assist all parties in reaching an agreement on the alignment of the Trail.

Council is seeking an indication from Cromer Golf Club (the "Club") that it would be broadly supportive of an agreement that includes the following:

1. The golf course would be reconfigured to remove the existing 15th hole and to allow access for the trail to be constructed along the lagoon foreshore.
2. Council and the Club would work together to establish and agree how the reconfiguration of the golf course would be designed, approved, project managed, and delivered.
3. Council would commit up to \$ 400,000 to the golf course reconfiguration. The balance of the cost would be met by the Golf Club.
4. Council would assist the Golf Club in modifying the condition of consent requiring it to provide a public access pathway under DA 2003/0856.
5. The Club would be supported in fencing the existing weir across South Creek to restrict access on the Club's side of the Creek.
6. The reconfiguration of the golf course would include rural style demarcation fencing to separate the trail users and golfers.
7. Council would support the Club in excluding the public from the ecologically sensitive areas within the Permissive Occupancy along South Creek, to the extent allowable.
8. Council and the Club would work together to facilitate the reconfiguration of the golf course and the construction of the trail.
9. Council and the Club would bear their own costs incurred in establishing and executing a deed of agreement.

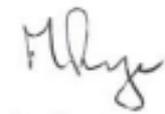


There are obviously a host of technical, financial and legal matters that would need to be determined prior to any agreement. Prior to undertaking further investigations Council is seeking your in-principle support of the above with a view to it forming the basis of any agreement between the parties.

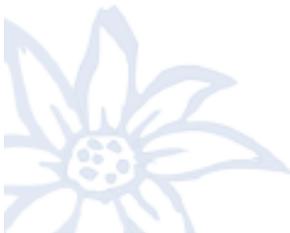
I would appreciate written confirmation within 28 days that this approach is acceptable to Cromer Golf Club.

Should you require any further information please contact Charles Munro, Project Manager (Major Projects) on 9942 2351.

Yours faithfully



Malcolm Ryan
Acting Director Community and Environmental Services



Cromer Golf Club's Response to Council's Agreement Concept

Sent: Thursday, 25 August 2011 3:18 PM
To: Todd Dickinson; Cr Michael Regan; Charles Munro
Cc: brad.hazzard@parliament.nsw.gov.au; pittwater@parliament.nsw.gov.au
Subject: Multi Use Trail & Council's Letter of Offer

Hi Todd,

Further to the 4th July meeting with the Mayor, Council's proposal letter of 25th July, my subsequent emails to the Mayor & our brief conversation yesterday seeking confirmation that the proposed Council funds of up to \$400,000 was intended, as the letter said, to go to "the golf course reconfiguration" (ie; specifically the adjustments to the existing 15th & 16th Holes) & did not include right of access or any element of compensation for associated damage to Cromer's playing surfaces or infrastructure.

As previously advised, a meeting of the Members of Cromer Golf Club was held last night to consider Council's proposal & the view expressed by the Cromer Board that in principle, the Council's proposal seemed to be a reasonable way forward, subject to further clarification. The meeting generally shared the view put forward by the Board that in principle, further discussions to flesh out the detail of route location, construction timing & related financial & physical impacts were worthwhile pursuing & could possibly lead to a deed of agreement for the project to proceed.

However, access for Council &/or it's Contractors to cross or use Cromer land is not to be implied as being granted by the action of Cromer agreeing to hold further discussions.

We would be pleased to hold these further discussions at your earliest convenience.

Kind regards

Len Thomson
President Cromer Golf Club

Council Considerations for Proposed \$400,000 Contribution to Golf Course Reconfiguration

The land occupied by Cromer GC along the foreshore of Narrabeen Lagoon and South Creek is known as Lot 7141 DP 1124285. This land is part of Reserve 35736 for access, *public recreation* which was gazetted on 09-May-1903.

This public reserve has therefore been in place for longer than the Cromer GC (completed in 1929), with a previous government having had the foresight to retain this area for public use. The Cromer GC has had the benefit of utilising this land under their Permissive Occupancy agreement with the NSW Crown Lands Division but with terms that the agreement is terminable at will by the Minister and that the tenant shall not unnecessarily obstruct access by the public across the foreshore.

It is the view of staff that no security of tenure has ever been given to the Club over use of this land and at no point in time has the public ever given up its access rights or intended it to be privatised by the Cromer GC. Simply, regardless of what funds have been expended by or development consent granted to the Club, the land has always been available for public access or to be developed for other public purpose. In summary staff consider that there is no strong basis for compensation to be payable to the Cromer GC for this work (subject to specific legal advice being obtained).

Nevertheless, Council have chosen to take a more pragmatic view and have proposed to offer the Cromer GC a contribution of up to \$400,000 (subject to negotiation and terms) to the redevelopment of the golf course caused by removal of their 15th hole from the public reserve and associated changes. The cost to the Cromer GC is expected to be up to \$550,000 or possibly higher. The reasons for Council's proposed contribution are set out below:

- 1) **Council is reliant on Ministerial Discretion:** Although the Permissive Occupancy agreement is "terminable at will", this is nevertheless at the discretion of the Minister and is not in the direct control of Council. We have been advised by the NSW Crown Lands Division that a negotiated outcome between Council and the Cromer GC is preferable. Council has also received legal advice that recommends a negotiated outcome with the Club be pursued. Should Council seek to force this issue, it can request the Minister to take action to remove the Club from the public reserve and Council would expect the Minister to act in the public interest. However, Council does not control for example whether the Minister may give the Club say a 5 year period in which to redevelop their land and vacate the public reserve, or impose other conditions that may be less than ideal for Council's position. Council consider it prudent therefore to at least attempt to negotiate an agreed outcome with the Cromer GC.
- 2) **Community Expectations:** The extensive community consultation processes undertaken to date has indicated some sympathy for the Cromer GC's position, notwithstanding a view that the greater public good in developing the trail should nevertheless be pursued. Council received approximately 136 submissions (refer Options Report Section 5), many of which supported the Club, expressed the Club's difficult financial position, thought the Club should be compensated if they lose the 15th hole and similar sentiments. Although recognising that many of these submissions were from golf club members with a particular personal interest, Council considers that on balance a reading of the overall community feedback suggests that Council should adopt a supportive position with the Cromer GC in pursuing the trail development.

Notwithstanding this community feedback, it is Council policy (refer Draft Warringah Economic Development Plan 2011) to support local businesses. The Cromer GC is considered to be a not-for-profit organisation that exists to promote and manage organised sport for its members who are assumed to be predominantly local residents, it runs associated social clubs such as a bridge club and we understand has a junior development programme for introducing young members to the sport. It is considered desirable that in completing the loop of the Narrabeen multi-use trail for the benefit of the wider community, that an established local community segment is not undermined or possibly bankrupted by the project and that the whole community gains.

- 3) **Access for Construction:** Most of the Cromer GC is sited on its own freehold land, with a small proportion encroaching onto the public land reserve, albeit in prime foreshore locations. However once Council has removed the relevant golfing use from the public reserve, to actually build the trail it still has to get access to the land for construction vehicles and cranes, delivery of materials, staging and storage areas and working space for example on a low lying and environmentally sensitive foreshore site.

The optimum access to the site is provided by crossing the privately held golf course land, which not only requires permission from the Cromer GC to do so, but may also cause disruption to play, potential loss of income for the Club and potential damage to the course (which Council contractors will be required to reinstate). Council has alternative construction access available. However, the alternative access through the Academy requires negotiations with and resulting operational impacts on the Academy, without the certainty at this time of the conditions and cost of obtaining this access. Access from the lagoon on barges may be possible but with higher costs, delay risks and high environmental impacts from dredging the shallow water for access.

Access through the golf course is preferable and it's therefore in Council's interest to negotiate with the Cromer GC for a contribution to the golf course reconfiguration on the basis that it gets construction access across its land in return.

- 4) **Course Design and Construction Influence:** The current layout of the 16th hole parallel to South Creek is considered to encourage golf balls to be played down the left side of the fairway along the foreshore of South Creek. The vegetation here has less depth and appears somewhat impacted from golfing use and informal trails created by pedestrians and cyclists.

Council's intent in nominating its preferred Option 3B set out in this report (and as discussed in the Options Report Section 7) is that the land on the western bank of South Creek be revegetated and its depth increased to support a large contiguous EEC protection area around South Creek Reserve. This will help to create more protection and habitat for threatened fauna.

It is the prerogative of Cromer GC to set up their course how they see fit to maximise the quality of golf. However, even though development consent would have to be granted by Council, by substantially funding the course redevelopment Council expects to have increased influence over the course design to ensure that its environmental and other objectives are fully considered. We also see benefits in improved coordination and staging between the two trail construction and golf course reconstruction projects if Council has a direct involvement in both.

Comment on Quantum of Proposed \$400,000 Offer

Valuing Council's proposed contribution to the golf club works of up to \$400,000 is not a precise calculation and in any negotiation a subjective view needs to be formed as to the position the parties will take. In this case a view has been formed on the quantum of Council's offer to the Cromer GC based on the information available at this early conceptual stage, Council objectives and the specific considerations outlined below:

- 1) **Previous Offers:** Estimated total costs to the Cromer GC are in the order of \$520,000 - \$550,000 but with significant variation possible given the early conceptual design stage and lack of survey at this time. Alternative concepts are still to be considered by the Club once Council makes a decision on its preferred trail alignment. The Club's current development consent requires it to provide a public access track and in 2008 it advised Council it had costed the path at \$125,000 and that the Cromer GC would be prepared to contribute this amount. Council did not form a view on the value of this path and no acceptance was given, however it has relevance in that the Cromer GC has indicated its preparedness to pay such a sum. If the \$400,000 were committed, Council would only be imposing slightly higher costs and risks to Cromer GC in the current proposal.

- 2) *Value of Construction Access:* Good site access is important in facilitating efficient construction of the Trail and associated golf course works. This view has been supported by discussions with an experienced contractor in bridge construction and boardwalks who indicated that good site access is required in order for contractors to manage potential risks. That is, if quality access cannot be guaranteed, prospective contractors are likely to reflect any increased risk in their tender prices. With a construction budget of \$4.4 million a few percentage points added for risk margin can be a significant cost. As such it is considered appropriate to reduce these risks by securing quality access upfront with the allocated \$400,000 being the upper limit for this purpose.
- 3) *History and Circumstances of the Parties:* Ultimately some subjective judgement is required as to an appropriate amount to offer to secure the support of the Cromer GC given the strong objections of the Club to the Trail proceeding through their existing holes and the impasse over many years in trying to resolve an appropriate route for the Trail. Particular considerations by Council here are:
- That Council will be offering a fixed contribution, capping exposure to a maximum limit of \$400,000, whilst the Cromer GC is exposed to the risk of price variation if costs exceed initial estimates;
 - Cromer GC does not appear to be in a strong financial position, having incurred operating losses in recent years. Council staff have not audited their finances but have accepted their representations and those of member submissions that the required course alternations are unaffordable in the circumstances and considering the general golf market;
 - The potential future impact on the Club (whether realised or perceived) on future revenue, membership growth and amenity for current golfers from the loss of it's signature 15th hole.
 - The original golf course architect's estimate of basic design and construction costs was \$390,506 plus GST, with additional costs thereafter being contingency; price escalation; additional reports, survey, design and approvals costs; temporary works to allow play to continue and loss of trade during construction bringing total estimated costs to \$520,000-\$550,000, with further variations if an alternate course design is selected. If Council covers the basic direct cost estimate of \$390,506 (approximated to \$400,000) it means the substantial part of the hard costs are covered to give the Cromer GC confidence in proceeding, with Council gaining confidence it is not overpaying for an essential requirement of the preferred trail alignment.