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MEMORANDUM

DATE: 13 December 2022

TO: Development Determination Panel

CC: Steven Findlay, Development Assessments Manager

FROM: Adam Croft, Principal Planner

SUBJECT: Item 3.4 - DA2022/1283, - 18 NAREEN PARADE, NORTH NARRABEEN

Dear Panel,

The purpose of this memo is to provide the Panel with the final referral comments and conditions from Council's Transport and Civil Infrastructure Assets (TCIA) team in relation to the amended development application.

The TCIA referral comments and conditions in full are attached to this memo, and require the following changes to the conditions (new and amended) included in the recommendation of the Assessment Report.

Amended and New Conditions (shown in blue):

Amend Condition 14. Submission Roads Act Application for Civil Works in the Public Road to read as follows:

14. Submission Roads Act Application for Civil Works in the Public Road

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the design of infrastructure works on the road reserve which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer. The design must include the following information:

1. A vehicular crossing 6.3 meters wide to be constructed in accordance with Council's standard drawing A4/3330/1 N.
2. Structural details for the retaining walls in the road reserve.
3. Details of the access stairs.
4. A services plan indicating all services in the road reserve. Where any services are to be adjusted as a result of the works, approval from the relevant service authority is to be provided.
5. The application is to include a geotechnical report that is prepared by an appropriately qualified Geotechnical Engineer to assess all proposed works including road works and retaining walls.



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6. Structural Engineer's certification for structures on the road reserve.
7. Plans that are submitted with the Roads Act Application shall remove the provision of the concrete path with gated access to Inclinator (maintaining the existing earth embankment to the property boundary), ensure 1.65m clearance from the face of kerb to any proposed structures (retaining walls and stairway), and remove the stepped nature of the retaining walls across the verge instead providing for a "raked" finish to the top of the walls to match the grade of the existing verge surface levels. A suitable barrier may be required above the wall to prevent a fall from height.
8. The ongoing maintenance and/or repair of the retaining structures that are subject to the Road Act Application, once approved, will remain the responsibility of the property owner.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

Add Condition 22a. Road Reserve Lease for Parking to read as follows:

22a. Road Reserve Lease for Parking

A road reserve lease pursuant to the provisions of section 149 of the Roads Act 1993 (NSW) is to be entered into, and must have been executed and fully in place between the Applicant and Council as the roads authority, in respect to the road reserve (Nareen Parade) referable to the area of the road reserve proposed to be used for the parking of motor vehicles and associated retaining wall, prior to the issue of a Construction Certificate.

Further, the Applicant shall not at any time use or cause or permit to be used any part of the road reserve as a trafficable area unless the road reserve lease is in place and current and unless all terms and conditions of the lease are faithfully and fully observed and complied with by the Applicant at all relevant times.

The grant of this development consent does not mean that Council will necessarily enter into the road reserve lease, there being no fettering of discretion in that regard. Additionally, any such lease may not be granted by Council as roads authority except with the approval of the Chief Executive Officer.

Reason: To ensure appropriate controls and conditions are applied to the use of public road reserve in accordance with provisions of the Roads Act 1993.

Add Condition 22b. Positive Covenant to read as follows:

22b. Positive Covenant

That a Positive Covenant be registered on the title of the property, associated with the substandard off street parking facility, requiring that, the lease shall remain in place until such time as the off-street parking encroachment is removed from the public road reserve and in event of redevelopment of the property, the encroachment of the off street parking facility be removed from the public road reserve and provision of a compliant off-street parking facility being accommodated within the property boundary.



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The Positive Covenant shall also require the property owner to provide for the ongoing maintenance and/or repairs of the structures on the public road reserve.

Reason: To ensure the protection of public road reserve and protect Council's interests in the event of future property transactions or redevelopment.

Recommendation

That the Development Determination Panel include these conditions in the approval of DA2022/1283.

Memo

Transport and Civil Infrastructure

To: Adam Croft
Cc: Steven Findlay
From: Stephen Watson
Date: 13/12/2022
Subject: DA2022/1283 – 18 Nareen Parade North Narrabeen
Record Number: 2022/800446

The proposal for works on the public road reserve includes

- 6.3m wide driveway crossing, associated retaining walls
- Stairway – open style steel or timber stairs
- Gated pathway access to inclinator and associated retaining walls
- Encroachment of offstreet parking onto the public road reserve/road verge.

Summary

Given the extenuating circumstances associated with the topography and location of the dwelling on the property, together with the unique circumstances of the property owners and their access requirements, the proposed encroachment of offstreet parking into the public road reserve is accepted subject to the conditions outlined below.

Discussion

The 6.3m wide driveway crossing is excessive and results in loss of on street parking. The intention (originally) of the applicant to accommodate a single vehicle with sufficient space to be able to access the vehicle and circulate. We note the DCP specifies 4.5m maximum driveway width at the kerb.

The stepped retaining walls are to be “raked” to match the grade of the existing verge surface levels and shall be clear of the face of kerb by 1.65m to provide for 1.5m clear width footpath excluding kerb width. A suitable barrier may be required above the wall to prevent a fall from height.

Similarly, the open style steel or timber stairs shall terminate at the bottom landing 1.65m from face of kerb to provide for 1.5m clear width footpath excluding kerb width.

The notation on the plans, “Proposed gate access. Maintenance of inclinator car”, indicating a concrete pathway to the property boundary with gated access to inclinator (shown on sheet 4 or 4) is not supported due to the already extensive excavation of the verge. It is recommended that this be removed from the plans or excluded from the Road Act Application for Civil Works.

The proposal will result in the private use of the public road reserve for parking of vehicles partly within the public road reserve. The area is estimated to be approximately 16sqm. A lease for this area will be required. $(1.9+3.4)/2 \times 6.3=16.7\text{sqm}$

Although not shown on the amended plans, for the purpose of clarity, any gated structure/garage door on the parking facility shall not be permitted on the road reserve.

It is noted that the garage floor level is below the Flood Planning Level for Narrabeen Lagoon and that the potential exists for flood inundation of the garage floor and inclinator bay. Consideration shall be given to locating any electrical motors or infrastructure associated with the inclinator above the required flood planning levels. Council's Development Assessment Team shall review the merits of this issue and include any conditions deemed necessary.

Conditions Prior to Construction Certificate

Road Reserve Lease for Parking

A road reserve lease pursuant to the provisions of section 149 of the *Roads Act 1993* (NSW) is to be entered into, and must have been executed and fully in place between the Applicant and Council as the roads authority, in respect to the road reserve (Nareen Parade) referable to the area of the road reserve proposed to be used for the parking of motor vehicles and associated retaining wall, prior to the issue of a Construction Certificate.

Further, the Applicant shall not at any time use or cause or permit to be used any part of the road reserve as a trafficable area unless the road reserve lease is in place and current and unless all terms and conditions of the lease are faithfully and fully observed and complied with by the Applicant at all relevant times.

The grant of this development consent does not mean that Council will necessarily enter into the road reserve lease, there being no fettering of discretion in that regard. Additionally, any such lease may not be granted by Council as roads authority except with the approval of the Chief Executive Officer.

Reason: To ensure appropriate controls and conditions are applied to the use of public road reserve in accordance with provisions of the Roads Act 1993

Positive Covenant

That a Positive Covenant be registered on the title of the property, associated with the substandard off street parking facility, requiring that, the lease shall remain in place until such time as the offstreet parking encroachment is removed from the public road reserve and in event of redevelopment of the property, the encroachment of the off street parking facility be removed from the public road reserve and provision of a compliant offstreet parking facility being accommodated within the property boundary.

The Positive Covenant shall also require the property owner to provide for the ongoing maintenance and/or repairs of the structures on the public road reserve.

Reason:

To ensure the protection of public road reserve and protect Council's interests in the event of future property transactions or redevelopment.

