



Business Paper

Shire Services Committee

Monday, 6 August 2018

6.30pm

**Committee Rooms 203 and 204,
Level 2, Administration Building,
4-20 Eton Street, Sutherland**

SUTHERLANDSHIRE

ORDER OF BUSINESS

- 1. ACKNOWLEDGEMENT OF COUNTRY**
- 2. APOLOGIES**
- 3. DISCLOSURES OF INTEREST**
- 4. CONFIRMATION OF MINUTES OF THE PREVIOUS MEETINGS**
- 5. PRESENTATIONS**
- 6. REPORTS FROM OFFICERS**
 - SER026-18 Proposed Drainage Easement - 171R Gannons Rd Caringbah South
 - SER027-18 Proposed Drainage Easement - 1R Dianella St, Caringbah
 - SER028-18 Proposed Drainage Easement - 1-9 Miyal Place, Engadine
- 7. QUESTIONS**
- 8. CONSIDERATION OF BUSINESS IN CLOSED SESSION**
- 9. CONFIDENTIAL REPORTS FROM OFFICERS**

**SER026-18 PROPOSED DRAINAGE EASEMENT - 171R GANNONS RD
CARINGBAH SOUTH**

SER026-18

Attachments: Appendix A [↓](#) and Appendix B (under separate cover)

EXECUTIVE SUMMARY

- The owner of 75 Saunders Bay Rd, Caringbah South has been granted consent to demolish an existing dwelling to subdivide the property.
- In accordance with Council's development consent DA18/0083 the owner is required to obtain a drainage easement for the discharge of stormwater from the property into the nearest Council drainage system located downhill from the development.
- The easement is to be located across Council owned drainage reserve land at 171R Gannons Rd, Caringbah South (Lot 8 DP 788203).
- The compensation payable to Council for encumbering its land with a drainage easement has been calculated as per Council's adopted Fee and Charge rate.
- The property owner will be responsible for all costs associated with the granting of the easement.

REPORT RECOMMENDATION

THAT:

1. An easement for drainage services be granted over Council land described as 171R Gannons Rd, Caringbah South (Lot 8 DP 788203) in favour of 75 Saunders Bay Road, Caringbah South (Lot 127 DP 5179) at terms and conditions to the General Manager satisfaction.
2. In accordance with the Power of Attorney dated 6 July 2016 BK 4710 No. 28, the General Manager execute any necessary documentation to give effect to this resolution.

PURPOSE

To consider granting an easement for drainage services drainage over 171R Gannons Rd, Caringbah South (Lot 8 DP 788203) in favour of 75 Saunders Bay Road, Caringbah South being Lot 127 DP 5179 (see Appendix A).

BACKGROUND

Council's Development Control Plan (DCP) requires new development applications to drain stormwater downhill into Council stormwater infrastructure. This may mean supplying and installing infrastructure across adjoining properties to connect to Council infrastructure located in the street or within Council owned drainage reserves. Where the land has a Lot and DP the development consent requires the registered owner to secure a drainage easement over the land prior to the issuing of a construction certificate.

The issuing of development consent with a condition requiring a drainage easement to be obtained does not bind Council or any other adjoining property owner to grant an easement. If the property owner seeking the easement is not able to negotiate an easement or have one granted by the court, another solution would need to be found (where possible) or the approved development cannot proceed.

DISCUSSION

Council has granted consent to the owners of 75 Saunders Bay Road, Caringbah South (known as 'the owners') to demolish a dwelling and subdivide the property (DA18/0083).

Consent condition 2.A states:

Before Construction

- ii) The easement for drainage burdening Lot 8 DP788203 must be registered with NSW Land Registry prior to the issue of any construction certificate.

This consent is subject to the owners obtaining necessary easements for drainage to enable connection into Council's existing drainage system in Yeramba Ave. To achieve this, the owner will require easements over 171R Gannons Rd which is Council owned as well as 7 Yeramba Ave which is privately owned.

An easement can only be granted with the express resolution of Council. By Council granting consent to the easement over its land will assist the owners to meet the consent condition, in part.

The owner will undertake construction of stormwater infrastructure over the Council land at 171R Gannons Road and over 7 Yeramba Ave to connect to the Council drain in Yeramba Ave, as well as any necessary upgrade of existing infrastructure. This construction work will be at the owners cost.

RESOURCING STRATEGY IMPLICATIONS

The consideration paid to Council will go into the Property Fund to be allocated to future investment options to be considered by Council and will assist in meeting Council's Delivery Program and Long Term Financial Plan. There will be no cost to Council in granting the easement. Appendix B contains the financial consideration.

STRATEGIC ALIGNMENT

The granting of the easement meets the strategies in our adopted Delivery Program of:

Community Strategic Plan Strategy	Delivery Program (2017-2021) Deliverables
2.3 Protect our beaches, rivers and oceans 2.3.1 Manage catchments effectively to improve the cleanliness, health and biodiversity of our waterways	2G Develop and implement a Catchment and Waterway Management Strategy.
6.2 Facilitate a diverse housing mix that provides choice and meets the needs of all community members	6B Manage new and existing development within a robust and effective framework

POLICY AND LEGISLATIVE REQUIREMENTS

Connection of a private easement into existing Council facilities is permitted under Section 46 of the Local Government Act 1993.

The granting of the easement to benefit the subject property will ensure that stormwater runoff will be contained within the existing Council drainage system which is consistent with the objectives of Council's DCP.

CONCLUSION

The proposed easement will have negligible effect on the use of the Council land and minimal impact on any future proposed development of the site. Granting of the appropriate easement rights to the owner of the benefited property will enable them to comply with Council's development consent as well as containing potential nuisance rainwater runoff by piping the properties to existing Council drainage infrastructure.

RESPONSIBLE OFFICER

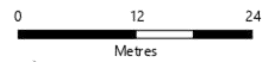
The officer responsible for the preparation of this Report is Manager Property Services, Lani Richardson, who can be contacted on 9710 0614.

File Number: 2018/305153



Sutherland Shire Council Mapping
171R GANNONS ROAD, CARINGBAH SOUTH

This map has been produced with the most current data available to Council as supplied by various sources. INFORMATION IN THIS MAP IS SUBJECT TO COPYRIGHT. Council is not responsible for any inaccuracies in the data provided. Contact Council's Land Information Unit (ph. 9710 0116) for more information.



at A4 Scale 1: 605

Printed: 9/07/2018

SER027-18 PROPOSED DRAINAGE EASEMENT - 1R DIANELLA ST, CARINGBAH

SER027-18

Attachments: Appendix A [↓](#) and Appendix B (under separate cover)

EXECUTIVE SUMMARY

- The owner of 7 Dianella Street, Caringbah have been granted consent to build a multi dwelling residential development.
- In accordance with Council's development consent DA15/1178 the owner is required to obtain a drainage easement for the discharge of stormwater from its property into the nearest Council drainage system located downhill from their development.
- The easement is to be located on Council owned land at 1R Dianella Street, Caringbah (Lot 2 DP205393).
- The compensation payable to Council for encumbering it's land with a drainage easement has been determined.
- The property owner will be responsible for all costs associated with the granting of the easement.

REPORT RECOMMENDATION

THAT:

1. An Easement for drainage services be granted over Council land described as 1R Dianella Street, Caringbah (Lot 2 DP205393) in favour of 7 Dianella Street, Caringbah (Lot 100 DP 1221677) at terms and conditions to the General Manager satisfaction.
2. In accordance with the Power of Attorney dated 6 July 2016 BK 4710 No. 28, the General Manager execute any necessary documentation to give effect to these resolutions.

PURPOSE

To consider granting an easement for drainage services over 1R Dianella Street, Caringbah (Lot 2 DP205393) in favour of 7 Dianella Street, Caringbah (Lot 100 DP 1221677) (see Appendix A).

BACKGROUND

Council's Development Control Plan (DCP) requires new development applications to drain stormwater downhill into Council stormwater infrastructure. This may mean supplying and installing infrastructure across adjoining properties to connect to Council infrastructure located in the street or within Council owned drainage reserves. Where the land has a Lot and DP the development consent requires the registered owner to secure a Drainage Easement over the land prior to the issuing of a construction certificate.

The issuing of development consent with a condition requiring a drainage easement to be obtained does not bind Council or any other adjoining property owner to grant an easement. If the property owner seeking the easement is not able to negotiate an easement or have one granted by the court, another solution would need to be found (where possible) or the approved development cannot proceed.

The easement can only be granted with the express resolution of Council. The registered owner of the benefited property will undertake construction of the stormwater infrastructure and any necessary upgrade of existing infrastructure at their cost.

DISCUSSION

Council's Planning Unit has granted consent conditions in DA15/1178 to the owner of 7 Dianella Street, Caringbah to construct two new residential flat buildings. This consent is subject to the owner obtaining the necessary easement for drainage to enable connection into Council's downhill existing drainage system located within 1R Dianella Street, Caringbah to implement drainage in accordance with their stormwater concept plans approved within the DA.

Consent condition 13.B states:

Before Construction

"ii) Evidence that the required 'easement to drain water' in favour of Sutherland Shire Council has been created under the provisions of section 88B of the Conveyancing Act shall be provided with the Construction Certificate Application".

The proposed easement is located on Community Land used as carpark for the reserve, sportsfields and child care centre. The easement infrastructure once in place will have minimal to no impact on the current use of the land.

It is proposed Council enter into Transfer Granting Easement to allow the easement matter to be finalised and allow the Construction Certificate to be issued.

RESOURCING STRATEGY IMPLICATIONS

The consideration paid will be held in Council's Property Fund to assist in funding Council's Delivery Program and Long Term Financial Plan and future investment opportunities considered by Council.

The financial consideration for the granting of this easement has been assessed and a recommendation is attached as Appendix B (confidential).

STRATEGIC ALIGNMENT

The granting of the easement meets the strategies in our adopted Delivery Program of:

Community Strategic Plan Strategy	Delivery Program (2017-2021) Deliverables
2.3 Protect our beaches, rivers and oceans 2.3.1 Manage catchments effectively to improve the cleanliness, health and biodiversity of our waterways	2G Develop and implement a Catchment and Waterway Management Strategy.
6.2 Facilitate a diverse housing mix that provides choice and meets the needs of all community members	6B Manage new and existing development within a robust and effective framework

POLICY AND LEGISLATIVE REQUIREMENTS

Connection of a private easement into existing Council facilities is permitted under Section 46 of the Local Government Act 1993.

The granting of the easement to benefit the subject property will ensure that stormwater runoff will be contained within the existing Council drainage system which is consistent with the objectives of Council's DCP.

CONCLUSION

The proposed easement will have negligible effect on the use of the Council land and minimal impact on any future proposed development of the site. Granting of the appropriate easement rights to the owner of the benefited property will enable them to comply with Council's development consent as well as containing potential nuisance rainwater runoff by piping the properties to existing Council drainage infrastructure.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is Manager Property Services, Lani Richardson, who can be contacted on 9710 0614.

File Number: 2015/230009



SER028-18 PROPOSED DRAINAGE EASEMENT - 1-9 MIYAL PLACE, ENGADINE

SER028-18

Attachments: Appendix A [↓](#) and Appendix B (under separate cover)

EXECUTIVE SUMMARY

- The owners of 1081-1091 Old Princes Highway, Engadine are constructing a mixed use commercial and residential development.
- In accordance with the development consent DA15/1325 the owner is required to obtain a drainage easement for the discharge of stormwater from its property into the nearest Council drainage system located downhill from the development on Council land.
- The easement is to be located on Council owned land used as a carpark at 1-9 Miyal Place, Engadine (Lot 4 DP 505810).
- The compensation payable to Council for encumbering it's land with a drainage easement has been determined.
- The property owner will be responsible for all costs associated with the granting of the easement and there will be no cost to Council.

REPORT RECOMMENDATION

THAT:

1. An Easement for drainage services be granted over Council land described as 1-9 Miyal Place, Engadine (Lot 4 DP 505810) in favour of 1081-1091 Old Princes Highway, Engadine (Lot 888 DP1238435) at terms and conditions to the General Manager satisfaction.
2. In accordance with the Power of Attorney dated 6 July 2016 BK 4710 No. 28, the General Manager execute any necessary documentation to give effect to these resolutions.

PURPOSE

To consider granting an easement for drainage services over 1-9 Miyal Place, Engadine (Lot 4 DP 505810) in favour of 1081-1091 Old Princes Highway, Engadine (Lot 888 DP1238435) (see Appendix A).

BACKGROUND

Council's Development Control Plan (DCP) requires new development applications to drain stormwater downhill into Council stormwater infrastructure. This may mean supplying and installing infrastructure across adjoining properties to connect to Council infrastructure located in the street or within Council owned drainage reserves. Where the land has a Lot and DP the development consent requires the registered owner to secure a Drainage Easement over the land prior to the issuing of a construction certificate.

The easement can only be granted with the express resolution of Council. The registered owner of the benefited property will undertake construction of the stormwater infrastructure and any necessary upgrade of existing infrastructure at its cost.

The issuing of development consent with a condition requiring a drainage easement to be obtained does not bind Council or any other adjoining property owner to grant an easement. If the property owner seeking the easement is not able to negotiate an easement or have one granted by the court, another solution would need to be found (where possible) or the approved development cannot proceed.

DISCUSSION

In 2016, Council granted a right of carriageway across the adjoining Lot 4 DP 505810 via BDS039-16 to benefit 1081-1091 Old Princes Highway (see Appendix B).

The Land and Environment Court has granted consent conditions for DA15/1325 to the owner of 1081-1091 Old Princes Highway, Engadine to construct a mixed use commercial and residential development. This consent is subject to the owner obtaining all necessary easements for drainage to enable connection into Council's existing drainage system located within Council's carpark at 1-9 Miyal Place, Engadine.

Consent condition 15.B, states:

Before Construction

- i) "An easement to drain water must be created and registered with NSW Land and Property Information over the proposed pipeline to be located within Lot 4 and 5 DP 209336 (known as 1-9 Miyal Place, Engadine). The easement must be created under the Conveyancing Act".

The intention of this consent was to direct stormwater to pit 2297. Council officers recommend reducing the burden on the carpark and for the proposed stormwater infrastructure to be redirected to pit 55209 instead. This would mean the drainage easement would be primarily located on the already burdened Council land with the existing right of carriageway (Lot 4 DP 505810). The owners have agreed to the alternate location.

It is proposed Council enter into Transfer Granting Easement to allow the easement matter to be finalised and allow the Construction Certificate to be issued.

RESOURCING STRATEGY IMPLICATIONS

The consideration paid will be held in Council's Property Fund to assist in funding Council's Delivery Program and Long Term Financial Plan and future investment opportunities considered by Council.

The financial consideration for the granting of this easement has been assessed and a recommendation is attached as Appendix B (confidential).

STRATEGIC ALIGNMENT

The granting of the easement meets the strategies in our adopted Delivery Program of:

Community Strategic Plan Strategy	Delivery Program (2017-2021) Deliverables
2.3 Protect our beaches, rivers and oceans 2.3.1 Manage catchments effectively to improve the cleanliness, health and biodiversity of our waterways	2G Develop and implement a Catchment and Waterway Management Strategy.
6.2 Facilitate a diverse housing mix that provides choice and meets the needs of all community members	6B Manage new and existing development within a robust and effective framework

POLICY AND LEGISLATIVE REQUIREMENTS

Connection of a private easement into existing Council facilities is permitted under Section 46 of the Local Government Act 1993.

The granting of the easement to benefit the subject property will ensure that stormwater runoff will be contained within the existing Council drainage system which is consistent with the objectives of Council's DCP.

CONCLUSION

The proposed easement will have negligible effect on the use of the Council land and minimal impact on any future proposed development of the sites as it is proposed to be located within an existing right of carriageway. Granting of the appropriate easement rights to the owner of the benefited property will enable them to comply with Council's development consent as well as containing potential nuisance rainwater runoff by piping the properties to existing Council drainage infrastructure.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is Manager Property Services, Lani Richardson, who can be contacted on 9710 0614.

File Number: 2015/215323

