

Roads and Assets Referral Response

Application Number:	DA2023/0422
Proposed Development:	Alterations and additions to a dwelling house including a carport with studio and lane extension
Date:	10/08/2023
To:	Gareth David
Land to be developed (Address):	Lot 113 DP 6937 , 91 Florida Road PALM BEACH NSW 2108

Reasons for referral

Works proposed by the development may impact on existing Council road assets (eg. kerb and gutter, footpath, retaining walls, landscaping) or results in new structures/encroachments being created within the road reserve. Council's Road Asset Managers are required to review the development application and if necessary liaise with Council's Development Engineering and/or Traffic Management Teams to ensure appropriate conditions are considered.

Officer comments

The following comments were provided to the Development Engineering Team in mid July. It appears they have addressed most concerns in their recent referral. There is a need to ensure Sydney Water sewer adjustments are approved and can accommodate the access road prior to starting work on the development, hence the deferred commencement condition.

Comments to Development Engineering 8/7/2023:

This application relies on the works proposed in the road reserve and the extension of the carriageway by 3 Livistona Lane for DA2021/0498. However these works have not commenced and it is unclear when they may be completed. It would appear that the applicant has not submitted a s138 application for the laneway works. It is recommended the Development Engineering Team review the Road Act conditions on DA2021/0498.

Hence the extension of the carriageway must be considered as part of this application to provide access to the property. As such the applicant must provide civil engineering plans for the extension of the existing carriageway to the extent shown in DA2021/0498 and up to the turning bay beyond the proposed carport.

It is further noted that the owners of 3 Livistona Lane do not have offstreet parking and appear to park at the end of the laneway. Approval of this DA will result in this loss of onstreet parking for the owners of 3 Livistona Lane and will need to make other arrangements for parking. "Private and exclusive" parking of vehicles on the road reserve is not permitted. It is noted in past correspondence from the owners of #3 that there may be an intention to undertake the works concurrently.

The proposal is to construct an elevated driveway to extend from the end of the existing public road carriageway, along the unformed section of Livistona Lane, across the frontage of the property, to the garage within the property property.

The roadworks rely on adjustments to Sydney Water sewer main and will be contingent on obtaining approval from Sydney Water. A deferred commencement condition or "prior to construction certificate" condition must be included for the receipt of design and approval documentation from Sydney Water for the sewer main adjustments prior to activating the consent to ensure any impacts on the construction of vehicle access to the property can be achieved.

It is noted the Plans refer to works in the road reserve by 3 Livistona Lane, however DA2021/0498 approved in November 2021 required a Road Act Application for Civil Works which is yet to be received by Council.

The works associated with DA2021/0498 proposed an extension of the existing carriageway and these works not yet been completed and may need to be considered as part of the development at 91 Florida Road in order to connect to the public road formed carriageway.

A Positive Covenant registered on the title of the property will be required to ensure on the future and ongoing responsibility for maintenance, inspections and repairs of this private structure is assigned to the current and future property owners in accordance with s142 of the Road Act 1993.

An approval from Council will be required prior to issuing the Construction Certificate.

The proposal, in principle, is acceptable, however, consideration will need to be given to the following as part of detailed design of the proposed works:

- extension of the existing kerb and gutter on the western side of the carriageway and extension of the carriageway pavement
- one way crossfall for surface drainage
- support of road embankments above and below the driveway
- consideration of waste collection vehicle access however it is understood domestic waste collection does not use Livistona Lane
- driveway structure within road reserve may need to be independent of structures within the private property.

Other considerations to be part of a future Roads Act consent:

- acceptance of ongoing responsibilities (maintenance and repairs) of structure in road reserve and possible registration of a positive covenant on the title of the property for same.
- acceptance that future exclusive use of the structures is not provided (eg in the event that other properties with frontage to Livistona Lane may obtain lawful access from the public road reserve)

Development Engineering to provide conditions requiring the lodgement of a s138 Roads Act Application and require a Deed of Consent for the structure/works in the public road reserve and Positive Covenant registered on the title of the property to ensure on the future and ongoing

responsibility for maintenance, inspections and repairs is assigned to the current and future property owners.

Roads and Assets Conditions:

The proposal is therefore supported.

Note: Should you have any concerns with the referral comments above, please discuss these with the Responsible Officer.

Roads and Assets Conditions:

DEFERRED COMMENCEMENT CONDITIONS

Sydney Water approval of the sewer adjustment design

Provide details to demonstrate Sydney Water approval of the sewer adjustment design and works to enable the construction of vehicle access to the development,.

Reason: To ensure the vehicle access to the property can be constructed given the impacts on the Sydney Water sewer.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

Positive Covenant on Title - s142 Road Act 1993 - Maintenance of Private Structures

An Application to Council for a Positive Covenant on the title of the subject property is to be lodged with Council and a copy of the Council approval is to be provided to the Certifier prior to issuing the Construction Certificate . All fees, costs and expenses at the cost of the applicant.

A Positive Covenant registered on the title of the property will be required to ensure on the future and ongoing responsibility for maintenance, inspections and repairs of the private driveway structure is assigned to the current and future property owners in accordance with s142 of the Road Act 1993.

Reason: To ensure on the future and ongoing responsibility for maintenance, inspections and repairs of the private driveway access structure across and along the road reserve is assigned to the current and future property owners in accordance with s142 of the Road Act 1993.

