



Memo

Development Assessment

To: Northern Beaches Local Planning Panel Members

Cc: Louise Kerr
Director of Place and Planning

From: Jordan Davies
Town Planner

Date: 13 December 2021

Subject: Item 4.4 – DA2021/0669 - 1191-1193 Barrenjoey Road, Palm Beach – Amendment to conditions and withdrawal of Voluntary Planning Agreement

Record Number: 2021/863702

Dear Panel Members,

The assessment report and recommended conditions of consent for Item 4.4 – DA2021/0669 refer to a Voluntary Planning Agreement (VPA) which was offered by the applicant to propose the upgrade and refurbishment of ten (10) public parking spaces within Governor Phillip Park to the east of the development site (outside the lease area for the restaurant). The recommendation of the assessment report due to the VPA offer is 'Deferred Commencement Approval' in order for the VPA to be executed, prior to the consent becoming operational.

Following the finalisation of the assessment report for Item 4.4, Council received a request from the applicant on 10 December 2021 to withdraw the VPA offer (Attachment 1 to this memo). The applicant has indicated that they wish to explore alternate mechanisms to carry out the proposed works within Governor Phillip Park outside of a VPA.

The Development Application is not contingent upon the works proposed under the VPA and Council's Traffic Team have indicated the proposed development is satisfactory in regards to the parking and traffic generation, making the following comment in the assessment report '*Given that the proposal results in no increase in the size of the restaurant and offices, no concern is raised on the parking and traffic generation of the site.*'

The proposed works that the applicant wishes to undertake to refurbish the ten (10) public parking spaces are to be undertaken outside the scope of this development application and as the proposal is not contingent upon the proposed upgrade works, the applicants request to withdraw the VPA is not a matter for consideration in the determination of the application or have determining weight that would warrant refusal of the development application.

The applicant's proposal to carry out upgrade works to the existing parking spaces to

the north of the building is maintained and these works are proposed as part of the development application (not under a VPA). These parking spaces are an existing part of the site which are proposed to be upgraded to comply with Australian Standard / NZS 2890.1:2004 Parking facilities - Off street car parking.

Consequently, this memo makes the following recommended changes to the report recommendation and the recommended conditions:

1. **Report Recommendation**

The report recommendation is changes from 'Deferred Commencement Approval' to '**Approval subject to conditions**'.

2. **Condition 1** – 'Deferred Commencement - Voluntary Planning Agreement'.

This condition is to be deleted.

3. **Additional Condition 8a** – Parking spaces to the east of the site

The following condition is to be added under Prior to the Issue of a Construction Certificate' under the heading **8a Parking spaces to the east of the site:**

The ten (10) parking spaces which are located to the east of the site are not approved under this development application. These works are subject to a separate approval from Council.

Reason: To ensure the approved development is consistent with the works applied for under the development application.

4. **Condition 19** – 'Treatment of parking areas'

This condition is to be amended to only refer to the treatment of the parking spaces to the north of the proposed restaurant which are proposed to be carried out as part of the development (not part of the VPA).

The proposed condition to read as follows:

Prior to the issue of a Construction Certificate, details demonstrating the treatment of the car parking spaces to the north the site are to consist of "open graded asphalt to provide a semi-permeable surface". Details shall be provided to Council's Traffic Team for approval, prior to the issue of a construction certificate.

Evidence of written approval from Council's traffic team is to be provided to the Principle Certifying Authority with the construction certificate application.

Reason: To ensure the finishes of parking areas are suitable and consistent with the character of the area.

5. **Condition 26** – Formalisation of Parking Spaces

This condition is to be deleted.

6. **Condition 82** – Car parking areas to be sealed and signposted

This condition is to be amended to only refer to the treatment of the parking

spaces to the north of the proposed restaurant which are proposed to be carried out as part of the development (not part of the VPA).

The condition is to be amended to read as follows:

The car parking spaces to the north the site are to consist of "open graded asphalt to provide a semi-permeable surface" and in accordance with the details approved by Council's traffic team.

Details demonstrating compliance are to be submitted to Council prior to the issue of any Occupation Certificate.

Reason: To ensure compliance with Australian Standards and agreed arrangements.

Condition 89 - Tanker Delivery

As a separate matter, the applicant has requested Council's traffic team review **Condition 89** relating to fuel deliveries to amend the condition to better suit the site conditions and the proposed method of deliveries for fuel. Noting, the original condition required exit of the site in a forward direction which is not possible based on the position of the nominated loading bay within the site. Council's traffic team have recommended the wording of Condition 89 be deleted and replaced with the following wording:

Fuel/Tanker Delivery

Delivery of fuels, either by transportable container or road tanker, shall be wholly contained within the onsite loading bay area during unloading. All tanker deliveries shall only be made during the approved hours of operation outside peak usage periods.

Reason: To protect the amenity of the surrounding neighbourhood.