

ITEM 8

GRANT OF EASEMENT OVER COUNCIL COMMUNITY LAND AT LOT 7 DP 227650 KNOWN AS GORRELL PARK, MANGERTON

As a condition of consent of DA-2023/358 relating to Lots 18 and 19 in DP 227950, being 11-13 St Johns Avenue, Mangerton ("Applicant's Property") the applicant requires an easement to drain water through the adjoining Council owned community land known as Lot 7 in DP 227950, Gorrell Park, Mangerton ("Council's Land"). This report seeks approval to the grant of the easement.

RECOMMENDATION

- 1 Pursuant to section 46 (1) (a1) of the Local Government Act 1993, Council resolves to grant an easement to drain water 1.0m wide over Council land known as Lot 7 in DP 227950, Gorrell Park, in favour of Lots 18 and 19 in DP 227950, 11-13 St Johns Avenue, Mangerton, as shown crosshatched on the attachment to this report.
- 2 The applicant will be responsible for compensation to Council for the grant of the easement in accordance with the amount assessed by an independent certified valuer.
- 3 The applicant be responsible for all costs relating to the easement including valuation, survey, plan registration and legal costs, and any other costs incurred in this matter.
- 4 Approval be granted to affix the Common Seal of Council and/or delegation pursuant to section 377 of the Local Government Act 1993 to the survey plan, Section 88B Instrument and any other documentation required to give effect to this resolution.
- 5 The General Manager be authorised to execute any documents to give effect to this resolution.

REPORT AUTHORISATIONS

Report of: Lani Richardson, Manager Commercial Operations + Property
 Authorised by: Kerry Hunt, Director Community Services - Creative and Innovative City

ATTACHMENTS

- 1 Map of proposed easement to drain water 1.0m wide over Council land known as Lot 7 in DP 227950

BACKGROUND

Deferred development consent for DA-2023/358 on the Applicant's Property for the demolition of the existing dwelling and the construction of a dual occupancy and subdivision was granted on 2 April 2024.

Development consent shall not operate until the applicant has demonstrated that an easement to drain water has been registered over Council's Land, benefitting the Applicant's Property.

Council's Land is classified as 'Community Land' and categorised as 'Park' pursuant to the *Local Government Act 1993* (the Act). Council has limitations on how it can deal with Community land, in particular to the granting of leases, licences and other estates. The granting of easements is deemed another estate for the purposes of the Act.

Section 46 (1) (a1) of the Act gives Council the power to grant easements over Community Land for the following purpose: providing pipes, conduits or other connections under the surface of the ground for the connection of premises adjoining the community land to a facility of the council or other public utility provider.

The use of infrastructure for drainage of private land through Council owned Community Land to connect to Council's stormwater network is also a permissible use and development described under Council's 2022 Community Land Plan of Management for Council Owned Land categorised as Park.

The proposed works are to install a 225mm PVC (sewer grade) drainage line at a 0.5% minimum fall to connect to Council's existing stormwater drainage facility located within Council's Land to connect to an existing Council stormwater pit.

The easement location is shown as crosshatched on Attachment 1. The easement will allow the applicant to construct underground drainage infrastructure which will be owned and maintained by the applicant or any subsequent owners of the land. The proposed easement will have minimal impact upon the public's current use and amenity of the land as the pipes are underground and will connect to an existing stormwater pit.

Council sought a valuation report from Herron Todd White Valuers to assess the amount of compensation that would be payable by the applicant to Council for the grant of the easement. The agreed easement compensation price reflects the valuation amount in the market valuation report. The details have been circulated to Council under separate cover.

By granting a drainage easement over the land, Council will receive compensation for the easement and be able to identify the exact location of the underground drainage infrastructure which will be recorded in a registered deposited plan. Council will also formalise maintenance obligations of the underground drainage infrastructure to ensure it is not responsible for future maintenance of the underground drainage infrastructure.

PROPOSAL

It is proposed that Council approve the grant of an easement to drain water one (1) metre wide over Lot 7 in DP 227950 in favour of Lots 18 and 19 in DP 227950, as shown crosshatched on the attachment to this report.

CONSULTATION AND COMMUNICATION

- Applicant
- Herron Todd White - Valuers
- Council's Development Assessment and Certification – City Wide and Development Team

Council gave Statutory Notice of the proposed granting of an easement over Council's Community land pursuant to the *Local Government Act 1993*, with the submission period closing on 22 November 2024. No submissions were received.

PLANNING AND POLICY IMPACT

This report is in accordance with Council's Land and Easement Acquisition and Disposal policy. This report contributes to the delivery of Our Wollongong 2032 Goal "We are a connected and engaged community" through managing easements and other encumbrances on Council land.

FINANCIAL IMPLICATIONS

Council will receive compensation for the grant of the easement which is considered to be fair and reasonable based on the valuation report obtained.

The applicant will also be responsible for all costs in the creation of the easement including valuation, survey, plan lodgment and legal costs, and any other costs associated with the grant/registration of the easement.

CONCLUSION

By granting a drainage easement over the land, Council will receive compensation for the easement, be able to identify the exact location of the underground drainage infrastructure and will formalise maintenance obligations of the underground drainage infrastructure to ensure Council is not responsible for future maintenance of the underground drainage infrastructure.

