
Sent: 13/03/2023 11:41:31 AM
Subject: Attention: Maxwell Duncan | Submission: DA2022/2081
Attachments: Mawhinney Submission DA20222081.pdf;

To Whom it May Concern

Please find attached my submission for development application (DA2022/2081).

Note, I had also lodged my submission through Council's Planning Portal, 12/03/2023.

Yours

Alexandria Mawhinney

2 Bennett Street
Curl Curl
NSW 2096

12th March 2023

Northern Beaches Council
PO Box 82
Manly NSW 1655

Attention: Maxwell Duncan

Dear Mr Duncan,

Submission regarding DA2022/2081: "Use - Change of use and construction of a golf club house and associated facilities"

Thank you for the opportunity to submit a response regarding development application DA2022/2081 (the "DA").

I do not support this development application.

Background

It is understood that, as per the Statement of Environmental Effects ("SoEE"), the subject site of this DA is Lot 2742 DP 752038.

It is also understood that this DA is contingent upon Council entering into a Construction Lease with Warringah Golf Club Limited (WGC) and that a public notice of this proposed lease is simultaneously being exhibited.

The Development Site is public land and is classified as community land.

The lease

Council is intending to enter into a three-year Construction Lease with WGC to build a new golf clubhouse within the existing Warringah Recreation Centre site. The Public notice advertises the development site as "Part of Lot 1 & 3 DP829465 (also known as Part Lot 2742 DP 752038)", however, accompanying documents to the DA legally describe the development site as Lot 2742 DP 752038 (refer Page 2, "Report – Response to RFI Letter"; dated 08/02/2023; authored by Willowtree Planning Pty Ltd and titled "Response to Request for Additional Information"). I refer to this subject site henceforth as the "Development Site".

The Development Site is currently classified as “community” land and is further categorised as a “Natural Area Watercourse, Sportsground”. The Local Government Act 1993 No 30 (the “Act”) Chapter 6, Part 2, Division 2, Section 47B covers leases and licences in respect of a natural area. The Act stipulates that a lease must not be granted to authorise the erection or use of a building or structure (except for walkways, pathways, etc.). Consequently, the Construction Lease in question, which facilitates the erection of a golf clubhouse and related facilities on a natural area, appears to contravene the Act and is therefore illegal.

The masterplan

The relevant SoEE, as prepared by Willowtree Planning Pty Ltd, states the “subject site is owned and operated by Council and the new Golf and Community Club is proposed as part of a wider Masterplan being undertaken by Council to deliver new facilities as part of the Warringah Recreation Centre.

The SoEE goes on to state that the “Masterplan has not yet been adopted under the local planning provisions.” (refer Page 31 of SoEE)

Given this Masterplan has yet to be adopted, any development on the Development Site must adhere to the District Park Plan of Management (Final – adopted by Council 25 August 2015) or “DP PoM”. The DP PoM specifically states that the scale and intensity of future uses and development in District Park (in which the Development Site resides) is dependent on the Landscape Concept Plan (“LCP”).

The development of a golf clubhouse on the development site is not in keeping with the LCP and therefore contravenes the DP PoM. Whilst the erection of a golf clubhouse for WGC was envisaged as part of the LCP currently in force, it is specifically flagged for location at “the current North Manly Bowling Club site” not Lot 2742 DP 752038.

Also, pre-lodgement notes of the SoEE state that “Further discussions with Council have occurred since the pre-lodgement meeting, and as confirmed in the Owners Consent in Appendix 1, Council has advised that the DA submission and acceptance is not contingent on the Masterplan adoption” (refer Page 11 of SoEE). Not only does it appear as though Appendix 1 has not been uploaded to Council’s Planning Portal but that Council is incorrect in this assertion. The DP PoM makes it very clear that, until such time as a new Masterplan is adopted, the District Park LCP is applicable. Given that, as detailed above, the DA contravenes the LCP and the DA acceptance must lawfully be contingent on the adoption of a new Masterplan.

The SoEE, as prepared by qualified senior planners, makes no reference to the DP PoM. The NSW Planning Portal states “any structures that would be located on public land, or on or over a public road (including temporary structures), must have separate approval from the relevant council... and the Local Government Act 1993”.

And the Act specifically details in Chapter 6 Part 2 Division 2 Section 35 that community land is required to be used and managed in accordance with the plan of management applying to the land. Given that this DA and Construction Lease is not in accordance with the DP PoM currently in force, it therefore falls foul of the Act.

Conclusion

It appears as though Council cannot lawfully enter into its planned Construction Lease and that this DA can therefore not be approved. Doing so would appear to contravene applicable laws which govern Council.

Yours

Alexandria Mawhinney