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MEMORANDUM

DATE: 14 February 2023

TO: Northern Beaches Local Planning Panel (NBLPP)

CC: Steve Findlay, Development Assessment Manager

FROM: Anne-Marie Young, Principal Planner

SUBJECT: Item 4.3, DA2021/2567– 60 Federal Parade, Brookvale

REFERENCE: Late submissions regarding stormwater works to the rear of 31 & 35 Consul Road and traffic and parking safety issues

Dear Panel Members,

The purpose of this memo is to alert the Panel to two late submissions which has been received from in respect of the above DA.

Submission from Mr Bill Donohoe – [REDACTED]

Mr Donohoe, [REDACTED] Consul Road raises issues in respect of stormwater works to the rear of 31 and 35 Consul Road. The submission reiterates issues raised in the submission lodged by GLN Planning, on behalf of Mr Donohoe, dated 5 September 2022, in respect of stormwater work at 33 Consul Road and raises a concern that the issue has been overlooked in Council's assessment.

Mr Donohoe specifically raises the following issue:

The relocation of the overland flow path and channel that formed part of the most recent building works at the rear of No's 33 and 35. These works were undertaken as exempt and complying development works as part of the school's recent expansion. We were not made aware that Council assets were being modified and impacted by those works, nor were we notified that the result of these works would be to negatively impact downstream properties, including our own. I understand that there is a general principle of most DA's and flooding matters, that when proponents undertake modification works to stormwater assets, especially assets belonging to Council conveying public stormwater flows, that there should be no negative impacts to adjoining properties.

Mr Donohoe refers to Council being the beneficiary of the pipe and easement running through the area to the rear of 33 and 35 Consul Road, which would have required Council's agreement to modify the easement conditions under the section 88B instrument.

Mr Donohoe also references the details of the overland flowpath alignment (Figure 2), which has been extracted from the Overland Flow Assessment, dated 4 July 2018, prepared by Cardno, which was submitted in support of DA2020/1514, which has been withdrawn.



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Mr Donohoe has requested that Council confirm that:

“The utilisation of the “exempt and complying” pathway that was used to obtain the approval for these building works and channel modification including the impact on Council assets and infrastructure (Road, Traffic and Stormwater) should have been run as a Part 4 application in accordance with the SEPP”.

Response:

The submission notes that the relocation of the overland flowpath was undertaken as part of the development work undertaken as Exempt and Complying Development. The work has been carried out and is not part of the subject Development Application (DA).

As such, this is not a matter for consideration under the current DA and the matter has been referred to Council’s Compliance Unit to investigate, which is referenced on page 212 of the agenda. The Compliance Investigation will confirm the extent of the civil works that have been undertaken in the area to the rear of 31 and 35 Consul Road, whether Council has granted concurrence for a modification of any existing easements and whether the correct approval pathway has been followed.

Mr Donohoe also refers to an Overland Flow report dated 4 July 2018, which does not form part of the subject DA, but relates to DA2020/1514 which sought consent for a carpark at an alternative location, namely at 33 Consul Road.

To clarify, the subject DA seeks consent for civil works as detailed in the civil plans prepared by Core Project Consulting and relates to the proposed carpark at 60 Federal Parade and the proposed carpark at the corner of Alfred Road and Gulliver Street. No stormwater works are proposed to the rear of 31 and 35 Consul Road as part of the subject application.

The SEE refers to the existing Council owned draining assets, located within the site, being retained and not impacted by the proposed works or operation of the carpark.

Mr Donohoe correctly refers to the consideration of flooding matters as part of the assessment of a DA in his submission. Flooding matters have been considered as part of the subject DA and a *Flood Impact Assessment Report* prepared by *Core Engineering*, dated 28 July 2022, has been submitted with the application.

Council’s Development Engineer confirms that the flood impact report addresses the relevant planning considerations, including the *Northern Beaches Flood Risk Management Policy*, the *Northern Beaches Council’s Design standards for Flood Prone Land*, *Northern Beaches Council Water Management for Development* and the relevant DCP controls. The report confirms that the proposal does not disturb any routes of overland flow.

Council’s Development Engineer has reviewed the proposal and has no objections, subject to conditions, including:

Condition 12 - Stormwater disposal



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The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's WATER MANAGEMENT POLICY PL850, MANLY SPECIFICATION FOR DEVELOPMENT.

Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Condition 15 - On-site Stormwater Detention Details

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's WATER MANAGEMENT POLICY FOR DEVELOPMENT, and generally in accordance with the concept drainage plans prepared by Core Project Consulting, drawing number C301 Rev4 ,C302 Rev 4, C303 Rev 4.

Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

Condition 17 - Stormwater Drainage Application

The applicant is to provide a stormwater drainage application under Section 68 of the Local Government Act 1993 to Council for approval. The submission is to include four (4) copies of Civil Engineering plans for the design of the Stormwater inlet Pit in Gulliver Street which is to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1.

The form can be found on Council's website at www.northernbeaches.nsw.gov.au > Council Forms > Stormwater Drainage Application Form. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fees and Charges.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Condition 40 - Stormwater Disposal

The stormwater drainage and on site detention works shall be certified as compliant with the approved Construction certificate drawings and Councils water management policy for development by the design engineer.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Condition 42 - Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.



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The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of final Occupation Certificate.

Submission - Alexander Ruch – 2/44 Consul Road

Mr Ruch has raised issues with respect to parking and pedestrian safety and raises a concern that the increased traffic in the streets surrounding the school has been under-estimated by the TIA and Council's assessment report. Mr Ruch notes that the current perceived carparking situation suggests more than 25 student cars (P-plater) are being parked around the school every day.

Mr Ruch also raises issues with respect to the proposed additional 2 staff members to deal with 400 additional students.

Mr Ruch requests that the TPMP or OMP address the raised safety issues for public pedestrians along Consul Road particularly given that there is no footpath along Consul Road.

Concern is also raised about the school's ability to follow through on the requirements of the agreed items given the school's past performance.

Response

The issues raised in the late submission have been considered in the completed assessment report, specifically within the submissions section, referral section and WDCP sections including Clause C2 and Clause C3.

Council's Transport Officer raises no issue with the data or method of survey in the TIA in respect of predicted car parking numbers.

The application includes details of 152 full time equivalent staff being required to support 1600 students. There is no condition in the 2013 consent that relates to staff numbers. The additional information submitted by the applicant confirms that 150 staff are currently employed at the College to support the 2022 enrolment of 1560 students, therefore the proposal for 1600 students in effect equates to 40 additional students on site.

The subject application provides a mechanism to ensure that negative impacts in respect of the impacts on the availability of on-street parking, traffic and road and pedestrian safety are minimised and managed appropriately.



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In terms of pedestrian safety on Consul Road, as the school's active school frontages are Gulliver Street, Federal Parade and Alfred Street, it is difficult to tie the provision of footpath on Consul Road to the school DA. Council does however acknowledge that there is no footpath on Consul Road south of Federal Parade. Council's Transport Network team is currently in the process of preparing its next 5-year footpath program and will give consideration to including a length of footpath on Consul Road between the existing footpaths on Gulliver Street and Federal Parade as part of the next 5-year program commencing in 2024/25.

Council acknowledges the community's concern in respect of the College not complying with any future conditions of consent. A deferred commencement consent requires the TPMP, acoustic report and OPM to be updated to address the recommendations of Council's referral Officers and ensure consistency between documents. In addition, a condition has been imposed requiring the proposed carparks to be constructed and made operational before the increase in student enrolments occurs to provide adequate car parking facilities the increase and to ensure impacts on local street is minimised.

Should the College fail to comply with the approved reports/plans, Council's Compliance Team will be in a better position to investigate and take any necessary enforcement action.

Summary and Conclusion

The issues raised in the submissions have been considered as part of the assessment and due process has been followed.

The issues raised in the submission in respect of stormwater works to the rear of 31 & 35 Consul Road are not related to the subject application before Council and have been referred to Council's Compliance Unit to investigate.

No further action or update to the assessment report is required.