
Sent: 16/04/2021 4:30:02 PM

Subject: UPDATED SUBMISSION TO NORTHERN BEACHES COUNCIL ON DA
MODIFICATION APPLICATION Mod 2021/0077- DA2019/1419

Attachments: NBCCC-Genesis Redevelopment Objection-20210413.pdf; Forest Central
Business Park internal roadway_1.jpg; Forest Central Business Park internal
roadway_2.jpg;

Dear Council Members

Please refer to this attached Redevelopment Objection and photographs.

Please contact me if you have any queries or questions.

Mike Izard

Medical Director



Building 4, 49 Frenchs Forest Road E

Frenchs Forest NSW 2086

P 02 8377 2700 | F 02 8377 2720

E mizard@northernbeachescancercare.com.au | www.northernbeachescancercare.com.au

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13 April 2021

Development Assessment Panel
Northern Beaches Council
Customer Service Centre
725 Pittwater Road
DEE WHY NSW 2099

By email: council@northernbeaches.nsw.gov.au

Dear Sir/Madam

Letter of objection to Requested Modification of Development Consent – Mod 2021/0077-DA2019/1419 for proposed cancer treatment centre at 49 Frenchs Forest Road East, Frenchs Forest

1. This objection is submitted on behalf of the owner of Building 4 in the business park located at 49 Frenchs Forest Road East, Frenchs Forest (**Business Park**), CCA Estates Pty Limited, Trustee for the CCA Property Trust, and the occupant of Building 4, Northern Beaches Cancer Care Centre Pty Ltd (**NBCCC**).
2. NBCCC operates a Radiation Oncology facility at these premises.
3. We refer to application lodged with Council by Ascot Project Management requesting a modification of the Development Consent to remove a condition of consent, amendment of another two conditions and to permit the addition of a fire service water storage tank on the roof of the proposed building (**Modification Request**).
4. As Council is aware, the original Development Application was contentious and was opposed by a significant number of businesses and owners in the Business Park. The Council's assessment also raised many issues of concern.
5. Due to the size of the proposed development, the Development Application was referred to the Sydney North Planning Panel. Council's Assessment Report recommended 36 Conditions and the Panel imposed a further three conditions and amended one of the Conditions recommended by Council.
6. Both Council's Assessment and the Sydney North Planning Panel's consideration were detailed and supported by expert technical advice.
7. The Modification Request seeks to remove conditions that were imposed to protect businesses and owners in the Business Park. We submit that the applicant has not provided justification for doing so, and as reinforced by the Sydney North Planning Panel's assessment and decision, the Conditions of Consent 2, 15 and 23 should remain intact.
8. Condition 15 requires the basement area to be permanently tanked and structural details of the tanking to be submitted. This was the result of detailed technical analysis submitted with the original DA and assessment by Council officers at that time. The condition was supported by the Sydney North Planning Panel.
9. The excavation is substantial, being for four basement levels down to a lowest level of RL 146.95m, with excavation being between 12-14 metres in depth.
10. We have noted that the Modification request seeks to rely on exemption criteria in a Water NSW Fact Sheet. This indicates that the earlier reports submitted to Council in 2020 remain

accurate. Council officers assessed those reports and recommended Condition 15. This was supported by the Sydney North Planning Panel.

11. As the technical consultants were engaged by the developers, we submit that an independent reassessment of this matter has not been undertaken.
12. The documents on the Council website do not contain a response from Water NSW.
13. The 2020 reports advised the following:

Appendix 5

- (a) "The estimates given above assume homogenous materials and in practice lower and higher inflows may be experienced. We recommend that the inflow into the excavation be monitored during construction" (page 8)
- (b) "The analysis detailed in this report only related to seepage analysis and not stability analysis or design of the shoring system or other geotechnical issues relating to the proposed development" (page 8)
- (c) "There may be design features we are not aware of or have not commented on for a variety of reasons." (page 9)

Appendix 6

- (d) "Based on these findings, JKE recommend that the extracted groundwater be held in a settlement tank or lined sump pit for additional sampling prior to discharge/disposal" (page 12)
- (e) "Based on our experience, disposal of groundwater to sewer is unlikely to be accepted by Sydney Water and additional information. Analysis and/or data assessment may be required to support a license application for disposal to sewer." (page 12)
- (f) "In addition a license from NSW Water may be required for temporary construction dewatering". (page 12)
- (g) "In the event unexpected conditions are encountered during development work or during dewatering that may pose a contamination risk, all works should stop and an environmental consultant should be engaged to inspect the site and address the issue."
14. We submit that far from providing a "clean bill of health", those reports reinforce the need to maintain stringent controls on the excavation, management of seepage and groundwater and monitoring and disposal. This should be done by maintaining detailed consent conditions.
15. We also note that Water NSW requires that water take records be retained for a period of 5 years and that copies of the records be provided annually to the relevant Minister (page 1 Water NSW Exemptions Construction dewatering Fact Sheet). We submit that this condition should also be imposed.
16. **Condition 23** requires dilapidation reports and photographic surveys of all individual lots including the access easement and shared driveway of 49 Frenchs Forest Road East, Frenchs Forest to be provided to the Principal Certifying Authority (PCA) prior to the commencement of any works on site.
17. We submit that it is essential that this condition be maintained.
18. As already outlined in the many objections to the original DA and in submissions to the Sydney North Planning Panel, there are major concerns over the disruption associated with the planned development due to the construction, extensive excavation and the very high number

of truck movements along the central access road required during the construction. This will seriously affect all the lots in the Business Park and not just adjoining lots.

19. Damage to the buildings is not simply damage for a commercial office space. Many of the other lots contain medical and other health services involving use of sensitive equipment and facilities. The Sydney North Planning Panel (**SNPP**) supported this condition of consent and the Modification Request does not provide additional information to justify removal of this condition of consent.
20. The Modification Request has not provided any evidence of consultation with and/or the consent of the other businesses and lot owners in the Business Park to the deletion of this important protective condition of consent.
21. The SNPP recognised the importance of the central roadway at 49 Frenchs Forest Rd, the impact on the adjoining neighbours and the externalities arising from DA2019/1419.
22. The SNPP also imposed a 'best endeavours' condition that the applicant seek to have all development egress via either the neighbouring Woolworths site or Warringah Road. No evidence, to date, has been offered to demonstrate the Applicant's actions to meet this best endeavours obligation.
23. Attached are photographs of the current central access road's condition. It is clear that the truck movements required for the extensive excavation and for the subsequent building works will further damage this essential site infrastructure used by all lots in the Business Park.
24. We request that Council impose a bond on the Applicant to be used to remedy future damage caused by the applicant to any adjoining neighbour and/or to the central access road.
25. The Geotechnical Investigation Report prepared by JK Geotechnics dated 10 December 2019 (**Geotech Report**) identified that the primary geotechnical issue concerning the Proposed Development is maintaining the stability of the excavation sides and nearby structures during excavation works.
26. As set out in the Geotech Report, the risks here are exacerbated by the fact that the land is mostly comprised of sandstone of a very low to low strength. Accordingly, it is not strong enough to be cut vertically and requires the installation of a full depth shoring system. Of note, the implementation of this shoring system will likely require approval from neighbouring landowners as anchors may need to be installed below their property.
27. Further, the Geotech Report identifies that given the close proximity of the site to adjoining structures, the use of hydraulic rock hammers throughout the excavation process may also lead to additional risks associated with the transmission of vibrations. Given this risk, it recommends the installation of vibration monitors on adjoining structures with real time warning systems to alert construction workers as to vibration impacts on neighbouring properties.
28. These risks are exacerbated by the fact that the degree of excavation proposed is very significant, especially when compared with the adjoining buildings.
29. As noted earlier, these risks and potential impacts also need to be considered in the context of the surrounding land uses. In particular, many of the existing tenants of the Business Park, including our client, operate medical and health services with sensitive diagnostic and treatment equipment with practices which are open to members of the public. This increases the severity of any potential geotechnical impacts and disturbance experienced as a direct result of the excavation works proposed.

30. Furthermore, we note that the development will require strict monitoring to ensure that risk mitigation measures are in place throughout the excavation phase, including:
- (a) vibration monitoring should be in place with requirements to cease if any specified limits are exceeded; and
 - (b) the original DA Geotech Report recommends engaging excavation contractors with experience in such work and with a competent supervisor who is aware of vibration damage risks. With this in mind, the applicant should be required to identify who will be engaged as excavation contractors along with the supporting plans and statements to confirm these contractors are capable of completing the excavation works safely.

Conclusion

31. On the basis of the above information, we consider that the Modification Request to remove and modify consent conditions should be refused.
32. Should you have any questions regarding this content of this letter, please do not hesitate to contact us.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Michael Izard'.

A/Prof Michael Izard
Director, Medical Services
Northern Beaches Cancer Care Centre

A handwritten signature in black ink, appearing to read 'Tony Noun'.

Tony Noun
Director
CCA Estates Pty Limited



