
Sent: 3/11/2020 2:40:54 PM
Subject: Submission re DA2019/1478 (1 Narrabeen Park Parade North Narrabeen) - Northern Beaches Local Planning Panel
Attachments: Objection to Development Application No. DA2019-1478 for 1 Narrabeen Park Parade - Alan Ginns - 3 Nov '20.pdf;

Hello Carly,

Please find attached my submission for consideration by the Northern Beaches Local Planning Panel in relation to DA2019/1478 (1 Narrabeen Park Parade North Narrabeen).

Thank you for the opportunity to provide these comments/viewpoints.

Regards,

Alan Ginns
23 Sydney Road
Warriewood NSW 2102

From: noreply@northernbeaches.nsw.gov.au [mailto:noreply@northernbeaches.nsw.gov.au]
Sent: Wednesday, 28 October 2020 4:14 PM
To: gwanacon@tpg.com.au
Subject: Northern Beaches Local Planning Panel Notice

Dear Alan Ginns,

RE: DA2019/1478 (1 Narrabeen Park Parade North Narrabeen)

Please find attached a letter in relation to Council's Local Planning Panel meeting.

Thank you,

Northern Beaches Council



Northern Beaches Council

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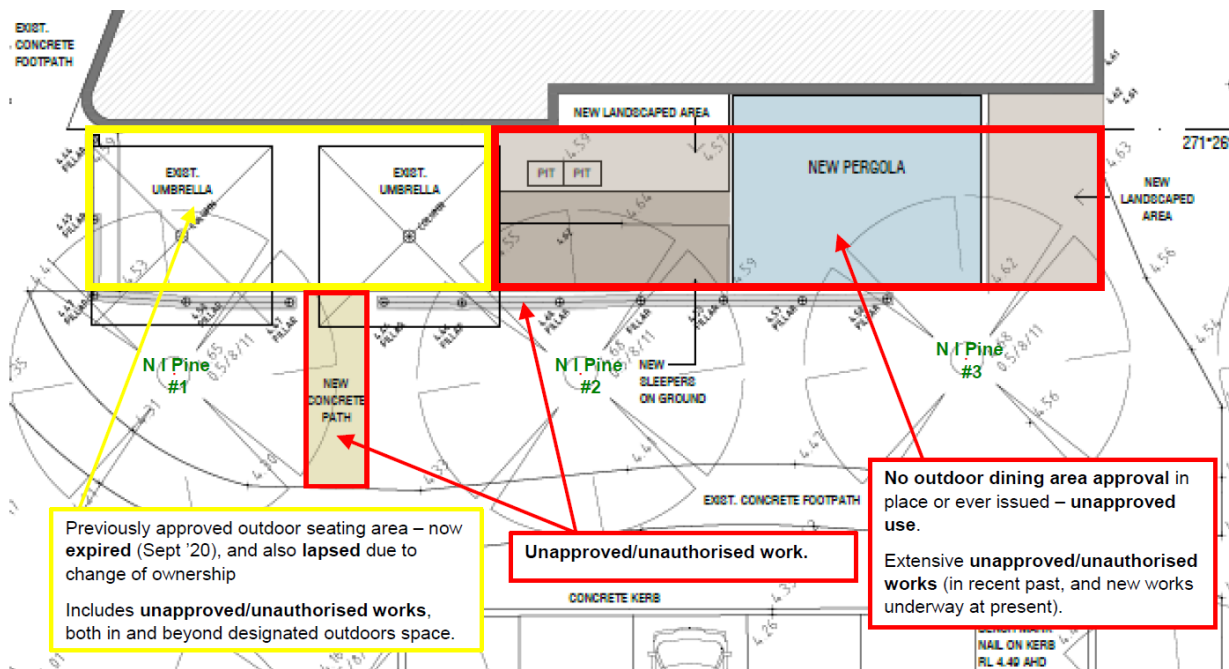
Northern Beaches Council
By e-mail: carly.sawyer@northernbeaches.nsw.gov.au

Objection to Development Application Number: DA2019/1478
1 Narrabeen Park Parade, North Narrabeen (Alterations and Additions to Existing Restaurant)

Dear Ms Sawyer,

The following comments are offered in objection to the above development application for consideration by the Northern Beaches Local Planning Panel.

1. The proponent has already undertaken substantial, semi-permanent and detrimental, works on the adjacent public land (Crown land) for the purposes of an outdoor dining/entertainment adjunct to their restaurant. The area impacted is beyond, and well in excess of, the previously approved outdoor seating area (10m x 4.6m, approved by Council in September 2017 and now expired [also lapsed due to change of ownership]) – as shown on the figure below. DA2019/1478 is now seeking retrospective approval for this unauthorised alienation (encroachment or “pirating”) of Crown land, and also seeking even greater intensification of this inappropriate development and use of public land that will impact the nearby Norfolk Island Pines and have other adverse effects (see points 2 and 4 below). Many of the works proposed by this DA have already been completed, without approval, and more works are on-going in the Crown land area at present. To “reward” these current unauthorised uses and non-compliant works with retrospective approval, while also authorising additional, more intensive, works is totally unacceptable – and would be a very undesirable precedent.



2. Council rightly rejected a rezoning application (lodged in mid 1996) seeking to allow use of the adjacent area of Crown land (Lakeside Reserve) for “outdoor seating associated with a restaurant refreshment room”. Three of Council’s reasons for rejecting this proposal (page 7 of the Assessment Report), were:
 1. The rezoning would rely upon carparking within a public reserve to support a commercial use;
 2. The proposal has potential adverse impacts upon the existing Norfolk Island Pines located within the reserve;
 3. The rezoning would alienate public open space for commercial purposes;

These reasons and concerns still firmly hold today, and should be sufficient to reject any application for an outdoor dining area (and especially any area in excess of the previous 10m x 4.6m western space). Council also noted that the (then) unauthorised works led to the “alienation” of “the public open space” (Assessment Report, page 7). Council’s Property Management and Commercial Unit’s comments acknowledge that this problem persists today – noting that “construction of an unauthorised balcony style railing ... and installation of planter boxes underneath this has led to this area appearing as private land with exclusive use when it is public land” (Assessment Report, page 27) – a situation, and appearance, the current DA is seeking to very significantly escalate.

3. The site has exhibited a long history of unauthorised use and/or works, non-conformance, and resisting compliance with Council directions. To resolve the issue at point 2 above Council had to undertake compliance action “with respect to the apparent illegal land use for the purposes of outdoor seating” and ultimately “commence legal action” (Assessment Report, page 7). The outdoor dining space was extended east *without approval* (outlined in red in the above figure), many works subject to this application have already been done *without approval*, and current works are underway again *without approval*. That the current DA is seeking retrospective approval for unauthorised uses and works, and that further works are on-going (including reportedly excavations within the tree root zone), attest to this issue. Overall if past performance is any indication of future compliance it does not engender any degree of confidence that DA conditions will be willingly or readily complied with, and that costly on-going monitoring and further compliance/enforcement measures will be required of Council. Some enforcement and compliance or remediation measures may also be too little too late – especially in the case of protecting the Norfolk Island Pines (see point 4 below).
4. The Assessment Report acknowledges that the 3 nearby Norfolk Island Pines “have been subject to minor landscape works within the tree protection zone” (page 25), and that impacts to and “any decline in T3 shall be attributed to the works conducted without approval” (page 26). Both T3, and to a greater extent T2, are showing evidence of stress at present, with very obvious canopy thinning. Further surface hardening, infiltration reduction, excavation and root disturbance, and other impacts in the TPZs and around these trees can only have further detrimental impacts. These trees are highly valued by the local community and a significant positive landscape element for the reserve, lagoon and surrounds – they were scored as “2 very high” in terms of landscape significance by the proponent’s Arborist Report. I believe they are also subject to a pending Local Heritage Application. However recent resident observations would indicate that excavation within the TPZs, and root cutting/damage, are on-going at present (while this DA is pending). The conditions proposed to protect these trees – such as tree root investigation, root mapping and pier/footing planning, tree protection measures, and placing the onus for any tree rehabilitation costs for T3 in the next year on the café operator – appear to be more about facilitating the proposed developments rather than genuinely protecting these significant trees. Such conditions are cumbersome and challenging to monitor and enforce. For example – will any rehabilitation measures for T3, or other trees, extend to removing the works or other causal factors that are the underlying reasons for this decline (or does this approach simply allow for managed decline and ultimate removal) ?
5. It may be argued that existing use rights might have attached to the previously approved western outdoor seating area (10m x 4.6m, approved by Council in Sept ‘17 and now expired [also lapsed due to change of ownership]). However these rights cannot be applied to the unauthorised land uses or works (outlined in red in the above figure), which were never approved, and for which retrospective approval is now sought.
6. While Council’s *Ocean Beaches Plan of Management - 7.0 North Narrabeen Rock Pool* does authorise a lease or licence for a commercial outdoor eating area associated with the existing premises, and cafes/restaurants are a permissible use in the RE1 Public Recreation Zone, both of these are “enabling” provisions and do not mean either must be approved in the face of other, very detrimental, outcomes.
7. Any outdoor dining area on the adjacent Crown land should be of a similar nature, and managed, in the fashion more typically adopted by Council for outdoor footpath dining. That is – the operator should be permitted to place removable tables, chairs, shade and other furniture/facilities in the approved area during the approved periods. However any developments/disturbances – such as impermeable surface treatments, excessive site levelling, footing excavations, permanent fencing or enclosure, trenching for utilities, etc. – should not be permitted, or kept to the absolute minimum, to preserve the area as public open space and protect the nearby significant Norfolk Island Pines.

The absolute maximum use/development that should be permitted on the adjacent Crown land is renewal of the previous (western) outdoor dining area of 10m x 4.6m, as previously approved by Council in September ‘17, with stringent conditions (see point 7 above) on surface hardening and excavation, consistency with Council’s Outdoor Dining Guide and its provisions, and concurrence/licencing by Crown Lands (DPIE).

In summary I would reiterate my objection to this application and request that it be rejected in total – rather than rewarding the existing unauthorised alienation, development and use of public land for private gain by the retrospective authorisation of non-compliant works and approving even more intensive, alienating, adversely impacting and disruptive development and use of this site.

If you would like to discuss any aspects of this objection please don’t hesitate to contact me.

Yours sincerely,

Alan Ginns
3 November, 2020

