

18 September 2019

Our Ref: P-18291

Lashta Haidari
Northern Beaches Council
PO Box 82
MANLY NSW 1655

lashta.haidari@northernbeaches.nsw.gov.au

Dear Lashta,

DA 2019/0409 - LOT 1113 OXFORD FALLS ROAD, FRENCHS FOREST - PROPOSED FOOTPATH CONDITION

The applicant has asked us to write with a request to convey to the Panel this response to Council's supplementary report on the subject application.

We acknowledge and appreciate that the report advises that Council is satisfied that all issues have now been resolved, apart from that of the footpath to the nearest bus stop.

We believe that our submission attached as Attachment 2 to Council's supplementary report does adequately resolve this issue, however we make the following further observations and comments.

We wish to clarify to the Panel that the document entitled "Access to Services - DA 2019/0409 - Lot 1113 Oxford Falls Road Frenchs Forest" at the second page of Attachment 1 to the supplementary report was prepared by the Applicant and its advisors including ourselves to detail the Applicant's position on the context of clause 40 in the Warringah LEP 2000 and the development's consistency with clause 40 of the Warringah LEP 2000. It accords with in our submission at Attachment 2.

Consistent with those submissions, we continue to refute Council's statement on "*the failure of the applicant to satisfy the grade requirements of a footpath to the nearest bus stop.*"

There are no "requirements" for a footpath to a bus stop and no "grade requirements" specified under the Warringah LEP applicable to this application.

As indicated in Council's supplementary report, Condition 50 to the previous Court-issued Consent for seniors housing on the subject site did not specify a gradient for the proposed footpath.

We also note that the supplementary report does not refer to the entire internal Engineering Referral Response for the application that recommends approval to the application subject to a specific condition in relation to footpath access. The recommended condition is as follows:

The Applicant is to submit an application for approval of pedestrian footpath infrastructure works within Council's footpath (Barnes Road, Myra Street and Iris Street) The plans are to be generally in accordance with the alignment as detailed on the Marchese Partners plan Drawing no DA03-06 dated 7/8/19. Engineering plans for the footpath and bus shelters (2 no) are to be submitted to Council for

approval under the provisions of Sections 138 and 139 of the Roads Act 1993. The application is to include four (4) copies of Civil Engineering plans for the design of civil works which shall be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer.

We note this recommended condition likewise does not specify a gradient.

Whilst we note Council's advice to the Panel that this matter has not been resolved, Council has not:

- directly addressed our previous submissions on the matter;
- explained why a condition previously imposed and recommended by Council, and accepted by the applicant, is no longer considered sufficient; and
- adopted the new condition proposed by its own Development Engineer.

We are therefore unclear as to the precise aspects of this issue that remain to be resolved and what steps the applicant is expected to take to resolve them.

As such, we again submit that the Panel may reasonably be satisfied that this final issue can be resolved by the imposition of a condition (ideally in the same terms as Condition 50 to DA2017/0206 or, if not, as now recommended by Council's engineer).

Thank you for your consideration of this submission. We would appreciate confirmation that this submission has been forwarded to the Panel for its information.

Yours sincerely,



David Ryan
Executive Director