

Our Reference: 16/07208

The General Manager
Lake Macquarie City Council
Box 1906
HUNTER REGION MAIL CENTRE NSW 2310

Dear Sir,

RE: DA/1443/2016 Seniors Housing Lot 803 DP 1156934 14 Halyard Way Belmont

Thank you for your letter of 19 September 2016 seeking comment on the proposed development. I apologise for the delayed response.

The Department of Industry – Lands (the Department) has assessed the documents provided and notes a Crown road that bisects the development site is to be constructed specifically to provide internal private access to the development proposal.

A key function of the subject Crown road at this time is to provide access to Lot 3 DP 1012856. However, the Crown road will be significantly affected by the development proposal which constitutes an exclusive private use of the land that has the potential compromise its existing land use/purpose.

Notably the only reference to the Crown road in the applicant's documents is a diagram titled "Site Analysis Plan" (reference 21600094 sheet 2). The plan suggests that the western extent of the Crown road will only be available for emergency bushfire access to Croudace Bay Road and the eastern extent of the Crown road beyond stage 2 of the development is to be closed.

The Department raises the following concerns in this regard;

- The proponent is yet to lodge a road closure and purchase application.
- The full extent of the proposed road closure is not identified in the development proposal.
- A road closure application can generally take several months to process. However complex matters can take longer which may involve resolving objections to road closure.
- The proponent's environmental assessment document fails to evaluate the Crown road impacts and fails to identify any associated statutory requirements.

Council has applied to close and purchase the unformed Crown road north of the development site through Lot 441 DP 7309666. This road corridor provides alternative access to Lot 3 DP 1012856. The development proposal and its potential public road impacts require consideration in conjunction with Council's road closure proposal as part of the DA process.

The Department recommends that Council strategically and objectively evaluate the access needs of Lot 3 DP 1012856. The aim would be to assess whether public road access is required to service present and future access needs or whether the road can be closed and replaced with a private right of carriageway where access is required.

Previous comments provided to Council by the Department in granting landowner's consent to lodgment of this DA are relevant to Council's considerations in determining the application. The Department previously stated that *"As the Crown road forms a central part of the development proposal, DoI Lands would only support either;*

- o Road closure and purchase by the proponent where there's no longer a need for the road to be part of the public road network (noting that the road provides access to Lot 3 DP 1012856); or
- o Road transfer to Council if the road is required to remain open as public road."

Should development approval be granted requiring road closure, the Department recommends Council impose a deferred commencement consent condition that activates the development after road closure and purchase. A suggested condition is as follows:

"The Crown roads identified by the Proponent as being required for the development must be closed and purchased by the Proponent prior to the development commencing" (or alternatively "prior to the Proponent undertaking any works on this land")..

Alternatively, if the road is to remain part of public road network, road transfer to Council will be required to service the development and/or Lot 3 DP 1012856. The Department is not positioned to manage any Crown road identified to service past, present or future development.

Transfer of the Crown road under *Section 151 of the Roads Act 1993* enables Council to fulfil its obligations under the *Environmental Planning & Assessment Act 1979* and *Roads Act 1993* to administer the road in accordance with conditional consent, including issuing a construction certificate. If Council does not accept road transfer, works are unable to proceed under the Department's administration.

Given the lack of information in applicant's environmental assessment on access and road management issues and until such time as documented support is provided on road closure or road transfer to Council, the Department objects to the applicant's proposed use of the Crown road. The Department's objection is based on the following:

1. The public land within the road corridor will be significantly affected by a private exclusive use that is not compatible with the public purpose;
2. The proposed private use of the road for restricted emergency bushfire access to Croudace Bay Road is inconsistent with the road purpose being public access; and
3. Section 5 and 6 of the Roads Act outlines the rights of passage by the public and owners of adjoining land. It is not clear how the development proposal will cater for access to Lot 3 DP 1012856.

Should you have further questions regarding this matter please do not hesitate to contact me on 49379340 or by email les.conrad@crownland.nsw.gov.au.

Yours sincerely



Les Conrad

Property Management Project Officer
NSW Department of Industry - Lands
Hunter Area