

Memo

Development Assessment – Northern Beaches Council		
То:	Sydney North Planning Panel	
From:	Lashta Haidari Principal Planner	
Date:	21 April 2020	
Subject:	Construction of a Health Services Facility, being a Medical Centre (Cancer Treatment Centre) with associated basement parking, signage and landscaping at 49 Frenchs Forest Road East, Frenchs Forest (DA2019/1419)	
Panel Reference:	PSSNH-57	

The purpose of this memo is address a matter raised by an adjoining property owner, within the business park estate, who is also objecting to the proposal.

The issue raised is that Council has not fully considered the issues raised within submissions in relation to the extinguishment of the easement on the subject lot.

The easement is highlighted in yellow and referred to as item "E" on the attached Certificate of Title which is extracted from the applicant's report titled "PRELIMINARY STAGE 1 ENVIRONMENTAL SITE ASSESSMENT".

The objectors state that development cannot occur on the portion of Lot 7 (being the subject site) that is subject to the right way without owners consent from the other property owners within the estate, who are party to the easement.

To clarify this issue, Easement E is a right of way which:

- Has a perpendicular section, at a width of 4 metres, running east along the inside of the northern boundary of subject site, which stops at the boundary of the adjoining property. The applicant has advised that this section of Easement E provided access to the site of a Telstra telecommunications tower which was previously situated on Lot 7 (in the area shown as Easement B on the attachment title certificate). That tower has been relocated on another site within the Business Park. Accordingly, that section of Easement E is no longer required for the intended purpose.
- Provides the central common access way servicing all lots in Business Park, 9.2 metres wide running north-south through the middle of the Business Park. The proposed development does not alter the central common access way servicing all lots and conditions have been included in the draft to stipulate that no construction vehicles are to block the right of way.

The development has components which encroach within the 4 metre wide perpendicular section of the easement for access, which does not lead to a trafficable street, or to another property.

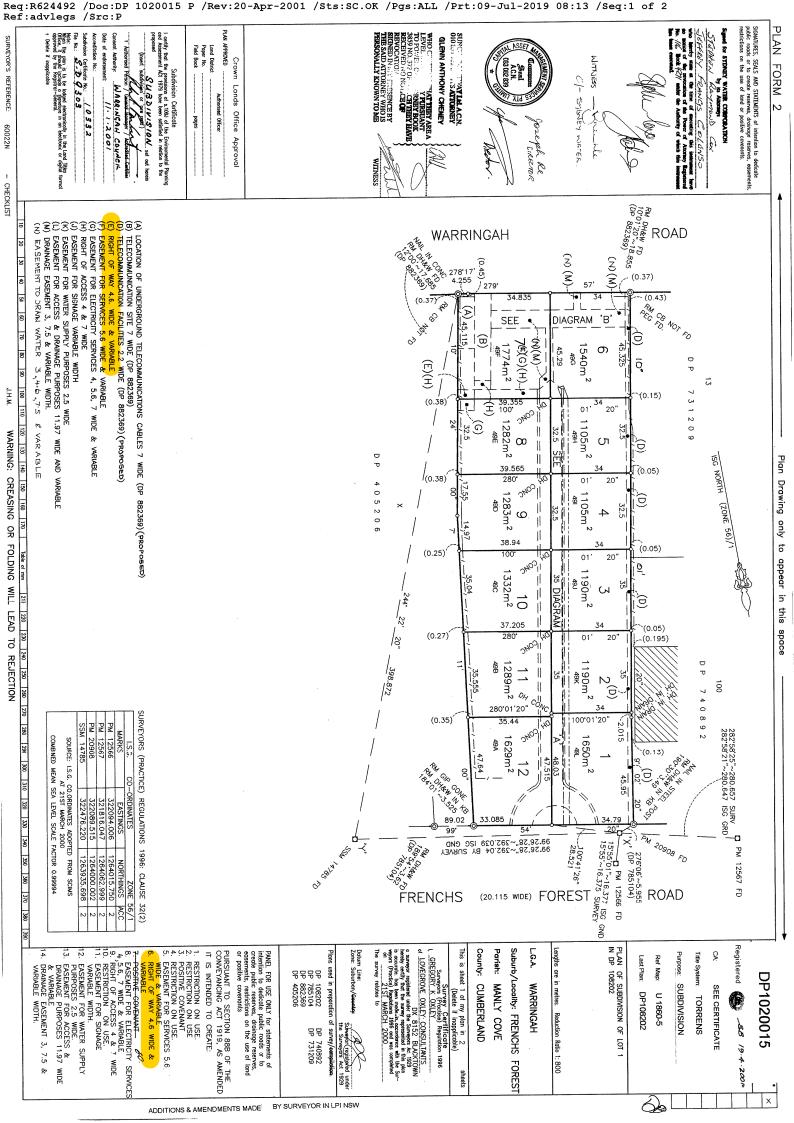
The submissions in relation to this matter have been considered in the assessment, which resulted in the recommendation to impose proposed Condition No. 26, which reads as follows:

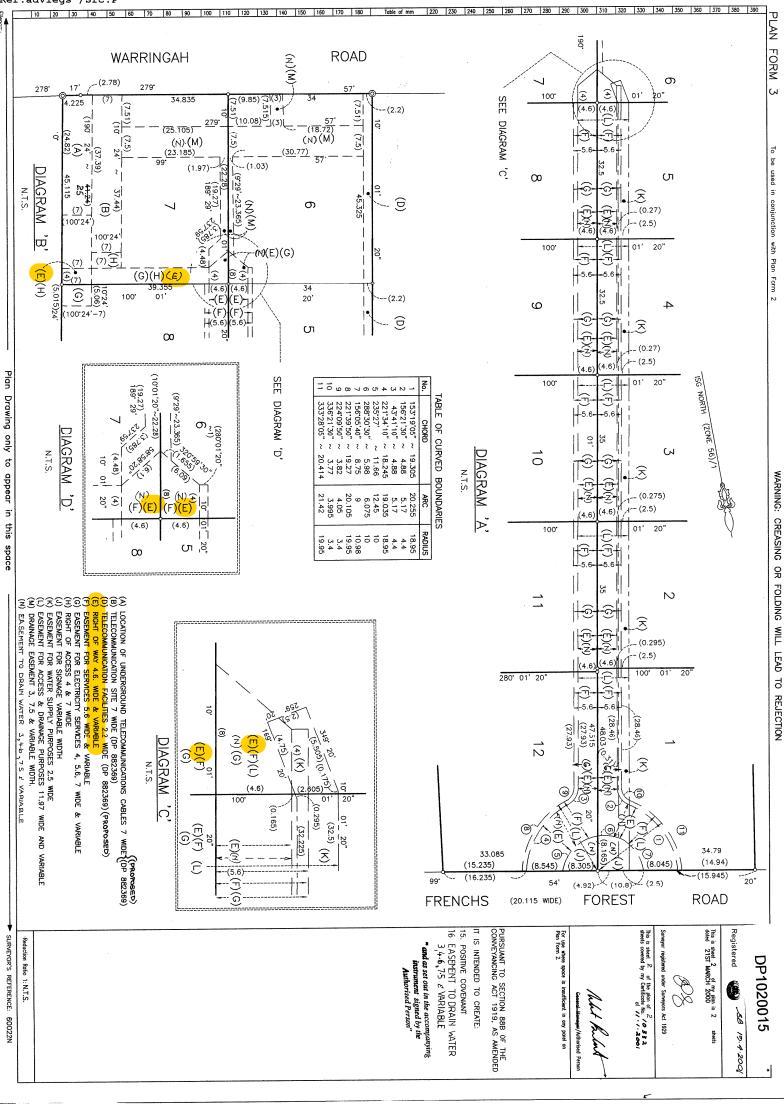
Right of Carriageway

The Applicant shall modify the right of carriageway (under the provisions of Section 88B of the Conveyancing Act) across Lots 6 & 7 of DP 1020015 to the benefit of all Lots of DP 1020015 to include all vehicular access and manoeuvring areas. Council is to be named as the sole authority empowered to release or modify. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: Council's subdivision standards and the statutory requirements of the Conveyancing Act 1919.

The condition requires the existing easement over Lot 7 to be modified, which will require all owners that benefit from the easement to authorise the proposed amendment to the subject easement "E".





Req:R624492 /Doc:D Ref:advlegs /Src:P /Doc:DP 08 /Seq:2 of 102 :13

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NEW SOUTH WALES LAND REGISTRY SERVICES - HISTORICAL SEARCH

FOLIO: 7/1020015

First Title(s): OLD SYSTEM Prior Title(s): 1/108202

Recorded	Number	Type of Instrument	C.T. Issue
19/4/2001	DP1020015	DEPOSITED PLAN	FOLIO CREATED CT NOT ISSUED
19/4/2001 19/4/2001	DP1022985 DP1022987	DEPOSITED PLAN DEPOSITED PLAN	
19/4/2001	7379862	VARIATION OF LEASE	EDITION 1
7/5/2001	7578069	REQUEST	
21/2/2002 21/2/2002	8375660 8375661	DISCHARGE OF MORTGAGE TRANSFER	EDITION 2
16/4/2018	DP1076458	WITHDRAWN - PRE-EXAMINATION PLAN	

*** END OF SEARCH ***

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NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 7/1020015

SEARCH DATE	TIME	EDITION NO	DATE
9/7/2019	8:13 AM	2	21/2/2002

LAND

LOT 7 IN DEPOSITED PLAN 1020015 AT FRENCHS FOREST LOCAL GOVERNMENT AREA NORTHERN BEACHES PARISH OF MANLY COVE COUNTY OF CUMBERLAND TITLE DIAGRAM DP1020015 FIRST SCHEDULE

FOREST CENTRAL BUSINESS PARK PTY LIMITED (T 8375661)

SECOND SCHEDULE (23 NOTIFICATIONS)

1	RESERVATI	ONS AND CONDITIONS IN THE CROWN GRANT(S)
2	5737241	LEASE TO TELSTRA CORPORATION LIMITED OF THE SITE
		SHOWN DESIGNATED (B) ON DP882369. EXPIRES: 31/3/2004.
		OPTION OF RENEWAL: 5 YEARS.
	73798	62 VARIATION OF LEASE 5737241
3	DP1020015	RESTRICTION(S) ON THE USE OF LAND REFERRED TO AND
		NUMBERED (1) IN THE S.88B INSTRUMENT
4	DP1020015	RESTRICTION(S) ON THE USE OF LAND REFERRED TO AND
		NUMBERED (2) IN THE S.88B INSTRUMENT
5	DP1020015	POSITIVE COVENANT REFERRED TO AND NUMBERED (3) IN THE
		S.88B INSTRUMENT
6	DP1020015	RESTRICTION(S) ON THE USE OF LAND REFERRED TO AND
		NUMBERED (4) IN THE S.88B INSTRUMENT
7	DP1020015	EASEMENT FOR SERVICES 5.6 METRE(S) WIDE AND VARIABLE
		AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE
		DIAGRAM
8	DP1020015	EASEMENT FOR SERVICES 5.6 METRE(S) WIDE AND VARIABLE
		APPURTENANT TO THE LAND ABOVE DESCRIBED
9	DP1020015	RIGHT OF WAY 4.6 METRE(S) WIDE AND VARIABLE AFFECTING
		THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
10	DP1020015	RIGHT OF WAY 4.6 METRE(S) WIDE AND VARIABLE
		APPURTENANT TO THE LAND ABOVE DESCRIBED
11	DP1020015	EASEMENT FOR ELECTRICITY SERVICES 4, 5.6, 7 WIDE AND
		VARIABLE AFFECTING THE PART(S) SHOWN SO BURDENED IN
		THE TITLE DIAGRAM
12	DP1020015	RIGHT OF ACCESS 4 & 7 METRE(S) WIDE AFFECTING THE
		PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
13	DP1020015	RESTRICTION(S) ON THE USE OF LAND REFERRED TO AND
		NUMBERED (10) IN THE S.88B INSTRUMENT

END OF PAGE 1 - CONTINUED OVER

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FOLIO: 7/1020015

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SECOND SCHEDULE (23 NOTIFICATIONS) (CONTINUED)

14	DP1020015	EASEMENT FOR SIGNAGE VARIABLE WIDTH APPURTENANT TO THE LAND ABOVE DESCRIBED
15	DP1020015	EASEMENT FOR ACCESS & DRAINAGE PURPOSES 11.97 WIDE AND VARIABLE AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
16	DP1020015	DRAINAGE EASEMENT 3, 7.5 & VARIABLE WIDTH AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
17	DP1020015	POSITIVE COVENANT REFERRED TO AND NUMBERED (15) IN THE S.88B INSTRUMENT
18	DP1020015	EASEMENT TO DRAIN WATER 3, 4.6, 7.5 METRE(S) WIDE AND VARIABLE AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
19	DP1020015	EASEMENT TO DRAIN WATER 3, 4.6, 7.5 METRE(S) WIDE AND VARIABLE APPURTENANT TO THE LAND ABOVE DESCRIBED
20	DP1022985	RIGHT OF CARRIAGEWAY 4, 4.6 METRE(S) WIDE AND VARIABLE AFFECTING THE PART(S) SHOWN SO BURDENED IN DP1022985
21	DP1022985	EASEMENT FOR ELECTRICITY PURPOSES 2 & 7 METRE(S) WIDE AFFECTING THE PART(S) SHOWN SO BURDENED IN DP1022985
22	DP1022987	RIGHT OF ACCESS 4, 4.6 METRE(S) WIDE AND VARIABLE AFFECTING THE PART(S) SHOWN SO BURDENED IN DP1022987
23	DP1022987	EASEMENT FOR TELECOMMUNICATIONS PURPOSES 7 WIDE AFFECTING THE PART(S) SHOWN SO BURDENED IN DP1022987

NOTATIONS

NOTE: THE CERTIFICATE OF TITLE FOR THIS FOLIO OF THE REGISTER DOES NOT INCLUDE SECURITY FEATURES INCLUDED ON COMPUTERISED CERTIFICATES OF TITLE ISSUED FROM 4TH JANUARY, 2004. IT IS RECOMMENDED THAT STRINGENT PROCESSES ARE ADOPTED IN VERIFYING THE IDENTITY OF THE PERSON(S) CLAIMING A RIGHT TO DEAL WITH THE LAND COMPRISED IN THIS FOLIO.

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

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