

Macquarie Data Centres Pty Ltd
Level 15 / 2 Market Street
Sydney NSW 2000

Attention: Mr. Paul Christensen – General Manager
By email: pchristensen@macquariedatacentres.com

Ref: D21/180217

23 December 2021

Dear Mr Christensen

SSD-24299707 - Talavera Road Data Centre Campus Expansion

Council has been notified that Macquarie Data Centres Pty Ltd has lodged a State Significant Development Application (**SSDA**) with the Department of Planning Industry and Environment (**DPIE**) for the construction and operational use of an expansion to the existing Data Centre (**New Proposal**) at 17-23 Talavera Road, Macquarie Park (**Property**).

As you are aware, Council has an interest in the land by virtue of an existing stormwater easement that traverses the site (**Existing Easement**).

On or about September 2019, Council, Macquarie Telecom Pty Ltd and the owner of the Property, One Funds Management Ltd, entered into a Deed of Variation (**Agreement**) to allow for a variation of easement to be registered on the title of the land.

The Agreement arose as a result of Land and Environment Court proceedings 89912 of 2019 which related to the development of the Property as contemplated in LDA 2018/322 (**Former Proposal**).

The variation of easement will allow Council to convey stormwater over the Property within a different alignment to that of the Existing Easement so as to not be restricted by the buildings to be constructed under the Former Proposal (**Varied Easement**).

The instrument granting the variation to easement has been registered on the title of the Property as Dealing AP628954H.

The Agreement allowed Council, amongst other things, to re-align the Existing Easement at any time within twenty (20) years from the date of that Agreement.

It is noted that the New Proposal is accompanied with options for the provision of a revised stormwater easement to cater for the New Proposal. In this regard, those options (which Council has yet to consider fully) (**New Easement**) further alter the line of the Varied Easement to such an extent that the nature and cost of the New Easement will be significantly different to that which was agreed upon and contemplated by Council under the terms of the Agreement. The terms of the Agreement also require the Council to make good that part of the Property affected, once the relocation works are undertaken. Consequently, and given the scale of the New Proposal, Council will more than likely be required to construct the new stormwater pipe and the subsequent creation of the New Easement prior to the issue of any construction certificate for the proposed building.



In view of the above, Council will need the proponent of the New Proposal to bear the costs associated with the construction of the new stormwater pipe and the creation of the New Easement once the parties agree upon a suitable location and specifications for same. Unless that course is adopted, the utility of the Agreement, and in particular the ability to undertake the relocation works at a time, and in a manner suitable to the Council, would appear to be questionable. Until this occurs, the New Proposal would constitute an impediment to the carrying out the Agreement in accordance with its terms, so Council (as the beneficiary of the Existing Easement) will object to the New Proposal, as it does not presently accommodate the relocation of the Existing Easement to its satisfaction.

Council also reserves its position as to exercising its rights pursuant to the Existing and Varied Easement.

We await your response, and confirmation the New Proposal will be updated to address Council's concerns.

Yours sincerely



George Dedes
General Manager