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Environmental & Planning Services Department

Our Reference: 2014/584
Contact: Ms N Aamir
Phone: 9840 9836

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 (AMENDED) NOTICE OF DETERMINATION OF APPLICATION

16 April 2015

Bimuba Investments
PO Box 975
PARRAMATTA NSW 2150

Dear Sir/Madam

Pursuant to Section 81 of the Act, Council has refused to grant approval to your Development Application described as follows:

PROPERTY:	Lot 36 & 37, DP 10958
STREET ADDRESS:	33-35 & 37-39, Pavesi Street, Smithfield
REFUSAL NO.	2014/584/1
DECISION:	Delegated Authority
PROPOSED DEVELOPMENT:	Consolidation of 2 lots; demolition of existing structures; construction of an industrial development comprising of warehouses; ancillary offices; carparking accommodating 59 at grade carparking spaces; landscape and drainage works over two stages

This Development Application is **REFUSED** in accordance with the Environmental Planning & Assessment Act 1979 (amended). The reasons for refusal are set out below.

NOTES:

1. Section 82A of the Act provides that an applicant may request, within 6 months of the date of determination of the Development Application, that the Council review its determination (this does not apply to integrated or designated development). A fee is required for this review.

It should also be noted that an application under Section 82A of the Act cannot be reviewed/determined after 6 months of the date of determination. Therefore, the submission of a Section 82A Application must allow sufficient time for Council to complete its review within the prescribed time frame, including the statutory requirement for public notification.



2. Section 97 of the Act provides that an applicant who is dissatisfied with the Council's determination of the Development Application may appeal to the Land and Environment Court within six (6) months of the date of determination, or as otherwise prescribed.

REASONS FOR REFUSAL

1. The proposal fails to satisfy Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposal is non-compliant with Holroyd Local Environmental Plan (LEP) 2013 with regard to the following:-

- 1.1 Part 2– Zone Objectives and Land Use Table

The proposal is contrary to the objective "*to minimise any adverse effect of industry on other land uses*" as the proposal fails to satisfactorily address the issues related to adjoining residential land uses.

- 1.2 Part 6, Clause 6.7– Stormwater Management

- 1.2.1 The proposal is contrary to the objective 1(a) "*to minimise the impacts of urban stormwater on properties, native vegetation or receiving waters*" as the proposal fails to satisfactorily address the issues related to stormwater, as outlined below.

2. The proposal fails to satisfy Section 79C (1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as the applicant has failed to submit following documentation demonstrating compliance with Holroyd Development Control Plan (DCP 2013):-

- 2.1 Part A, Clause 7– Stormwater Management

- 2.1.1 The applicant has failed to provide full details and separate plans for the drainage works associated with Stage 1 and Stage 2 of the development.
- 2.1.2 The applicant has failed to provide details for the overland flow scale. In this regard, the design has not illustrated the clearance height required at the base of all fencing to facilitate overland flows.
- 2.1.3 The applicant has failed to submit details that demonstrate the overland flows from the swale will bypass the OSD system and be directed to the street frontage.
- 2.1.4 The applicant has failed to submit details for the bund wall in the stormwater plans.
- 2.1.5 The applicant has failed to implement and submit Water Sensitive Urban Design (WSUD) principles in accordance with C1 and C2 – Section 7.5, Part A of Holroyd DCP 2013.
- 2.1.6 Insufficient information has been provided to demonstrate that the gross pollutant trap is located upstream of the Discharge Control Unit/OSD system in a suitable location to ensure it is easily accessible for maintenance.

- 2.1.7 The applicant has failed to provide details for the finished floor levels within the car parking and driveway areas.
- 2.1.8 The applicant has failed to submit details that the 1% AEP flood level will be provided at connection point of the stormwater gully pit.
- 2.1.9 The applicant has failed to submit details that illustrate the outlet pipe from the Discharge Control Unit has twice the capacity of the PSD for the site.
- 2.1.10 Insufficient details have been provided to show that the overland flows from upstream bypass the OSD system.
- 2.1.11 The applicant has failed to submit details that demonstrate excavation/pipe works are not proposed within the dripline/tree protection zones of trees to be retained on site.
- 2.1.12 The applicant has failed to submit amended stormwater plans that show consistency with the arborist report regarding tree numbering and proposed retained and removed trees.
- 2.1.13 The applicant has failed to submit details that demonstrate that the proposed works are relocated outside of the Structural Root Zone (SRZ) of all retained trees.

2.2 Part D, Clause 2.3 – Amenity Impacts on Nearby and Adjoining Zones

- 2.2.1 The applicant has failed to provide amended shadow diagrams. In this regard, the extent of overshadowing into the adjoining properties cannot be assessed, and is unacceptable.
- 2.2.2 The applicant has failed to submit architectural plans which are consistent with each other.
- 2.2.3 The applicant has failed to demonstrate that the acoustic privacy of the adjoining properties is maintained considering the location of the proposed parking and vehicular access.
- 2.2.4 The applicant has failed to submit details showing treatment of the external wall along the eastern elevation.

2.3 Part B, Clause 2 – Roads and Access and Clause 3– Car Parking

- 2.3.1 Insufficient information has been provided to assess the traffic and road safety impact of the proposed access driveway on Pavesi Street and surrounding intersections as well as the existing traffic calming devices in Pavesi Street.
- 2.3.2 Council advised at a meeting prior to lodgement of the current application that Pavesi Street is split into two zones with the eastern end of the street zoned as low density residential and the western end as industrial. There is a traffic calming device which separates and restricts access (particularly heavy vehicles) to the low density residential zone from the industrial zone. The

existing eastern driveway (i.e., in front of 37-39 Pavesi Street) is located within a low density residential zone which has a significant impact on residential amenity, particularly noise and road safety. In this regard, the submitted plans fail to provide all access from the western access driveway and remove the existing eastern access driveway as recommended by Council.

- 2.3.3 Failure to provide plans and/or details of any designated paths and measures to ensure pedestrian safety within the site (particularly around heavy vehicles).
- 2.3.4 The proposal fails to demonstrate compliance with the minimum car parking spaces required. In this regard, the proposal has 59 parking spaces which is a shortfall of 7 spaces.
- 2.3.5 Failure to provide plans detailing the following:
 - a) All disabled parking spaces with a shared area and bollards and in accordance with Australian Standard 2890.6.2009.
 - b) Separate visitor and long stay staff spaces.
 - c) All visitor spaces located outside the truck manoeuvring and loading areas.
 - d) Dimensions of angle and parallel parking spaces (including disabled spaces) in accordance with Australian Standard 2890.1.2004 and 2890.6.2009.
 - e) Dimensions of loading bays.
 - f) Driveway gradients (long sections with gradients and dimensions) ensuring that the transition at the top and bottom of the ramp is checked for scraping and bottoming out.
 - g) Details of the road including, kerblines, parking, signs, traffic devices, power poles, other structures and neighbouring driveways.
 - h) Clear sight distances at the property line to ensure adequate visibility for vehicles entering the road as shown in Figure 3.2 of AS 2890.1-2004 and to pedestrians at the frontage road as shown in Figure 3.3 of AS 2890.1-2004.
- 2.3.6 Failure to provide swept path analysis demonstrating the following:
 - a) A car can turn around within the site when all spaces are occupied.
 - b) The largest/design vehicle can enter and exit the driveway in a forward direction and manoeuvre into the loading area.
- 2.3.7 Failure to provide details of security gates at the entry point with the following:
 - a) A queue area designed in accordance with the Australian Standard for the largest vehicle that will enter the site.

- b) A suitable communication system to allow the security gates to be opened remotely and located so as not to reduce the width of the access driveway and not impact on the flow of traffic and road safety.
3. Based on the above deficiencies, the likely environmental impacts of the development are not considered acceptable (pursuant to Section 79C(1)(b) of the Environmental Planning and Assessment Act, 1979).
4. Based on the above deficiencies, the site is not considered suitable for the development as proposed (pursuant to Section 79C(1)(c) of the Environmental Planning and Assessment Act, 1979).
5. Based on the above deficiencies and submissions received during notification; approval of the proposed development would not be in the public interest (pursuant to Section 79C(1)(d) & (e) of the Environmental Planning and Assessment Act, 1979).

Yours faithfully,

Merv Ismay
GENERAL MANAGER

Per:

MANAGER DEVELOPMENT

