

22 June 2010

REFERRAL RESPONSE - HEALTH

FILE NO: DA 257/2010/1

ADDRESS: 88 Newcastle Street ROSE BAY 2029

PROPOSAL: The demolition of 88 Newcastle Street (dwelling), 94 Newcastle Street (dwelling), 96-98 Newcastle Street (St Paul's Anglican Church and former Parish Hall) and the construction of a mixed use development comprising of a new residential flat building, new childcare centre, and the retention of the existing Greek Orthodox Church of the Parish of St George.

FROM: Louie Salvatore

TO: Ms L McMahon

Comments are provided in relation to DA 257/2010/1 where development consent is being sought for the following:

- Demolition/removal of the existing dwelling house at 88 Newcastle Street and ancillary structures
- Demolition/removal of the existing dwelling house at 94 Newcastle Street and ancillary structures
- Retention of the existing Greek Orthodox Church building.
- Demolition/removal of the existing St Paul's Anglican Church building and childcare centre (former church parish hall).
- A 4 storey residential flat building comprising of 23 residential dwellings (2x1 bedroom plus study and 21x2 bedroom)
- Basement car park for 43 parking spaces (2 on the ground level are accessed by the childcare centre driveway and 41 in the basement car parking level accessed by separate entry/exit driveway.
- A 34 place childcare centre which replaces the existing Possums Pre-School that has 26 children
- Consolidation of the existing allotments into one allotment of land

Contaminated Land – SEPP No.55 – Remediation of Land

Reference is made to the Pre-DA Lodgement Health Referral Response of 4 August, 2009 where it was recommended that the application shall have regard to State Environmental Planning Policy No. 55 – Remediation of Land and the Contaminated Land Management Act 1997. Comment is made in Section 4.2.3 'SEPP 55' in the Statement of Environmental Effects where it is stated that, *"it is considered that portion of the site is suitable for the proposed use without the need for any further investigation. In addition to the aforementioned, the proposed childcare centre is also*

to be located on a property which has been used for residential purposes for many years”.

Although it is likely that the site has been used for residential purposes, a more comprehensive appraisal of the site's history is required to ensure that no contaminating activities existed on the land to be developed taking into consideration that part of the proposal involves a sensitive use being a childcare centre. As such, the applicant shall provide but not limited to the following information so that an appropriate evaluation of the suitability of the land for the proposed development can be made:

- A detailed appraisal of the site's history being undertaken with the information referenced to enable Council to verify the information and determine its suitability.
- A visual site inspection and assessment of the land and building in terms of contamination being undertaken and included as part of the Initial Site Evaluation. Where the site's history is incomplete or the site inspection and assessment may suspect contamination, it may be necessary to undertake a preliminary sampling and analysis program.
- A statement shall be included in the report to indicate that as a result of the Initial Site Evaluation, that the site is suitable for the proposed development, or provide a basis for a more detailed investigation.

Childcare Facility-Acoustical Assessment

A two storey building is proposed for the childcare centre which is to accommodate 34 children ranging from 3-5 years. It is proposed that a north facing playground with an area of 240 square metres has been provided for both passive and active use by the children. Typical childcare centre operating hours are proposed 7am to 7pm, Monday to Friday.

The accompanying application has failed to provide any acoustical assessment for the proposed childcare centre. The Acoustic Environment created by the proposed childcare facility is required to be assessed and in particular shall take into consideration the main sources of noise that would be associated with the proposal including outdoor play activities and areas, traffic movements and mechanical services. The assessment shall recognize the residential properties that would be exposed to the noise from the proposed development.

In preparing the acoustical assessment, the report must provide a graphical representation of the ambient noise measurement in the surrounding environment and reference the measurements against the appropriate Noise Criterion demonstrating compliance or otherwise.

In general, all noise emissions from children play activities and vehicle movements are not to exceed the ambient noise level plus 5dB(A) when assessed as an Leq (15 minutes) at any point on any adjoining residential properties. In addition, the report shall be accompanied by an Operational Management Plan for the childcare centre. The plan should include but not be limited to:

- Noise management techniques employed during operation of the centre. These techniques could include limits on the number of children at play at any one time, particularly in areas with a direct line of sight to adjacent residences, or limits on the total time of play.
- All hard paved areas and pathways within the children's play area should be covered with a rubberised-backed material
- All external pedestrian gates should be fitted with appropriate door closers to provide a slow and regulated closing of the gate to prevent the generation of impact sound.
- Music should not be played outdoors.
- Elevated children's climbing equipment should be restricted to a maximum height of 1m above ground level.

Acoustic Certification of Mechanical Plant & Equipment

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must be accompanied by a certificate from a *professional engineer* (acoustic engineer) certifying that noise from the operation of mechanical plant and equipment will not exceed the background noise level when measured at any boundary of the site.

Where sound attenuation is required this must be detailed.

Note: Further information including lists of Acoustic Engineers can be obtained from:

1. **Australian Acoustical Society**—professional society of noise-related professionals ([www.acoustics.asn.au /index.php](http://www.acoustics.asn.au/index.php)).
2. **Association of Australian Acoustical Consultants**—professional society of noise related professionals (www.aaac.org.au).
Standard Condition: C62

Carpark Ventilation & General Ventilation

1. The basement car park proposing to accommodate 43 car parking spaces, in which vehicles powered by internal combustion engines are parked is required to comply with Section 4 'Ventilation Of Enclosures Used By Vehicles With Internal Combustion Engines' of Australian Standard 1668.2-1991. In general air distribution must achieve uniform dilution of contaminants in the garage and maintain contaminant concentrations below recommended exposure standards.
2. The basement car park must be naturally ventilated or provided with a combination of both supply and exhaust mechanical ventilation. The applicant is to determine the method of ventilation of the basement car park and provide details to the Certifying Authority accordingly. Except as varied in accordance with Clause 4.4.1 (a), (b) or (c), the 43 vehicle basement car park shall be mechanically ventilated by a combination of general exhaust with flow rates in accordance with Clause 4.4.2, and supply with flow rates specified in Clause 4.8 of Australian Standard 1668.2-1991.
3. The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail all

mechanical ventilation or air-conditioning systems complying with the *Building Code Australia 2007* and AS 1668.1, AS 1668.2 and AS/NZS 3666.1. If an alternate solution is proposed then the *Construction Certificate* application must include a statement as to how the performance requirements of the BCA are to be complied with and support the performance based solution by expert *evidence of suitability*. This condition does not set aside the mandatory requirements of the *Public Health (Microbial Control) Regulation 2000* in relation to *regulated systems*. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

Note: Clause 98 of the Regulation requires compliance with the BCA. Clause 145 of the *Regulation* prevents the issue of a *Construction Certificate* unless the *Accredited Certifier/Council* is satisfied that compliance has been achieved. Schedule 1, Part 3 of the *Regulation* details what information must be submitted with any *Construction Certificate*. It is the Applicant's responsibility to demonstrate compliance through the *Construction Certificate* application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the *Protection of the Environment Operations Act 1997* have overriding effect if offensive noise or odour arises from the use. Applicant's must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of AS 1668.2.

Standard Condition C59 (Autotext CC59)

Childcare Centre-Children's Services Regulation 2004

Full compliance with the requirements of the Children's Services Regulation 2004:

Part 3 Licence conditions – facilities and equipment requirements

- Division 1 Facilities
- Division 2 Equipment
- Division 3 General

Part 4 Licence conditions – staffing requirements

- Division 1 Staff (Part 54 – Cooking staff)

Part 6 Licence conditions – operational requirements

- Division 1 General (Part 68- Food and nutrition)
(Part 70- Storage of dangerous substances and equipment)

Additional Considerations

Some of the other important requirements relating to the childcare facility are:

- A room or an area that is used only for sleeping for children under 2 years of age.
- The premises of a centre based children's service must have at least 3.25sqm of unencumbered indoor play space per child.

- The premises of a centre based children's service must have at least 7sqm of useable outdoor play space per child.
- The outdoor play area must be adequately shaded in accordance with guidelines published by the New South Wales Cancer Council under the title Shade for Child Care Services.
- The premises of a centre based children's service must have separate facilities (including a sink, bench top and lockable cupboard) for use in craft activities.
- Childcare Centres serving meals have been identified under the ANZFA priority classification system as P1 (high risk) requiring a minimum of two (2) inspections per year, this inspection frequency may be varied based on business performance.
- Sanitary facilities must comply with the requirements for class 9b buildings (Early childhood centres) of clause F2.3 of the Building Code of Australia. Table F2.3—9b provides that for every 15 children or part thereof there must be a junior toilet or adult toilet with a firm step and a junior seat one hand basin with a rim height not exceeding 600mm.
- A bench type baby bath must be provided on the premises for children aged under 3 years in accordance with Table F2.3-9b of the Building Code of Australia.
- Appropriate waste storage facilities being provided on the premises, sufficiently sized so as to store the waste generated by the proposed use with allowance for separation of putrescible waste from recyclables. Council's Waste Services Section be contacted as to the appropriate size and location of the proposed waste storage facility.
- No amplification equipment, musical instruments and the like being permitted to be used in any outdoor play areas.
- The external play activity areas shall be continuously supervised in accordance with the Department of Community Services guidelines and the children encouraged to play and participate in quiet activities to ensure compliance with the required noise criteria.
- The childcare centre shall incorporate a system for logging complaints in relation to noise arising from the childcare centre so that such related complaints can be responded to and actioned upon.
- The complaint logging system shall be kept on the premises and made available when required by Council staff.

Light & Ventilation

The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the *BCA* or clause 3.8.4 and 3.8.5 of the *BCA* Housing Provisions, inclusive of AS 1668.1, AS 1668.2 and AS/NZS 3666.1. If an alternate solution is proposed then the *Construction Certificate* application must include a statement as to how the

performance requirements of the BCA are to be complied with and support the performance based solution by expert *evidence of suitability*. This condition does not set aside the mandatory requirements of the *Public Health (Microbial Control) Regulation 2000* in relation to *regulated systems*. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

Note: Clause 98 of the Regulation requires compliance with the BCA. Clause 145 of the Regulation prevents the issue of a *Construction Certificate* unless the *Accredited Certifier/Council* is satisfied that compliance has been achieved. Schedule 1, Part 3 of the Regulation details what information must be submitted with any *Construction Certificate*. It is the Applicant's responsibility to demonstrate compliance through the Construction Certificate application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the *Protection of the Environment Operations Act 1997* have overriding effect if offensive noise or odour arises from the use. Applicant's must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of AS 1668.2.

Standard Condition C59

Hazardous Materials

Prior to the execution of demolishing works, that a Hazardous Building Materials Assessment being undertaken of the building in accordance with NSW WorkCover requirements identifying all hazardous materials forming part of the building structure. Any hazardous materials identified must be reported to Council accompanied with predetermined clean-up objectives for the removal and disposal of such materials.

Soil Removal

Prior to the disposal of any soil from the site, such soil shall be classified in accordance with the provisions of both the Protection of the Environment Operations Act 1997 and the NSW EPA Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999).

Dial before you dig



The *principal contractor, owner builder* or any person digging may be held financially responsible by the asset owner should they damage underground pipe or cable networks. Minimise your risk and Dial 1100 Before You Dig or visit www.dialbeforeyoudig.com.au.

When you contact Dial Before You Dig, you will be sent details of all Dial Before You Dig members who have underground assets in the vicinity of your proposed excavation.

Standard Advising: K2 (Autotext KK2)

Erosion and Sediment Controls – Maintenance

The *principal contractor* or *owner builder* must maintain water pollution, erosion and sedimentation controls in accordance with:

- a) The Soil and Water Management Plan required under this consent;
- b) “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001; and
- c) “*Managing Urban Stormwater - Soils and Construction*” published by the NSW Department of Housing 4th Edition (“*The Blue Book*”).

Where there is any conflict *The Blue Book* takes precedence.



Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the Protection of the Environment Operations Act 1997 provides that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”.

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of the occupation of the land being developed whether or not they actually cause the pollution.

Standard Condition: E15 (Autotext EE15)

Dust Mitigation

Dust mitigation must be implemented in accordance with “*Dust Control - Do it right on site*” published by the Southern Sydney Regional Organisation of Councils.

This generally requires:

- a) Dust screens to all hoardings and site fences.
- b) All stockpiles or loose materials to be covered when not being used.
- c) All equipment, where capable, being fitted with dust catchers.
- d) All loose materials being placed bags before placing into waste or skip bins.

- e) All waste and skip bins being kept covered when not being filled or emptied.
- f) The surface of excavation work being kept wet to minimise dust.
- g) Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.

Note: "Dust Control - Do it right on site" can be down loaded free of charge from Council's web site www.woollahra.nsw.gov.au or obtained from Council's office.

Note: Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.workcover.nsw.gov.au and www.epa.nsw.gov.au . Other specific condition and advice may apply.

Note: Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.

Standard Condition: E23 (Autotext EE23)

• In addition:

- Staging land clearing to reduce the amount of soil disturbed
- Using water trucks to spray recycled water over haul roads and working areas
- Situating stockpiles away from residences and sensitive areas
- Controlling vehicle speeds on site
- Covering truck loads when traveling on local roads
- Cleaning truck tailgates and tyres before they leave the construction sites
- Erecting physical barriers made of fine fabric around stockpiles to prevent dust from spreading

Noise Objectives during demolishing works

To assist in managing impacts of noise from the demolishing of the existing dwelling and outbuilding on residences and other sensitive land uses, it is recommended that the *NSW Department of Environment & Climate Change: Construction Noise Guideline* be applied to the site to provide a quantitative and qualitative assessment for evaluating performance and compliance of resultant noise from demolishing works of the existing dwelling and outbuilding. In particular reference is made to Table 2 of the *NSW Department of Environment & Climate Change: Construction Noise Guideline* which sets out management levels for noise at residences and other sensitive land uses.

Hours of Work –Amenity of the neighbourhood

- a) No *work* must take place on any Sunday or public holiday,
- b) No *work* must take place before 7am or after 5pm any weekday,
- c) No *work* must take place before 7am or after 1pm any Saturday, and
- d) No piling, piercing, cutting, boring, drilling, rock breaking, rock sawing, jack hammering or bulk excavation of land or loading of material to or from trucks must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday.
- e) No rock excavation being cutting, boring, drilling, breaking, sawing , jack hammering or bulk excavation of rock, must occur without a 15 minute break every hour.

This condition has been imposed to mitigate the impact of work upon the amenity of the neighbourhood. Impact of work includes, but is not limited to, noise, vibration, dust, odour, traffic and parking impacts.

Note: The use of noise and vibration generating plant and equipment and vehicular traffic, including trucks in particular, significantly degrade the amenity of neighbourhoods and more onerous restrictions apply to these activities. This more invasive work generally occurs during the foundation and bulk excavation stages of development. If you are in doubt as to whether or not a particular activity is considered to be subject to the more onerous requirement (9am to 4pm weekdays and 9am to 1pm Saturdays) please consult with Council.

Note: Each and every breach of this condition by any person may be subject to separate penalty infringement notice or prosecution.

Note: The delivery and removal of plant, equipment and machinery associated with wide loads subject to RTA and Police restrictions on their movement outside the approved hours of work will be considered on a case by case basis.

Note: Compliance with these hours of work does not affect the rights of any person to seek a remedy to offensive noise as defined by the *Protection of the Environment Operations Act 1997*, the *Protection of the Environment Operations (Noise Control) Regulation 2000*.

Note: EPA Guidelines can be downloaded from
<http://www.epa.nsw.gov.au/noise/nglg.htm>.

Note: see http://www.epa.nsw.gov.au/resources/ci_build_sheet7.pdf

Standard Condition: E6 (Autotext EE6)

Protection of the Environment Operations Act 1997

During demolishing works, no equipment, building materials or other articles are to be used or placed in a manner on or off the site that will cause or likely to cause a 'pollution incident' as defined under the Protection of the Environment Operations Act 1997.

Louie Salvatore
Senior Environmental Health Officer