

SYDNEY WEST REGIONAL PLANNING PANEL MEETING HELD AT BANKSTOWN CITY COUNCIL ON 8 NOVEMBER 2012 AT 10.00 AM

PANEL PRESENT:

Bruce McDonald	Acting Chair
Paul Mitchell	Panel Member
Lindsay Fletcher	Panel Member
Khal Asfour	Panel Member
Ian Stromborg	Panel Member

COUNCIL STAFF IN ATTENDANCE:

Scott Pedder	Director City Planning & Environment
Ian Woodward	Manager - Development Services
Steve Arnold	Team Leader - Development Assessment
Nicholas Aley	Senior Development Assessment Officer
Leanne Mariani	Contaminated Lands Officer
Monica Samuel	Development Assessment Officer
Kristy Bova	Senior Development Assessment Officer
Steve Kuntz	Coordinator Development Engineering
Sindhu Kaphle	Senior Development Assessment Officer

APOLOGIES: NIL

1. The meeting commenced at 10.33 am

2. **Declarations of Interest** - Nil

3. **Business Item – No.1**

2010SYW071 Bankstown City Council, DA-840/2010, Retail Plant Nursery and Associated Retail Uses, including Trade Shop, Café, Pet Shop, Pool Shop, Offices, Fitness Centre and associated Car Parking, 479 Henry Lawson Drive, Milperra.

4. **Public Submission**

- Mr. Gerard Turrise (applicant) addressed the Panel in favour of the item.
- Mr. David Gregory (Director of Geologix) addressed the Panel on behalf of the applicant in favour of the item.
- Mr Michael Spiteri (Financial Director of Flower Power) addressed the Panel on behalf of the applicant in favour of the item.

Following the public submissions the Panel adjourned the meeting from 11:10 am to 11:20 am.

5. The Resolution of the Panel

The Panel considers that the proposed development, subject to appropriate conditions on consent, would be an appropriate use of this site provided it were conclusively demonstrated that the land, which requires remediation can and will be remediated such that it is made suitable for the proposed use before it is used for that purpose.

The Panel:

- 1) Considers the proposal would be in the public interest in that it provides for the productive use of land that is zoned 6(a) Open Space under Bankstown Local Environmental Plan (BLEP) that is not required to meet the needs of residents and - for which there are no plans for its incorporation into the public open space lands of Bankstown City.
- 2) Considers remediation of the land as a consequence of the proposed use would be in the public interest.
- 3) Considers the proposal - adequately addresses stormwater drainage and flooding issues.
- 4) Considers the proposal provides satisfactory arrangements for the management of traffic generated by the proposed development.
- 5) Considers the impact of the proposed development on the occupation and use of adjoining and nearby premises would be reasonable and acceptable.
- 6) Considers the proposal adequately addresses issues relating to the protection and conservation of environmentally sensitive lands and bushfire protection.

The Panel notes the conclusion contained in the assessment report that the consent authority cannot, in this instance exercise the discretion permitted under Clause 12 of BLEP due to a failure to satisfactorily address the issues of site contamination and acid sulphate soils.

Accordingly the Panel's decision is to defer determination of the application to allow:

1. The Panel to request the Department of Planning and Infrastructure to seek advice from legal Counsel on whether the consent authority can, in this instance, exercise the discretion permitted under Clause 12 of BLEP and whether the Panel has the authority to approve this application on a deferred commencement basis by addressing the issues of site contamination and acid sulphate soils, through imposition of the deferred commencement conditions 1 and 2 as set out in the without prejudice conditions of consent prepared by Council's assessment staff and a further deferred commencement condition providing for the submission to and approval by Council of material demonstrating compliance with Clause 22 of Bankstown LEP and enforce the conditions of the determination.
2. In the case that it is determined that the Panel can exercise the discretion permitted under Clause 12 of BLEP and has the authority to approve this application on a deferred commencement basis, the Panel shall reconvene urgently to determine the application.
3. In the case that it is determined that the Panel cannot exercise the discretion permitted under Clause 12 of BLEP and does not have the authority to approve this application, further defer the matter to require the following information to be urgently provided :

- a. *Further investigations, as described in the report "Site Conceptual Model, 476 Henry Lawson Drive, Milperra" by Geo-Logix, dated March 2012, shall be undertaken and the results of these investigations provided to the satisfaction of Council and a NSW EPA accredited site auditor.*

The further investigations shall be carried out in accordance with the "Sampling and Analysis Plan, 479 Henry Lawson Drive, Milperra" by Geo-Logix, dated 28 March 2012.

- b. *A site specific Remedial Action Plan (RAP) shall be prepared by an appropriately qualified and experienced environmental consultant. This RAP must comply with relevant guidelines including the NSW EPA 'Guidelines for Consultants Reporting on Contaminated Sites 2000'. The RAP must set remediation objectives and determine the most appropriate remedial strategy to ensure that the site will be suitable for the proposed land use.*

The RAP must be submitted to the satisfaction of Council and a NSW EPA accredited site auditor. The RAP must also be reviewed by a NSW EPA accredited site auditor. If the Auditor is satisfied with the RAP, a Section B Site Audit Statement shall be issued which certifies that the site can be made suitable for the proposed use by implementing the RAP. If the Auditor is not satisfied with the RAP, then the applicant must adhere to any recommendations, conditions or requirements imposed by the site auditor with respect to the RAP.

A Section B Site Audit Statement shall be submitted to Council.

- c. *Material demonstrating compliance with the provisions of Clause 22 of BLEP.*

MOTION CARRIED – ALL IN FAVOUR

The meeting concluded at 11.27 am.

Endorsed by:-

Bruce McDonald
Acting Chair
Sydney West Joint Regional Planning Panel
Date: 12 November 2012