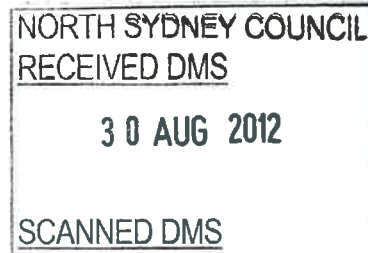


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Geoff,

please find enclosed a copy of the documents
submitted to the Joint Regional Planning Panel (JRPP)
in relation to DA494111.

Regards.

HASSELL

Ashleigh.

Joint Regional Planning Panels
Panel Secretariat
GPO Box 39
Sydney NSW 2001



27 August 2012

**Development Application 494/11 – Library Opening Hours
Australian Catholic University, 40 Edward Street, North Sydney**

Refusal of Sunday Opening Hours by North Sydney Council

North Sydney Council advised Australian Catholic University (ACU) by letter dated 26 July 2012 of Council's resolution on 23 July 2012 to refuse Development Application (DA) 494/11 for extended library opening hours for the ACU library at 40 Edward Street North Sydney.

Given Council's refusal, we hereby request on behalf of ACU that DA 494/11 be reviewed by the Joint Regional Planning Panel (JRPP), in accordance with Section 89 of the Environmental Planning and Assessment (EP&A) Act 1979.

This application requests the JRPP to review the conditions of consent to allow the library to operate on Sundays from 12noon to 5.00pm as a condition of consent.

The following documentation is provided in support of this application:

- Attachment A: Statement of Environmental Effects, dated 13 December 2011
- Attachment B: Revised Statement of Environmental Effects, dated 10 February 2012
- Attachment C: Council Planning Report, dated 16 March 2012
- Attachment D: Council Response, dated 29 March 2012
- Attachment E: HASSELL request for review, dated 10 July 2012
- Attachment F: Council Planning Report, dated 23 July 2012
- Attachment G: Council Response, dated 26 July 2012.

Background

Under Clause 226(1)(c) of the Environmental Planning and Assessment Regulation 2000, ACU is defined as the Crown for the purposes of Division 4 of Part 4 of the EP&A Act.

HASELL, on behalf of ACU, submitted a DA to North Sydney Council on 13 December 2011 (see Attachment A) seeking approval for additional library opening hours on Sundays of 8.30am – 5.00pm. The application made reference to the fact that the library currently operated on Saturdays from 8.30am – 5.00pm, even though the original consent had permitted Saturday opening hours from 12noon – 5.00pm.

Following notification of the DA, Council advised ACU that they had no record of formal approval for the Saturday morning opening hours, unbeknown to ACU. Consequently, ACU amended the DA on 10 February 2012 (see Attachment B) to include a request for formal approval of

Saturday hours from 9.00am – 5.00pm in addition to seeking approval for identical Sunday opening hours of 9.00am – 5.00pm.

Council refused the Sunday opening hours in the amended application on 26 March 2012 (see Attachment D), even though the Planning Report (see Attachment C) recommended Sunday opening hours of 12noon – 5.00pm.

On 10 July 2012 (see Attachment E), Hassell wrote to Council seeking a review of their decision, indicating that the hours recommended by the Planning Report, that is from 12noon – 5:00pm Sundays, were acceptable to ACU. Council again refused (see Attachment G) even though the Planning Report had again recommended approval (see Attachment F).

Referral to Joint Regional Planning Panel

As ACU are unable to accept the proposed conditions, DA494/11 is referred to the Joint Regional Planning Panel (JRPP) for determination.

ACU reiterate that the proposed Sunday hours of operation are considered reasonable. They will not impact on the residential amenity of the surrounding residents. The library is an existing facility of the university and is currently open Monday-Friday 8.00am – 8.00pm and Saturdays 9.00am-5.00pm. The proposal is a minor change to the current situation, seeking formal consent for the additional library operating hours on Sunday from 12noon – 5.00pm.

Parking is available on site for both staff and students on weekends, in contrast to during the week when no student parking is available on site. Although there are no parking restrictions in the surrounding streets on weekends, it is considered the available parking on site for the reduced number of students attending on the weekend, as only the library is open, indicates that parking and traffic impacts on the surrounding neighbourhood will be minimal. On site security would also be present on weekends. A key responsibility of security staff would be to monitor student noise in external courtyard areas.

As demonstrated in the attached documents, the proposal complies with current and draft planning controls. When assessed against the relevant planning controls, the impacts of the proposal are considered negligible.

Conclusion

Therefore, ACU requests the Joint Regional Planning Panel review the conditions of consent to include Sunday opening hours of 12noon – 5.00pm as previously requested to Council, in addition to Saturday hours of 9.00am – 5.00pm.

We look forward to favourable consideration of this matter.

Regards



Silvija Smits
Principal - Planning

Email ssmits@hassellstudio.com

cc Marea Nicholson, ACU
Rob Dickson, Spectrum Partners
Geoff Mossemeneer, North Sydney Council

Attachment A

Statement of Environmental Effects
dated 13 December 2011

The General Manager
North Sydney Council
PO Box 12
North Sydney NSW 2059

13 December 2011

**Development Application – Additional Library Opening Hours Sunday 8.30am – 5.00pm
Australian Catholic University, 40 Edward Street, North Sydney
Statement of Environmental Effects**

This Statement of Environmental Effects (SEE) has been prepared by HASSELL on behalf of the Australian Catholic University (ACU) to accompany a Development Application seeking approval for additional library opening hours on Sundays 8.30am – 5.00pm.

1.0_ The site

ACU's North Sydney Campus at 40 Edward Street caters for students from the Health Sciences, Business/ Commerce/ Information Systems and Environmental Sciences disciplines. The site contains two buildings, the Vice Chancellery building and the James Carroll building, as seen on the included survey plan.

The library is housed in the James Carroll building across two levels. Only the library is subject of this application.

2.0_Previous consents

DA1074/84 granted consent for the 4 level James Carroll building consisting of:

- _Level 1: lecture rooms, library and undercover car parking
- _Level 2: library and gymnasium
- _Level 3: lecture rooms, staff offices, common room, auditorium and open air car parking
- _Level 4: staff offices, common rooms and canteen.

The original consent restricted opening hours for the University to 8.00 am to 8.00 pm Monday to Friday (all services) and 12.00 noon to 5.00pm Saturdays (library only).

Since then, the Saturday opening hours of the library were extended such that the current opening hours are 8.30am to 5.00pm.

3.0_Proposed development

The application seeks to extend the opening hours of the library to Sundays from 8.30am to 5.00pm. Two staff members will be associated with Sunday opening hours. Parking arrangements will not change, as detailed below. No building works are proposed.

4.0 Statement of Environmental Effects

In accordance with the provisions of section 79C (1) of the EP&A Act, this section assesses the application having regard to relevant development controls and matters for consideration.

(a) The provisions of any relevant environmental planning instrument, draft environmental planning instrument, development control plan, and the regulations that apply to the land to which the development application relates.

Current and Draft Local Environmental Plans

North Sydney Local Environmental Plan 2001 (LEP 2001) is the relevant planning instrument for the site. The site is zoned Special Uses – Educational Establishment.

The site is also subject to draft LEP 2009 (DLEP 2009) under which it is zoned R2 Low Density Residential. Educational Establishments are permissible with consent in the R2 zone.

The site is a listed heritage item (no. 0810) both under LEP 2001 and DLEP 2009 because of Rockleigh Grange, the former dwelling of Conrad Martens which is now used as the Vice Chancellery building. This application does not affect this building.

Under DLEP 2009, the site falls within Edward Street Conservation Area. The application will not affect the Conservation Area.

Current and Draft Development Control Plans

North Sydney Development Control Plan 2002 (DCP 2002) and North Sydney Draft Development Control Plan 2010 (DDCP 2010) both apply to the site.

Under DCP 2002 the site is located in the Lavender Bay Planning Area and the Edward Street Conservation Area. The application does not affect the Conservation Area.

As the development proposes no new building work, most of the DCP controls are not applicable. However, parking requirements under DCP 2002 and DDCP 2010 are discussed below.

(b) The likely environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

Due to the nature of the proposal, the environmental, social and economic impacts are considered to be minor as the proposal seeks to extend operating hours of the existing library within an existing building by one day. The only potential exceptions are parking and traffic impacts and noise impacts which are discussed below.

The campus has on site parking for 64 vehicles. This includes 46 underground spaces on Level 1 of the James Carroll building and 18 spaces, two of which are suitable for persons with a disability, at grade outside Level 3 of the James Carroll building.

From Monday to Friday on site car parking is reserved for staff use only but on Saturdays, it is made available to students as well. This latter approach would also apply to Sundays. Two staff members are associated with the library on Saturdays and the same is proposed for Sunday. Therefore 62 car parking spaces are/ will be available to students on weekends.

An estimate of students that visit the library on Saturdays is taken from a gate count, information collected by library staff. During 2009, over 27 Saturdays, an average 177 students visited the library. During 2010, over 28 Saturdays, an average 135 students visited and during 2011, over 21 Saturdays, an average 128 students visited the library. As this count does not take into consideration those students who might leave the library and re-enter on the same day, the counts are probably lower.

Information obtained from the *Commencing Student Survey, Undergraduate Students, July 2011* (ACU) shows that 84% of North Sydney students travel to the campus by public transport. The campus has excellent public transport access as well as parking restrictions on surrounding streets.

Although there are no parking restrictions in the surrounding streets on weekends it is considered the available parking on site for the reduced number of students attending on the weekend (only the library is open) indicate parking and traffic impacts on the surrounding neighbourhood will be minimised.

It is noted that both DCP 2002 and DDCP 2010 only require 1 parking space/ 6 staff for educational establishments. This proposal complies with the DCP requirements.

Onsite security will be present on site throughout the weekend. One of the roles of security will be to monitor student noise in the external courtyard areas. Security will have the ability to request students keep noise levels to a minimum or remain inside the library.

(c) The suitability of the site for the development.

The library is an existing facility and is open 6 days a week. Parking is available on site for staff and students on the weekend and so extending opening hours to Sunday is not a significant change from the existing situation.

(d) Any submissions made in accordance with this Act or the regulations.

The proponent will review any submissions made during the notification period.

(e) The public interest.

The proposal is considered to be in the public interest as it will improve facilities available to students further fostering the educational establishment.

5.0 Conclusion

This application seeks consent to allow the library to open on Sundays from 8.30am to 5.00pm.

The library is currently open Monday – Friday 8.00am – 8.00pm and Saturdays 8.30am – 5.00pm. The proposal is for a minor change to the current situation.

As demonstrated in this report, the proposal complies with current and draft planning controls. When assessed against section 79C (1) of the EP&A Act, the environmental impacts of the proposal are considered negligible. On site parking is available for staff and students on the weekend, in contrast to during the week when no student parking is available on site. It has also been shown that the ACU North Sydney campus has a high number of students coming to site by public transport, some 84%.

The following documentation is provided in support of this application:

- _ Completed application form,
- _ DA fee,
- _ 7 copies of this letter SEE,
- _ Survey plan (7 x A3 and 6 x A4), and
- _ 7 copies of the Annual Fire Safety Statement dated 21.04.11.

Should you have any questions please do not hesitate to contact the undersigned on 9101 2000.

Regards



Sarah Waterworth
Senior Planner

Email swaterworth@hassellstudio.com

Attachment B

**Revised Statement of Environmental Effects
dated 10 February 2012**

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ABN 24 007 711 435

The General Manager
North Sydney Council
PO Box 12
North Sydney NSW 2059

10 February 2012

**Development Application – Formal Consent Library Opening Hours Saturday 9.00am – 5.00pm and Additional Library Opening Hours Sunday 9.00am – 5.00pm
Australian Catholic University, 40 Edward Street, North Sydney
Statement of Environmental Effects**

This Statement of Environmental Effects (SEE) has been prepared by HASSELL on behalf of the Australian Catholic University (ACU) to accompany a Development Application seeking formal approval for library opening hours on Saturday 9.00am – 5.00pm as well as approval for additional library opening hours on Sundays 9.00am – 5.00pm.

1.0_Background

HASELL on behalf of Australian Catholic University submitted a Development Application to North Sydney Council on 13 December 2011 seeking additional library opening hours on Sunday 8.30am – 5.00pm.

Following notification, North Sydney highlighted no evident formal approval was obtained for the extended operating hours on a Saturday, unaware to the knowledge of ACU. HASSELL advised ACU to amend the current Development Application to include formal approval of Saturday operating hours as they currently stand, 9.00am – 5.00pm.

The library has been operating from 9.00am-5.00pm for over the past ten years with no impact on the surrounding locality and no evident impact on parking and public transport. Therefore, it is not seen that the request for formal approval of Saturday hours, in addition to the additional library opening hours on Sundays 9.00am to 5.00pm, will not cause impact on the surrounding locality.

1.0_The site

ACU's North Sydney Campus at 40 Edward Street caters for students from the Health Sciences, Business/ Commerce/ Information Systems and Environmental Sciences disciplines. The site contains two buildings, the Vice Chancellery building and the James Carroll building, as seen on the included survey plan.

The library is housed in the James Carroll building across two levels. Only the library is subject of this application.

2.0_Previours consents

DA1074/84 granted consent for the 4 level James Carroll building consisting of:

- _Level 1: lecture rooms, library and undercover car parking
- _Level 2: library and gymnasium
- _Level 3: lecture rooms, staff offices, common room, auditorium and open air car parking
- _Level 4: staff offices, common rooms and canteen.

The original consent restricted opening hours for the University to 8.00 am to 8.00 pm Monday to Friday (all services) and 12.00 noon to 5.00pm Saturdays (library only).

Since then, the library has been operating on a Saturday from 9.00am – 5.00pm, though no formal consent from North Sydney Council has been received, unaware to ACU.

3.0_Proposed development

The application seeks formal approval for current opening hours of the library on Saturdays from 9.00am to 5.00pm and the additional library operating hours on Sundays from 9.00am to 5.00pm. Two staff members will be associated with Sunday opening hours. Parking arrangements will not change, as detailed below. No building works are proposed.

4.0_Statement of Environmental Effects

In accordance with the provisions of section 79C (1) of the EP&A Act, this section assesses the application having regard to relevant development controls and matters for consideration.

(a)The provisions of any relevant environmental planning instrument, draft environmental planning instrument, development control plan, and the regulations that apply to the land to which the development application relates.

Current and Draft Local Environmental Plans

North Sydney Local Environmental Plan 2001 (LEP 2001) is the relevant planning instrument for the site. The site is zoned Special Uses – Educational Establishment.

The site is also subject to draft LEP 2009 (DLEP 2009) under which it is zoned R2 Low Density Residential. Educational Establishments are permissible with consent in the R2 zone.

The site is a listed heritage item (no. 0810) both under LEP 2001 and DLEP 2009 because of Rockleigh Grange, the former dwelling of Conrad Martens which is now used as the Vice Chancellery building. This application does not affect this building.

Under DLEP 2009, the site falls within Edward Street Conservation Area. The application will not affect the Conservation Area.

Current and Draft Development Control Plans

North Sydney Development Control Plan 2002 (DCP 2002) and North Sydney Draft Development Control Plan 2010 (DDCP 2010) both apply to the site.

Under DCP 2002 the site is located in the Lavender Bay Planning Area and the Edward Street Conservation Area. The application does not affect the Conservation Area.

As the development proposes no new building work, most of the DCP controls are not applicable. However, parking requirements under DCP 2002 and DDCP 2010 are discussed below.

(b)The likely environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

Due to the nature of the proposal, the environmental, social and economic impacts are considered to be minor as the proposal seeks formal approval of existing operating hours and the extension of operating hours of the existing library within an existing building by one day.

The only potential exceptions are parking and traffic impacts and noise impacts which are discussed below.

The campus has on site parking for 64 vehicles. This includes 46 underground spaces on Level 1 of the James Carroll building and 18 spaces, two of which are suitable for persons with a disability, at grade outside Level 3 of the James Carroll building.

From Monday to Friday on site car parking is reserved for staff use only but on Saturdays, it is made available to students as well. This latter approach would also apply to Sundays. Two staff members are associated with the library on Saturdays and the same is proposed for Sunday. Therefore 62 car parking spaces are/ will be available to students on weekends.

An estimate of students that visit the library on Saturdays is taken from a gate count, information collected by library staff. During 2009, over 27 Saturdays, an average 177 students visited the library. During 2010, over 28 Saturdays, an average 135 students visited and during 2011, over 21 Saturdays, an average 128 students visited the library. As this count does not take into consideration those students who might leave the library and re-enter on the same day, the counts are probably lower.

Information obtained from the *Commencing Student Survey, Undergraduate Students, July 2011* (ACU) shows that 84% of North Sydney students travel to the campus by public transport. The campus has excellent public transport access as well as parking restrictions on surrounding streets.

Although there are no parking restrictions in the surrounding streets on weekends it is considered the available parking on site for the reduced number of students attending on the weekend (only the library is open) indicate parking and traffic impacts on the surrounding neighbourhood will be minimised.

It is noted that both DCP 2002 and DDCP 2010 only require 1 parking space/ 6 staff for educational establishments. This proposal complies with the DCP requirements.

Onsite security will be present on site throughout the weekend. One of the roles of security will be to monitor student noise in the external courtyard areas. Security will have the ability to request students keep noise levels to a minimum or remain inside the library.

ACU have been operating on a Saturday from 9.00am – 5.00pm for over the past 10 years. During this period there has been no evident impact on traffic, parking availability or negative impacts on the surrounding locality. Therefore, the proposal is considered minor and in compliance with Council requirements, and is not a significant change from the existing situation and operation of the library.

(c) The suitability of the site for the development.

The library is an existing facility and is open 6 days a week. Parking is available on site for staff and students on the weekend and so gaining formal approval for Saturday and extending opening hours to Sunday is not a significant change from the existing situation.

(d) Any submissions made in accordance with this Act or the regulations.

The proponent will review any submissions made during the notification period.

(e) The public interest.

The proposal is considered to be in the public interest as it will improve facilities available to students further fostering the educational establishment.

5.0 Conclusion

This application seeks consent to allow the library to open on Sundays from 9.00am to 5.00pm, as well as formal consent for the current Saturday operating hours of 9.00am – 5.00pm.

The library is currently open Monday – Friday 8.00am – 8.00pm and Saturdays 9.00am – 5.00pm. The proposal is for a minor change to the current situation, seeking formal approval for Saturday Library operating hours, and the additional library operating hours on Sunday from 9.00am – 5.00pm.

As demonstrated in this report, the proposal complies with current and draft planning controls. When assessed against section 79C (1) of the EP&A Act, the environmental impacts of the proposal are considered negligible. On site parking is available for staff and students on the weekend, in contrast to during the week when no student parking is available on site. It has also been shown that the ACU North Sydney campus has a high number of students coming to site by public transport, some 84%.

The following documentation is provided in support of this application:

- _ Completed application form,
- _ DA fee,
- _ 7 copies of this letter SEE,
- _ Survey plan (7 x A3 and 6 x A4), and
- _ 7 copies of the Annual Fire Safety Statement dated 21.04.11.

Should you have any questions please do not hesitate to contact the undersigned on 9101 2000.

Regards



Ashleigh Smith
Planner

Email asmith@hassellstudio.com

Attachment C

Council Planning Report
dated 16 March 2012



MEETING HELD ON 26/03/12

Attached: Site Plan

REPORT TO THE GENERAL MANAGER

ADDRESS/WARD: 40 Edward Street, North Sydney (V)

APPLICATION No: DA.494/11

PROPOSAL: To permit the University library to open on Saturdays and Sundays from 9am to 5pm.

PLANS REF: No drawings, no building work involved.

OWNER: Catholic Archdiocese of Sydney

APPLICANT: Australian Catholic University Ltd

AUTHOR: Geoff Mossemeneer, Executive Planner

DATE OF REPORT: 16 March 2012

DATE LODGED: 13 December 2011

AMENDED: 10 February 2012

RECOMMENDATION Deferral

EXECUTIVE SUMMARY

This development application seeks Council's approval to use the existing library (no lectures) on Saturdays and Sundays from 9am to 5pm. The application originally sought consent to use the library only on Sundays from 8.30am to 5pm. It was noted in the DA documentation that the library was to be open on Saturdays 8.30am to 5pm and this was contrary to the conditions imposed on the ACU by the Land & Environment Court limiting the library to between 12noon and 5pm on Saturdays. Accordingly, the applicant was advised to amend their application to include Saturday mornings.

The application is reported to Council for determination as there are a number of submissions and the application is to be determined as a Crown Development. Council's notification of the original proposal has attracted six submissions raising particular concerns about residential amenity, parking and traffic. A further 3 submissions were received in response to the notification of the amended proposal. The assessment has considered these concerns as well as the performance of the application against Council's planning requirements.

Under Section 226 of the Environmental Planning and Assessment Regulation 2000, the University is prescribed as Crown Development as it is an Australian University within the meaning of the Higher Education Act 2001. Section 116C of the Environmental Planning and Assessment Act 1979, specifies that Council may not impose a condition of consent of any development approval, for which the Crown is the applicant, without first obtaining the written approval of the Crown.

Following this assessment the development application is considered to be reasonable in the circumstances for a shorter period on Sunday and is recommended for **deferral** subject to acceptance by the applicant (or the Minister) of the recommended conditions.

[illegible]

●

Submitters - Properties Notified

DESCRIPTION OF PROPOSAL

DA1074184 granted consent for the James Carroll building consisting of lecture rooms, library, gymnasium, staff offices, common room, auditorium, canteen, open and undercover car parking.

The original consent restricted opening hours for the University to 8.00 am to 8.00 pm Monday to Friday (all services) and 12.00 noon to 5.00pm Saturdays (library only).

Since at least 2002, the library has been operating on a Saturday from 9.00am - 5.00pm, though no formal consent from North Sydney Council was obtained. The ACU was apparently unaware of the restriction.

The application seeks formal approval for current opening hours of the library on Saturdays from 9.00am to 5.00pm and the additional library operating hours on Sundays from 9.00am to 5.00pm. Parking arrangements will not change, as detailed below. No building works are proposed.

The campus has on site parking for 64 vehicles. This includes 46 underground spaces on Level 1 of the James Carroll building and 18 spaces, two of which are suitable for persons with a disability, at grade outside Level 3 of the James Carroll building. From Monday to Friday on site car parking is reserved for staff use only but on Saturdays, it is made available to students as well. This latter approach would also apply to Sundays. Two staff members are associated with the library on Saturdays and the same is proposed for Sunday. **Therefore 62 car parking spaces will be available to students on weekends.**

An estimate of students that visit the library on Saturdays is taken from a gate count collected by library staff. During 2009, over 27 Saturdays, an average 177 students visited the library. During 2010, over 28 Saturdays, an average 135 students visited and during 2011, over 21 Saturdays, an average 128 students visited the library. As this count does not take into consideration those students who might leave the library and re-enter on the same day, the counts may be lower.

Information obtained from the Commencing Student Survey, Undergraduate Students, July 2011 (ACU) shows that 84% of North Sydney students travel to the campus by public transport. The campus has excellent public transport access as well as parking restrictions on surrounding streets.

Although there are no parking restrictions in the surrounding streets on weekends, the available parking on site for the reduced number of students attending on the weekend (only the library is open) indicate parking and traffic impacts on the surrounding neighbourhood will be minimised.

Onsite security will be present on site throughout the weekend. One of the roles of security will be to monitor student noise in the external courtyard areas. Security will have the ability to request students keep noise levels to a minimum or remain inside the library.

STATUTORY CONTROLS

North Sydney LEP 2001
Zoning – Special Use (*Educational Establishment*)
Item of Heritage - Yes
In Vicinity of Item of Heritage – Yes (*8 Riley Rd*)
Conservation Area – Yes (*Edward Street*)
Environmental Planning & Assessment Act 1979
SEPP 55 – Contaminated Lands

SREP (Sydney Harbour Catchment) 2005
Draft NSLEP 2009

POLICY CONTROLS

DCP 2002

DESCRIPTION OF LOCALITY

The site is located on the western side of Edward Street with a site area of 1.072Ha. Currently occupying the site is the Australian Catholic University.

No. 40 Edward Street – “Rockleigh Grange” presents as a fine example of the Federation period Queen Anne style. The latest additions and alterations to the original Conrad Martens Building was an addition to the north carried out in the 1940s. The Australian Catholic University (ACU) added the 1980s building 'James Carroll Building' which covers the majority of the rear of the allotment to the west. The building contains lecture rooms, a student lounge, library, various facilities and undercover parking.

To the south of the larger lecture room on the upper floor and above the underground parking an open student seating area is located and contains park type bench seating and raised garden beds with established planting.

Surrounding the site are several residential apartment buildings and attached dwellings.



RELEVANT HISTORY

DA1074184 granted consent for the James Carroll building consisting of lecture rooms, library, gymnasium, staff offices, common room, auditorium, canteen, open and undercover car parking.

The original consent restricted opening hours for the University to 8.00 am to 8.00 pm Monday to Friday (all services) and 12.00 noon to 5.00pm Saturdays (library only).

The consent was also subject to Condition D25 which states:

“The use of the building is to be restricted to activities of the Catholic College of Education Sydney Ltd only provided that the premises may also be used outside normal College term times on more than 20 days per year for the purpose of educational conferences or seminars limited to no more than 250 persons.”

DA.369/10 for permission to demolish three buildings on the corner of Edward Street and Riley Street and erect a single storey chapel, vestry with associated landscaping was lodged on 22 September 2010. The application was reported to Council at its meeting of 29 November 2010 with a recommendation for approval subject to the applicant's concurrence with the draft conditions. Council resolved:

THAT the report be adopted subject to the following amendments:

- *replacing condition 11 with the following:*

Hours of Use

11. The opening hours of the Chapel shall be the same as the University being limited to the following:

8.00 am to 8.00 pm – Monday to Friday

12.00 noon to 5.00 pm – Saturday

In addition to 8.00am to 8.00pm Sunday

- *The applicant provided details of the acoustic ameliorations to be applied to the wall from the Chapel wall and courtyard*
- *Prior to the issue of occupation certificate the applicant undertake landscaping detailed in DA consent 422/09*
- *Reduction of the chapel roof by 1m*
- *Council staff investigate existing content regarding staff and student numbers*
- *That the maximum number of fig trees be retained*

The applicant did not agree with the requirement to lower the roof by 1m.

Section 89(1)(b) of the Environmental Planning and Assessment Act 1979 (EP&A Act) states that a consent authority must not impose a condition on its consent to a Crown development application, except with the approval of the applicant or the Minister.

Section 89(2)(b) of the Act provides that if a consent authority fails to determine a Crown DA within the prescribed time limit it may be referred by either the applicant or the consent authority to a JRPP.

In this case, given Council's resolution to impose conditions without the agreement of the applicant, the applicant referred the application (DA 369/10) to the JRPP for determination.

The application was considered by the JRPP at its meeting of 2 February 2011 when it was resolved:

- 1) The Panel resolves unanimously to accept the recommendation of the planning assessment report to approve the application, for the reasons mentioned in the report and subject to the conditions recommended in the report, except*
 - a) Condition D5, in which the words "400mm" are changed to "at least 400mm";*
 - b) Condition I1 in which the words "In addition to 8.00am to 8.00pm Sunday" are deleted.*
- 2) The Panel notes that the acoustic report will not be completed until the academic year is fully in progress. In the Panel's opinion, there is nevertheless certainty that the noise from the chapel can be kept to 5dBA above background.*
- 3) While the Panel would have accepted the bell tower in its original form, it notes that the applicant has reduced its height by at least 400mm; a change that should diminish the concern of those who do not like the tower's relationship to Rockley Grange.*

A section 96 application DA369/10/2 to modify the consent with regard to deleting the front vestry building and increasing landscaping was reported to Council at its meeting of 31 October 2011 when Council resolved:

- A. **THAT** the applicant be requested to provide written concurrence to the proposed conditions A1 & D10.*
- B. **THAT** upon receipt of concurrence from the applicant, Council modify its consent dated 10 February 2011 in respect of a proposal to demolish three buildings on the corner of Edward Street and Riley Street and erect a single storey chapel with associated landscaping at 40 Edward Street, North Sydney under the provisions of Section 96 of the Environmental Planning and Assessment Act only insofar as will provide for the following.*

To delete condition A1 and D6 of the consent and insert in lieu thereof the following new conditions namely:

Development in Accordance with Plans

- A1. The development being carried out in accordance with drawings numbered DA-000D, DA-001C, DA-002G, DA-003G and DA-004F, dated 30 August 2010, and landscape master plan, dated July 2010, all drawn by HBO + EMTB, received by Council on 22 September 2010, as shown coloured on drawings numbered H-S96-001B to H-S96-003B, dated 17 August 2011, drawn by HBO + EMTB, and received by Council on 28 September 2011, and endorsed with Council's approval stamp, except where amended by the following conditions.*

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

Replacement Tree

- D10. The proposed Jacaranda tree located in Mary Garden adjacent to Riley Street shall be replaced with a tree to the satisfaction of Council's Director of Planning and Development Services that will not cause a slip hazard on the Riley Street footpath.*

(Reason: Flowers falling from the tree could create a hazard to pedestrians using the footpath)

- C. ***THAT** in the event that the written concurrence is not provided, the application be referred back to Council for determination.*

The applicant has advised via letter dated 25 January 2012 that the above conditions are acceptable. Consent was granted on 31 January 2012.

DA395/11 seeking Council's approval for acoustic screens to the upper courtyard and Carlo's garden was reported to Council at its meeting of 28 November 2011 when Council resolved:

- A. ***THAT** the applicant be requested to provide written concurrence to the attached conditions.*
B. ***THAT** upon receipt of the concurrence from the applicant, Council as the consent authority, assume the concurrence of the Director General of the Department of Planning and Infrastructure invoke the provisions of SEPP 1 with regard to the building height and grant consent to development application No.395/11.*
C. ***THAT** Council delegates to the General Manager pursuant to Section 377 of the Local Government Act 1993 the following functions in respect of Development Application No.395/11:*
(i) in the event that written concurrence is provided by the applicant to the conditions (or similar wording to a condition provided it is consistent with the reason for the condition), to issue the consent subject to the agreed conditions
D. ***THAT** in the event that the written concurrence is not provided, the application be referred back to the Council for determination.*

The applicant advised via email on 22 December 2011 that the conditions are acceptable. Consent was granted on 13 January 2011.

REFERRALS

No referrals were required.

SUBMISSIONS

The owners of adjoining properties and the Edward Precinct were notified of the original proposal (Sunday 8.30am to 5pm) on 13 January 2012. The notification resulted in the following submissions.

Basis of Submissions

Firstly Precinct was concerned about the minimal amount of information used to support this application. This involves a change of hours of a commercial/educational facility to include Sunday trading when the premises clearly sit deep in a residential enclave. Sundays have traditionally been a day of rest for the broader community and particularly for residences that verge on the commercial areas of North Sydney. The resistance seen in Western Australia to Sunday trading is an example of the degree of difference and sanctity that the community associate with Sundays. For Edward Precinct it is the lack of noise and congestion including noise from 40 Edward Street, it is the ability to entertain and have guests over without the myriad parking and traffic problems that hamper residents and visitors. A change to Sunday trading should not be taken lightly. More detailed comments are as follows:

1. Student travel- the SEE states that 84% of students come via public transport during the week. An ACU DA to do with Napier St premises had a lower percentage, from memory around high 70s. Either means that there is the chance of 16 to 25 extra parks per day. In Precincts view most students would rather park on the street than negotiate the ACU block and bureaucracy. And this assumes that students at the weekend are as inclined to use public transport when services are so much worse. Precinct believes it will be higher than this. Specific modelling should be requested based on other educational facilities.
2. The Applicant should provide a Masterplan of its intentions for the site and how this extension of use fits in

and what it is intending to do to ameliorate impacts on the residential area concerning noise and parking. There have been quite a few Das from this applicant recently and none have a Masterplan provided.

3. If Council is minded to approve the application we would suggest the following range of conditions:
 - i) Restrict use of the outdoor terracing and other areas- even with the noise amelioration that has been agreed recently there is still the potential for a lot of noise over adjacent Riley St and other residences.
 - ii) Council to roll out a related traffic and parking management review for the increasing demands on parking in Edward and Mount Sts on weekends due to increasing demands by the ACU, Mary MacKillop and Shore school as well as the nearby commercial premises on the western side of the Pacific Highway.
 - iii) Limit the duration of this consent so that alternate provision can be considered when other buildings come online or a Masterplan is provided.
 - iv) Limit the numbers allowed to tie in with Library capacity.
- I have a number of concerns regarding the proposed development. Sunday is a day spent with family at home – this is something that should be done without the interference of ACU activities. Opening the library on Sunday will see increased activity on campus and the areas surrounding campus, including student noise and increased car traffic and reduced numbers of parking spaces available for non-students.
 - The ACU has decided to situate itself in a residential area. There should be no activities permissible on campus on Sundays. If, Council decides to approve the opening of the campus on Sundays, it is requested that the hours are reduced from 11am to 2pm, and that the increased hours only apply to the library and do not extend to other ACU activities, including the Chapel. It is also requested that if Council does approve the DA that the parking restrictions applied in Riley Street from Monday to Friday are extended to apply to Saturday and Sunday.
 - My other concern is that the ACU's approach to DA's is incremental – there is no overall Master Plan. What are ACU's plans over the next 10 years? How many students is ACU seeking to have on its Riley Street campus? Is it possible for Council to ask for a strategic plan?
 - In conclusion, I live directly opposite the ACU and the sound from ACU activities carries into my home invading my personal space. It is requested that this DA is rejected, or amended to incorporate the above concerns.
 - I strongly object to the ACU opening hours being extended to Sunday. We live in a residential area, and already have to put up with the nuisance of noise, traffic and student parking during week days.
 - The extension of Library opening hours to Sunday is an imposition we should not have to tolerate.
 - I live in Edward Street, North Sydney, directly opposite ACU. I strongly object to the proposal.
 - During the eleven years that I have lived in Edward Street, ACU has gradually expanded the usage of its campus. Each new step (evening classes until 8.00pm, Saturday opening of the library etc) has brought additional waves of students, causing traffic noise, parking problems, blocked driveways and litter (the ACU students drop considerable amounts of rubbish on the local streets which we local residents have to clean up).
 - This latest proposal from ACU will simply exacerbate all of these problems. Edward Street is already parked out all day on Sundays by visitors to the Mary MacKillop chapel/museum, and other casual parkers. There is simply no further room for the additional cars that the ACU students will drive to the campus. I urge Council to consider the interests of local residents and not to grant permission for the ACU Library to open on Sundays.
 - At the very least, if Council does grant permission, it must simultaneously introduce more stringent parking restrictions in Edward Street. The two (2) hour limits have to be cut back to be consistent with the shorter limits in the surrounding streets, and 7 day a week parking meters should be introduced, as exist in other, high-demand streets within North Sydney.
 - As resident living opposite, opposed to development
 - ACU has greatly expanded number of students and buildings over the years
 - Increased traffic with cars and pedestrians
 - Parking great concern in area with ACU Mary MacKillop, Shore School and CBD nearby
 - Sunday is only day when traffic is low
 - Starting at 8.30am will disturb amenity
 - Other activities on Campus in courtyard, chapel etc. will be undertaken on Sunday
 - If approved, should be limited 10am – 3pm; no other facilities open; parking restrictions added on weekends to Riley and surrounding streets; ACU present a Master Plan

I recently bought a home just across the street from ACU. Being a new resident on Edward St I was not notified about ACU's application and only found out about it recently through conversation with neighbours. My main concern about ACU having their library opened on Sunday is in relation to street parking space. Sunday is the only day when the residents of Edward St can enjoy the quietness and having our guests without having problem of finding parking.

In particulars, the following observation of facts shows that the proposal by ACU is unreasonable and should, therefore, be declined:

1. The ACU provides NO PARKING space for its student at any time. At their website it is stated clearly: "There is no parking on Campus for students at any time, other than very limited facilities for students with disabilities". Therefore, virtually all ACU students parks on our street. Opening the library on Sunday would immediately result in no parking spaces left for residents and their visitors.
2. The DA application indicates the library is currently open 8:00 to 20:00 Mon-Fri. However, the ACU's website display opening hour to their library from 7:45 to 20:00. Apparently, ACU have been in breach of their development consent for a long time without anyone noticing.
3. Library in other educational institution in the suburb are not open on Sunday. A good example is TAFE Crows Nest, closed both Saturday and Sunday:
4. Compare ACU with other university of better reputation the decision to open library on Sunday is very unusual: Macquarie University: Saturday 10am-6pm, Sunday closed. University of Sydney: Usually closed Sunday (only 4 out of 13 library open on Sunday for a limited period before exam from 1-5pm) Both of those universities provide thousands of parking spaces for students and teachers throughout their campuses.
5. ACU requests to have their library in North Sydney open from 8:30 to 19:00 Sunday while their existing library in Strathfield only open from 12:00 to 16:00. There is no reason North Sydney residents have to put up with the ACU more than people living in Strathfield. There is no library in the entire state of NSW that is open from 8:00am in the morning on Sunday. The ACU's proposal shows their total disregard of the community surrounding its campus. It is quite obvious that ACU's proposal is unreasonable and it is submitted even if their application is approved, which all residents of Edward St oppose; the hours should be limited to 12:00 to 16:00pm.
6. With the widespread of digital media and online research tools, there is a decline in the usage of print media and visits to library. It is expected that the number of students attending the ACU library has been decreasing, there is no good reason for ACU to extend opening hour to Sunday when their students can access the majority of research tools from the comfort of their homes. It is submitted that in order for the Council to consider its proposal the ACU must produce details statistics of the library usage in North Sydney and Strathfield branches (including number of reservations, print media borrowed, digital media accessed) for the last 5 years, to enable assessment of the trend of usage of the library. I am sure the statistic will show the same global trend of digital media replacing visits to the physical library.
7. Residents of Edwards St suspect that the reason the ACU sought approval to extend library opening hour is so that they can have other activities on North Sydney campus on Sunday. There are good grounds for the suspicion given the fact that the library attendance is decreasing steadily. It is submitted that, if approval is granted for the extended hour on Sunday, special conditions should be attached to ensure that only the library is open during the hours permitted and no other activities (whether teaching, club, sport, ceremonial or otherwise) are to be allowed on Sunday. It may be a good idea for the Council to require ACU to sign appropriate undertakings with prescribed financial penalties to that effect as they do not seem to adhere to the regulation very well (see point 2 above).

The amended proposal to include Saturday mornings and Sundays 9am to 5pm was notified to the owners of adjoining properties and the Edward Precinct on 24 February 2012. The notification resulted in the following submissions.

Basis of Submissions

I live in Edward Street, North Sydney, directly opposite CA. I strongly object to the proposal. During the eleven years that I have lived in Edward Street, CA has gradually expanded the usage of its campus. Each new step (evening classes until 8.00pm, Saturday opening of the library, etc) has brought additional waves of students, causing traffic noise, parking problems, blocked driveways and litter (the CA students drop considerable amounts of rubbish on the local streets which we local residents have to clean up). This latest proposal from CA will simply exacerbate all of these problems.

Edward Street is already parked out all day on Sundays by visitors to the Mary MacKillop chapel/museum, and other casual parkers. There is simply no further room for the additional cars that the CA students will drive to the campus.

I urge Council to consider the interests of local residents and not to grant permission for the CA Library to open on Sundays. At the very least, if Council does grant permission, it must simultaneously introduce more stringent parking restrictions in Edward Street. The two (2) hour limits have to be cut back to be consistent with the shorter limits in the surrounding streets, and 7 day a week parking meters should be introduced, as exist in other, high-demand streets within North Sydney.

I strongly object to the ACU opening hours being extended to Sunday. We live in a residential area, and already have to put up with the nuisance of noise, traffic and student parking during week days. The extension of Library opening hours to Sunday is an imposition we should not have to tolerate.

This is the thin end of the wedge. ACU are asking for more and more favours, at considerable cost to the local residents. The University should never have been allowed into the area, and they should have been made to stick to the lower number of students which was promised originally. Now they want to extend opening hours to Sundays. The ACU appears to be receiving very special treatment from the North Sydney Council.

I would like to express my concerns for this proposal and ask that the University not be granted permission to open the library on weekends.

I live on Priory Road Waverton and Monday to Fridays our street is parked out by university students attending classes/lectures etc. The residents and visitors to our homes always have difficulty finding a parking spot due to the constant stream of university traffic. It's bad enough we have to endure this from Monday to Friday, let alone on the weekends as well.

I am therefore opposed to the proposal (as are many other residents of Priory Road which I have spoken to) and would like this noted when the council are making their decision on the matter.

CONSIDERATION

The relevant matters for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979*, are assessed under the following headings:

There are no relevant numeric controls in NSLEP 2001 and DCP 2002 to be considered and therefore compliance tables are not necessary. More detailed comments with regard to the major issues are provided later in this report.

NORTH SYDNEY LEP 2001

Permissibility within the zone: The proposal is permissible with consent as an ancillary use to the Catholic University.

Specific aims of NSLEP 2001

Clause 3

(a)

(b) in relation to **residential development**, to:

- (i) protect and enhance the residential use and amenity of existing residential neighbourhoods and new residential development, and
- (ii) maintain and provide for an increase in dwelling stock, where appropriate, and
- (iii) prevent the expansion of non-residential uses in residential neighbourhoods, and

(c) in relation to **non-residential development**, to:

- (i) maintain a diversity of employment, services, cultural and recreational activities, and

- (ii) *ensure that non-residential development does not adversely affect the amenity of residential properties and public places, including adverse affectation by reason of the use, design, bulk, scale or appearance of the development, or the traffic generation and parking associated with the development, and*
- (iii) *maintain waterfront activities and ensure that these activities do not adversely affect local amenity and environmental quality, and*
- (iv) *minimise adverse effects of all permitted non-residential development and non-conforming uses or development, and*

The amenity of residential neighbourhood and ensuring that non residential development does not adversely the amenity of residential neighbourhoods are the core aims of the LEP.

Special Use Zone Objectives

The subject site is zoned Special Use. The objectives of the Special Use zone are to identify land on which special uses are carried out, and minimise the impact of the use of that land on adjoining land. The proposed development has the potential to affect the amenity of adjoining residential land.

The specific objectives of the Special Use Zone provide: -

Clause 34: Special Use Zone and Private Recreation Zone

- (3) *A building must not be erected on land to which this clause applies unless:*
 - (a) *The building is consistent with the objectives and permissible uses that apply to the land adjoining the site and land directly across a road from the site, and*
 - (b) *The building complies with the relevant development standards, for the particular type of building, that apply to the land adjoining the site, and land directly across a road from the site.*
- (4) *If the site adjoins, or is directly across a road from, land in more than one zone, the objectives, permissible uses and development standards that are applied by subclause (3) are the most restrictive development standards.*

Owing to the provisions of Clause 34(4), consideration of, and assessment against the provisions of the Residential 'A2' zone objectives is necessary.

The particular objectives of the Residential 'A2' zone provide:

- (a) *"Maintain lower scale residential neighbourhoods of mainly detached and duplex housing;*
- (b) *Assist in the conservation of heritage and other sensitive areas;*
- (c) *Encourage the retention of existing contributory items or neutral items in conservation areas;*
- (d) *Promote affordable housing; and*
- (e) *Minimise the impact of non-residential uses and ensure these are in character with the zone."*

The proposed development has the potential to affect the amenity of adjoining residential land.

CLAUSE 14 NSLEP 2001

Consistency With The Aims Of Plan, Zone Objectives And Desired Character

The development must be consistent with the specific aims of the plan and the objectives of the zone as outlined above for consent to be granted. Accordingly, any impacts must be minimal.

Amenity Impacts

The main impacts relate to parking and noise from within the grounds.

The application states that the 64 on site parking spaces will be made available to the students visiting the library. The applicant's survey of visits on Saturdays indicate an average of between 128 and 177 students attend the library over the whole day. Of these numbers, not all will be attending at one time and the applicant is unsure how many students leave the campus and return during the day. There are varying figures on the use of public transport by students anywhere between 70% and 84% on weekdays. Public transport on weekends is not the same frequency so less students might come by public transport.

The number of students visiting the library has fallen over the last 3 years possibly due to increased use of technology and the internet. By extending the availability of the library to Sundays, the numbers of students might drop further and be spread over the two days.

It is considered that a safe estimate of students would be in the order of 128 students over the day. This equates to one parking space per 2 students which would be more than adequate if the remaining 50% of students use public transport.

Providing the on street parking is made available and that only the library is open on weekends, the parking is reasonable and adequate. It is difficult to deter students from parking in the street, should this become a problem, then Council may need to place restrictions on weekend parking. Some noise is likely with students coming and going to the library. This can be controlled if students use the main entrance in Edward Street. The use of the courtyard areas should be limited to areas away from residents. On site security must be utilised to ensure that noise in the courtyard is minimised or that students remain within the library.

It is noted that the original consent only allowed the library to be used on Saturday from 12 noon to 5pm (apart from other occasions permitted by condition D25). The Court decision did not indicate the reason for the condition as it was probably based on the University's needs at the time. The condition did however provided a respite for neighbours from the noise and traffic during the week from the educational and commercial activities in close proximity.

Although there appears to be adequate parking on site, there is no guarantee that students won't park in the street. It is considered reasonable to restrict the hours on Sunday to between 12 noon and 5pm to allow for reasonable amenity. The development must be consistent with the specific aims of the plan and the objectives of the zone as outlined above for consent to be granted.

Draft North Sydney Local Environmental Plan 2009

The Draft North Sydney Local Environmental Plan 2009 was on public exhibition from 20 January 2011 to 31 March 2011, following certification of the plan by the Director-General of the Department of Planning. It is therefore a matter for consideration under S.79C of the Environmental Planning and Assessment Act 1979. However at this stage little weight can be given to the plan since the final adoption of the plan is neither imminent nor certain.

It is noted that Council has resolved to maintain Special Use zones where the Draft plan showed a low density R2 zone over the site.

SEPP 55 and Contaminated Land Management Issues

The subject site has been considered in light of the Contaminated Lands Management Act and it is considered that as the site has been used for residential/educational purposes for many years, contamination is unlikely.

SREP (Sydney Harbour Catchment) 2005

The subject site is not within part of North Sydney that is required to be considered pursuant to SREP (Sydney Harbour Catchment) 2005.

DEVELOPMENT CONTROL PLAN 2002

Relevant Planning Area (Edward Street Conservation Area)

The application has been assessed against the relevant controls in DCP 2002.

ALL LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been considered within the context of this report.

ENVIRONMENTAL APPRAISAL

CONSIDERED

1.	Statutory Controls	Yes
2.	Policy Controls	Yes
3.	Design in relation to existing building and natural environment	Yes
4.	Landscaping/Open Space Provision	Yes
5.	Traffic generation and Carparking provision	NA
6.	Loading and Servicing facilities	NA
7.	Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8.	Site Management Issues	Yes
9.	All relevant S79C considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes

SUBMITTORS CONCERNS

The amenity and parking concerns raised are addressed within the report. The need for a Master Plan is noted, however, this application relates to use of an existing facility by current students. It does not create additional facilities or increase student numbers. To limit student numbers using the library would be difficult to enforce. There is no reason to doubt the information provided with regard to student numbers visiting the library.

A condition can be imposed to restrict use of the outdoor terracing and other areas and require security monitoring.

The request for Council to roll out a related traffic and parking management review for the increasing demands on parking in Edward and Mount Sts on weekends due to increasing demands by the ACU, Mary Mackillop and Shore school as well as the nearby commercial premises on the western side of the Pacific Highway is a matter for Council to consider. It is suggested given the level of existing impact on weekends, the matter ought to be referred to the Traffic Engineer for consideration.

It is not considered reasonable to limit the duration of the consent however the consent can be limited to use of the library only.

CROWN DEVELOPMENT

Under Section 226 of the Environmental Planning and Assessment Regulation 2000, the University is prescribed as Crown Development as it is an Australian University within the meaning of the Higher Education Act 2001.

Section 116C of the Environmental Planning and Assessment Act 1979 No. 203, specifies that Council may not impose a condition of consent of any development approval, for which the Crown is the applicant, without first obtaining the written approval of the Crown.

CONCLUSION

The application has been assessed with regard to the controls under NSLEP 2001 and NSDCP 2002 and generally found to be acceptable with regard to parking and amenity impacts. The hours on Sunday should be restricted to 12noon to 5pm.

Conditions are recommended as attached. The applicant or the Minister must give written approval before the conditions can be imposed. The application is reported to Council for determination of the application and appropriate conditions prior to the applicant being requested to agree to the conditions.

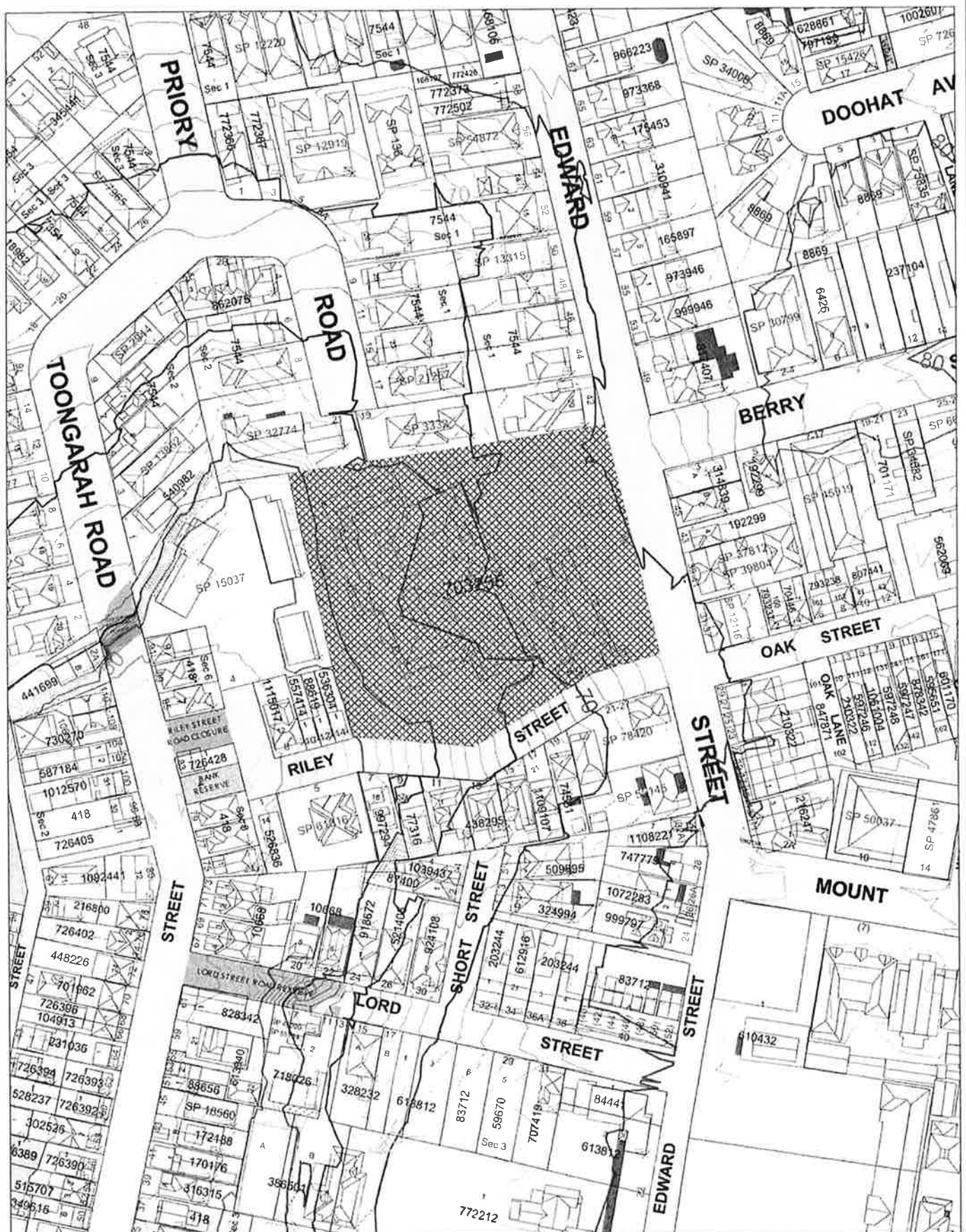
RECOMMENDATION

- A. **THAT** the applicant be requested to provide written concurrence to the attached conditions.
- B. **THAT** upon receipt of the concurrence from the applicant, Council as the consent authority, grant consent to development application No.494/11
- C. **THAT** Council delegates to the General Manager pursuant to Section 377 of the Local Government Act 1993 the following functions in respect of Development Application No.494/11.
 - (i) in the event that written concurrence is provided by the applicant to the conditions (or similar wording to a condition provided it is consistent with the reason for the condition), to issue the consent subject to the agreed conditions
- D. **THAT** in the event that the written concurrence is not provided, the application be referred back to the Council for determination.

- E. **THAT** the matter of street parking on weekends in the Edward Street and surrounds be referred to Council's Traffic Engineer for consideration.

Geoff Mossemeneur
EXECUTIVE PLANNER

Stephen Beattie
MANAGER DEVELOPMENT SERVICES



North Sydney Council

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Further details can be obtained by calling (02) 9936 8100 or e-mail mapping@northsydney.nsw.gov.au.

**NORTH SYDNEY COUNCIL
DRAFT CONDITIONS OF DEVELOPMENT APPROVAL
40 EDWARD STREET, NORTH SYDNEY
DEVELOPMENT APPLICATION NO. 494/11**

I. On-Going / Operational Conditions

Hours of operation

11. The opening hours for the University shall be 8.00 am to 8.00 pm Monday to Friday (all services); 9.00am to 5.00pm Saturdays (library only) and 12noon to 5.00pm Sundays (library only). Only the library shall be open to students on weekends.

The lower courtyard adjacent to Riley Street shall not be used by students or staff other than between the hours of 8am and 6pm Monday to Friday.

(Reason: To protect neighbourhood amenity)

Other activities

12. The use of the James Carroll building is to be restricted to activities of the University only provided that the premises may also be used outside normal University term times on more than 20 days per year for the purpose of educational conferences or seminars limited to no more than 250 persons.

(Reason: Continuation of condition imposed by Land & Environment Court)

Weekend Parking

13. The 46 underground car spaces on Level 1 of the James Carroll building and 18 car spaces at grade outside Level 3 of the James Carroll building shall be made freely available at all times and at no cost to students attending the library on weekends. Students shall be encouraged to use public transport, park on site and not park in residential streets.

(Reason: To reduce use of on street parking in surrounding areas to protect neighbourhood amenity)

**40 EDWARD STREET, NORTH SYDNEY
DEVELOPMENT APPLICATION NO. 494/11****PAGE 2****Use of courtyards on weekends**

14. The lower courtyard adjacent to Riley Street shall not be used on weekends. The use of the upper courtyard areas shall be limited to areas away from residents. On site security personnel shall be utilised to ensure that noise in the upper courtyard is minimal or that students remain within the library.

(Reason: To protect neighbourhood amenity)

Attachment D

Council Response
dated 29 March 2012



address 200 Miller Street North Sydney NSW 2060

all correspondence General Manager North Sydney Council
PO Box 12 North Sydney NSW 2059
DX10587.

telephone (02) 9936 8100

facsimile (02) 9936 8177

email council@northsydney.nsw.gov.au

internet www.northsydney.nsw.gov.au

ABN 32 353 260 317

Australian Catholic University Ltd
C/- Hassell
GPO Box 5487
SYDNEY NSW 2000

494/11
(GM) (PDS)

29 March 2012

Dear Sir/Madam

**RE: 40 EDWARD STREET, NORTH SYDNEY
DEVELOPMENT APPLICATION NO. 494/11**

The abovementioned application was the subject of a report considered by Council at its meeting held on Monday 26 March 2012.

At this meeting Council resolved as follows:-

- A. **THAT** the applicant be requested to provide written concurrence to the attached conditions.
- B. **THAT** upon receipt of the concurrence from the applicant, Council as the consent authority, grant consent to development application No.494/11
- C. **THAT** Council delegates to the General Manager pursuant to Section 377 of the Local Government Act 1993 the following functions in respect of Development Application No.494/11.
 - (i) in the event that written concurrence is provided by the applicant to the conditions (or similar wording to a condition provided it is consistent with the reason for the condition), to issue the consent subject to the agreed conditions
- D. **THAT** in the event that the written concurrence is not provided, the application be referred back to the Council for determination.
- E. **THAT** the matter of street parking on weekends in the Edward Street and surrounds be referred to Council's Traffic Engineer for consideration.
- F. **THAT** condition F1 be amended to delete 12.00-5.00pm Sundays.

Should you have any further enquiries in this regard, please contact the undersigned between the hours of 9.30 am and 11.00 am, Monday to Friday, on telephone number **9936 8100**, or at any time on facsimile **9936 8177**.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Geoff Mossemeneer', written over the printed name and title.
**GEOFF MOSSEMENEER
EXECUTIVE PLANNER**



100% recycled paper

DRAFT CONDITIONS OF DEVELOPMENT APPROVAL
40 EDWARD STREET, NORTH SYDNEY
DEVELOPMENT APPLICATION NO.494/11

I. On going conditions

Hours of operation

11. The opening hours for the University shall be 8.00 am to 8.00 pm Monday to Friday (all services) and 9.00am to 5.00pm Saturdays (library only). Only the library shall be open to students on Saturday.

The lower courtyard adjacent to Riley Street shall not be used by students or staff other than between the hours of 8am and 6pm Monday to Friday.

(Reason: To protect neighbourhood amenity)

Other activities

12. The use of the James Carroll building is to be restricted to activities of the University only provided that the premises may also be used outside normal University term times on more than 20 days per year for the purpose of educational conferences or seminars limited to no more than 250 persons.

(Reason: Continuation of condition imposed by Land & Environment Court)

Weekend Parking

13. The 46 underground car spaces on Level 1 of the James Carroll building and 18 car spaces at grade outside Level 3 of the James Carroll building shall be made freely available at all times and at no cost to students attending the library on Saturday. Students shall be encouraged to use public transport, park on site and not park in residential streets.

(Reason: To reduce use of on street parking in surrounding areas to protect neighbourhood amenity)

Use of courtyards on weekends

14. The lower courtyard adjacent to Riley Street shall not be used on Saturday. The use of the upper courtyard areas shall be limited to areas away from residents. On site security personnel shall be utilised to ensure that noise in the upper courtyard is minimal or that students remain within the library.

(Reason: To protect neighbourhood amenity)

Attachment E

HASSELL request for review
dated 10 July 2012

General Manager
North Sydney Council
PO Box 12
North Sydney NSW 2059

10 July 2012

Attn: Geoff Mossemeneer

Australian Catholic University
40 Edward Street, North Sydney

Development Application 494/11 – Library Opening Hours

We write in response to Council's letter dated 29 March 2012 advising of Council's resolution at its meeting on 26 March 2012 relating to Development Application 494/11 for weekend opening hours for the Australian Catholic University (ACU) library at 40 Edward Street North Sydney. We note that Item D of the resolution relates to *written concurrence by the applicant* of the resolution.

Given that Council resolved not to approve library opening hours for Sundays, ACU are unable to provide their written concurrence to the resolution. On the contrary, ACU request a review of Council's decision, based on Section 89(1)(b) of the Environmental Planning and Assessment (EP&A) Act 1979, as set out below.

Background

HASSELL on behalf of the Australian Catholic University (ACU) submitted a development application (DA) to North Sydney Council on 13 December 2011 seeking additional library opening hours on Sundays from 8.30am – 5.00pm. The application made reference to the fact that the library currently opens on Saturdays from 8:30am – 5.00pm.

Following notification, Council advised that they had no record of formal approval for the Saturday morning opening hours, unbeknown to ACU. Consequently, ACU agreed to amend the DA to include formal approval of Saturday opening hours from 9.00am – 5.00pm in addition to seeking approval for identical Sunday opening hours, ie 9.00am – 5.00pm both days.

Crown Development

Under Clause 226(1)(c) of the Environmental Planning and Assessment Regulation 2000, ACU is defined as the Crown for the purposes of Division 4 of Part 4 of the EP&A Act.

Section 89 of the EP&A Act states:

(1) A consent authority (other than the Minister) must not:

- (a) *refuse its consent to a Crown development application, except with the approval of the Minister, or*
- (b) *impose a condition on its consent to a Crown development application, **except with the approval of the applicant or the Minister** (our emphasis).*

As ACU are unable to accept the proposed conditions, Council is therefore unable to refuse the application without the concurrence of the Minister. Should the Council support the development the conditions of consent must be referred to ACU for concurrence pursuant to Clause 89(1)(b) of the EP&A Act.

Council Resolution

Council received several submissions objecting to the library opening on Sundays. The submissions primarily expressed concerns over amenity, noise and parking. However, after due consideration of the issues raised, the draft conditions in the Planning Report recommended Sunday library hours from 12noon – 5.00pm. Council resolved that these be deleted, but accepted the extended Saturday opening hours.

Review of Decision

ACU has reviewed the draft conditions and believes Council was unreasonable in its resolution to delete the Sunday library opening hours recommended by the Planning Report.

It is acknowledged that Council wishes to maintain the residential amenity. However, the library has been operating on Saturdays from 9.00am – 5.00pm for over the past ten years with no impact on the surrounding locality and no evident impact on parking and public transport. Sunday afternoon library opening hours will permit students the opportunity to work on campus, potentially away from other distractions.

As set out in the original application, the anticipated number of students likely to attend on Sundays is between 100-150. Parking would be made available on site, to minimise the need for on-street parking.

Therefore, ACU requests Council review the conditions, to include Sunday opening hours of 12noon – 5.00pm as set out below.

Condition 11

Following the resolution of Council's meeting 26 March 2011, Condition 11 stated:

Hours of Operation

11. *The opening hours for the University shall be 8.00am to 8.00pm Monday to Friday (all services) and 9.00am to 5.00pm Saturdays (library only). Only the library shall be open to students on Saturday.*

The lower courtyard adjacent to Riley Street shall not be used by students or staff other than between the hours 8am to 6pm Monday to Friday.

(Reason: To protect neighbourhood amenity).

The following wording is proposed (with additions shown in **bold/italic/underline**).

*The opening hours for the University shall be 8.00am – 8.00pm Monday to Friday (all services); 9.00am to 5.00pm Saturdays (library only) and **12noon – 5.00pm Sundays (library only)**. Only the library shall be open to students on **weekends**.*

Conclusion

We look forward to Council's favourable consideration of this matter. Please do not hesitate to contact the undersigned if further information is required.

Regards



Silvija Smits
Principal – Planning

Email ssmits@hassellstudio.com

cc Marea Nicholson, ACU
David Mitchell, Spectrum Partners

Attachment F

Council Planning Report
dated 23 July 2012



MEETING HELD ON 23/07/12

Attached: 1. Site Plan
2. Report to Council meeting 26 March 2012

REPORT TO THE GENERAL MANAGER

ADDRESS/WARD: 40 Edward Street, North Sydney (V)

APPLICATION No: DA494/11

PROPOSAL: To permit the University library to open on Saturdays from 9am to 5pm and Sundays 12 noon to 5pm.

PLANS REF: No drawings, no building work involved.

OWNER: Catholic Archdiocese of Sydney

APPLICANT: Australian Catholic University Ltd

AUTHOR: Geoff Mossemeneer, Executive Planner

DATE OF REPORT: 16 July 2012

DATE LODGED: 13 December 2011

AMENDED: 10 February 2012, 10 July 2012

RECOMMENDATION Deferral

EXECUTIVE SUMMARY

This development application sought Council's approval to use the existing library (no lectures) on Saturdays and Sundays from 9am to 5pm. The application originally sought consent to use the library only on Sundays from 8.30am to 5pm. It was noted in the DA documentation that the library was to be open on Saturdays 8.30am to 5pm and this was contrary to the conditions imposed on the ACU by the Land & Environment Court limiting the library to between 12noon and 5pm on Saturdays. Accordingly, the applicant was advised to amend their application to include Saturday mornings.

The application was reported to Council for determination as there are a number of submissions and the application is to be determined as a Crown Development. Council's notification of the original proposal attracted six submissions raising particular concerns about residential amenity, parking and traffic. A further 3 submissions were received in response to the notification of the amended proposal.

Under Section 226 of the Environmental Planning and Assessment Regulation 2000, the University is prescribed as Crown Development as it is an Australian University within the meaning of the Higher Education Act 2001. Section 116C of the Environmental Planning and Assessment Act 1979, specifies that Council may not impose a condition of consent of any development approval, for which the Crown is the applicant, without first obtaining the written approval of the Crown.

The application was reported to Council at its meeting of 26 March 2012. A copy of the report is attached for Council's information. The report recommended deferral to allow concurrence of the draft conditions which contained condition I1:

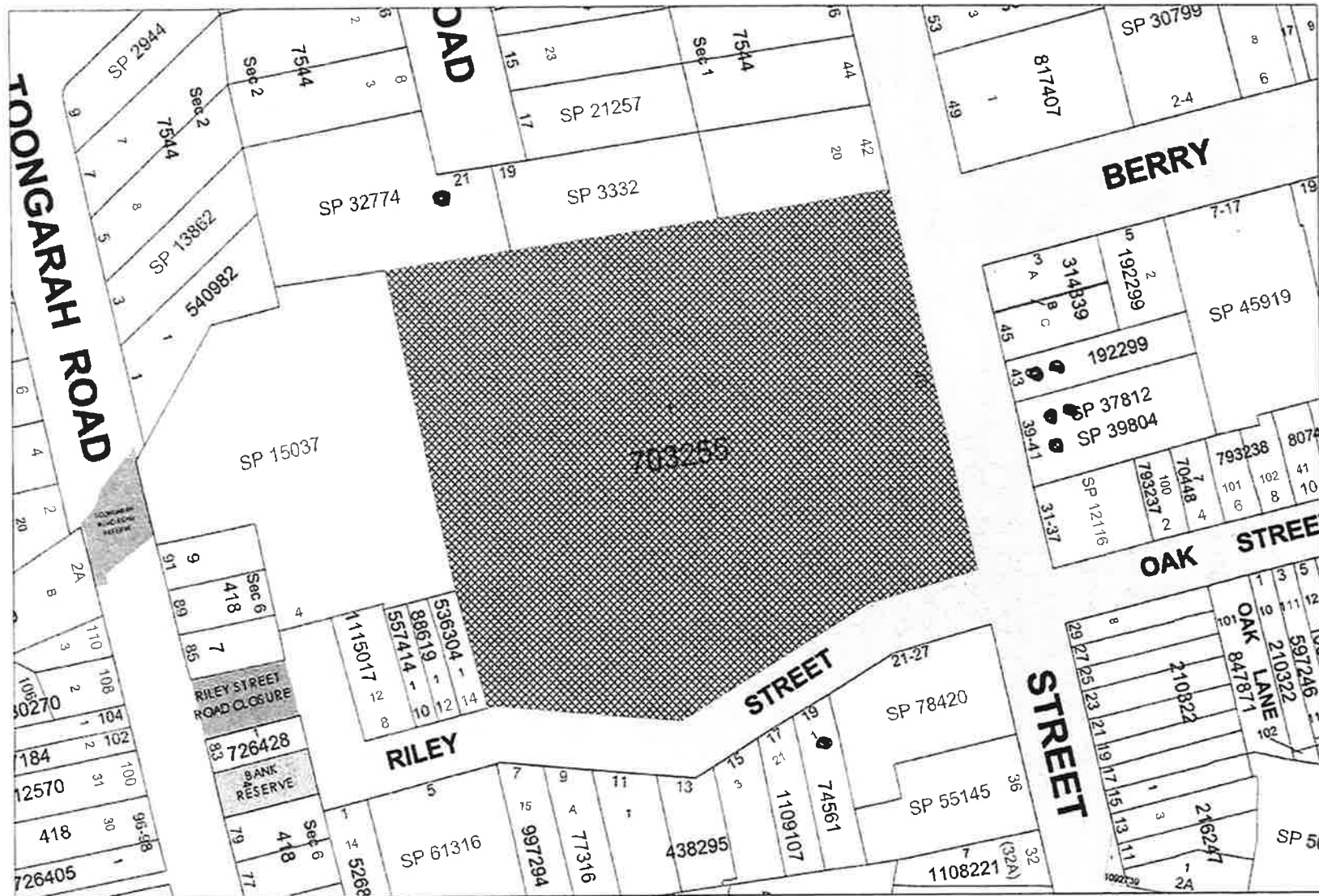
The opening hours for the University shall be 8.00 am to 8.00 pm Monday to Friday (all services); 9.00am to 5.00pm Saturdays (library only) and 12noon to 5.00pm Sundays (library only). Only the library shall be open to students on weekends.

The lower courtyard adjacent to Riley Street shall not be used by students or staff other than between the hours of 8am and 6pm Monday to Friday.

Council resolved to adopt the recommendation and amend condition I1 by deleting 12noon to 5pm Sundays. The ACU has not concurred to the draft conditions as Council resolved. The ACU has reviewed its position and has amended its application to reduce Sunday hours to between 12noon and 5pm.

As indicated in the previous report the development application is considered to be reasonable in the circumstances for a shorter period on Sunday and is recommended for **deferral** subject to the concurrence of the applicant to the recommended conditions.

LOCATION MAP



□ Property/Applicant ● Submitters - Properties Notified

DESCRIPTION OF PROPOSAL

DA1074/84 granted consent for the James Carroll building consisting of lecture rooms, library, gymnasium, staff offices, common room, auditorium, canteen, open and undercover car parking.

The original consent restricted opening hours for the University to 8.00 am to 8.00 pm Monday to Friday (all services) and 12.00 noon to 5.00pm Saturdays (library only).

Since at least 2002, the library has been operating on a Saturday from 9.00am - 5.00pm, though no formal consent from North Sydney Council was obtained. The ACU was unaware of the restriction.

The application seeks formal approval for current opening hours of the library on Saturdays from 9.00am to 5.00pm and the additional library operating hours on Sundays from 12noon to 5.00pm. Parking arrangements will not change, as detailed below. No building works are proposed.

The campus has on site parking for 64 vehicles. This includes 46 underground spaces on Level 1 of the James Carroll building and 18 spaces, two of which are suitable for persons with a disability, at grade outside Level 3 of the James Carroll building. From Monday to Friday on site car parking is reserved for staff use only but on Saturdays, it is made available to students as well. This latter approach would also apply to Sundays. Two staff members are associated with the library on Saturdays and the same is proposed for Sunday. Therefore 62 car parking spaces will be available to students on weekends.

An estimate of students that visit the library on Saturdays is taken from a gate count collected by library staff. During 2009, over 27 Saturdays, an average 177 students visited the library. During 2010, over 28 Saturdays, an average 135 students visited and during 2011, over 21 Saturdays, an average 128 students visited the library. As this count does not take into consideration those students who might leave the library and re-enter on the same day, the counts may be lower.

Information obtained from the Commencing Student Survey, Undergraduate Students, July 2011 (ACU) shows that 84% of North Sydney students travel to the campus by public transport. The campus has excellent public transport access as well as parking restrictions on surrounding streets.

Although there are no parking restrictions in the surrounding streets on weekends, the available parking on site for the reduced number of students attending on the weekend (only the library is open) indicate parking and traffic impacts on the surrounding neighbourhood will be minimised.

Onsite security will be present on site throughout the weekend. One of the roles of security will be to monitor student noise in the external courtyard areas. Security will have the ability to request students keep noise levels to a minimum or remain inside the library.

STATUTORY CONTROLS

North Sydney LEP 2001

Zoning – Special Use (*Educational Establishment*)

Item of Heritage - Yes

In Vicinity of Item of Heritage – Yes (*8 Riley Rd*)

Conservation Area – Yes (*Edward Street*)

Environmental Planning & Assessment Act 1979

SEPP 55 – Contaminated Lands

SREP (Sydney Harbour Catchment) 2005
Draft NSLEP 2009

POLICY CONTROLS

DCP 2002

DESCRIPTION OF LOCALITY

The site is located on the western side of Edward Street with a site area of 1.072Ha. Currently occupying the site is the Australian Catholic University.

No. 40 Edward Street – “Rockleigh Grange” presents as a fine example of the Federation period Queen Anne style. The latest additions and alterations to the original Conrad Martens Building was an addition to the north carried out in the 1940s. The Australian Catholic University (ACU) added the 1980s building 'James Carroll Building' which covers the majority of the rear of the allotment to the west. The building contains lecture rooms, a student lounge, library, various facilities and undercover parking.

To the south of the larger lecture room on the upper floor and above the underground parking an open student seating area is located and contains park type bench seating and raised garden beds with established planting.

Surrounding the site are several residential apartment buildings and attached dwellings.



RELEVANT HISTORY

DA1074/84 granted consent for the James Carroll building consisting of lecture rooms, library, gymnasium, staff offices, common room, auditorium, canteen, open and undercover car parking.

The original consent restricted opening hours for the University to 8.00 am to 8.00 pm Monday to Friday (all services) and 12.00 noon to 5.00pm Saturdays (library only).

The consent was also subject to Condition D25 which states:

"The use of the building is to be restricted to activities of the Catholic College of Education Sydney Ltd only provided that the premises may also be used outside normal College term times on more than 20 days per year for the purpose of educational conferences or seminars limited to no more than 250 persons."

The current application was reported to Council at its meeting of 26 March 2012. A copy of the report is attached for Council's information.

Council RESOLVED:

- A. **THAT** the applicant be requested to provide written concurrence to the attached conditions.
- B. **THAT** upon receipt of the concurrence from the applicant, Council as the consent authority, grant consent to development application No.494/11
- C. **THAT** Council delegates to the General Manager pursuant to Section 377 of the Local Government Act 1993 the following functions in respect of Development Application No.494/11.
 - (i) in the event that written concurrence is provided by the applicant to the conditions (or similar wording to a condition provided it is consistent with the reason for the condition), to issue the consent subject to the agreed conditions
- D. **THAT** in the event that the written concurrence is not provided, the application be referred back to the Council for determination.
- E. **THAT** the matter of street parking on weekends in the Edward Street and surrounds be referred to Council's Traffic Engineer for consideration.
- F. **THAT** condition 11 be amended to delete 12.00-5.00pm Sundays.

The applicant was advised of Council's resolution in letter dated 29 March 2012.

Hassell Limited on behalf of the applicant, has responded in letter dated 10 July 2012 as follows:

We write in response to Council's letter dated 29 March 2012 advising of Council's resolution at its meeting on 26 March 2012 relating to Development Application 494/11 for weekend opening hours for the Australian Catholic University (ACU) library at 40 Edward Street North Sydney. We note that Item D of the resolution relates to written concurrence by the applicant of the resolution.

Given that Council resolved not to approve library opening hours for Sundays, ACU are unable to provide their written concurrence to the resolution. On the contrary, ACU request a review of Council's decision, based on Section 89(1)(b) of the Environmental Planning and Assessment (EP&A) Act 1979, as set out below.

Background

HASSELL on behalf of the Australian Catholic University (ACU) submitted a development application (DA) to North Sydney Council on 13 December 2011 seeking additional library opening hours on Sundays from 8.30am - 5.00pm. The application made reference to the fact that the library currently opens on Saturdays from 8:30am - 5.00pm.

Following notification, Council advised that they had no record of formal approval for the Saturday morning opening hours, unbeknown to ACU. Consequently, ACU agreed to amend the DA to include formal approval of Saturday opening hours from 9.00am - 5.00pm in addition to seeking approval for identical Sunday opening hours, ie 9.00am - 5.00pm both days.

Crown Development

Under Clause 226(1)(c) of the Environmental Planning and Assessment Regulation 2000, ACU is defined as the Crown for the purposes of Division 4 of Part 4 of the EP&A Act. Section 89 of the EP&A Act states:-

A consent authority (other than the Minister) must not:-

- (a) refuse its consent to a Crown development application, except with the approval of the Minister, or*
- (b) impose a condition on its consent to a Crown development application, **except with the approval of the applicant or the Minister** (our emphasis).*

As ACU are unable to accept the proposed conditions, Council is therefore unable to refuse the application without the concurrence of the Minister. Should the Council support the development the conditions of consent must be referred to ACU for concurrence pursuant to Clause 89(1)(b) of the EP&A Act.

Council Resolution

Council received several submissions objecting to the library opening on Sundays. The submissions primarily expressed concerns over amenity, noise and parking. However, after due consideration of the issues raised, the draft conditions in the Planning Report recommended Sunday library hours from 12noon - 5.00pm. Council resolved that these be deleted, but accepted the extended Saturday opening hours.

Review of Decision

ACU has reviewed the draft conditions and believes Council was unreasonable in its resolution to delete the Sunday library opening hours recommended by the Planning Report.

It is acknowledged that Council wishes to maintain the residential amenity. However, the library has been operating on Saturdays from 9.00am - 5.00pm for over the past ten years with no impact on the surrounding locality and no evident impact on parking and public transport. Sunday afternoon library opening hours will permit students the opportunity to work on campus, potentially away from other distractions.

As set out in the original application, the anticipated number of students likely to attend on Sundays is between 100-150. Parking would be made available on site, to minimise the need for on-street parking.

Therefore, ACU requests Council review the conditions, to include Sunday opening hours of 12noon - 5.00pm as set out below.

Condition 11

*Following the resolution of Council's meeting 26 March 2011, Condition 11 stated:
Hours of Operation*

11. *The opening hours for the University shall be 8.00am to 8.00pm Monday to Friday (all services) and 9.00am to 5.00pm Saturdays (library only). Only the library shall be open to students on Saturday.
The lower courtyard adjacent to Riley Street shall not be used by students or staff other than between the hours 8am to 6pm Monday to Friday.
(Reason: To protect neighbourhood amenity).*

The following wording is proposed (with additions shown in bold/italic/underline).

*The opening hours for the University shall be 8.00am - 8.00pm Monday to Friday (all services); 9.00am to 5.00pm Saturdays (library only) **and 12noon – 5pm Sundays (library only)**. Only the library shall be open to students on **weekends**.*

Conclusion

We look forward to Council's favourable consideration of this matter.

COMMENT

Assessment of the application and a summary of the submissions is contained within the previous report (attached).

As discussed previously, the main impacts relate to parking and noise from within the grounds.

The application states that the 64 on site parking spaces will be made available to the students visiting the library. The applicant's survey of visits on Saturdays indicate an average of between 128 and 177 students attend the library over the whole day. Of these numbers, not all will be attending at one time and the applicant is unsure how many students leave the campus and return during the day. There are varying figures on the use of public transport by students anywhere between 70% and 84% on weekdays. Public transport on weekends is not the same frequency so less students are likely to come by public transport.

The number of students visiting the library appear to have fallen over the last 3 years possibly due to increased use of technology and the internet. By extending the availability of the library to Sundays, the numbers of students might drop further and be spread over the two days.

It is considered that a safe estimate of students would be in the order of 128 students over the day. This equates to one parking space per 2 students which would be more than adequate if the remaining 50% of students use public transport.

Providing the off street parking is made available and that only the library is open on weekends, the parking is reasonable and adequate. It is difficult to deter students from parking in the street, should this become a problem, then Council may need to consider restrictions on weekend parking.

Some noise is likely with students coming and going to the library. This can be controlled if students use the main entrance in Edward Street. The use of the courtyard areas should be limited to areas away from residents. On site security must be utilised to ensure that noise in the courtyard is minimised or that students remain within the library.

It is noted that the original consent only allowed the library to be used on Saturday from 12 noon to 5pm (apart from other occasions permitted by condition D25). The Court decision did not indicate the reason for the condition as it was probably based on the University's needs at the time. The condition did however provide a respite for neighbours from the noise and traffic during the week from the educational and commercial activities in close proximity.

Although there appears to be adequate parking on site, there is no guarantee that students won't park in the street. If this does become an issue for residents then Council could seek to further restrict on street parking accordingly. It is considered reasonable to restrict the hours on Sunday to between 12 noon and 5pm to allow for reasonable amenity. The development must be consistent with the specific aims of the plan and the objectives of the zone that require consideration of neighbourhood amenity for consent to be granted.

CONCLUSION

The application has been assessed with regard to the controls under NSLEP 2001 and NSDCP 2002 and generally found to be acceptable with regard to parking and amenity impacts. The hours on Sunday should be restricted to 12noon to 5pm to minimise impacts on amenity. The original proposal involving Sunday morning was unacceptable.

The applicant has generally agreed to the attached recommended conditions. The applicant or the Minister must give written approval before the conditions can be imposed.

Should Council not agree to the amended application for the library being open on Sunday between 12noon and 5pm or wish to refuse the application, the Council or the applicant may refer the matter to the Joint Regional Planning Panel.

RECOMMENDATION

- A. **THAT** the applicant be requested to provide written concurrence to the attached conditions.
- B. **THAT** upon receipt of the concurrence from the applicant, Council as the consent authority, grant consent to development application No.494/11
- C. **THAT** Council delegates to the General Manager pursuant to Section 377 of the Local Government Act 1993 the following functions in respect of Development Application No.494/11
 - (i) in the event that written concurrence is provided by the applicant to the conditions (or similar wording to a condition provided it is consistent with the reason for the condition), to issue the consent subject to the agreed conditions

- D. **THAT** in the event that the written concurrence is not provided, the application be referred to the Joint Regional Planning Panel for determination.
- E. **THAT** the matter of street parking on weekends in the Edward Street and surrounds be referred to Council's Traffic Engineer for consideration.

Geoff Mossemeneer
EXECUTIVE PLANNER

Stephen Beattie
MANAGER DEVELOPMENT SERVICES

**NORTH SYDNEY COUNCIL
DRAFT CONDITIONS OF DEVELOPMENT APPROVAL
40 EDWARD STREET, NORTH SYDNEY
DEVELOPMENT APPLICATION NO. 494/11**

I. On-Going Conditions

Hours of operation

11. The opening hours for the University shall be 8.00 am to 8.00 pm Monday to Friday (all services); 9.00am to 5.00pm Saturdays (library only) and 12noon to 5.00pm Sundays (library only). Only the library shall be open to students on weekends.

The lower courtyard adjacent to Riley Street shall not be used by students or staff other than between the hours of 8am and 6pm Monday to Friday.

(Reason: To protect neighbourhood amenity)

Other activities

12. The use of the James Carroll building is to be restricted to activities of the University only provided that the premises may also be used outside normal University term times on more than 20 days per year for the purpose of educational conferences or seminars limited to no more than 250 persons.

(Reason: Continuation of condition imposed by Land & Environment Court)

Weekend Parking

13. The 46 underground car spaces on Level 1 of the James Carroll building and 18 car spaces at grade outside Level 3 of the James Carroll building shall be made freely available at all times and at no cost to students attending the library on weekends. Students shall be encouraged to use public transport, park on site and not park in residential streets.

(Reason: To reduce use of on street parking in surrounding areas to protect neighbourhood amenity)

Use of courtyards on weekends

14. The lower courtyard adjacent to Riley Street shall not be used on weekends. The use of the upper courtyard areas shall be limited to areas away from residents. On site security personnel shall be utilised to ensure that noise in the upper courtyard is minimal or that students remain within the library.

(Reason: To protect neighbourhood amenity)



Further details can be obtained by calling (02) 9936 8100 or e-mail mapping@northsydney.nsw.gov.au.

**DECISION OF 3599th COUNCIL MEETING
HELD ON 26 MARCH 2012**

- 154. PDS01: 40 Edward Street, North Sydney (V) - DA.494/11**
Applicant: Australian Catholic University Ltd
Report of Geoff Mossemeneer, Executive Planner, 16 March 2012
- This development application seeks Council's approval to use the existing library (no lectures) on Saturdays and Sundays from 9am to 5pm. The application originally sought consent to use the library only on Sundays from 8.30am to 5pm. It was noted in the DA documentation that the library was to be open on Saturdays 8.30am to 5pm and this was contrary to the conditions imposed on the ACU by the Land & Environment Court limiting the library to between 12noon and 5pm on Saturdays. Accordingly, the applicant was advised to amend their application to include Saturday mornings.
- The application is reported to Council for determination as there are a number of submissions and the application is to be determined as a Crown Development. Council's notification of the original proposal has attracted six submissions raising particular concerns about residential amenity, parking and traffic. A further 3 submissions were received in response to the notification of the amended proposal. The assessment has considered these concerns as well as the performance of the application against Council's planning requirements.
- Under Section 226 of the Environmental Planning and Assessment Regulation 2000, the University is prescribed as Crown Development as it is an Australian University within the meaning of the Higher Education Act 2001. Section 116C of the Environmental Planning and Assessment Act 1979, specifies that Council may not impose a condition of consent of any development approval, for which the Crown is the applicant, without first obtaining the written approval of the Crown.
- Following this assessment the development application is considered to be reasonable in the circumstances for a shorter period on Sunday and is recommended for **deferral** subject to acceptance by the applicant (or the Minister) of the recommended conditions.
- Recommending:**
- A. **THAT** the applicant be requested to provide written concurrence to the attached conditions.
 - B. **THAT** upon receipt of the concurrence from the applicant, Council as the consent authority, grant consent to development application No.494/11
 - C. **THAT** Council delegates to the General Manager pursuant to Section 377 of the Local Government Act 1993 the following functions in respect of Development Application No.494/11.
 - (i) in the event that written concurrence is provided by the applicant to the conditions (or similar wording to a condition provided it is consistent with the reason for the condition), to issue the consent subject to the agreed conditions
 - D. **THAT** in the event that the written concurrence is not provided, the application be referred back to the Council for determination.
 - E. **THAT** the matter of street parking on weekends in the Edward Street and surrounds be referred to Council's Traffic Engineer for consideration.

The Mayor, Councillor McCaffery declared an interest in this item and left the Chamber taking no part in debate or voting. The Deputy Mayor, Councillor Baker took the Chair.

Mr Finney, Ms Thornton, Mr Claridge and Ms Smits addressed the Meeting.

RESOLVED:

- A. **THAT** the applicant be requested to provide written concurrence to the attached conditions.
- B. **THAT** upon receipt of the concurrence from the applicant, Council as the consent authority, grant consent to development application No.494/11
- C. **THAT** Council delegates to the General Manager pursuant to Section 377 of the Local Government Act 1993 the following functions in respect of Development Application No.494/11.
 - (i) in the event that written concurrence is provided by the applicant to the conditions (or similar wording to a condition provided it is consistent with the reason for the condition), to issue the consent subject to the agreed conditions
- D. **THAT** in the event that the written concurrence is not provided, the application be referred back to the Council for determination.
- E. **THAT** the matter of street parking on weekends in the Edward Street and surrounds be referred to Council's Traffic Engineer for consideration.
- F. **THAT** condition 11 be amended to delete 12.00-5.00pm Sundays.

The Motion was moved by Councillor Zimmerman and seconded by Councillor Robjohns.

Voting was as follows:

For/Against 9/1

Councillor	Yes	No	Councillor	Yes	No
McCaffery	DoI		Zimmerman	Y	
Gibson	Y		Baker	Y	
Christie	Y		Robjohns	Y	
Reymond	Y		Carland		N
Marchandean	Y		Burke	Absent	
Raymond	DoI		Pearson	Y	
Barbour	Y				

To locate the previous report, click on the hyperlink under attachments on the top of page 1.

Attachment G

Council Response
dated 26 July 2012



address 200 Miller Street North Sydney NSW 2060
all correspondence General Manager North Sydney Council
PO Box 12 North Sydney NSW 2059
DX10587

telephone (02) 9936 8100
facsimile (02) 9936 8177
email council@northsydney.nsw.gov.au
internet www.northsydney.nsw.gov.au
ABN 32 353 260 317

Australian Catholic University Ltd
C/- Hassell
GPO Box 5487
SYDNEY NSW 2001

DA494/11
(GM) (PDS)

26 July 2012

Dear Sir/Madam

**RE: 40 EDWARD STREET, NORTH SYDNEY
DEVELOPMENT APPLICATION NO. 494/11**

The abovementioned application was the subject of a report considered by Council at its meeting held on 23 July 2012.

At this meeting Council resolved as follows:-

1. ***THAT*** condition 11 be amended to delete reference to Sunday opening hours.
2. ***THAT*** Council reinforce its desire that the ACU proceed with developing a Masterplan.
3. ***THAT*** if the matter is taken to the JRPP, Council urges the Panel to delete Sunday opening hours to preserve residential amenity.

Should you have any further enquiries in this regard, please contact **Geoff Mossemenear** between the hours of 9.30 am and 11.00 am, Monday to Friday, on telephone number **9936 8100**, or at any time on facsimile **9936 8177**.

Yours faithfully

A handwritten signature in black ink, appearing to read "Geoff Mossemenear".
**GEOFF MOSSEMENEAR
EXECUTIVE PLANNER**

