

Notice of Determination of a Development Application

Environmental Planning and Assessment Act, 1979. Section 81(1)(a)

Development Application No. DA-305/2012

Mr Charles Vella
Locked Bag 1797
PENRITH NSW 2751

Date of Determination: 12 December 2012 - Sydney West Regional Planning Panel

Determination Notice No.: DA-305/2012 (JRPP Ref: 2012SYW055)

Property: Lot 103 DP 874035, No. 2 Bullecourt Avenue, MILPERRA NSW 2214

The Sydney West Regional Planning Panel has determined the application by the granting of consent to the above described land being developed for the following purpose, subject to compliance with the conditions and requirements set out in the attached schedules.

Description of Development: Construction of a New Teaching Facility Comprising a Three Storey Building Above Partial Service Basement with Associated Landscaping, Utilising Vehicular Access from Bullecourt Avenue

Planning Instrument: Bankstown Local Environmental Plan 2001 Gazetted 17 May 2002

Zoning of Property: Special Uses : Educational Purposes

Consent to Operate From: 12 December 2012
Consent to Lapse On: 12 December 2017

These conditions are imposed taking into account the matters for consideration in determining a Development Application pursuant to Section 79(C) of the Environmental Planning & Assessment Act, 1979 and other relevant Acts and Regulations.

Notes:

1. This Determination Notice does not constitute permission to begin works associated with the development. A Construction Certificate (where applicable) must be obtained prior to the commencement of any development works.
2. This Determination Notice operates or becomes effective from the endorsed date of Consent.
3. If you are dissatisfied with this decision, you may apply for a review of determination pursuant to Section 82A of the Environmental Planning and Assessment Act, 1979 (does not apply to Integrated Development proposals) or appeal to the Land and Environment Court pursuant to Section 97 of the Environmental Planning and Assessment Act, 1979. Any application for a review of determination pursuant to Section 82A must be received, assessed and determined by Council within 6 months after the date of receipt of this Notice.
4. Section 125 of the Environmental Planning and Assessment Act, 1979 confers the authority to direct any person to comply with the terms and conditions of any Consent and any person failing to comply with such a direction shall be guilty of an offence under that Act.
5. This consent will lapse 5 years from the endorsed date of consent unless the use has commenced, or any building works have physically commenced.
6. The applicant or any other person entitled to act on this Consent may apply to modify the Development Consent in accordance with Section 96 of the Environmental Planning and Assessment Act, 1979.
7. Failure to comply with a condition contained within this Development Consent may result in a fine or prosecution by Council.

CONDITIONS OF CONSENT

- 1) The proposal shall comply with the conditions of Development Consent.
- 2) Development shall take place in accordance with Development Application No. DA-305/2012, submitted by Mr. Charles Vella, accompanied by Drawing No. DA000, DA110, DA111, DA112, DA113, DA114, DA115, DA200, DA300, DA800 and DAL01, all Revision A dated April 2012, prepared by Baker Kavanagh Architects and affixed with Council's approval stamp, except where otherwise altered by the specific amendments listed hereunder and/or except where amended by the conditions contained in this approval.
- 3) There is to be no access to the facility, for users or construction vehicles, from Ashford Avenue. Access for all students, staff, and construction vehicles, is to be from Bullecourt Avenue or Horsley Road.
- 4) A separate application shall be submitted to Council prior to the erection of any signage unless the proposed signage is "exempt development" in accordance with Bankstown DCP 2005 – Part D1.

- 5) Any new information which comes to light during excavation or construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council immediately. Works are to cease until the new information is evaluated and an appropriate response determined by the applicant which is agreed to by Council.
- 6) In accordance with waste classification under the NSW EPA Waste Regulations, only material classified as 'Virgin Excavated Natural Material' (VENM), 'Excavated Natural Material' (ENM), or uncontaminated "General Solid Waste (non-putrescible)" may remain on-site for reuse.

Note: It is recommended that an appropriately qualified and experienced environmental consultant is on hand during the excavation works to assess any unexpected conditions, such as unexpected land contamination, or subsurface facilities that may be discovered between investigation sampling points.

An appropriately qualified and experience environmental consultant or geotechnical engineer should be consulted if doubt exists regarding the difference between the fill material (General Soil Waste) and the Virgin Excavated Natural Material (VENM).

- 7) Disabled car parking spaces are to be provided in accordance with Australian Standard AS 2890.6:2009.
- 8) All new pedestrian accesses are to comply with Australian Standard AS 1428.1:2001 *Design for Access and Mobility*.

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORKS

- 9) Crown building work must not be commenced until the building work is certified by or on behalf of the Crown to comply with the technical provisions of the State's building laws.
- 10) The development is to be constructed and operated in accordance with the recommendations contained in the Environmental Noise Impact Assessment No. 20120264.2/2604A/R0/GC dated 26 April 2012 prepared by Acoustic Logic. Details/specifications are to be submitted to Council for information prior to the commencement of works demonstrating/detailing compliance with the recommended treatments contained in the report.
- 11) A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control shall be submitted to Council for information prior to the commencement of works. The Construction Traffic Management Plan shall also address any relocation of staff and student parking during construction activities to avoid on-street parking.
- 12) Landscaping shall be installed in accordance with the approved landscape plan.

- 13) Approval in accordance with Council's Tree Preservation Order (TPO) is granted to lop or remove only the trees identified to be lopped or removed on the approved plans and in the Arboricultural Impact Appraisal and Method Statement dated 27 April 2012 prepared by Naturally Trees. Separate approval shall be obtained to prune or remove trees on adjoining properties or other trees located on the site. Failure to comply with Council's TPO may result in a fine of up to \$100,000. Failure to comply with the following conditions will result in an on the spot fine.
- No fill, excavated material, building material or other items are to be placed around retained trees.
 - No excavation is to take place around the root zone or canopy of retained trees.
 - All preservation zones are to be mulched to a depth of no less than 70 – 100mm using a suitable organic mulch or sand around the trees to be retained, ie. around the root zone or canopy of trees.
 - Fencing around retained trees is to be in place prior to commencement of site works and is to be kept in place during all construction, until final inspection is undertaken.
 - Fences should be signposted to warn contractors of their purpose.
 - Treatment and pruning of trees may only be undertaken by qualified arborists after approval of Council.
 - Any tree removal carried out on Saturdays is permitted only between the hours of 7am and 1pm inclusive, Sunday removals not permitted.
 - Construction to begin only when the above procedures are in place.
- 14) A Soil Erosion and Sedimentation Control Plan shall be prepared in accordance with Council's relevant DCP. The plan shall be prepared by a suitably qualified professional and submitted to Council for information.
- 15) The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.
- 16) Prior to the commencement of works, a Long Service Levy payment of 0.35% of the value of the work is required to be paid to Council on behalf of the Long Service Corporation.
- 17) *Condition deleted by the Sydney West Regional Planning Panel.*
- 18) Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on the approved plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council.

- 19) Stormwater runoff from within the property shall be collected and controlled by means of an on site detention system in accordance with Council's Development Engineering Standards.

A final stormwater drainage and on site detention system plan, shall be prepared by a qualified professional Civil Engineer in accordance with the above requirements and the requirements contained in Council's Development Engineering Standards. The final stormwater drainage plan shall also be generally in accordance with the concept plan 120053 Amendment 2 prepared by Jones Nicholson Consulting Engineers. The final plan shall be certified by the design engineer that it complies with Council's Development Engineering Standards and the relevant Australian Standards.

- 20) Where Council approved cut or fill exceeds 200mm and stable batter of 1 vertical to 3 horizontal maximum grade cannot be achieved, then a masonry or other proprietary material retaining wall, intended and suitable for that purpose, shall be constructed within the development site. Note, filling of the site needs specific approval from Council.

The retaining wall shall be located so that it will not impede or obstruct the natural flow of stormwater. Retaining walls exceeding 600mm in height shall be designed by a qualified professional Civil/Structural Engineer. Plans and details prepared and signed by the Engineer are to be submitted to Council for information prior to the commencement of works.

All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries.

- 21) An all weather pavement shall be designed to withstand the anticipated wheel loads for all areas subjected to vehicular movements. Internal pavements specification prepared and certified by all qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to Council for information prior to the commencement of works.
- 22) For internal driveways with a gradient exceeding 10% (1 in 10), longitudinal profiles of all vehicular driveways and ramps shall be submitted to Council for information prior to the commencement of works. The maximum grade of the driveway/ramp shall not exceed 20% and shall comply with AS 2890.1. The profile shall be drawn at a reduction ratio of 1 to 20 vertical and horizontal and shall be related to the datum used for the issue of the footway design levels and shall also show the road centre line levels, Council issued footway design levels and gutter levels. Council's Car Clearance Profile in Council's Development Engineering Standards, (Plan No. S 006) shall be used to design the profile.

- 23) The route for transportation to and from the development site of bulk and excavation materials shall generally be by the shortest possible route to the nearest "regional road", with every effort to avoid school zones on public roads. The applicant shall nominate the route for approval by Council prior to commencement of any work on the site. An Agreement to Council's satisfaction, signed by the applicant/owner specifying the approved route and acknowledging responsibility to pay Council for damages to public property adjacent to the site shall be lodged with Council prior to the commencement of works. All damage must be rectified upon completion of work.
- 24) Building works in accordance with this development consent must not be commenced until the person having benefit of the development consent has given at least 2 days notice to the Council of their intention to commence the development works the subject of this consent.
- 25) Existing trees within the vicinity of the construction works or paths of travel for construction vehicles accessing the development that are to be retained shall be protected with temporary fencing of a style non injurious to tree roots, placed 2m from the trunk base of the existing tree to prevent damage during construction, and retained in accordance with Council's Tree Preservation Order. There is to be no stockpiling of materials within the 2m fenced zone.
- 26) Suitable erosion and sediment control measures shall be erected prior to the commencement of construction works and shall be maintained at all times.
- 27) Council warning sign for Soil and Water Management must be displayed on the most prominent point of the site, visible to both the street and site works. The sign must be displayed throughout the construction period.
- 28) Prior to commencement, the applicant must provide a temporary on-site toilet if access to existing toilets on site is not adequate.
- 29) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation and a copy submitted to Council for information. Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, as it can take some time to build water/sewer pipes and this may impact on other services and building, driveway or landscape design.

- 30) Prior to the commencement of any building work a fence shall be erected along the property boundaries of the development site, except where an existing 1.8m high boundary fence is in good condition and is capable of securing the site. Any new fencing shall be temporary (such as cyclone wire) and at least 1.8m high.

All fencing is to be maintained for the duration of the construction to ensure that the site is secured and privacy of the adjoining properties is not compromised.

Where the development site is located within 3.6m of a public place then a Class A or Class B hoarding shall be constructed appropriate to the works proposed. A Works Permit for such hoardings shall be submitted to Council for approval prior to the commencement of work.

- 31) A sign shall be displayed at the site indicating the name of the person responsible for the site and a telephone number of which that person can be contacted during and outside normal working hours or when the site is unattended.
- 32) For development that involves any building work or demolition work, a sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:
- a) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted during and outside working hours, and
 - b) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work or demolition work is being carried out, but must be removed when the work has been completed.

Note: This clause does not apply in relation to building work or demolition work that is carried out inside an existing building that does not affect the external walls of the building, or in relation to Crown building work that is certified, in accordance with Section 116G of the Act, to comply with the technical provisions of the State's building laws.

- 33) The swept path of the longest vehicle (including garbage trucks) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. A plan which shows compliance with this requirement shall be submitted to Council for information.

CONDITIONS TO BE SATISFIED DURING CONSTRUCTION

- 34) The hours of site works shall be limited to between 7.00am and 6.00pm on weekdays and 7.00am and 1.00pm on Saturdays. No work shall be carried out on Sundays and public holidays and weekends (Saturdays and Sundays) adjacent to public holidays.

- 35) The building work must be carried out in accordance with the requirements of the Building Code of Australia, the provisions of the relevant Australian Standards and the approved plans.
- 36) Prior to the ground floor slab being poured, an identification report prepared by a registered surveyor shall be submitted verifying that the proposed slab's finished ground floor level and siting to the property boundary conforms with the approved plans.
- 37) All Civil and Hydraulic engineering works on site must be carried out in accordance with Council's Development Engineering Standards. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 38) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 39) If the soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.
- 40) If an excavation extends below the level of the base of the footings of an adjoining building or a building on an adjoining allotment of land, the person causing the excavation to be made:
 - a) if necessary, must underpin and support the building in an approved manner, and
 - b) must, at least 7 days before excavating below the level of the base of the footings of a building give notice of intention to do so to the owner of that building and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - c) must take all precautions to protect all of the structures from damage.

The owner of any affected buildings is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on an adjoining allotment of land.

- 41) The stormwater drainage system shall be constructed in accordance with Council's Development Engineering Standards and the engineering plans and details approved by the Principal Certifying Authority (PCA).
- 42) A suitably qualified Professional Civil or Structural Engineer shall be engaged by the developer to carry out inspections relating to construction of internal driveways and parking areas. The work shall be carried out in accordance with the approved plans and specifications and certification from the Civil or Structural Engineer is to be provided upon completion.

- 43) Prior to the commencement of work, the builder shall prepare a photographic record of the road reserve which clearly shows its condition prior to works occurring on site. For the entirety of demolition, subdivision or construction works, there shall be no stockpiling of building spoil, materials, or storage of equipment on the public road, including the footway and the road reserve shall be maintained in a safe condition at all times. No work shall be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.
- 44) Bicycle parking facilities shall be provided either within the development, or close to it, as well as end trip facilities including showers, changing rooms, etc. to encourage bicycle use for travelling to and from the development.
- 45) All traffic control during construction must be carried out by accredited RMS approved traffic controllers.
- 46) The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the approved works and as required by the various public utility authorities and/or their agents.
- 47) All works/regulatory signposting associated with the approved development are to be at no cost to RMS.

CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION

- 48) The use of a building in accordance with this Development Consent must not be commenced until all conditions relating to demolition, construction and site works of this development consent are satisfied and Council has issued a Work Permit Compliance Certificate.
- 49) A minimum of sixty-five (65) parking spaces within the P4 car park are to be designated for use only by students and staff associated with the approved teaching facility. These spaces are to be marked and/or signposted to nominate their allocation for this use.
- 50) Verification is to be submitted, prepared by a qualified acoustic consultant that the recommended measures in the Environmental Noise Impact Assessment No. 20120264.2/2604A/R0/GC dated 26 April 2012 prepared by Acoustic Logic, have been satisfactorily implemented.
- 51) Landscaping is to be installed in accordance with the approved landscape plan. All works and methods nominated and materials and plants specified on the approved landscape plan are to be completed prior to the issue of an occupation certificate. The landscaping shall be maintained for the life of the development.
- 52) A suitably qualified Professional Civil Engineer shall certify that the driveways, parking bays, and service areas have been constructed in accordance with the approved plans and specifications. Such Certification shall be submitted to Council for information prior occupation of the development.

- 53) Lighting must be provided to the entries of the buildings, driveways and parking areas to promote a high level of safety and security at night and during periods of low light. Lighting provided should be hooded, shielded or directed away from neighbouring properties to minimise glare and associated nuisance.
- 54) A registered surveyor shall prepare a Work As Executed Plan, and a suitably qualified Hydraulic Engineer shall provide certification of the constructed on-site stormwater detention system.

The Work As Executed information shall be shown in red on a copy of the approved stormwater plan and shall include all information specified in Council's Development Engineering Standards. The Work As Executed plan shall be submitted to the Hydraulic Engineer prior to certification of the on-site stormwater detention system.

The engineer's certification of the on-site stormwater detention system should be carried out similar to Council's standard form "On-Site Stormwater Detention System - Certificate of Compliance", contained in Council's Development Engineering Standards.

A copy of the Work As Executed Plan and Hydraulic Engineer's Certification shall be submitted to Council for information prior to issue of the final occupation certificate.

- 55) The developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Development Engineering Standards and in accordance with the appropriate provisions of the Conveyancing Act.

Note: The location of the "On-Site Stormwater Detention System" shall be included on an A4 size site plan attached to the Section 88E Instrument and registered on the title prior to the occupation of the development.

The developer shall submit to Council evidence of the final registration of the Restriction and Positive Covenant on the title of the property.

USE OF THE SITE

- 56) The facility is to cater for a maximum six-hundred (600) students at any one time.
- 57) A maximum seventy (70) staff are to be associated with the facility.
- 58) *Condition deleted by the Sydney West Regional Planning Panel.*
- 59) Instructions concerning procedures to be adopted in the event of an emergency are to be clearly displayed on the premises for both public and staff information at all times.

- 60) Any portion of the development used for the storage or sale of food is to be designed, constructed and operated in accordance with the requirements of the Food Act 2003 and Regulations; FSANZ Food Standards Code, AS4674, AS1668 Parts 1 and 2 and the Protection of the Environment Operations Act 1997.
- 61) The stormwater detention storage system within the site as constructed shall not be altered and shall be maintained in good working order to the satisfaction of Council.
- 62) The Restriction as to User and Positive Covenant under the provision of Section 88E of the Conveyancing Act referred to in Condition 55 shall be registered on the title of the subject property within six months of the occupation of the development.
- 63) All vehicles are to enter and exit the site in a forward direction.
- 64) Turning and manoeuvring areas are to be kept clear of any obstacles, including parked cars, at all times.
- 65) Facilities are to be provided for the on-site parking of construction workers vehicles during the period of construction of the development.

SCHEDULE A: ADVICE TO APPLICANTS

Before you dig, call "Dial before you Dig" on 1100 (listen to the prompts) or facsimile 1300 652 077 (with your street no./name, side of street and distance to nearest cross street) for underground utility services information for any excavation areas.

For further information regarding this notice please contact Daniel Bushby in Development Services on 9707 9967.

Yours faithfully,



Daniel Bushby
SPECIAL PROJECTS OFFICER