

NOTICE OF DETERMINATION DEVELOPMENT APPLICATION

Environmental Planning and Assessment Act 1979



The University of Newcastle
8 University Drive
CALLAGHAN NSW 2308

Application No: DA2019/00138

Land: Lot 1 DP 1163346
Lot 2 DP 1163346
Lot 3 DP 1163346
Lot 1 DP 1247375
Lot 2 DP 1247375
Lot 3 DP 1247375
Lot 5 DP 1247375
Lot 6 DP 1247375

Property Address: 16 Honeysuckle Drive Newcastle NSW 2300
16A Honeysuckle Drive Newcastle NSW 2300
16B Honeysuckle Drive Newcastle NSW 2300
20A Wright Lane Newcastle NSW 2300
20B Wright Lane Newcastle NSW 2300
10 Civic Lane Newcastle NSW 2300
20 Civic Lane Newcastle NSW 2300
30R Civic Lane Newcastle NSW 2300

Proposed Development: Site stabilisation works

Determination:

The Development Application has been determined by granting of **CONSENT** subject to the conditions specified in the attached Schedule 1. Schedule 2 outlines the reasons for the decision and how community views were taken into account in making the decision.

Consent to operate from: 18 June 2019

Consent to lapse on: 18 June 2024

Review of determination:

- You have the right to request a review of this determination under the *Environmental Planning and Assessment Act 1979* provided that this determination is not made in respect of designated or crown development. The determination cannot be reviewed after a 6 month time period, from the date of determination or after an appeal to the

Land and Environment Court is disposed of by the Land and Environment Court. To comply with these time frames any request for a review should be promptly made to Council.

Rights of appeal:

- If you are dissatisfied with the determination of Council (including a determination on a review under the *Environmental Planning and Assessment Act 1979*) you may appeal to the Land and Environment Court within 6 months after the date on which you receive notice of the determination of the application or review. Otherwise the right to appeal is exercisable in accordance with the rules of the Land and Environment Court.
- The *Environmental Planning and Assessment Act 1979* does not give a right of appeal against this determination to an objector.

If you are considering exercising your rights of appeal or lodging a request for a review, it may be advisable to obtain legal advice regarding the interpretation of your rights in relation to such matters.

Ian Clark
SENIOR DEVELOPMENT OFFICER

18 June 2019
Date of Determination

SCHEDULE 1

APPROVED DOCUMENTATION

1. The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

| Plan No / Supporting Document | Reference / Version | Prepared by | Dated |
|---|--------------------------|-------------------------|---------------|
| Statement of Environmental Effects | 218153 | Ethos Urban Pty Ltd | 29/01/2019 |
| Specifications for Mine Grouting and Verifications - Site 1 | 754-NTLEN213472-R02.Rev5 | Coffey | 16/11/2018 |
| Historical Archaeological Research Design | n/a | Curio Projects | November 2018 |
| Aboriginal Cultural Heritage Assessment Report | n/a | Curio Projects | October 2018 |
| Mine Subsidence Remediation Strategy and Numerical Analysis Report - Site 1 | 754-NTLGE213472-R06 | Coffey | 16/11/2018 |
| Mine Subsidence Remediation Strategy and Numerical Analysis Report - Site 2 and 3 | 754-NTLGE213472-R06 | Coffey | 16/11/2018 |
| Subsidence Advisory NSW approval | TBA18-01418 | Subsidence Advisory NSW | 18/01/2019 |
| Grouting Plan Drawing 1 | 754-NTLEN213472 Rev: A | Coffey | 26/03/2018 |
| Preliminary Construction Management Plan | 12341 | APP | January 2019 |

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE

2. Toilet facilities are to be available or provided at the work site before works begin and be maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet is to:

- a) Be a standard flushing toilet connected to a public sewer, or
 - b) Have an on-site effluent disposal system approved under the *Local Government Act 1993* (NSW), or
 - c) Be a temporary chemical closet approved under the *Local Government Act 1993* (NSW).
3. A rigid and durable sign is to be erected on any site on which building work, subdivision work or demolition work is being carried out, before the commencement of

the work:

- a) showing the name, address and telephone number of the Principal Certifying Authority for building work and subdivision work, and
- b) showing the name, address and telephone number of the Principal Contractor for any building work and also including a telephone number on which the Principal Contractor may be contacted at any time for business purposes, and
- c) stating that unauthorised entry to the work site is prohibited, and
- d) being erected in a prominent position that can be read easily by anyone in any public road or other public place adjacent to the site.

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

4. All excavations and backfilling are to be executed safely in accordance with appropriate professional standards and excavations are to be properly guarded and protected to prevent them from being dangerous to life and property.
5. All building materials, plant and equipment is to be placed on the site of the development so as to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on Council reserves including the road reserve is not permitted.
6. Any alteration to natural surface levels on the site is to be undertaken in such a manner as to ensure that there is no increase in surface water runoff to adjoining properties or that runoff is impounded on adjoining properties, as a result of the development.
7. Construction/demolition work that generates noise that is audible at residential premises is to be restricted to the following times:
 - Monday to Friday, 7:00 am to 6:00 pm and
 - Saturday, 8:00 am to 1:00 pm.

No noise from construction/demolition work is to be generated on Sundays or public holidays.

8. Council's 'PREVENT POLLUTION' sign is to be erected and maintained in a conspicuous location on or adjacent to the property boundary so it is clearly visible to the public or at other locations on the site as otherwise directed by Council for the duration of demolition and construction work.

Note: Council's 'PREVENT POLLUTION' sign can be obtained by presenting your development application receipt at Council's Customer Enquiry Counter at 282 King Street Newcastle.

9. Any excavated material to be removed from the site is to be assessed, classified, transported and disposed of in accordance with the Department of Environment and Climate Change's (DECC) 'Waste Classification Guidelines Part 1: Classifying Waste'.
10. Any fill material imported into the site is to be Virgin Excavated Natural Material or material subject to a Resource Recovery Order that is permitted to be used as a fill material under the conditions of the associated Resource Recovery Exemption, in accordance with the provisions of the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment (Waste) Regulation 2014*.

11. Documentation demonstrating the compliance with the conditions of the appropriate Resource Recovery Order and Resource Recovery Exemption must be maintained for any material received at the site and subsequently applied to land under the conditions of the Resource Recovery Order and Exemption. This documentation must be provided to Council officers or the Principal Certifying Authority on request.
12. Erosion and sediment control measures are to be implemented prior to the commencement of works and maintained during the period of demolition and/or construction in accordance with the requirements of Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1 (the 'Blue Book') published by Landcom, 2004. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.
13. Erosion and sediment control measures are to be implemented prior to the commencement of works and be maintained during the period of construction in accordance with the details set out on the Erosion and Sediment Control Plan submitted with the application, and with the below requirements:
 - a) Control over discharge of stormwater and containment of run-off and pollutants leaving the site must be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams and sediment basins and controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover. Erosion and sediment control measures are to be designed in accordance with the requirements of the Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1 (the 'Blue Book') published by Landcom, 2004.
14. Prior to the commencement of work, a 3m wide all weather vehicle access is to be provided from the kerb and gutter to the building under construction, to reduce the potential for soil erosion. Sand shall not be stockpiled on the all weather vehicle access.
15. A temporary protective crossing is to be provided over the footway for vehicular traffic before demolition or building operations are commenced. This approval does not permit access to the property over any adjacent private or public land.
16. All necessary measures are to be undertaken to control dust pollution from the site. These measures must include, but not are limited to:
 - a) Restricting topsoil removal
 - b) Regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion
 - c) Alter or cease construction work during periods of high wind and
 - d) Erect green or black shade cloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.
17. Where the proposed development involves the destruction or disturbance of any existing survey monuments, those monuments affected are to be relocated at no cost to Council by a Surveyor registered under the *Surveying and Spatial Information Act 2002* (NSW).
18. All public trees that are required to be retained must be physically protected in accordance with the City of Newcastle Urban Forest Technical Manual 'Section 8.0 Protection Measures'.

The tree protection fencing must remain in place and maintained until all works have been completed, with no waste materials, washouts, equipment or machinery to be stored within the fenced area.

19. During construction works, an assessment of acid sulfate soil potential is to be undertaken in the area of excavation. If acid sulfate soils are found to be present, soils are to be treated in accordance with the New South Wales Acid Sulfate Soil Management Advisory Committee's '*Acid Sulfate Soil Manual*'.
20. Prior to the commencement of works, the proponent preparing and submitting to the PCA and Council a Construction Management Plan for the grouting works on the site, such to be kept on site and made available to authorised Council officers upon request. The plan is to include but not be limited to:
 - A site management strategy, identifying and addressing issues such as work health and safety issues, site security, and traffic management.
 - A water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water, groundwater and process water including any dewatering. Provisions for water monitoring and analysis during works should be incorporated into the strategy.
 - A dust management strategy, detailing procedures to minimise dust generation, with particular reference to control techniques and operational limits under adverse meteorological conditions. Provision for air monitoring during works should be incorporated into the strategy.
 - A road management strategy, detailing procedures to ensure that all roads adjacent to and within the proposed application area are kept free and clear from mud and sediment.
 - A noise management strategy detailing measures to minimise the impact of the grouting works on the amenity of the locality in accordance with the Interim Construction Noise Guidelines prepared by the NSW Environment Protection Authority. Provision for noise and vibration monitoring during works should be incorporated into the strategy.
 - A soil management strategy, detailing measures to be implemented to manage the identification and control and disposal of any acid sulphate soils or soil contamination identified during site works.
 - A community relations strategy, which seeks to engage and inform local residents and other local stakeholders of the proposed nature and timeframes of the grouting works as well as provide ongoing communication and response to issues, requests and complaints.

21. An Aboriginal Heritage Impact Permit (AHIP) shall be obtained if required the Office of Environment and Heritage (OEH) under Part 6 of the National Parks and Wildlife Act 1974 prior to the commencement of ground disturbance works. The AHIP is to include provision for the completion of Aboriginal archaeological investigations in the form of test excavations and (if required) further salvage activities.

During any excavation work, in the event that any Aboriginal objects are identified within the area of works, works within the immediate vicinity of the Aboriginal object should cease and Office of Environment and Heritage (OEH) should be contacted so that appropriate management strategies can be identified.

In the unlikely event that a potential burial site or potential human skeletal material is exposed, work in the vicinity of the remains is to halt immediately to allow assessment and management. If the remains are suspected to be human, it will be necessary to contact local police, OEH and the Heritage Division to determine an appropriate course of action.

22. Archaeology requirements:
 - a) Prior to any ground disturbance works occurring on site, the Applicant must obtain an approved s.140 application under the Heritage Act 1977 to undertake any archaeological excavation of this site. The Applicant must comply with all the approval conditions of the s.140 approval.
 - b) In the event the subject site is found to contain substantially intact state significant archaeological relics which are undocumented and associated with the pre-1840s convict occupation of Newcastle, modification of the detailed design to avoid harm and retain these in situ should be undertaken. This is consistent with previous advice of the Heritage Council of NSW for this site. Additional approval under s.140 of the Heritage Act 1977 may be required to harm such remains if detailed design cannot be redesigned to avoid harm to these resources in whole or part.
 - c) The investigation and research methodology framework outlined in Historical Research Design (Curio, November 2018).

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE, A SUBDIVISION CERTIFICATE OR A STRATA CERTIFICATE

23. All public footways, footpaving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following the damage, to a satisfactory state that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to Council's satisfaction prior to the completion of demolition work or prior to the issue of any occupation certificate in respect of development involving building work.

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE OF THE DEVELOPMENT

24. The use and occupation of the premises, including all plant and equipment installed thereon, is not to give rise to any offensive noise, as defined under the *Protection of the Environment Operations Act 1997* (NSW).

Should Council consider offensive noise has emanated from the premises, the owner/occupier of the premises will be required to submit an acoustic assessment prepared by a suitably qualified acoustical consultant recommending appropriate acoustic measures necessary to ensure future compliance with this condition and will be required to implement such measures within a nominated period. Furthermore, written certification from the said consultant confirming the recommended acoustic measures have been satisfactorily implemented will be required to be submitted to Council prior to the expiration of the nominated period.

25. The use and occupation of the premises is not to give rise to the emission of any 'air impurity' as defined under the *Protection of the Environment Operations Act 1997* (NSW), that interferes unreasonably with the amenity of neighbouring premises and/or other sensitive receivers.

Should Council consider that unreasonable levels of air impurities have been emitted from the premises, the owner/occupier will be required to engage a suitably qualified consultant to recommend measures to control emissions of air impurities to an acceptable level and such measures being implemented within a nominated time period. Furthermore, written certification from the suitably qualified consultant will be required to be submitted to Council confirming that air impurity emissions from the premises do not interfere unreasonably with the amenity of neighbouring premises and/or other sensitive receptors before the expiration of the nominated period.

26. The Construction Management Plan is to be implemented for the duration of the grouting works. Council or the PCA may require amendments to the plan to address identified inadequacy with the plan during the works. An updated version of the plan is to be provided to the Council and PCA within 2 working days of any amendments being made to the plan.
27. A post grouting works a dilapidation report prepared by a suitability qualified person shall be submitted to the Principal Certifying Authority and City of Newcastle within 30 days of the completion of the proposed development works, to ascertain if any structural damage has occurred to Council's and the relevant Roads Authority infrastructure and roads. The report shall be forwarded to Council and any damages arising due to the construction works will need to be rectified in consultation with Council. In this regard, a separate bond maybe required to be provided to Council to ensure that repair works are carried out to Council satisfaction.

ADVISORY MATTERS

- It is recommended that, prior to commencement of work, the free national community service 'Dial before you Dig' be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal liability and even death. Inquiries should provide the property details and the nearest cross street/road.
- Any necessary alterations to public utility installations are to be at the developer/demolisher's expense and to the requirements of both Council and any other relevant authorities. Council and other service authorities should be contacted for specific requirements prior to the commencement of any works.
- It is an offence under the provisions of the *Protection of the Environment Operations Act 1997* (NSW) to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ('on-the-spot fine') or prosecution.
- Failure to comply with the conditions of consent constitutes a breach of the *Environmental Planning and Assessment Act 1979* (NSW), which may be subject to a penalty infringement notice ('on-the-spot fine') or prosecution.

END OF CONDITIONS

SCHEDULE 2

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; *Newcastle Local Environmental Plan 2012* (NLEP) and applicable State Environmental Planning Policies.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Newcastle Development Control Plan 2012 (NDCP).
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development has appropriate management and mitigation of impacts through conditions of consent.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The conditions in Schedule 1 have been applied to:

- Confirm and clarify the terms of Council's determination;
- Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- Set standards and measures for acceptable environmental performance; and
- Provide for the ongoing management of the development.
- Ensure the development is undertaken in an orderly manner.