

**DETERMINATION OF A DEVELOPMENT APPLICATION
UNDER SECTION 80
OF THE
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

Under Section 80(3) of the *Environmental Planning and Assessment Act 1979*, I, the Minister for Planning grant a "deferred commencement" consent to the development application referred to in Schedule 1, subject to the conditions in Schedule 2.

These conditions are necessary to:

- (i) Minimise any adverse environmental impacts associated with the development;
- (ii) Ensure consistency with the *Berowra Waters Plan of Management*;
- (iii) Provide for the on-going environmental management of the development; and
- (iv) Provide for regular monitoring and reporting on the development.

Andrew Refshauge MP
Minister for Planning

Sydney,

20 December 2001

File No: S00/01863

Schedule 1

Development Application: DA No. 152-06-01.

Applicant: Cameron Brae Pty. Ltd.

Consent Authority: Minister for Planning.

Land: Lot 2 DP 610018.

Proposed Development: The proposed development involves:

- Constructing and using a car park with 34 car parking spaces and two bus spaces;
- Erecting a 2 metre high black chain fence around the new car park with locked gates;
- Constructing a B-type intersection from Bay Road to the property;
- Constructing a driveway from the new exit/entry on Bay Road to the car park;
- Constructing a drainage line (with a detention basin, trash rack and oil separator) from the car park towards the existing dam on the property; and
- Landscaping of the site.

State Significant Development: The proposed development is classified as State Significant Development under Section 76A(7)(c) of the *Environmental Planning and Assessment Act 1979*.

Integrated Development: The proposed development requires an approval from Hornsby Council under Section 138 of the *Roads Act 1993*, and is therefore classified as Integrated Development under Section 91 of the *Environmental Planning and Assessment Act 1979*.

SCHEDULE 2 CONDITIONS OF CONSENT

DEFINITIONS

The Act	<i>Environmental Planning and Assessment Act 1979</i>
The Applicant	Cameron Brae Pty. Ltd.
BCA	Building Code of Australia
Council	Hornsby Shire Council
DA	Development Application
The Department	planningNSW
The Director-General	Director-General of planningNSW, or her delegate

GENERAL

Obligation to Minimise Harm to the Environment

1. The Applicant shall implement all practicable measures to prevent or minimise harm to the environment during the construction and operation of the development.

Terms of Approval

2. The Applicant shall carry out the development generally in accordance with the:
 - (a) DA submitted to Council by the Applicant on 15 October 1999;
 - (b) Plans accompanying the DA marked 49351.03.P01 (dated 31 August 1999), 49351.03.P03 (dated 16 November 1999), and 49351.03.P04 (dated 24 July 2001) prepared by Lean and Hayward Pty. Ltd.; and
 - (c) Conditions of this consent.
3. If there is any inconsistency between the above, the conditions of this consent shall prevail to the extent of the inconsistency.

4. The Applicant shall comply with any reasonable requirement/s of the Director-General arising from the Department's assessment of:
 - (a) Any report, plan, or correspondence submitted in accordance with the conditions of this consent; or
 - (b) The implementation of any actions or proposals contained in these reports, plans, or correspondence.

Deferred Commencement

5. The Applicant shall not carry out any of the proposed works without the written approval of the Minister. The Minister shall only grant this approval if, after 18 months from the granting of this "deferred commencement" consent the Applicant has been unable to provide the additional car parking spaces required by the consent for DA 149-06-01 adjacent to the Dusthole car park in general accordance with the parking strategy in *the Berowra Waters Plan of Management*, and the Applicant can demonstrate that it has taken all the reasonable measures available to provide this car parking.

Note: This condition seeks to ensure that the parking required by the original consent for the Berowra Waters Marina (DA 112/80) is provided close to the marina in accordance with the parking strategy in the Berowra Waters Plan of Management rather than at a remote location on this land at Berrilee.

Structural Adequacy

6. Before any construction work starts, the Applicant shall obtain a Construction Certificate for the proposed development from the Principal Certifying Authority.

Compliance

7. Throughout the life of the development, the Applicant shall secure, renew, maintain, and comply with all the relevant statutory approvals for the development.
8. The Applicant shall ensure that its employees, contractors, sub-contractors, and lessees are aware of, and comply with the conditions of this consent.
9. Before construction starts, the Applicant shall certify in writing to the Director-General that it has obtained all the necessary statutory approvals for the construction works, and complied with all the relevant conditions of this consent and/or any other statutory requirements for this development.
10. Before commissioning the new car park, the Applicant shall certify in writing to the Director-General that it has obtained all the necessary statutory approvals for the proposed development's operations, and complied with all the relevant conditions of this consent and/or any other statutory requirements for the development.

SPECIFIC ENVIRONMENTAL CONDITIONS

Limits on Operations

11. The car park shall only operate between 7am and 9.00pm each day, although vehicles may be stored overnight in the car park.

Monitoring

12. Throughout the life of the development, unless the Director-General directs otherwise, the Applicant shall keep detailed records of the use of the car park.

Car Parking

13. The Applicant shall design and construct the parking spaces and aisle widths in accordance with *AS 2890.1-1993 Parking Facilities: Off-Street Car Parking*.
14. The Applicant shall use crushed sandstone for the surface of the car park and the base of the access road.

Road Works

15. The Applicant shall widen Bay Road, provide an exclusive right turn bay and intersection in general accordance with Plan 49351.03.PO4 (dated 24 July 2001) prepared by Lean and Hayward Pty. Ltd., and install appropriate curve warning and advisory signs for the final design centreline geometry of Bay Road. The sight distance requirements of the intersection shall be in accordance with the Roads and Traffic Authority's *Road Design Guide 1993* (January 2000) for a 70 km/hr design speed¹.
16. The Applicant shall provide a standard rural vehicular footway crossing with a width of 6 metres to the car park in accordance with Council's specification, including road construction adjacent to the crossing and splayed at 45 degrees with a minimum pavement thickness of 150mm D.G.B. 20 sealed with 25mm AC10².
17. Before carrying out any of the new road works, the Applicant shall submit:
 - (a) Detailed plans for the proposed works³;
 - (b) A Traffic Management Plan for the proposed works that has been prepared in strict accordance with *AS 1742.3 Traffic Control Devices for Works on Roads*⁴;
 - (c) A Soil Erosion and Sediment Control Plan for the proposed works that has been prepared in accordance with Council's *Soil Erosion and Sediment Control Policy*⁵;to the Council for approval.

¹ Council GTA3.

² Council GTA 2.

³ Council GTA 1.

⁴ Council GTA 5.

⁵ Council GTA 10.

18. All engineering works associated with the proposed road works shall be constructed in accordance with:
- (a) *Australian Rainfall and Run-Off 1987*; and
 - (b) Council's *Civil Works Design and Construction Specifications 1999*⁶.
19. Before commissioning the new road works, the Applicant shall:
- (a) Submit a Compliance Certificate to Council for each nominated stage of the development, certifying that the engineering works comply with the development consent, construction certificate, and Council's *Civil Works - Design and Construction Specification*;
 - (b) Submit a Work-As-Executed plan, that has been prepared by a registered surveyor, to Council for all the works that are approved under the *Roads Act 1993*; and, if any public assets in the vicinity of the site are damaged during the proposed construction works,
 - (c) Repair, or pay the full cost of repairing, these public assets⁷.

Note: The Applicant will require a separate approval for these works under the Roads Act 1993 from Council with the concurrence of the Roads and Traffic Authority.

Landscape Management

20. The Applicant shall not remove or damage the trees numbered 3006, 3098, 3092, 3035, 3059, 3032, 3037, 3063, 3062, 3034, 3089, 3091, 3090, 3099, 3094, 3113, 3108, 3109, 3107, and 3110 on plan 49531.03.P03 without the prior written approval of the Director-General.
21. Before commissioning the new car park, the Applicant shall remove, and dispose of, all weeds and/or noxious or invasive plants (such as Blackberry, Lantana, Cafton Weed, and Watsonia) in the area surrounding the car park using appropriate bush regeneration methods.
- Note: For further advice on appropriate bush regeneration methods, or the relevant weeds and/or noxious or invasive plants, contact Council's Water Catchments Team.*
22. Throughout the life of the development, the Applicant shall ensure that area surrounding the car park remains free of weeds, and/or noxious or invasive plants.
23. The Applicant shall prepare and implement a Landscape Management Plan for the proposed development, which includes a:
- Tree, Vegetation, and Weed Removal Plan;
 - Tree and Vegetation Protection Plan; and
 - Site Rehabilitation and Landscaping Plan.
24. The Tree, Vegetation, and Weed Removal Plan must:
- Identify precisely what trees, vegetation, and weeds will be removed during the construction of the proposed development;
 - Describe how these trees, vegetation, and weeds will be removed;
 - Identify what vegetation would be reused to rehabilitate and landscape the site following construction, and describe how this vegetation will be removed, stored, and maintained until it is reused;
 - Describe how the remaining vegetation and weeds would be disposed of;
 - Identify the potential impacts associated with the removal of these trees, vegetation, and weeds; and
 - Describe what actions and measures will be implemented to minimise these potential impacts.
25. The Tree and Vegetation Protection Plan must:

⁶ Council GTA 4.

⁷ Council GTAs 8, 11, 12.

- Identify the trees and vegetation that will remain on the site following the site clearing proposed in the Tree, Vegetation, and Weed Removal Plan;
- Identify the construction activities that could damage the remaining trees and vegetation;
- Describe in detail what actions or measures will be implemented to ensure that the remaining trees and vegetation are protected during the construction works; and
- Describe when and how these works will be implemented;
- Describe how the effectiveness of these measures will be monitored during the construction works, and identify what actions or procedures will be implemented if these measures are ineffective.

26. The Site Rehabilitation and Landscaping Plan must:

- Describe in detail how the site will be rehabilitated following construction;
- Describe in detail how the site will be landscaped following construction to reduce the visual impact of the development on Bay Road and improve the general amenity of the car park;
- Identify the species of the plants that will be used in the landscaping;
- Describe what actions or measures will be implemented to minimise any potential impacts associated with the site rehabilitation and landscaping; and
- Describe how the proposed landscaping will be maintained throughout the life of the development.

Stormwater Management Scheme

27. The Applicant shall submit a detailed Stormwater Management Scheme for the development - which can satisfactorily drain rainfall intensities for an average recurrence interval of 20 years, and which has been prepared in accordance with Council's *Civil Works Design and Construction Specifications 1999* - to the Director-General for approval with the Construction Management Plan.

Lighting

28. The Applicant shall ensure that any external lighting associated with the development:
- (a) Uses the minimum level of illumination necessary; and
 - (b) Is mounted, screened, and directed in such a manner so that it does not create a nuisance to surrounding land uses
29. The Applicant shall submit the detailed plans for the proposed external lighting to the Director-General for approval with the Construction Management Plan.

Construction Hours

30. All construction work associated with the development shall be carried out between 7am and 6pm Monday to Friday, or between 8am and 1pm on Saturdays.
31. No construction work shall be carried out on Sundays or public holidays.

ENVIRONMENTAL MANAGEMENT PLANS

Construction Management Plan

32. The Applicant shall prepare and implement a Construction Management Plan for the proposed development. This plan must:
- a) Describe the proposed construction works (including the proposed site works and road works);
 - b) Outline the proposed construction program;
 - c) Set standards and/or performance measures for the relevant environmental issues associated with the construction work;

- d) Describe what actions and measures will be implemented to mitigate the potential impacts of these construction works, and to ensure that these works will comply with the relevant standards and/or performance measures;
 - e) Describe what procedures will be implemented to:
 - Register, report, and respond to any complaints during the construction works; and
 - Ensure the operational health and safety of construction workers;
 - f) Identify the key personnel who will be involved in the construction, and provide contact numbers for this personnel;
 - g) Explain how the environmental performance of the construction works will be monitored, and what actions will be taken if any non-compliance is detected;
 - h) Include the detailed plans for the proposed external lighting at the car park; and
 - i) Include a detailed:
 - Erosion and Sediment Control Management Plan, which has been prepared in accordance with the Department of Housing's guidelines *Managing Urban Stormwater: Soils and Construction* and Council's *Soil Erosion and Sediment Control Policy*;
 - Stormwater Management Scheme;
 - Landscape Management Plan
 - Construction Traffic Management Plan, which includes the proposed traffic management arrangements for the proposed road works in Bay Road, which must be in strict compliance with the requirements of *AS 1742.3 Traffic Control Devices for Works on Roads*; and
 - Construction Dust and Noise Management Plan.
33. The Applicant shall not carry out any construction works (including site works) before the Director-General has approved the Construction Management Plan for the proposed development.

Environmental Management Plan

34. The Applicant shall prepare and implement an Environmental Management Plan for the proposed operation of the car park. This plan must:
- (a) Describe the proposed operations;
 - (b) Identify all the relevant statutory requirements that apply to these operations;
 - (c) Set standards and/or performance measures for each of the relevant environmental issues;
 - (d) Describe what actions and measures will be implemented to mitigate the potential impacts of the development, and to ensure that the development meets these standards and/or performance measures.
 - (e) Describe what measures and procedures will be implemented to register, report, and respond to complaints during operations;
 - (f) Describe the role, responsibility, authority, and accountability of all key personnel involved in the car park's operations; and
 - (g) Include a detailed:
 - Car Parking Management Plan, which (among other things) clearly describes how the car park would be managed in association with the operations at the Berowra Waters Marina;
 - Landscaping Management Plan; and
 - Noise Management.
35. The Applicant shall not commission the new car park before the Director-General has approved the Environmental Management Plan for the proposed operations.
36. The Applicant shall make a copy of this Environmental Management Plan available to the public on request.
37. The Applicant shall review and update this Environmental Management Plan regularly, or as directed by the Director-General.

ANNUAL ENVIRONMENTAL REPORT

38. Within 12 months of commissioning the new car park, and annually thereafter, the Applicant shall submit an Annual Environmental report to the Director-General on the proposed development. This report shall:
- (a) Summarise the results of the monitoring;
 - (b) Analyse these results in relation to previous results (when these results are available);
 - (c) Describe any complaints that have been made about the proposed development over the previous year, and explain how these complaints were handled, and what (if any) actions or measures were implemented as a result of these complaints;
 - (d) Review the adequacy of the Environmental Management Plan; and
 - (e) Identify any actions or measures that will be implemented to improve the performance of the proposed development and/or the Environmental Management Plan.

INDEPENDENT ENVIRONMENTAL AUDIT

39. If after assessing the Annual Environmental Report, the Director-General directs the Applicant to commission an independent environmental audit of the proposed development, then the Applicant shall commission, and pay the full cost of, this audit. This audit must:
- (a) Be conducted by a suitably qualified, experienced, and independent person whose appointment has been endorsed by the Director-General before the audit starts;
 - (b) Assess the environmental performance of the proposed development, and its impacts on the surrounding environment;
 - (c) Assess whether the proposed development is complying with the relevant standards, performance measures, and statutory requirements;
 - (d) Review the adequacy of the proposed development's Environmental Management Plan; and, if necessary,
 - (e) Recommend measures or actions to improve the environmental performance of the proposed development, and/or its Environmental Management Plan.
40. Within 1 month of commissioning the audit, the Applicant shall submit a copy of the Independent Environmental Audit report to the Director-General.

DISPUTE RESOLUTION

41. If the Applicant, Council, and/or any NSW Government agency (other than the Department), cannot agree on any aspect of these conditions - apart from a General Term of Approval - then the dispute shall be referred to the Director-General (or, if necessary, the Minister), whose determination on the matter shall be binding on all parties.