

25 February 2022

Our Ref: PR11432

Stephen Pelosi
Managing Director
Berwick EVP Pty Ltd

Enquiries: Jai Ananda
Telephone: 08 9311 8111
Email: admin@vicpark.wa.gov.au
Your Ref:

Level 4 40 Miller St
North Sydney, NSW 2060

Dear Mr Pelosi

RE: Lot 3 (384) Berwick Street, East Victoria Park – Outstanding site issues

Referring to the recent discussions between yourself and the Town's Chief Operations Officer, Natalie Adams on the 10 December 2021, and in line with the correspondence provided by the Town's Frank Squadrito and Jai Ananda, please find below a list of outstanding matters that must be addressed and resolved to the Town's satisfaction prior to the issue of clearance for subdivision.

The Town assumes that the entity, Berwick EVP Pty Ltd is the responsible entity and Developer to whom this letter should be directed and that you are an authorised representative of the Developer. Please advise if this is not the case. Furthermore, all dues shall be paid in full to the Town before the cease-and-desist directive is lifted. This requirement is managed separately to normal development condition clearance requirements such as those related to POS contribution.

1. As you are aware, gravity sewer infrastructure has been installed within Town land without Town approval. The Town requests that Berwick EVP Pty Ltd address and resolve/compensate for damages caused during the realignment and installation of the gravity sewer infrastructure within Edward Millen Reserve and Hillview Bushland respectively.

Listed below are the items of concern as previously highlighted that must be agreed to and actioned:

- i. Unauthorised tree removal on Edward Millen Reserve – Given that the vegetation has already been removed, the Town is willing to consider monetary compensation. The Town requires a replacement ratio of 6:1 including operating costs for a minimum 3-year establishment period. The cost of this arrangement shall be paid to the Town. The total compensation to be paid to the Town is \$16,985. A full breakdown is available upon request.
- ii. Reinstatement of damage to mud path of cultural significance on the Hill View Bushland site – Correspondence has previously been provided on this matter. Berwick EVP Pty Ltd shall engage and pay the Town’s authorised contractor directly to complete the reinstatement.
- iii. Unauthorised open pit excavation with no earth retention on Edward Millen Reserve - Prior to backfilling the Developer shall submit to the Town for approval the backfilling methodology including thickness of backfill layering and compaction effort. As a minimum, the pit shall be backfilled with imported clean fill material, post inspection by the Town and after Water Corporation’s full transfer of infrastructure sign-off. In the interim, please ensure your contractor encloses the area with temporary fencing to make it safe and maintain it to prevent any risk liabilities affecting the Town. Please provide the date for which you intend to undertake works so that approval of access can be granted by the Town, separate to the cease-and-desist order.
- iv. A formal agreement shall be prepared by the Developer or its representative regarding the reinstatement and regrading of the existing fire track within the bushland- Profile the natural surface to ensure that the crossfall drains stormwater away from the newly built retaining wall. This will assist with natural infiltration of the stormwater run-off along the boundary. The Developer shall provide the scope of works and specifications in writing for the Town’s review and approval. This may include longitudinal vertical design drawings with cross sections of the finished surface levels.
- v. Unauthorised installation of a soakwell within Hillview Bushland – The Town did not authorise the installation of the soakwell. However, the Town may consider leaving the soakwell in place if you agree with the following:
 - a. The Developer shall assume all liabilities associated with overland flow from the Hillview Bushland access track. This shall include the effectiveness of the drainage solution implemented onsite without the

Town's approval such as the performance of the soakwell installed within the Hillview Bushland. We understand that the Developer installed the soakwell to ensure that potential stormwater surface runoff from the Hillview Bushland will not enter Lot 3.

- b. The Developer shall confirm in writing that the unauthorised soakwell installed in Hillview Bushland has been designed and installed to prevent any stormwater entering Lot 3 from the Hillview Bushland. The applicant or its representatives shall indemnify the Town against any liabilities or remedial actions required due to the storm water drainage solution implemented within the Bushland not being effective in preventing cross boundary flows.
- c. There shall be no costs attributed to the Town for the soakwell or its installation.

If the Developer does not agree to the above, the Town will require the soakwell to be removed and the area reinstated. The Developer shall provide the scope of works and specifications in writing for the Town's review and approval prior to undertaking remedial works.

- vi. Unauthorised hydro mulch applied to seal the topsoil in Edward Millen Reserve and Hillview Bushland – details of hydro-mulch used was not provided to the Town and soil contamination may have occurred. Submit to the Town the product information of the hydromulch used and provide the results of soil testing undertaken at the Developer's cost by appropriately certified environmental engineering consultant to comply with the Town's requirements. The Developer acknowledges they are responsible for any remediation required as result of adverse findings.
 - vii. The Developer shall submit to the Town the details of any further proposed stabilisation for the disturbed areas. Proposed stabilisation shall only take place with the approval of the Town.
2. Fulfil Condition 11(b) of WAPC Approval Letter 285-20.

This condition requires submission by the applicant/Developer engineering drawings to meet the Town's requirements. The design shall ensure that accessways that have

been designed to connect with existing roads abutting the subject land, namely, Berwick Street, Ballie Avenue and Carson Street, are coordinated such that the road alignment and width blend seamlessly with the existing.

To meet the objective of the above condition, the Town has already provided design guidance regarding the proposed geometry of the road bend at the Ballie Avenue and Carson Street junction.

The applicant has not provided an adequate design that guides the scope or bill of quantities to determine bonding amounts and responsibilities for the outstanding works. The bond amount shall be calculated and certified by a qualified engineering consultant based on acceptable current industry practice and rates.

3. Address the damaged public footpath on Berwick St. Reinststate the footpath with the correct width and on the correct alignment, and in accordance with the specifications of the Town. Construct the new footpath to comply with the Town's requirements prior to issuing of clearance.

4. Relocation of Western Power District Transformer from Lot 3 to relocation from Lot 3 to the corner of the Edward Millen Reserve was discussed and considered as an option subsequent to the email to the CEO (Chief Executive Officer) of the Town of Victoria Park.

At the time, the relocation to the verge on the Ballie Ave was found to be unfeasible, hence was not considered. Furthermore, future development of the Edward Millen Reserve, associated access arrangements, removal of vegetation and parking on the verge were the matters of concern.

The current location of the Transformer relocation, next to the disused sump near the north-western corner of the Edward Millen Reserve was considered and accepted by the Town post 9th February 2021.

The concern of the impact of the transformer relocation had on the future development of the Edward Millen Reserve was raised by the Town in the letter issued to Mr Stephen Pelosi (Ref: 005.2020.00000587.001) on 9th February 2021.

Currently, for the Town to provide a written approval towards the construction of the concrete pad prior to finalising the works from Western Power, the individual stake of all the stake holders of the Edward Millen Reserve must to be considered.

For the Town to endorse the covenant interests in this regard, all the matters of concern shall be addressed, appropriate actions and reports submitted to the Town-

- i. Submit a certified valuation report quantifying the loss in future value affecting Edward Millen Reserve due to the installation of Western Power Transformer within Edward Millen Reserve.
- ii. To guide the determination of the compensation, amount payable to the Town, the gross area of the transformer footprint which is the total of fire exclusion zone and easement in gross in area, calculated to 18m radius from the transformer. These requirements are quite onerous on any future development within the Edward Millen site.
- iii. This requirement should not be misconstrued as approval for the area to be used for this purpose as there is currently no such approval granted in writing from the Town of Victoria Park.
- iv. Plans to revive and reuse the disused sump in the north-western corner of the Edward Millen Reserve is in discussion with the new land lessee.
- v. Commit to removal & replacement charges, plus pruning costs for the two remaining large trees on each side of the transformer site. Quoted on 19/01/2022 for tree ID 21389, 21391 at Edward Millen Building Grounds, the total cost tree clearance is \$2397.91
- vi. 18m wide separation zone also called "easement in gross" sought by the Developer/western power will have implications for the Edward Millen Adaptive Heritage Redevelopment. The Lessee has advised that the "easement in gross" has adverse impact on their project. This matter is currently in discussion with the Lessee and is subject to negotiation.
- vii. The structural design and drawings or the pad base, columns and floor beams (if any) shall be submitted to the Town prior to obtaining Town's approval.
- viii. Must submit a geotechnical report signed off by a certified geo technical engineer on slope stabilization method adopted to stabilize the slope of the sump based on slope failure analysis with rim of the sump pit loaded to the gross weight of the transformer station at completion.

- ix. Registration of easements or reservations on the Edward Millen Reserve, because of installation of Infrastructure of Public Utility, will require prior written consent from the Minister for Lands, Department of Planning, Lands and Heritage.
 - x. Based on discussions held with stakeholders including Blackoak Pty Ltd, this matter will be further discussed with Berwick EVP Pty Ltd
5. Address and commit to the replacement of damaged fencing along the proper boundary line between Lot 3, the Hillview Bushland, and the adjacent school.

The applicant to supply the fencing design and details along the boundary of Lot 3 and Edward Millen reserve, prior to the installation.

Applicant should supply full details of material, design, and specifications for the fencing within the easement area of the transformer - along the boundary of Lot 3 and Edward Millen Reserve, along the access leg and around the Transformer.

The Town's fences shall be reinstalled using new materials of the same type as the existing to address all damages to the fence because of the site construction works.

The Town appreciates the cooperation demonstrated by Berwick EVP Pty Ltd and looks forward to the above matters being addressed in order for the engineering clearance to be formalised. For further information, please contact Mr Jai Ananda on 9311 8111 or email jananda@vicpark.wa.gov.au

Yours sincerely



John Wong

Manager Technical Services