



**Department of
Primary Industries**
Office of Water

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The General Manager
Penrith City Council
PO Box 60
Penrith NSW 2751

Our ref: 10 ERM2011/1085
Our file:
Your ref: 11/1445

Attention: Gurvinder Singh



13 March 2012

Dear Sir

Re: Integrated Development Referral – Two General Terms of Approval for (1) water use approval and a Water Access Licence and (2) controlled activity approval
Dev Ref: 11/1445. Luddenham Memorial Park (new cemetery and crematorium)
Site location: 2207-2223 Elizabeth Drive, Luddenham

I refer to your recent letter regarding an integrated Development Application (DA) proposed for the subject property.

Attached are two sets of General Terms of Approval (GTA) for approvals.

(1) GTA for work/s on waterfront land requiring a controlled activity approval (CAA) under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Waterfront land includes (i) the bed of any river together with any land within 40 metres inland of the highest bank of the river, or (ii) the bed of any lake, together with any land within 40 metres of the shore of the lake, or (iii) the bed of any estuary, together with any land within 40 metres inland of the mean high water mark of the estuary.

As the controlled activity to be carried out on waterfront land cannot commence before the applicant applies for and obtains a CAA, the Office of Water recommends the following condition be included in the development consent:

"The Construction Certificate will not be issued over any part of the site requiring a controlled activity approval (CAA) until a copy of the CAA has been provided to Council".

(2). GTA for the use of water from a large dam towards the front of the property and several other smaller dams interspersed throughout the property. The Office has determined that a Water Use Approval and a Water Access Licence (WAL) under the *Water Management Act 2000* (WM Act), are required if water is to be extracted from the dams.

The dam closest to Elizabeth Drive is on a "river" as defined in the *Water Management Act 2000* while the other three dams are within the "Harvestable Right" for the property.

- For this proposal to proceed as currently presented, the applicant will be required to purchase a water allocation (WAL) from another WAL holder within the Upper South Creek Management Zone as outlined in the trading rules within the Water Sharing Plan for the Greater Metropolitan Region Unregulated Water Sources. (Attached).
- Currently the use of any water for any purpose other than stock and domestic is unlawful.
- As it is expected that it could be very difficult for the applicant to purchase water from another WAL holder it is recommended, particularly if the proposal is reliant on the use of surface water, that the consent authority make any consent with a **deferred commencement** until the applicant can demonstrate the gaining all the appropriate water licencing and water allocations to the volumes required for the success of this project.

Please note Council's statutory obligations under section 91A(3) of the *Environmental Planning and Assessment Act, 1979* (EPA Act) which requires a consent, granted by a consent authority, to be consistent with the GTA proposed to be granted by the approval body.

If the proposed development is approved by Council, the Office of Water requests that these GTA be included (in their entirety) in Council's development consent. Please also note the following:

- The Office of Water should be notified if any plans or documents are amended and these amendments result in more than minimal change to the proposed development or in additional works on waterfront land.

Once notified, the Office of Water will ascertain if the amended plans require review or variation/s to the GTA. This requirement applies even if the proposed works are part of Council's proposed consent conditions and do not appear in the original documentation.

- The Office of Water should be notified if Council receives an application to modify the development consent if the modification relates to a matter covered by our GTA. Failure to notify may render the consent invalid.
- The Office of Water requests notification of any legal challenge to the consent.

Under section 91A(6) of the EPA Act, Council must provide the Office of Water with a copy of any determination/s including refusals.

The attached GTA are not the controlled activity approval, nor the water supply works approval, and/or Water Access License. The applicant must apply (to the Office of Water) for a controlled activity approval, Water Supply Works Approval, and/or Water Access Licence **after consent** have been issued by Council **and before** the commencement of any works.

Finalisation of any approvals can take up to eight (8) weeks from the date the Office of Water receives all documentation (to its satisfaction). Applicants must complete and submit (to the undersigned) an application form together with any required plans, documents, the appropriate fee and security (if applicable) and proof of Council's development consent.

For further assistance regarding controlled activity approvals, please contact Greg Brady on 4729-8134 or greg.brady@water.nsw.gov.au

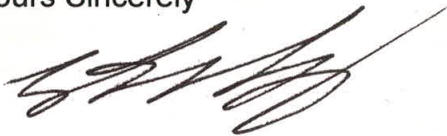
Application forms for the CAA are available from the undersigned or from the NSW Office of Water's website:

www.water.nsw.gov.au [Water licensing](#) » [Approvals](#) » Controlled activities

For further assistance regarding Water Supply Works Approval and Water Access Licence, please contact John Galea on 4729-8122 or john.galea@water.nsw.gov.au

The Office of Water requests that Council provide a copy of this letter to the applicant.

Yours Sincerely



Greg Brady
Licensing Officer
Office of Water - Licensing Operations South

General Terms of Approval

**for work requiring a controlled activity approval
under the Water Management Act 2000**

Our Reference: 10 ERM2011/1085

File No:

Site Address: 2207-2223 Elizabeth Drive, Luddenham

DA Number: 11/1445

LGA: Penrith City Council

Number	Condition
Plans, standards and guidelines	
1	<p>These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to 11/1445 and provided by Council:</p> <p>(i) Site plan, map and/or surveys</p> <p>Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.</p>
2	<p>Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.</p>
3	<p>The consent holder must prepare or commission the preparation of:</p> <p>(i) Vegetation Management Plan</p> <p>(ii) Erosion and Sediment Control Plan</p> <p>(iii) Soil and Water Management Plan</p>
4	<p>All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with the NSW Office of Water's guidelines located at www.water.nsw.gov.au/Water-Licensing/Approvals/default.aspx</p> <p>(i) Riparian Corridors</p> <p>(ii) In-stream works</p> <p>(iii) Outlet structures</p> <p>(iv) Watercourse crossings</p>
5	<p>The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water.</p>
6	<p>The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the NSW Office of Water.</p>
7	<p>The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity</p>

Our Reference: 10 ERM2011/1085
Site Address: 2207-2223 Elizabeth Drive, Luddenham
DA Number: 11/1445
LGA: Penrith City Council

File No:

Number	Condition
	in accordance with a plan or design approved by the NSW Office of Water.
8	The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the NSW Office of Water as required.
9	The consent holder must provide a security deposit (bank guarantee or cash bond) - equal to the sum of the cost of complying with the obligations under any approval - to the NSW Office of Water as and when required.
10	N/A
11	The consent holder must not locate ramps, stairs, access ways, cycle paths, pedestrian paths or any other non-vehicular form of access way in a riparian corridor other than in accordance with a plan approved by the NSW Office of Water.
12	The consent holder must ensure that the construction of any bridge, causeway, culvert or crossing does not result in erosion, obstruction of flow, destabilisation or damage to the bed or banks of the river or waterfront land, other than in accordance with a plan approved by the NSW Office of Water.
13	N/A
14	The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by the NSW Office of Water.
15	N/A
16	The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by the NSW Office of Water.
17	The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.
18	The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the NSW Office of Water.
19	The consent holder must ensure that any excavation does not result in (i) diversion of any river (ii) bed or bank instability or (iii) damage to native vegetation within the area where a controlled activity has been authorised, other than in accordance with a plan approved by the NSW Office of Water.
20	N/A
21	N/A
22	N/A
23	The consent holder must establish a riparian corridor along Creek Name in accordance with a plan approved by the NSW Office of Water.
END OF CONDITIONS	

OFFICE OF WATER

Our Ref: ERM2011/1085

Your Ref: DA11/1445

Integrated Development Assessment

The Office of Water provides the following comments on the above proposal:

Dam Licensing

The proposal includes works subject to the Office of Water's Farm Dams Policy, which became effective on 1/1/99.

Under the policy the Maximum Harvestable Right Dam Capacity (MHRDC) for a particular property is determined by:

Property Area (hectares) X MHRDC Factor = MHRDC (megalitres).

The property area is estimated to be 36.61 hectares.

The property location at 2207-2223 Elizabeth Drive, LUDDENHAM corresponds to a MHRDC Factor of 0.08 ML/ha.

In this instance therefore $MHRDC = 36.61 \times 0.08 = 2.9$ megalitres

There are three existing small dams on the property, volume unknown. These dams can be used for irrigation water supply without a licence as they are within the harvestable right for the property. If they are increased in size in any way, they will need to be licensed.

The applicant will be required to purchase a WAL to enable them to extract water out of the "river" dam towards the front of the property.



General Terms of Approval

for work requiring a water supply works approval
under the Water Management Act 2000

Our Reference:	ERM2011-1445	File No:
Site Address:	2207-2223 Elizabeth Drive, LUDENHAM	
DA Number:	DA-11/1445	
LGA:	Penrith City Council	

Standard

1. The General Terms of Approval (GTAs) relate to the above development within the proposed development site.
2. The GTAs do not constitute an approval under the *Water Management Act 2000 (WMA)*.
3. If the consent authority determines to grant consent, the GTAs are to form part of the development consent.
4. Any amendments to the development application may void these GTAs.
5. The applicant will be required to purchase a WAL to enable them to extract water out of the "river" dam towards the front of the property.
6. The consent holder must apply to the NSW Office of Water before modifications the "river" dam any increase in size/volume would not be allowed.
7. The consent holder must submit to the NSW Office of Water (NOW), a completed application form for a water supply works approval prior to the commencement of any development / works for new or modified dams or ponds that propose to capture more rainfall runoff than the harvestable right associated with the development.
8. The application for a water supply works approval is subject to the assessment provisions of the Water Management Act 2000, which may take up to 6 months to assess, including public advertisement of the proposal. The consent holder must not construct any water supply works until approval is obtained by NOW.
9. The consent holder must obtain a water access licence to extract water from a water source if the volume of water to be extracted is in excess of the harvestable rights provisions for the development prior to extracting any water from a water source.
10. Works Approval applications are required to be in accordance with the GTAs.

Works Approval Application

11. The consent holder must provide the following with the works approval application:
 - (a) A copy of the development consent
 - (b) Appropriate fee (to be determined once DA is granted)

Works

12. The approval holder must not allow any tailwater or drainage water to discharge, by any means including surface or sub-surface drains or pipes, from the approval holders property, into or onto:-
 - any adjoining public or crown road
 - any other persons land
 - any crown land
 - any river, creek or watercourse
 - any groundwater aquifer
 - any area of native vegetation as described in the Native Vegetation Conservation Act 1997 or the Native Vegetation Act 2003.

- any wetlands of environmental significance
- any identified site of aboriginal significance
- any identified site of cultural significance

13. Your attention is particularly drawn to the provisions of condition (12) regarding disposal of drainage waters. The discharge of polluted waters into a river or lake otherwise than in accordance with the conditions of a license under the Protection of the Environment Operations Act may render the offender subject to prosecution and penalty under the Act. Therefore where an approved drainage disposal system involves the possible discharge of drainage water into a river or lake, a license may be required under the Protection of the Environment Operations Act to authorise such discharge.
14. The location of the dam as shown on a plan retained in the Office of Water shall not be altered. Please be advised that any installation of an additional dam and/or enlargement of an existing dam may require further local council approval and/or an amended approval from the Office of Water.
15. The existing profile of the channel and bank of any watercourse or drainage depression must not be disturbed any more than is necessary in order to site and maintain the authorised work. Any area that is disturbed when carrying out such work must be stabilised and maintained by vegetation cover, stone pitching or any other approved material as directed and to this Department satisfaction so as to prevent the occurrence of erosion.
16. The holder of the approval must not construct or install works used for conveying, distributing or storing water taken by means of the approved work that obstruct the reasonable passage of floodwaters other than that water that is to be impounded or obstructed.
17. The pumping and ancillary equipment and pump site shall be, at all times, properly secured and/or sealed as to prevent leakage of petroleum based products and/or noxious material from entering any river or lake. Typically, a bunding wall of hay bales or other approved material shall be installed around the pumping plant to avoid contamination of any river or lake through spills or leaks of oils, fuels or greases.
18. Any drainage channels or cross banks associated with the authorised works or access roads to or from that work shall have installed and maintained a bunding wall of hay bales or other approved material, to prevent siltation reaching any river or lake.
19. The holder of the approval must construct and maintain the approved work in a safe and proper manner that will minimise the possibility of damage being occasioned by it, or resulting from it to any public or private interest.

Advisory Notes

1. For the purpose of the GTAs, the term 'consent holder' refers to the applicant for the integrated development application.
2. A works approval will not give the holder the right to use and occupy any land without the consent of the registered owner/s of the property.
3. A works approval will not relieve the approval holder of any obligations or requirements of any other acts, regulations, planning instruments or Australian standards.

Water Sharing Rules

South Creek Management Zones

Water Sharing Plan	
Plan	Greater Metropolitan Region Unregulated Water Sources
Plan Commencement Date	1 July 2011
Term of the Plan	10 years
Water Sharing Rules	These rules apply to all surface waters in the management zone.
Note: Two management zones (MZs) have been included in this rules summary as planning for the South Creek Catchment was undertaken as a single management unit.	
Boundary Definition	
Lower South Creek MZ	Includes the hydrological catchment of South Creek below river flow gauge 212048.
Upper South Creek MZ	Includes the hydrological catchment of South Creek at and above river flow gauge 212048.

Rules Summary	
The following rules are a guide only. For more information about your actual license conditions, please contact the NSW Office of Water in Parramatta, phone 8838 7531.	

Access Rules for the Upper South Creek Management Zone	
A class	Users must cease to pump when flows are at or less than 0.2 ML/day.
B class	Users must cease to pump when flows are at or less than 6.2 ML/day.
Commence to pump – A class only	Users may commence to pump when flows have exceeded 0.2 ML/day for a period of 24 hours.
Reference point	South Creek at the Great Western Highway (flow gauge 212048).
Access Rules for the Lower South Creek Management Zone	
A class only	Users must cease to pump when flows are at or less than 3 ML/day.
B class	Users must cease to pump when flows are at or less than 58 ML/day.
Daily flow sharing	Daily flow sharing may be introduced for A and B classes if discharge ceases from the sewerage treatment plant during the term of the plan.
Reference point	South Creek at the Richmond Road (flow gauge 212297).

Trading rules for the Upper South Creek Management Zone	
INTO management zone	Not permitted.
WITHIN management zone	Permitted, subject to assessment.
Conversion to High Flow Access Licence	Permitted with conversion rate of 1:2.5 for share components from unregulated river to unregulated river high flow access licences.
Trading onto a lagoon from a river	Not permitted.
Trading rules for the Lower South Creek Management Zone	
INTO management zone	Not permitted.
WITHIN management zone	Permitted, subject to assessment.
Conversion to High Flow Access Licence	Permitted with conversion rate of 1:2.5 for share components from unregulated river to unregulated river high flow access licences.
Trading onto a lagoon from a river	Not permitted.

More information about the macro planning process for the Greater Metropolitan Region Unregulated Water Sources is available at: www.water.nsw.gov.au.

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