

## BRIEFING DETAILS

<b>BRIEFING DATE / TIME</b>	Monday, 18 July 2022, 11:05am – 12:40pm
<b>LOCATION</b>	Teleconference

## BRIEFING MATTER(S)

PPSSWC-232 – Liverpool – DA-611/2018/A – 146 Newbridge Road, Moorebank – Modification to Development Consent DA-611/2018 under Section 4.55 (2) of the Environmental Planning and Assessment Act 1979, to the following deferred commencement conditions (DCCs) are deleted, and where required, replaced with general conditions:

DCC1. amendment to the VPA

DCC2. signalisation of the intersection of Brickmaker's Drive and new Link Road;

DCC3(a), 3(b), 3(c), 3(g) and 3(k) and DCC4 in relation to environmental management/contamination; and

DCC6. protocols for opening the marina basin to the Georges River

## PANEL MEMBERS

<b>IN ATTENDANCE</b>	Justin Doyle (Chair), Nicole Gurran, Angus Gordo, Ned Mannoun and Nathan Hagerty
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	Peter Harle Karress Rhodes: I was at the Council meeting and voted when the matter was raised through a Councillor Notice of Motion in the last term of Council.

## OTHER ATTENDEES

<b>COUNCIL ASSESSMENT STAFF</b>	Kevin Kim, William Attard, Rachel King, Lina Kakish and Neil Ramsay
<b>APPLICANT REPRESENTATIVE</b>	Ernest Dupere, Neil Ramsay and Phil Towler
<b>DPE</b>	George Dojas

## KEY ISSUES DISCUSSED

The Panel briefing was attended by representatives of both the Council and the Applicant. Progress in the assessment of each of the proposed modifications to the deferred commencement conditions of consent was discussed.

The following was considered as a way forward respectively in relation to each proposed modification:

- A. Proposed deletion of deferred commencement condition 1 in relation to replacement of the dedication required by item 1e on annexure 1 of the existing VPA with an easement for public access to the waterfront open space and deletion of easement for bridge over entrance to the Marina

The Panel was advised that the Council would now accept the dedication of the waterfront open space as provided for in the existing VPA, such that amendment of the VPA was no longer necessary. The

Council advised that the original requirement for a bridge over entrance to the Marina from the river has been removed and hence the need for an easement for the same could be deleted.

On that basis the Council supported the proposed modification to delete deferred commencement condition 1 but said amendment to the operational conditions may be necessary to address issues of timing in making good commitments under the existing VPA.

The Applicant was to supply the wording of any consequential revision to the wording of the operational conditions to Council staff.

- B. *Proposed deletion of deferred commencement condition 2 in relation to obtaining in-principle approval for the installation of traffic control signals at the intersection of Brickmakers Drive and new Link Road, in accordance with the TfNSW requirements.*

The Panel Chair noted that TfNSW had by email correspondence specifically communicated its objection to deletion of the deferred commencement requirement at this stage, which would not be lightly disregarded.

The Panel agreed that a representative of the Applicant and Council, together (if necessary) with the Chair of the Panel assisted by the Secretariat, should liaise with TfNSW to determine its requirements in relation to the intersection, or alternatively its agreement for the development consent to issue with resolution of that matter to be changed to an operational condition.

- C. *Proposed deletion of deferred commencement conditions 3 and 4 in relation to Council's satisfaction with the RAP for the contamination remediation.*

The briefing discussed the difficulty of finalising the Phase 2 assessment prior to removal of the stockpiles so that further testing beneath the stockpiles could be carried out.

Council's environmental officer indicated that Council was satisfied with the environmental management plan and remedial action plan (RAP) as presently submitted with respect to the matters raised for consideration by the deferred commencement condition at paragraphs (a) – (n), to the extent that they could be addressed prior to removal of the stockpiles. The Panel was advised that the RAP sufficiently controlled determination of the remediation required once the stockpiles were removed under the supervision and control of a site auditor.

The Panel was advised that some of the considerations raised by the deferred commencement condition should be preserved in the operational conditions. It was suggested the Applicant could submit to Council a draft of the proposed changes to the operational conditions for comment.

The operational conditions should include provision for '*Regular monitoring of the construction work by an appropriately qualified and independent person to take into account flood impacts on the property and adjoining properties, stormwater runoff, groundwater seepage, sediment and pollutant deposition in the basin*' (being the subject of deferred commencement condition 4. They should also ensure that at the appropriate time the Applicant's commitment to further develop the final remedial strategy as informed by further testing as it becomes feasible is mandated.

- D. *Proposed deletion of deferred commencement condition 6 in relation to protocols for opening the marina basin to the Georges River.*

The Applicant has now supplied some of the protocols required to address this matter, but it was accepted that they should be updated by the inclusion of additional wording that recognises the potential for a pollution incident due to the release of sediments into the river as a result of the basin opening operation.

Specifically, the protocols should include measures to ensure there will be no unintended pollution event in the river as a result of the entrance opening operation, an operation that it is recognised may involve disturbance of silt, soils or sand during the entrance creation operation prior to the final stabilised revetment design being implemented.

Relying on the tide to keep silt within the basin was unlikely to be sufficient, given that the process of opening the basin and stabilising the entrance configuration may take place over several tidal cycles

Once the protocols are updated, it may be that again an operational condition is required to enforce them.

It was suggested by Council's environmental officer that the process would be regulated by the EPA who would need to be satisfied of the methodology. If that is to be relied upon, the EPA's approval of the methodology should be expressly provided for by an update to the operational conditions.

Where amendments to the operational conditions are required to allow for deletion of the deferred commencement conditions, the Applicant and the Council should agree to the wording, with the Applicant confirming that it seeks to update its modification application to include that wording.

If a set of revised conditions can be agreed between the Council and the Applicant addressing the above matters, it should be supplied to the Panel. Subject to resolution of any issue emanating from TfNSW, the suitably amended modification application can then be determined electronically.

**TENTATIVE DETERMINATION DATE TBC.**