

BENEDICT INDUSTRIES PTY LTD
PO BOX 431
FRENCHS FOREST NSW 2086

SECTION 4.55(1A) MODIFICATION OF DEVELOPMENT CONSENT

(In accordance with the provisions under Section 4.55 of the *EP&A Act 1979*)

APPLICATION NO.: DA-611/2018/A
ADDRESS: LOT 70 DP 1254895 146 NEWBRIDGE ROAD, MOOREBANK NSW 2170
DEVELOPMENT DESCRIPTION: MODIFICATION TO DEVELOPMENT CONSENT DA-611/2018 UNDER SECTION 4.55 (1A) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979, TO THE FOLLOWING DEFERRED COMMENCE CONDITIONS (DCCS) ARE DELETED, AND WHERE REQUIRED, REPLACED WITH GENERAL CONDITIONS:
DCC1. AMENDMENT TO THE VPA
DCC2. GAIN IN-PRINCIPLE APPROVAL FROM TFNSW REGARDING THE SIGNALISATION OF THE INTERSECTION OF BRICKMAKER'S DRIVE AND NEW LINK ROAD; AND
DCC3(A), 3(B), 3(C), 3(G) AND 3(K) IN RELATION TO ENVIRONMENTAL MANAGEMENT/CONTAMINATION.
IT IS NOT PROPOSED TO MODIFY THE DESIGN, CONSTRUCTION OR OPERATION OF THE MARINA.

Reference is made to Modification Application DA-611/2018/A which seeks amendment to Development Consent 611/2018 issued for *Construction and operation of a Marina (Georges Cove Marina)*. The development consists of:

- A maritime building which will house a dry berth facility providing 250 berths, a function centre, tourist, entertainment, recreation and club facilities, a petrol storage tank (60,000 litres) and a diesel storage tank (60,000 litres).
- A wet berth facility for 186 craft (including casual berths) which will consist of a marina basin, rock protection of the basin and foreshore, including embellishment and revegetation of the river foreshore, construction of a navigation channel,

construction of public recreational facilities on the foreshore, floating berths and walkways, fuel pumping facilities, sewage pumpout facilities and emergency berth access.

- *Construction of three external car parking areas and basement car park providing a total of 637 car spaces.*
- *A private marina clubhouse.*
- *Associated works and support infrastructure including power, water and sewerage.*

Modification Application DA-611/2018/A seeks consent for:

- Deletion of Deferred Commencement Conditions 1, 2 and 4 contained in Part 1 – Deferred Commencement.
- Amendment of Deferred Commencement Condition 3 contained in Part 1 – Deferred Commencement
- Deletion of condition 125
- Amendment of condition 2(e), 8, 12, 28, 54, 56, 57, 88, 139, 170
- Insertion of condition 11a, 54a, 54b, 55a, 63 (a) to (d), 99a, 124a, 124b

Pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*, Council grants approval for the modifications sought. Accordingly, Development Consent 611/2018 has been amended as follows:

1. **The following condition/s have been deleted from Development Consent 611/2018:**

PART 1:

DEFERRED COMMENCEMENT

Development consent shall be deferred pursuant to Section 4.16(3) of the *Environmental Planning and Assessment Act 1979*, until the submission to Council of:

Voluntary Planning Agreement

- ~~1. Amendments to the Voluntary Planning Agreement applicable to this site executed by Tanlane Pty Ltd and Liverpool City Council (dated 11 June 2008) shall be completed prior to the issue of any operative consent. The amendment shall ensure that Item 1e on annexure 1 of the existing Agreement is removed and replaced with the granting of an easement in perpetuity for public access to the open space or as alternatively agreed by Council. The amendment shall also ensure deletion of easement for bridge over entrance to the Marina.~~

Intersection of Brickmaker's Drive and new Link Road



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2. ~~The applicant is to obtain in-principle approval for the installation of traffic control signals at the intersection of Brickmakers Drive and new Link Road from TfNSW. In order to obtain in-principle approval, the applicant is required to submit the design of the proposed traffic control signals at the intersection of Brickmakers Drive and the new Link Road in accordance with the TfNSW and Council requirements. The Traffic Control Signal (TCS) plans shall be drawn by a suitably qualified person and endorsed by a suitably qualified practitioner.~~

~~The road layout for the TCS and a revised SIDRA model is to be submitted to Council's Traffic and Transport Section for endorsement prior to detailed design. The road layout is to be made up of the following:~~

- ~~• Two southbound lanes from Newbridge Road to the intersection with the new Link Road.~~
- ~~• The northbound to accommodate the right turn bay for the 95-percentile queue and two northbound lanes.~~
- ~~• The eastern approach is to accommodate a right-turn bay for the 95-percentile queue and a left-turn lane.~~

~~The submitted design shall be in accordance with Austroads Guide to Road Design in association with relevant TfNSW supplements (available on www.rms.nsw.gov.au). The certified copies of the signal design and civil design plans shall be submitted to TfNSW and Council's Manager of Development Assessment for review and approval. Documents should be submitted to Development.Sydney@rms.gov.au.~~

4. ~~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.~~

DURING CONSTRUCTION

125. ~~The LTEMP and RAP (as resolved, updated and audited in the manner determined through satisfaction of deferred commencement condition 3) are to be complied with in the carrying out of the development.~~
2. **The following condition/s of Development Consent DA-611/2018 have been amended (highlighted in red) to read as follows:**

PART 1:

DEFERRED COMMENCEMENT

Development consent shall be deferred pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, until the submission to Council of:

Environmental Management

3. An environmental management plan (and any associated update to the remedial action plan (RAP)) reviewed and approved by a Site Auditor accredited under the



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Contaminated Land Management Act 1997 (CLM Act) is to be provided to the satisfaction of the Council with regards to contamination (and potential contamination) of any part of the site during and after construction in accordance with applicable guidelines made or approved by the NSW EPA under the Contaminated Land Management Act 1997, having regard to the potential effects of any contaminants on public health, the environment and building structures. **To the extent possible** that material is to include, address, be informed by **or require the preparation of:**

- a) All requirements prescribed by the NSW EPA in the General Terms of Approval dated 19th February 2020.
- b) A Phase 2 Detailed Site Investigation to be completed to meet the sampling density outlined in the NSW EPA Contaminated Sites Sampling Design Guidelines (1995) to be submitted to Liverpool City Council, Principal Certifying Authority, Appropriate Regulatory Authority and Site Auditor accredited under the Contaminated Land Management Act 1997.
- c) Updating of the Remediation Action Plan (RAP) with a site audit statement (SAS) including a Long-Term Environmental Management Plan (LTEMP) addressing the findings of the Detailed Site Investigation meeting NSW EPA guidelines and addressing the Secretary's Environmental Assessment Requirements (SEAR 912) as issued to Council on 9/10/18. The LTEMP is to provide a site-specific framework for managing and mitigating contamination for the life of the proposal. In addition, the LTEMP shall make provisions for auditing the effectiveness of the proposed environmental protection measures and procedures for ongoing site management. The LTEMP shall require periodic inspection by an environmental / geotechnical consultant to confirm the overall integrity of environmental protection measures and ensure compliance with the requirements of the LTEMP. A copy of the revised Remediation Action Plan and LTEMP shall be submitted to the Principal Certifying Authority, Appropriate Regulatory Authority and Site Auditor accredited under the Contaminated Land Management Act 1997.
- d) The location and maintenance of stockpiles created during construction that might include contaminated material and their protection against flood risk.
- e) The potential that flooding of the site will occur during construction uncovering or disturbing previously unknown contaminants.
- f) Procedures to be adopted in the event of any contaminant being encountered on the site during construction and for the life of the development (including a reporting protocol) and requiring an audited addendum to the remedial action plan (RAP) to be completed to address remediation of any such contaminant (and potential data gaps between the submitted PSI reports and the RAP) before construction continues.
- g) No remediation work is to proceed unless and until Council has confirmed its satisfaction with an audited RAP directed to that work and a Section B Site Audit Statement (SAS) having issued by the Site Auditor and supplied to the Council,



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concluding that the DSI report, the detailed plans and strategies provided by the RAP Addendum are acceptable.

- h) Validation of all remediation work.
- i) A Section A SAS (including any revision recommended by the auditor to the long-term environmental plan (LTEMP)) is to be provided to Council's satisfaction at the conclusion of remediation and bulk earthworks permitted by this development consent, prior to the issue of a construction certificate for the erection of the proposed marina buildings.
- j) Supervision of the implementation of the EMP during construction and in the long term if any contaminant is encountered during construction.
- k) Reimbursement of costs reasonably incurred by the Council in considering the RAP, DSI and SAS.
- l) Material tracking from cradle-to-grave, and
- m) Contingency planning.
- n) Known data gaps.

THE DEVELOPMENT

General Terms of Approval

- 2. All General Terms of Approval shall be complied with prior, during, and at the completion of construction and if required during the operation of the marina as required in accordance with the General Terms of Approval. A copy of the General Terms of Approval are attached to this decision notice and include:
 - (e) ~~Transport for NSW – State Environmental Planning Policy (Infrastructure) 2007, dated 9 September 2020.~~

Transport for NSW – reference no SYD18/01728/14, dated 05 August 2022.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

Voluntary Planning Agreement

- 8. The Voluntary Planning Agreement applicable to this site executed by Tanlane Pty Ltd and Liverpool City Council (dated 11 June 2008) is amended to ensure that Item 1e on annexure 1 is removed and replaced with granting of an easement in perpetuity for public access to the open space or as alternatively agreed by Council. The amendment shall also ensure deletion of easement for bridge over entrance to the Marina.

The Voluntary Planning Agreement between Tanlane Pty Ltd and Liverpool City Council, as amended, is executed.



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Confirmation shall be provided to the PCA that all requirements of the amended VPA applicable to this site that are to be met prior to the issue of a Construction Certificate (CC) have been met.

~~Any monetary contributions payable, any actions or works to be undertaken, or any other requirements of the VPA are to be in accordance with the executed Voluntary Planning Agreement applying to this site.~~

Construction Traffic Management Plan

12. A construction **pedestrian** traffic management plan (CPTMP) **detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control** is to be submitted to Liverpool City Council's Traffic and Transport Section for endorsement.

Construction Environmental Management Plan (CEMP)

28. Prior to issue of a construction certificate, a Construction Environmental Management Plan (CEMP) for the development must be provided to the Principal Certifying Authority for approval. The environmental site management measures must remain in place and be maintained throughout the period of the development. The CEMP must **be prepared by an appropriately qualified and independent person** address all environmental aspects of the development's construction phases, and include, where relevant, but not be limited to, the following:

- a) Asbestos Management Plan;
- b) Project Contact Information;
- c) Site Security Details;
- d) Timing and Sequencing Information;
- e) Site Soil and Water Management Plan, **including stormwater runoff, groundwater seepage, sediment and pollution deposition in the basin;**
- f) Noise and Vibration Control Plan;
- g) Dust Control Plan;
- h) Air Monitoring;
- i) Odour Control Plan;
- j) Health and Safety Plan;
- k) Waste Management Plan;
- l) Incident management contingency;
- m) Unexpected Finds Protocol;
- n) Landfill gas management during earthworks and construction;
- o) **Flood impacts on the property and adjoining properties; and**
- p) **Protocols for opening the basin to the Georges River.**

The CEMP must be kept on site for the duration of the works and must be made available to Council Officers upon request.

Access, Car Parking and Manoeuvring - General



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54. Detailed design plans for the proposed Brickmakers Drive and the New Link Road traffic control signals, other intersection treatment, road works, driveways, and car parks including swept path analysis, line markings and sign posting prepared in accordance with the DCP and AS2890 shall be submitted to Council's Traffic and Transport Team for review.

The applicant is required to submit the design of the proposed traffic control signals at the intersection of Brickmakers Drive and the new Link Road in accordance with the TfNSW and Council requirements.

The intersection treatment is to address all Council and TfNSW requirements. The design shall be in accordance with Austroads Guide to Road Design in association with relevant TfNSW supplements. The certified copies of the TCS design and civil design plans shall be submitted to TfNSW.

Overall, the design should demonstrate that the intersection would accommodate the 95 percentile queue lengths from the SIDRA analysis to Council and TfNSW satisfaction.

56. For the delivery of the approved Brickmakers Drive and New Link Road traffic signal control intersection improvement, the developer is to enter into a Works Authorisation Deed (WAD) with TfNSW for the installation of the required Traffic Control Signal (TCS). The TCS Plans shall be drawn by a suitably qualified person and endorsed by a suitably qualified practitioner.

TfNSW fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works.

57. Detailed design plans for all other roadworks including signs and linemarking are to be submitted to Council's Traffic and Transport Section for referral to the Liverpool Traffic Committee for endorsement. The drawings are to demonstrate that the signs and linemarking including swept path analysis has been prepared in accordance with the DCP and AS2890 and Austroad Guidelines should be submitted to Council's Traffic and Transport team for review.

Construction Environmental Management Plan

88. The approved Construction Environmental Management Plan, including the Protocols for Basin Opening shall be complied with at all times during construction of the Georges Cove Marina. A suitably qualified and experienced person should supervise the final opening of the basin, i.e. when the first free exchange of water between the river and the basin occurs, to ensure that a pollution event does not occur.

Public Road Access



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- 139.** All roadworks and access from Brickmakers Drive including traffic facilities and signs and linemarking are to be completed and dedicated as public roads. This includes the construction and dedication of the proposed Road Bridge linking Brickmakers Drive to the subject site (covered under DA-1552/2006/B) and the connecting road(s) to the proposed Marina.

Land is to be dedicated as public road for the maintenance of the Traffic Control Signals and associated infrastructure.

Any realignment boundary to facilitate a footway resulting from proposed road widening works is to be dedicated as public road at no cost to TfNSW.

General Terms of Approval

- 170.** Confirmation shall be provided to the PCA that all requirements of the amended VPA applicable to this site that are to be met prior to the issue of an Occupation Certificate (OC) have been met. ~~Confirmation must be provided to the PCA that any monetary contributions payable, any actions or works to be undertaken, or any other requirements of the VPA have been undertaken in accordance with the executed Voluntary Planning Agreement applying to this site.~~
- 3.** The following condition/s have been inserted to form part of Development Consent DA-611/2018 (highlighted in red), and read as follows:

PRIOR TO CONSTRUCTION CERTIFICATE

Stormwater Drainage Plan

- 11a.** Prior to the issue of any Construction Certificate, detailed design plans and hydraulic calculations of any changes to the stormwater drainage system associated with the signalisation of the intersection of Brickmakers Drive and new Link Road are to be submitted to TfNSW for approval.

Intersection Treatment

- 54a.** Detailed civil design drawings of the signalised Brickmakers Drive and the new Link Road intersection, in accordance with the design drawing (EMM-C01, Revision B, 17/6/22) and the associated draft Traffic Signals design (B-Line Drafting, TCS0000, Issue A, 10/6/22) are to be submitted to Liverpool Traffic Committee and Transport for NSW for approval.

The proposed Traffic Control Signals at the intersection of Brickmakers Drive and new Link Road, Moorebank shall be designed by a suitably qualified person to meet TfNSW requirements.

- 54b.** The intersection treatment is to be in accordance with Transport for NSW requirements (as attached).

Transport for NSW (TfNSW) Requirements



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- 63a.** A Construction Pedestrian Traffic Management Plan (CPTMP) detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a Construction Certificate.
- 63b.** The consent authority is to be satisfied that an environmental assessment has been adequately undertaken for the signalisation of the intersection of Brickmaker Drive/new Link Road.
- 63c.** The swept path of the longest vehicle (including garbage trucks, building maintenance vehicles and removalists) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.
- 63d.** The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.

DURING CONSTRUCTION

General Site Works

- 99a.** A Road Occupancy Licence (ROL) must be obtained from Transport Management Centre (TMC) for any works that may impact on traffic flow on Newbridge Road during construction activities.

Record Keeping of Imported Fill

- 124a.** Prior to the commencement of site remediation, the Applicant shall engage a Site Auditor accredited under the Contaminated Land Management Act 1997 (CLM Act) to review and approve the proposed design, staging and timing of the Stage 2 Detailed Site Investigation which is to be prepared by a suitably qualified and experienced contaminated land consultant.

The Stage 2 Detailed Site Investigation shall address applicable guidelines made or approved by the NSW EPA under the Contaminated Land Management Act 1997 and give regard to the potential effects of any contaminants on public health, the environment and building structures. In addition, the Stage 2 Detailed Site Investigation shall meet the sampling density outlined in the NSW EPA Contaminated Sites Sampling Design Guidelines (1995) and all requirements prescribed by the NSW EPA in the General Terms of Approval dated 19th February 2020.

A copy of the Stage 2 Detailed Site Investigation shall be submitted to Liverpool City Council, Principal Certifying Authority, Appropriate Regulatory Authority and Site Auditor accredited under the Contaminated Land Management Act 1997. At the completion of the Stage 2 Detailed Site Investigation, the Applicant shall engage a suitably qualified contaminated land consultant to update the Remediation Action Plan



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(RAP) and prepare a Long-Term Environmental Management Plan (LTEMP) to address the findings of the Stage 2 Detailed Site Investigation.

The LTEMP shall provide a site-specific framework for managing and mitigating contamination for the life of the proposal. In addition, the LTEMP shall make provisions for auditing the effectiveness of the proposed environmental protection measures and procedures for ongoing site management. The LTEMP shall require periodic inspection by an environmental / geotechnical consultant to confirm the overall integrity of environmental protection measures and ensure compliance with the requirements of the LTEMP. A copy of the revised Remediation Action Plan and LTEMP shall be submitted to Liverpool City Council, Principal Certifying Authority, Appropriate Regulatory Authority and Site Auditor accredited under the Contaminated Land Management Act 1997.

The suitably qualified contaminated land consultant shall be certified under either the Environment Institute of Australia and New Zealand's Certified Environmental Practitioner (Site Contamination) scheme (CEnvP(SC)) or the Soil Science Australia Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) scheme.

Section B Site Audit Statement

124b. Prior to implementation of the revised RAP, the Applicant shall engage a Site Auditor accredited under the Contaminated Land Management Act 1997 to review the revised RAP and issue a Section B Site Audit Statement certifying that the site can be made suitable for the proposed land use if remediated in accordance with the RAP or managed in accordance with the Long-Term Environmental Management Plan. A copy of the Section B Site Audit Statement shall be submitted to Liverpool City Council, Principal Certifying Authority and Appropriate Regulatory Authority. The Applicant shall adhere to the management measurements (if any) prescribed by the accredited Site Auditor in the Section B Site Audit Statement.

All other conditions of Development Consent DA-611/2018 remain unchanged.

Note: This determination notice is strictly for changes sought under Modification Application DA-611/2018. No approval is granted or implied for any other works / changes proposed to the submitted development.

If you have any questions, please contact Peter Oriehov on the number at the top of this letter.

ADVISORY NOTES:

- (a) *Section 4.55 of the Environmental Planning and Assessment Act, 1979 gives you the right to request Council to review this determination within six (6) months of the date of determination.*



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- (a) Sections 8.7 & 8.10 of the *Environmental Planning and Assessment Act, 1979* gives you the right to appeal to the NSW Land and Environment Court within six (6) months after:
- (a) the date on which the applicant received notice, given in accordance with the regulations, of the determination of that application or, if an application for review under section 8.3 has been decided, the date on which the applicant received notice, in accordance with the regulations, of the decision, or
 - (b) the date on which the applicant's application is taken to have been determined in accordance with regulations made under section 8.5 (3), 4.55 (6).
- (b) The Section 4.55 Modification Application does not extend the timeframe of the development consent initially granted by Council.
- (c) Modification of the development consent does not remove the need to obtain any other statutory consent necessary under the Act.

Yours faithfully

**Manager
Development Assessment**



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ATTACHMENT 2 – TRANSPORT FOR NSW REQUIREMENTS

Transport for NSW

5 August 2022

TfNSW Reference: SYD18/01728/14

Client Reference: DA-611/2018

General Manager
Liverpool City Council
Locked Bag 7064
Liverpool BC NSW 1871



BRICKMAKERS DRIVE/LINK ROAD SIGNALISATION - 146 NEWBRIDGE ROAD, MOOREBANK

Dear Sir/Madam

Reference is made to the Deferred Commencement Condition (2) for the abovementioned Development Application, which was referred to Transport for NSW (TfNSW) in accordance with Section 87(4) of the *Roads Act 1993*.

TfNSW has reviewed the submitted information and would provide in-principle approval for the provision of Traffic Control Signals under Section 87(4) of the Roads Act 1993 at Brickmakers Drive and new Link Road, Moorebank, subject to Council approval of the deferred commencement condition and the following requirements being included in the development consent:

1. The proposed Traffic Control Signal/s at the intersection of Brickmakers Drive and new Link Road, Moorebank shall be designed to meet TfNSW requirements. The Traffic Control Signal (TCS) plans shall be drawn by a suitably qualified person and endorsed by a suitably qualified practitioner.

The submitted design shall be in accordance with Austroads Guide to Road Design in association with relevant TfNSW supplements (available on www.transport.nsw.gov.au). The certified copies of the TCS design and civil design plans shall be submitted to TfNSW for consideration and approval prior to the release of a Construction Certificate and commencement of road works. Please send all documentation to development.sydney@transport.nsw.gov.au.

TfNSW fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works.

The developer will be required to enter into a Works Authorisation Deed (WAD) for the abovementioned works.

2. The proponent is required to dedicate land as public road for the maintenance of the Traffic Control Signals and associated infrastructure. Further details will be included as part of the WAD process.
3. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to development.sydney@rms.nsw.gov.au. A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.

OFFICIAL

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4. A Construction Pedestrian Traffic Management Plan (CPTMP) detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a Construction Certificate.
 5. A Road Occupancy Licence (ROL) must be obtained from Transport Management Centre (TMC) for any works that may impact on traffic flows on Newbridge Road during construction activities.
 6. The consent authority is to be satisfied that an environmental assessment has been adequately undertaken for the signalisation of the intersection of Brickmaker Drive/new Link Road.
 7. The swept path of the longest vehicle (including garbage trucks, building maintenance vehicles and removalists) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.
 8. Any realignment boundary to facilitate a footway resulting from the proposed road widening works must be dedicated as public road at no cost to the TfNSW.
 9. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.

Yours sincerely,



David Rohloff

Senior Manager Land Use Assessment, Central and Western

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