

PRECISE PLANNING  
PO BOX 426  
NORTHBRIDGE NSW 1560

Dear Sir/Madam,

**DEVELOPMENT APPLICATION NO. DA-266/2015**

**LOT 1 DP 611519, 25 MARTIN ROAD, BADGERYS CREEK NSW 2555**

**“DEFERRED COMMENCEMENT” DEVELOPMENT CONSENT NO. DA-266/2015 IS NOW OPERATIVE**

Please be advised that Council is satisfied that deferred commencement conditions within Part 1 of the “Deferred Commencement” Consent No. DA-266/2015 have been satisfied.

The Development Consent is now deemed to be operative as of 25 July 2018. Attached is a copy of the operative consent and an electronic copy of approved plans stamped DA-266/2015.

If you have any further enquiries please contact Lina Kakish on the abovementioned contact details.

Yours faithfully,



**Lina Kakish**

**Manager  
Development Assessment**

PRECISE PLANNING  
PO BOX 426  
NORTHBRIDGE NSW 1560

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

**NOTICE OF DETERMINATION OF  
A DEVELOPMENT APPLICATION**

Being the applicant in respect of Development Application No. RD-5/2016 and pursuant to Section 80, 80A & 81 (1) (a) of the *Environmental Planning and Assessment Act 1979*, Notice is hereby given of the determination by Liverpool Council as Consent Authority of the above described Development Application relating to:

<b>APPLICANT:</b>	<b>PRECISE PLANNING</b>
<b>LAND:</b>	<b>25 MARTIN ROAD, BADGERYS CREEK NSW 2555</b> <b>LOT 1 DP 611519</b>
<b>PROPOSED DEVELOPMENT:</b>	<b>Construction And Operation Of A Resource Recovery Facility And Ancillary Structures. The Application Is Designated Development Under The Environmental Planning And Assessment Regulation 2000 And Integrated Development Under The Environmental Planning Assessment Act 1979 Requiring The Activity To Be Licensed By The Environment Protection Authority. Liverpool City Council Is The Consent Authority And The Sydney South West Planning Panel Has The Function Of Determining The Application</b>
<b>DETERMINATION:</b>	<b>Approved by the Sydney South West Planning Panel.</b>
<b>CONSENT TO OPERATE FROM:</b>	<b>25 July 2018</b>
<b>CONSENT TO LAPSE ON:</b>	<b>25 July 2023</b>
<b>ATTACHMENTS:</b>	<b>1. Conditions of Approval</b> <b>2. General Terms of Approval issued by the NSW Environmental Protection Authority</b> <b>3. General Terms of Approval issued by the NSW Transport Roads &amp; Maritime Services</b>

Before commencing the development please read the Development Consent carefully and make sure that you understand all the conditions that have been imposed. Please contact Liverpool City Council regarding any enquiry you may have in respect of the following conditions.

## CONDITIONS:

The following conditions have been imposed to achieve the objectives of the relevant planning instruments and policies.

## DEFINITIONS

AEP	Annual Exceedance Probability
NCC	National Construction Code (formerly Building Code of Australia)
Council	Liverpool City Council
DCP	Liverpool Development Control Plan 2008
DECC	Department of Environment and Climate Change and Water
CC	Construction Certificate
1% AEP Flood	The 1 in 100 year flood
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
LPI Service	Land and Property Information Service
OC	Occupation Certificate
PCA	Principal Certifying Authority
POEO Act	<i>Protection of the Environment Operations Act 1997</i>
RMS	Roads and Maritime Services

## **ATTACHMENT 1. Conditions of Approval**

### **PART 1**

#### **DEFERRED COMMENCEMENT**

Note: Deleted on 25 July 2018 for the issue of an Operative Development Consent

## **PART 2**

### **A. THE DEVELOPMENT**

#### **Approved Plans**

1. Development the subject of this determination notice must be carried out strictly in accordance with the following plans/reports marked, except where modified by the undermentioned conditions.

<b>Plan Name</b>	<b>Plan Number</b>	<b>Rev</b>	<b>Date</b>	<b>Prepared By</b>
Site Plan	A875-17	B	1.7.2018	Castleage Drafting Services
Landscape Plan	L 01	D	14.6.2018	HLS Pty Limited
Elevation Plan	A875-17	D	4.7.2018	Castleage Drafting Services
Martin Road & Lawson Road Elevations - Colour selection			18 April 2018	Jeff Robinson Architect
Oblique view from Martin Road			18 April 2018	Jeff Robinson Architect
Oblique view from Lawson Road			18 April 2018	Jeff Robinson Architect
Elevations with colours and materials (South EI, East EI, West EI, North EI)			7 May 2018	Jeff Robinson Architect
Development Overview Plan	PS02-A050	F	22/6/2018	Martens & Associates Consulting Engineers
Swept Path Analysis	PS02-DZ00	E	22/6/2018	Martens & Associates Consulting Engineers
Swept Path Analysis Sheet 2	PS02-DZ01	E	22/6/2018	Martens & Associates Consulting Engineers
Pavement, Signage & Linemarking Plan	PS02-G400	E	22/6/2018	Martens & Associates Consulting Engineers

#### **Reports**

<b>Report Name</b>	<b>Date</b>	<b>Reference</b>	<b>Prepared By</b>
<p>Environmental Impact Statement including:</p> <p>Parts A – J</p> <p>Appendix I – Woodlands Report – Flora and Fauna Assessment</p> <p>Appendix J – Artefacts Report – Aboriginal Cultural Significance</p> <p>Appendix K – Wilkinson Murray Report – Acoustic Assessment</p>	March 2015	1305	Precise Planning

Appendix L – Parking and Traffic Report – Traffic Impact Assessment			
Appendix N – Preliminary Environmental Site Assessment – Contamination			
Appendix P – Environmental Site Assessment – Soils			
Appendix Q – Draft Operational Plan of Management			
Appendix R – SEPP 33 Risk Screening			
Appendix S – HLS Report – Visual Impact Assessment			
Appendix T – Weed Management Report			
Appendix U – Assessment of the Potential of the Facility to Attract Birds			
Water Cycle Management Study (Stormwater Management Assessment)	February 2017	P1404242J R03V04	Martens & Associates Consulting Engineers
Remediation Action Plan (RAP): 25 Martin Road, Badgerys Creek, NSW	April 2016	P1404242J R04V01	Martens & Associates Consulting Engineers
Air Quality Management Plan	9 November 2015	Job 13100241B	Todoroski Air Sciences Pty Ltd
Acoustic Report Addendum	4 November 2015	WM Project No: 13317 Ref: PP0411201 5_Ltr_JW	Wilkinson Murray
Effluent Disposal Letter	29.10.2015	P1404242J C02V01.docx	Martens & Associates Consulting Engineers
Letter from Wilkinson Murray assessing vibration	18 August 2016	PP1708201 6_Ltr_TC	Wilkinson Murray
Hazardous Materials Protocol	August 2016	P1404242J R05V01	Martens & Associates Consulting Engineers
Revised Acoustic Report	17 February 2017	WM Project Number: 13317, PP0411201 5_Ltr_JW	Wilkinson Murray
Air Quality Impact Assessment	20 February 2017	Job Number 13100241C	Todoroski Air Science
Acoustic Response Letter	10 May 2017	WM Project Number: 13317, Ref PP1005201 7_Ltr_NH	Wilkinson Murray

## **Heritage**

2. Should any Aboriginal 'objects' be discovered in any areas of the site then all excavation or disturbance to the area is to stop immediately and the NSW Office of Environment and Heritage is to be informed in accordance with the *National Parks and Wildlife Act 1974* (as amended). Aboriginal 'objects' must be managed in accordance with the *National Parks and Wildlife Act 1974*. Subject to an assessment of the extent, integrity and significance of any exposed 'objects', applications under the *National Parks and Wildlife Act 1974* may be required before work resumes.

## **Revised EIS**

3. An amended Environmental Impact Statement is to be provided to Liverpool City Council's Manager of Development Assessment for approval which incorporates the latest revisions of plans and reports.

## **General Terms of Approval**

4. All the General Terms of Approval issued by NSW Environmental Protection Authority (EPA) shall be complied with prior, during, and at the completion of construction, as required in accordance with the General Terms of Approval dated 21 March 2017. A copy of the General Terms of Approval is attached to this decision notice.
5. All the General Terms of Approval issued by NSW Transport Roads & Maritime Services (RMS) shall be complied with prior, during, and at the completion of construction, as required in accordance with the General Terms of Approval dated 23 July 2015. A copy of the General Terms of Approval is attached to this decision notice.

## **B. PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE**

**The following conditions are to be complied with or addressed prior to issue of a Construction Certificate by the Principal Certifying Authority:**

### **Wall sheet colours and pattern**

6. Prior to the issue of a Construction Certificate, the unique widths of the coloured wall sheet panels must be detailed to a level considered satisfactory for construction purposes and to achieve the approved colour schedule and design as detailed by Jeff Robinson Architect, dated 18 April and 7 May 2018 to the satisfaction of Council's Manager of Development Assessment and the PCA.
7. Amended stormwater plans must be prepared showing the deletion of the shed to the front boundary. Details should be included to accompany any application for a Construction Certificate.

### **Compliance with GTA provisions**

8. In accordance with GTAs issued by the NSW Environmental Protection Authority, the applicant must provide street addresses and/or Lot/DP numbers for all receiver locations in the noise impact assessment to the satisfaction of the EPA and approval by Council's Manager of Development Assessment.

9. In accordance with GTAs issued by the NSW Environmental Protection Authority, the applicant must ensure all waste storage and processing must take place inside an enclosed building and on suitable hardstand to the satisfaction of the EPA and approval by Council's Manager of Development Assessment.

### **Provision of Services**

10. An application to obtain a Section 73 Compliance Certificate under the Sydney Water Act 1994, must be lodged with Sydney Water. To facilitate this, an application must be made through an authorised Water Servicing Coordinator. Please refer to the "building and developing" section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au), or telephone 13 20 92.

Following receipt of the application, a 'Notice of Requirements' will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design. A copy of the 'Notice of Requirements' must be submitted to the PCA.

11. Written clearance from Endeavour Energy, stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development must be submitted to the PCA.

### **Telecommunications**

12. Prior to the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:
  - The requirements of the Telecommunications Act 1997:
    - For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
    - For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

13. Written approval must be gained from Transgrid stating they have reviewed the proposed engineering design plans and that they consent to the issue of a CC by the PCA.

### **Fee Payments**

14. Unless otherwise prescribed by this consent, all relevant fees or charges must be paid. Where Council does not collect these payments, copies of receipts must be provided. For the calculation of payments such as Long Service Levy, the payment must be based on the value specified with the Development Application/Construction Certificate.

The following fees are applicable and payable:



- (a) Damage Inspection Fee – relevant where the cost of building work is \$20,000 or more, or a swimming pool is to be excavated by machinery.
- (b) Fee associated with Application for Permit to Carry Out Work Within a Road, Park and Drainage Reserve.
- (c) Long Service Levy – based on 0.35% of the cost of building work where the costing of the CC is \$25,000 or more.

These fees are reviewed annually and will be calculated accordingly.

- 15. All fees associated with a road opening permit required for the connection, extension or amplification of any services within Council's road reserve must be paid to Council and receipts provided to the PCA. A separate form must be submitted in conjunction with payment of the fees. The fees include the standard road opening permit fee and any restoration fees that may be required as a result of the works.

### **Site Development Work**

- 16. All aspects of construction shall comply with the applicable Performance Requirements of the National Construction Code. Compliance with the Performance Requirements can only be achieved by:
  - (a) Complying with the Deemed to Satisfy Provisions; or
  - (b) Formulating an Alternative Solution, which complies with the Performance Requirements or is shown to be at least equivalent to the Deemed to Satisfy Provision, or a combination of (a) and (b).

### **Driveway/Services**

- 17. All driveways are to be graded in such a manner as to provide continuous surface drainage flow paths to appropriate points of discharge. In this context, these are to be into roads or swales, as appropriate, connecting into the major trunk drainage system.
- 18. Driveways entry points must be located clear of all utility services. It is recommended that discussion be held with the relevant authorities before construction works commence. Council does not accept any responsibility towards these services.
- 19. Driveways are to conform to Council standard requirements for vehicle crossings as detailed in Council's Design and Construction Specifications for Subdivisions (as amended) and as per the requirements in Council's DCP.

### **Notification**

- 20. The certifying authority must advise Council, in writing of:
  - (a) The name and contractor licence number of the licensee who has contracted to do or intends to do the work, or
  - (b) The name and permit of the owner-builder who intends to do the work.

If these arrangements are changed, or if a contract is entered into for the work to be done by a different licensee, Council must be immediately informed.

### **On-Site Sewerage Management System**

21. An application for Approval to Install an On-site Sewerage Management System pursuant to Section 68 of the Local Government Act is to be submitted to Council for consideration and approval. The application is to be accompanied by a Waste Water Report prepared by a suitably qualified consultant, specifications of the septic system and accreditation details of septic tank with NSW Health.

### **Engineering Works**

22. A traffic management plan is to be submitted to Liverpool City Council's Traffic Committee for approval. Works within the road reserve shall not commence until the traffic management plan has been approved.
23. The traffic management plan is to be prepared by an accredited designer and submitted to and stamp approved by Council via a standard Section 138 Roads Act Permit application available at Council's customer service counter. The stamped approved Roads Act Permit is to be obtained by the PCA. A copy of the stamped approved Roads Act Permit and traffic management plan is to be available on the works site for inspection at any time by an authorised Council officer.

### **Recommendations of Acoustic Report**

24. The recommendations provided in the approved acoustic report shall be implemented and incorporated into the design and construction of the development and shall be shown on plans accompanying the CC application.

### **Special Infrastructure Contribution**

25. A special infrastructure contribution is to be made in accordance with the Environmental Planning and Assessment (Special Infrastructure Contribution – Western Sydney Growth Areas) Determination 2011.

Information about this special infrastructure contribution can be found on the Department of Planning and Environment's website. Please contact the NSW Department of Planning and Environment regarding arrangements for the making of a payment.

### **S138 Roads Act – Minor Works in the public road**

26. Prior to the issue of a Construction Certificate a S138 Roads Act application/s, including payment of fees shall be lodged with Liverpool City Council, as the Roads Authority for any works required in a public road. These works may include but are not limited to the following:
  - Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
  - Road opening for utilities and stormwater (including stormwater connection to Council infrastructure)
  - Road occupancy or road closures

All works shall be carried out in accordance with the Roads Act approval, the development consent including the stamped approved plans, and Liverpool City Council's specifications.

Note:

1. Approvals may also be required from the Roads and Maritime Service (RMS) for classified roads.

### **S138 Roads Act – roadworks requiring approval of civil drawings**

27. Prior to the issue of a Construction Certificate for building or subdivision works the Certifying Authority shall ensure that a S138 Roads Act application, including the payment of application and inspection fees, has been lodged with, and approved by Liverpool City Council (being the Roads Authority under the Roads Act), for provision of access and pavement works from the property boundary to the edge of the existing pavement in Martin Road.

Engineering plans are to be prepared in accordance with the development consent, Liverpool City Council's Design Guidelines and Construction Specification for Civil Works, Austroad Guidelines and best engineering practice.

Note:

Where Liverpool City Council is the Certifying Authority for the development the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.

### **On-Site Detention**

28. On-Site Detention shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Martens & Associates Pty. Ltd., reference number PS01-A000, B300, B301, E100, E101, E102, EZ00, revision A, dated 20-02-2017.

The proposed development and stormwater drainage system shall be designed to ensure that stormwater runoff from upstream properties is conveyed through the site without adverse impact on the development or adjoining properties.

Engineering plans and supporting calculations for the on-site detention system are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the on-site detention system has been designed in accordance with Liverpool City Council's Design Guidelines and Liverpool City Council's On-Site Stormwater Detention policy and Technical Specification.

### **Water Quality**

29. Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that details of a stormwater pre-treatment system have been provided on the stormwater plans and that the design meets pollutant retention criteria in accordance Council's Development Control Plan.

The Construction Certificate must be supported by:

- Specification & installation details of the stormwater pre-treatment system
- The approval of an operation and maintenance manual/ schedule for the stormwater pre-treatment system

A copy of the approved operation and maintenance manual/ schedule shall be submitted to Liverpool City Council with notification of the Construction Certificate issue.

### **Access, Car Parking and Manoeuvring – General**

30. Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS2890.2, AS2890.6 and Liverpool City Council's Development Control Plan.
31. Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that scour protection has been provided at outlet to On Site Detention Basin in accordance with Landcom publication "Managing Urban Stormwater: Soils and Construction" commonly known as the "Blue Book". The scour protection must be located wholly within the subject site.

The entry access is to be formalised and paved from the gate to the edge of the existing pavement on Martin Road. A S138 Roads Act application must be lodged in relation to these works.

### **Traffic**

32. Detailed engineering plans for the proposed driveway and car park including swept path analysis for all vehicles entering or leaving the site must be submitted to the satisfaction of Council's Manager Development Engineering. This will include swept path of the longest vehicle that would be expected to enter and exit the subject site including manoeuvrability through the site in accordance with AUSTROADS.
33. An amended site plan is to be provided to the satisfaction of Council's Manager Development Engineering detailing the location of the proposed 11 car parking spaces. The design of these spaces must comply with Council's DCP 2008, and Australian Standard 2890.1 Parking Facilities – Off Street Car Parking.
34. The developer to provide an appropriate level of lighting to the vehicular entry and exit location.
35. The access driveway along Martin Road must be designed to cater for heavy rigid vehicles in accordance with AS 2890.2 – 2002.
36. The developer must construct half the width of the road pavement of Martin Road along the full length of the front boundary.
37. The Developer to provide Type "BAR" (Basic Right Turn) treatment on Martin Road for safe manoeuvrability of trucks.

### **Health**

38. Prior to the issue of any Construction Certificate a Construction Environmental Management Plan is to be prepared by a suitably qualified person. The plan is to determine and outline procedures to ensure all conditions contained within the consent (relating to construction works) and recommendations of referenced reports are adhered to at all times during construction.

Suitable Management and controls are also to be included within the plan to ensure that there are no adverse impacts on environmentally significant land. These measures are to include but not limited to:

- a) The final location of security fencing, vehicular access during construction;
- b) Materials to be imported on to the site during construction;
- c) Stock piling of materials and equipment; and
- d) Sediment and erosion controls.

A copy of the plan is to be forwarded to the PCA prior to the issue of the Construction Certificate.

#### **Elevation plan**

39. Elevation plans detailing the proposed acoustic, security and post and wire fencing is to be provided to the satisfaction of Council's Manager of Development Assessment.

### **C. PRIOR TO WORKS COMMENCING**

**The following conditions are to be complied with or addressed prior to works commencing on the subject site/s:**

#### **Construction Certificates**

- 40. Detailed Civil engineering plans and specifications relating to the work shall be endorsed with a CC, in accordance with Section 81A of the Act, and a copy registered with Council.
- 41. Detailed engineering plans and specifications relating to the work shall be endorsed with a CC, in accordance with Section 81A of the EP&A Act, and a copy submitted to Council, with payment of any relevant fees.
- 42. Any CC that may be issued in association with this development consent must ensure that any certified plans and designs are generally consistent (in terms of site layout, site levels, building location, size, external configuration and appearance) with the approved Development Application plans.

#### **Notification/Principal Certifying Authority**

- 43. The applicant shall advise Council of the name, address and contact number of the Accredited Certifier, in accordance with Section 81A (4) of the Act.
- 44. The PCA must advise Council of the intended date to commence work which is the subject of this consent by completing a notice of commencement of building works or subdivision works form, available from Council's Customer Service Centre. A minimum period of two (2) working days notice must be given.
- 45. Written notice of intention shall be given to the owner of the adjoining allotments of land, outlining the particulars of the proposed work, which involves:
  - (a) Any excavation, below the base of the footings of a building on an adjoining allotment of land.
  - (b) The notice shall be given seven (7) days prior to the commencement of work.

## **Facilities**

46. Toilet facilities must be available or provided at the work site and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet must:

- (a) be a standard flushing toilet connected to a public sewer, or
- (b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
- (c) be a temporary chemical closet approved under the *Local Government Act 1993*.

## **Site Facilities**

47. Adequate refuse disposal methods and builders storage facilities shall be installed on the site. Builders' wastes, materials or sheds are not to be placed on any property other than that which this approval relates to.

## **Site Notice Board**

48. A sign must be erected in a prominent position on the premises on which work is to be carried out. The sign is to be maintained during work, and removed at the completion of work. The sign must state:
- (a) The name, address and telephone number of the principal certifying authority for the work; and
  - (b) The name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
  - (c) Unauthorised entry to the premises is prohibited.

## **Notification of Service Providers**

49. The approved development must be approved through the 'Sydney Water Tap in' service to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easements, and if any requirements need to be met. A receipt must be provided to Council.

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for more information.

## **Dial Before You Dig**

50. Underground assets may exist in the area that is subject to your application. In the interest of health and safety and in order to protect damage to third party assets please contact Dial before you dig at [www.1100.com.au](http://www.1100.com.au) or telephone 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contact the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

### **Waste Classification**

51. Prior to the exportation of waste (including fill or soil) from the site, the material shall be classified in accordance with the provisions of the POEO Act 1997, POEO Waste Regulation 2014 and NSW EPA 'Waste Classification Guideline' (dated November 2014) The classification of the material is essential to determine where the waste may be legally taken. The POEO Act provides for the commission of an offence for both the waste owner and transporters if waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid and non-liquid waste advice should be sought from the DECCW (EPA).
52. Adequate soil and sediment control measures shall be installed and maintained. Furthermore, suitable site practices shall be adopted to ensure that only clean and unpolluted waters are permitted to enter Council's stormwater drainage system during construction/demolition. Measures must include, as a minimum:
- (a) Siltation fencing;
  - (b) Protection of the public stormwater system; and
  - (c) Site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.

### **Sediment & Erosion Control**

53. Prior to commencement of works sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997 and Landcom's publication "Managing Urban Stormwater – Soils and Construction (2004)" – also known as "The Blue Book".

The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

### **Dilapidation report**

54. Prior to the Commencement of Works a dilapidation report of all infrastructure fronting the development in Martin Road is to be submitted to Liverpool City Council. The report is to include, but not limited to, the road pavement, kerb and gutter, footpath, services and street trees and is to extend 10m either side of the development.

### **Building and Fire Safety**

55. The requirements and provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000, must be fully complied with at all times.

Failure to comply with these legislative requirements is an offence and may result in the commencement of legal proceedings, issuing of 'on-the-spot' penalty infringements or service of a notice and order by Council.

In accordance with section 80 A (11) of the Environmental Planning & Assessment Act 1979 and clause 98 of the Environmental Planning & Assessment Regulation 2000, it is a prescribed condition that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).

56. Prior to the commencement of any building works, a construction certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000.
57. A copy of the construction certificate, the approved plans and development consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.
58. Prior to the commencement of any building works, the following requirements must be complied with:
  - a) a Construction Certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*.

A copy of the Construction Certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.
  - b) a Principal Certifying Authority (PCA) must be appointed to carry out the necessary building inspections and to issue an occupation certificate; and
  - c) a principal contractor must be appointed for the building work and the PCA and Council are to be notified accordingly; and
  - d) the principal contractor must be advised of the required critical stage inspections and other inspections to be carried out, as specified by the Principal Certifying Authority; and
  - e) at least two days notice must be given to the Council, in writing, prior to commencing any works.
  - f) A single and complete *Fire Safety Certificate*, certifying the installation and operation of all of the fire safety measures within the building must be submitted to Council with the *Occupation Certificate*.
59. The building works must be inspected by the Principal Certifying Authority, in accordance with sections 109E (3) of the Environmental Planning & Assessment Act 1979 and clause 162A of the Environmental Planning & Assessment Regulation 2000, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.
60. The Principal Certifying Authority must specify the relevant stages of construction to be inspected and a satisfactory inspection must be carried out, to the satisfaction of the Principal Certifying Authority, prior to proceedings to the subsequent stages of construction or finalisation of the works (as applicable).
61. A sign must be erected and maintained in a prominent position on the site, which contains the following details:



- name, address, contractor licence number and telephone number of the *principal contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable)
- name, address and telephone number of the *Principal Certifying Authority*
- a statement stating that 'unauthorised entry to the work site is prohibited'.

## **D. DURING CONSTRUCTION**

**The following conditions are to be complied with or addressed during construction:**

### **Hours of Construction Work and Deliveries**

62. Construction work/civil work/demolition work, including the delivery of materials, is only permitted on the site between the hours of 7:00am to 6:00pm Monday to Friday and 8:00am to 1:00pm Saturday. No work will be permitted on Sundays or Public Holidays, unless otherwise approved by Council.

### **Security Fence**

63. A temporary security fence to WorkCover Authority requirements is to be provided to the property during the course of construction.

Note. Fencing is not to be located on Council's reserve area.

### **General Site Works**

64. Existing hydrological regimes shall be maintained so as not to negatively impact vegetation to be retained on site and downslope/downstream of the site.
65. All roofwater is to be connected to the existing stormwater system.
66. Any runoff entering the areas of vegetation to be retained shall be of an equivalent or better quality, and of a similar rate of flow to present levels.
67. The development, including construction, shall not result in any increase in sediment deposition into any water body, wetland, bushland or environmentally significant land.
68. All dangerous and/ or hazardous material shall be removed by a suitably qualified and experienced contractor licensed by WorkCover NSW. The removal of such material shall be carried out in accordance with the requirements of WorkCover NSW. The material shall be transported and disposed of at a licensed waste facility to receive the waste in accordance with NSW EPA requirements. Waste receipts and the "WasteLocate" consignment number shall be provided to the certifying authority confirming that the waste is disposed of in a lawful manner. Note; Waste loads can be tracked via <https://wastelocate.epa.nsw.gov.au/> to ensure waste has reached its intended destination. If the waste load is not delivered, please contact the EPA.

### **Car Parking Areas**

69. Car parking spaces and driveways must be constructed of a minimum of two coat finish seal or better. The spaces must be clear of obstructions and columns, permanently line marked

and provided with adequate manoeuvring facilities. The design of these spaces must comply with Council's DCP 2008, and Australian Standard 2890.1 Parking Facilities – Off Street Car Parking.

All car parking areas to be appropriately line marked and sign posted in accordance with the approved plans. All customer/visitor/staff parking areas are to be clearly signposted limiting car parking for customers/visitors/staff only. The applicant is to cover the costs of installation and maintenance of the signage.

The on-site parking spaces shown in the approved plans must be identified in accordance with A.S.2890.1 Parking Facilities – Off-Street Car Parking.

### **Traffic Management**

70. All works within the road reserve are to be at the applicant cost and all signage is to be in accordance with the RTA's Traffic Control at Worksites Manual and the RTA's Interim Guide to Signs and Markings.
71. If a works zone is required, an application must be made to Council's Transport Planning section. The application is to indicate the exact location required and the applicable fee is to be included. If parking restrictions are in place, an application to have the restrictions moved, will need to be made.
72. Notice must be given to Council's Transport Planning section of any interruption to pedestrian or vehicular traffic within the road reserve, caused by the construction of this development. A Traffic Control Plan, prepared by an accredited practitioner must be submitted for approval, 48 hours to prior to implementation. This includes temporary closures for delivery of materials, concrete pours etc.
73. Applications must be made to Council's Transport Planning section for any road closures. The applicant is to include a Traffic Control Plan, prepared by a suitably qualified person, which is to include the date and times of closures and any other relevant information.

### **Waste Management Plan**

74. The Waste Management Plan submitted to and approved by Council must be adhered to at all times throughout all stages of the development. Supporting documentation (receipts/dockets) of waste/recycling/disposal methods carried out, is to be kept and must be produced upon the request of Council or any other authorised officer.

Note: Any non-compliance with this requirement will result in penalties being issued.

### **Vegetation**

75. All existing trees and areas of native vegetation not identified for removal on approved plans of the proposed development shall be protected from damage during site works. This protection shall consist of 1800mm high protective fencing, securely installed beneath the outer canopy of any tree to be retained. Trees may be fenced off in clusters where it is not practical to fence off individual trees. There shall be no storing materials, washing machinery or changes to existing soil levels within the fenced areas.
76. No known environmental or noxious weeds or known invasive plant species shall be included in the landscaping/revegetation.

77. Mulch generated from exotic trees or other weed species cleared shall not be used on site. It shall be removed from the site and disposed of appropriately and in accordance with legislative requirements.

### **Landscaping Works**

78. A minimum of 2 trees shall be planted within the grassed verge of the Council footpath strip. Trees shall be healthy, well formed and fully established (not pot bound) in 100 litre or larger pots. Trees shall be positioned 900mm from the kerb and spaced at 10 metre centres. Trees shall not be planted within 2000mm from a driveway, 1000mm from underground services or 6000mm from an intersecting side street. Trees shall be staked, tied and mulched to Council's satisfaction. Appropriate species for this location are *Eucalyptus tereticornis*.

It is the contractor's responsibility to establish the location of underground services before digging.

Trees & shrubs shall be maintained in a healthy condition or are to be replaced if serious decline or damage occurs.

### **Contamination**

79. The development, including all civil works and demolition, must comply with the requirements of the Contaminated Land Management Act, 1997, State Environmental Planning Policy No. 55 – Remediation of Land, and Managing Land Contamination – Planning Guidelines (Planning NSW/EPA 1998).
80. All fill introduced to the site must undergo a contaminated site assessment. This assessment may consist of either:
- (a) a full site history of the source of the fill (if known) examining previous land uses or geotechnical reports associated with the source site to determine potential contamination as per the NSW EPA Waste Classification Guidelines (dated November 2014), or
  - (b) clearly indicate the legal property description of the fill material source site;
  - (c) provide a classification of the fill material to be imported to the site in accordance with the NSW EPA Waste Classification Guidelines (dated November 2014).
  - (d) a chemical analysis of the fill where the site history or a preliminary contamination assessment indicates potential contamination or contamination of fill material; and
  - (e) must provide Council with copies of validation certificate verifying the material to be used is free of contaminants and fit for purpose re use in residential, commercial or industrial use.
81. Records of the following must be submitted to the principal certifying authority monthly and at the completion of earth works:
- (a) The course (including the address and owner of the source site), nature and quantity of all incoming loads including the date, the name of the carrier, and the vehicle registration;
  - (b) The results of a preliminary contamination assessment carried out on any fill material used in the development.
  - (c) The results of any chemical testing of fill material.

### **Site Remediation Works**

82. Remediation works must be carried out in accordance with remediation plan (ref: P1404242JR04V01) prepared by Martens Consulting dated April 2016. Any variation to the proposed remediation works must be approved in writing by Council or the PCA prior to the commencement of these works. The applicant must inform Council or the PCA in writing of any proposed variation to the remediation works. Council or the PCA must approve these variations in writing prior to commencement of works approved under the development consent.
83. Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately after discovery. A Section 96 Application under the EP&A Act shall be made for any proposed works outside the scope of the approved development consent.

### **Air Quality**

84. Dust screens shall be erected and maintained in good repair around the perimeter of the subject land during land clearing, demolition, and construction works.
85. Where operations involve excavation, filling or grading of land, or removal of vegetation, including ground cover, dust is to be suppressed by regular watering until such time as the soil is stabilised to prevent airborne dust transport. Where wind velocity exceeds five knots the PCA may direct that such work is not to proceed.
86. All vehicles involved in the delivery, demolition or construction process departing from the property shall have their loads fully covered before entering the public roadway.
87. A statement from an accredited environmental consultant qualitatively describing all emissions from the development and assessing their impact on the environment shall be submitted to Council and approval obtained prior to the commencement of any process.
88. In the event of any process in any room being of such a nature that heat, excessive moisture, dangerous or noxious gases, fumes or other aerosols are given off, an air handling system shall be installed providing positive capture and removal of the effluents. The effluent shall be discharged to the atmosphere at a point that will not create nuisance, be injurious or prejudicial to health.

### **Pollution Control**

89. Building operations such as brick cutting, mixing mortar and the washing of tools, paint brushes, form-work, concrete trucks and the like shall not be performed on the public footway or any other locations which may lead to the discharge of materials into Council's stormwater drainage system.
90. The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.

### **Erosion and sediment control**

91. Erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

## **E. PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

**The following conditions are to be complied with or addressed prior to issue of either an Interim or Final Occupation Certificate by the Principal Certifying Authority:**

### **Certificates**

92. The premises must not be utilised until an OC is issued by the PCA. Copies of all documents relied upon for the issue of the OC must be attached to the OC and registered with Council.
93. The Principal Certifying Authority (Building) and/or the Accredited Certifier (Subdivision) shall ensure that all compliance certificates required by this development consent are referenced to the condition consent number. The Compliance Certificate is to state that the works as constructed comply fully with the required condition of consent being acted on by the certifier.
94. All required Compliances Certificates for the critical stage inspections carried out prior, during and at the completion of construction, must be submitted to Council together with the required registration fee payment.
95. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the PCA.

### **Landscaping**

96. Upon completion of the approved landscape works associated with the development and prior to the issue of any OC, an Implementation Report is to be submitted to the PCA attesting to the satisfactory completion of the landscape works in accordance with the approved landscape plan. The report is to be prepared by a suitably qualified person.

### **Recommendations of Acoustic Report**

97. A Compliance Certificate or other documentation deemed suitable to the PCA is to be submitted to the PCA, detailing compliance with the following:
  - (a) Certification is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the approved acoustic report and that all recommendations have been adopted.

### **On-Site Sewerage Management System**

98. Prior to the issue of any OC an Approval to Operate for the On-Site Sewerage Management System is to be issued by Council in accordance with Section 68 of the Local Government Act.

### **Site Contamination Validation Report**

99. After completion of the remedial works, a stage 4 Validation Report summarising the results of the remediation shall be carried out in accordance with the NSW EPA Contaminated Sites Guidelines. The validation report must then be submitted to and approved by a NSW EPA Accredited site Auditor, confirming the suitability of the land for the intended use(s). This report shall be prepared with reference to NSW EPA Consultants reporting on contaminated sites and must:

- (a) describe and document all works performed;
- (b) include results of validation testing and monitoring;
- (c) include validation results of any fill imported on to the site;
- (d) outline how all agreed clean-up criteria and relevant regulations have been complied with; and
- (e) include clear justification as to the suitability of the site for the proposed use and the potential for off-site migration of any residual contaminants.

#### **Liverpool City Council clearance – Roads Act/ Local Government Act**

100. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that all works associated with a S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Liverpool City Council.

#### **Works as executed – General**

101. Prior to the issue of an Occupation Certificate, works-as-executed drawings and compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Liverpool City Council's Design Guidelines and Construction Specification for Civil Works.

An original set of works-as-executed drawings and copies of compliance documentation shall also be submitted to Liverpool City Council with notification of the issue of the Occupation Certificate where Council is not the Principal Certifying Authority.

#### **Stormwater Compliance**

102. Prior to the issue of an Occupation Certificate the Principal Certifying Authority shall ensure that the:

- a) On-site detention system/s
- b) Stormwater pre-treatment system/s
  - Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
  - Have met the design intent with regard to any construction variations to the approved design.
  - Any remedial works required to been undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the Works-As-Executed drawings.

#### **Restriction as to User and Positive Covenant**

103. Prior to the issue of an Occupation Certificate a restriction as to user and positive covenant relating to the:

- a) On-site detention system/s
- b) Stormwater pre-treatment system/s

Shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Liverpool City Council's standard wording as detailed in Liverpool City Council's Design and Construction Guidelines and Construction Specification for Civil Works.

### **Rectification of Damage**

104. Prior to the issue of an Occupation Certificate any damage to Council infrastructure not identified in the dilapidation report, as a result of the development shall be rectified at no cost to Liverpool City Council.

Any rectification works within Martin Road will require a Roads Act application. The application is to be submitted and approved by Liverpool City Council prior to such works commencing.

### **Dilapidation Report**

105. Any rectification works required by Council regarding the condition of Council infrastructure shall be undertaken, at full cost to the developer.

### **Building**

106. An Occupation Certificate must be obtained from the Principal Certifying Authority prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the Environmental Planning & Assessment Act 1979.
107. Details of critical stage inspections carried out by the principal certifying authority together with any other certification relied upon must be provided to Council with the occupation certificate.

### **Telecommunications**

108. Prior to the issue of an Occupation Certificate or Subdivision Certificate, written certification from all relevant service providers that the telecommunications infrastructure is installed in accordance with:
- The requirements of the Telecommunications Act 1997:
    - For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
    - For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

## **G. CONDITIONS RELATING TO USE**

**The following conditions relate to the ongoing use of the premises:**

### **Waste**

109. All solid and liquid waste is to be removed from the site by a registered waste contractor. A record of receipts shall be kept and maintained up to date at all times. Records are to be made available to Council's Officers, upon request.

110. All waste materials generated as a result of the development are to be disposed at a facility licensed to receive such waste. A record of receipts shall be kept and maintained up to date at all times. Records are to be made available to Council's Officers, upon request.

### **Car Parking/Loading**

111. A total of 11 off street car parking spaces must be provided.
112. All parking areas shown on the approved plans must be used solely for this purpose.
113. The operator of the development must not permit the reversing of vehicles onto or away from the road reserve, with the exception of garbage and recycling collection vehicles. All vehicles must be driven forward onto and away from the development and adequate space must be provided and maintained on the land to permit all vehicles to turn in accordance with AS 2890.1 Parking Facilities – Off Street Car Parking.

### **Environment**

114. The use of the premises shall operate in accordance with the Protection of the Environment Operations Act 1997. All activities and operations carried out shall not give rise to air pollution (including odour), offensive noise or pollution of land and/or water as defined under the Protection of the Environment Operation Act 1997.

### **General**

115. Development the subject of this determination notice must be carried out strictly in accordance with the following:
- a) Environmental Impact Statement prepared by Precise Planning (ref no: 1305) dated March 2015, particularly the cap of 60,000 tonnes of total materials per annum which has been generated by the activities of the proponent and their immediate contractors.  
Reason: To ensure clarity with EIS requirements.

### **Environmental Management**

116. An Environmental Monitoring Program is to form part of the Environmental Impact Statement. The monitoring program is to be prepared in accordance with 'Part G - Compilation of Mitigation Measures Environmental Impact Assessment (ref: 1305) dated March 2015. The Environmental Monitoring Program is also to address any monitoring requirements contained within the conditions of consent any licensing requirements.

### **Environmental Protection License**

117. The facility shall operate in accordance with all conditions contained within the premises current Environment Protection License issued by the NSW Environment Protection Authority.

### **Lighting**

118. Any lighting as part of this development shall not be directed towards private residences or roads on adjoining properties, and shall be installed in accordance with AS4282-Control of Obtrusive effects of Outdoor Lighting.



### **Independent Environmental Audit**

119. Within one (1) year of the commencement of operations, and every three (3) years thereafter unless Liverpool City Council directs otherwise, the proponent shall commission an Independent Environmental Audit of the project. The audit must:

- a) Be carried out by a suitably qualified, experienced and independent audit team;
- b) Be consistent with guidelines and standards relating to principles for environmental auditing;
- c) Include consultation with Liverpool City Council or NSW EPA;
- d) Assess whether the project is complying with the conditions of both this consent and any licence issued by an authority;
- e) Assess whether the project is being carried out in accordance with industry best practice; and
- f) Recommend measures or actions to improve the environmental performance of the project.

Within three (3) months of commissioning this audit, the proponent shall submit a copy of the audit to Liverpool City Council and relevant authorities, with a response to any recommendations contained within the audit report.

Following each Independent Environmental Audit, the proponent shall review and if necessary revise the Environmental Management Plan (and any other plans/strategies required under this approval) to the satisfaction of Liverpool City Council within three (3) months of submitting the audit report.

### **Hours of Operation**

120. The hours of operation of the premises are limited to:

- Transportation of materials (inbound and outbound)
  - o Monday to Friday 7:00am to 5:00pm
  - o Saturdays 8:00am to 2:00pm
- Chipping / mulching / crushing / grinding
  - o Monday to Friday 8:00am to 4:00pm

### **Landscaping**

121. Landscaping shall be maintained in accordance with the approved plan, in a healthy state and in perpetuity by the existing or future owners and occupiers of the development.

If any of the vegetation comprising the landscaping dies or is removed, it is to be replaced with vegetation of the same species, and similar maturity as the vegetation which has died or was removed.

An annual report shall be submitted to Council, for the 3 years following issue of the OC, certifying that the landscaping works have been satisfactorily maintained.

### **Industrial**

122. The premises must not be used for the display or sale of goods to the public (i.e., a shop).

123. Except where vehicles are entering and exiting the building, the entrance door must remain closed.
124. All crushing operations must cease whilst the vehicle door is open to enable vehicle entry and exit to the building only.

## H. ADVISORY

- a) If you are dissatisfied with this notice of determination or the conditions contained within this notice of determination, Section 82A of the Environmental Planning and Assessment Act 1979 gives you the right to request a review of the determination within six months after the date on which the application is taken to have been determined.
- b) If you are dissatisfied with this decision, Section 97AA of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within six months after the date on which the application is taken to have been determined.
- c) In accordance with Section 95 of the Environmental Planning and Assessment Act 1979, unless otherwise stated by a condition of this consent, this consent will lapse unless the development is commenced within five (5) years of the date of this notice.
- d) The approval of this application does not imply or infer compliance with the Disability Discrimination Act and that the developer should investigate their liability under the Act.
- e) "DIAL BEFORE YOU DIG" DIAL 1100

Underground assets may exist in the area that is subject to your application. In the interest of health and safety and in order to protect damage to third party assets please contact Dial before you dig at [www.1100.com.au](http://www.1100.com.au) or telephone 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contact the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

### f) TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution.

Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800 810 443.

- g) The obligation to comply with the Category 1 fire safety provisions may require building work to be carried out even though none is proposed or required by other conditions of this consent.

- h) The Liverpool City Council Local Government area soils and ground water may be subject to varying levels of Salinity. Whilst Council may require applicants to obtain Salinity reports relating to some developments, no assessment may be made by Council in that regard. Soil and ground water salinity levels can change over time due to varying factors. It is recommended that all applicants make their own independent inquiries as to appropriate protection against the current and future potential affect of Salinity to ensure the ongoing structural integrity of any work undertaken. Liverpool City Council will not accept any liability for damage occurring to any construction of any type affected by soil and or ground water Salinity.
- i) The cost of any necessary adjustments to utility mains and services shall be borne by the applicant.
- j) Care shall be taken by the applicant and the applicant's agents to prevent any damage to adjoining properties. The applicant or the applicant's agents may be liable to pay compensation to any adjoining owner if, due to construction works, damage is caused to such an adjoining property.

**Yours faithfully**



**Lina Kakish**  
**Manager Development Assessment**

## ATTACHMENT 1 – NSW EPA General Terms of Approval



Our reference: DOC17/172935

The Chief Executive Officer  
Liverpool City Council  
Locked Bag 7064  
LIVERPOOL BC NSW 1871

Attention: David Smith

EMAIL & STANDARD POST  
21 March 2017

Dear Mr Smith

**EPA comments - Development Application DA-266/2015  
Lot 1 DP 611519, 25 Martin Road, Badgerys Creek NSW 2555**

I refer to the email from Mr Marcus Jennejohn to the Environment Protection Authority (EPA) dated 20 February 2017 requesting comments in relation to the above mentioned development application (**the Proposal**) that is currently being assessed by the Joint Regional Planning Panel as an Integrated Development.

### History

Table 1 provides a summary of actions taken to date in relation to the above mentioned development application.

**TABLE 1**

Date	Action
9 June 2015	EPA receive a request from council to review information in relation to DA-266/2015 under IDA.
8 September 2015	EPA letter to Council - Reject Proposal in current form as issues with noise, air quality, waste and stormwater management.
18 December 2015	Council provide EPA with additional information from Applicant.
24 February 2016	EPA letter to Council - Issue GTAs.
7 September 2016	Council inform EPA that Joint Regional Planning Panel (JRPP) will be consent authority and they have requested a Vibration Assessment (VA) and a Hazardous Materials Protocol (HMP). Applicant has provided for EPA to review and provide comments to the JRPP.
11 October 2016	EPA letter to Council providing comments on VA and HMP
20 February 2017	Council submit updated documents from applicant including Air, Stormwater, Noise and site layout plans
21 March 2017	Given the new documents provided by the applicant, the EPA wrote to council cancelling the GTA's issued 24 Feb 2016 and issued new GTA's to reflect the current proposal.

The EPA has reviewed the additional information provided to council by the proponent and forwarded to the EPA on 20 February 2017.

The EPA's General Terms of Approval are provided in Attachment A.

The EPA's general comments are provided in Attachment B.

The proponent should be aware that any statements or commitments made in the EIS and accompanying documents may be placed on a future environment protection licence.

The EPA notes that the proposal will require an environment protection licence (EPL) with the EPA to lawfully operate. The EPA notes that the proponent will be required to submit a separate EPL application with the EPA at a later date.

Please note that the EPA has not reviewed any matters relating to Aboriginal heritage or ecological impacts as these are the purview of the Office of Environment and Heritage. If you have any questions in relation to this matter, please contact Simon Matthews on (02) 9995 6158.

Yours sincerely



21 March 2017

**CELESTE FORESTAL**  
**Unit Head Waste Compliance**  
**Environment Protection Authority**

Encl. Attachment A – GTA's  
Attachment B – EPA comments

Protection of the Environment Operations Act 1997

## **Attachment A - General Terms of Approval - Issued**

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Notice No: 1537500

Consent authority

Attention: Marcus Jennejohn

Notice Number 1537500  
File Number EF15/11384  
Date 21-Mar-2017

**Re: "Proposed Resource Recovery Facility - 25 Martin Road Badgerys Creek"**

### **Issued pursuant to Section 91A(2) Environmental Planning and Assessment Act 1979**

I refer to the development application and accompanying information provided for the proposed resource recovery facility at 25 Martins Road Badgerys Creek received by the Environment Protection Authority (EPA) on 12 June 2015 and updated information on 18 December 2015, 7 September 2016 and 20 February 2017.

EPA has reviewed the information provided and has determined that it is able to issue a licence for the proposal, subject to a number of conditions. The applicant will need to make a separate application to EPA to obtain this licence.

The general terms of approval for this proposal are provided below. If Liverpool City Council or the Joint Regional Planning Panel or any consent authority grants development consent for this proposal these conditions should be incorporated into the consent.

These general terms relate to the development as proposed in the documents and information currently provided to EPA. In the event that the development is modified either by the applicant prior to the granting of consent or as a result of the conditions proposed to be attached to the consent, it will be necessary to consult with EPA about the changes before the consent is issued. This will enable EPA to determine whether its general terms need to be modified in light of the changes. Please note if/when the consent is issued the EPA has no ability to modify the GTA's.

Protection of the Environment Operations Act 1997

## **General Terms of Approval - Issued**

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Notice No: 1537500

In assessing the proposal EPA has also identified a number of environmental issues that the consent authority may wish to consider in its overall assessment of the application. These issues are discussed in Attachment B.

If you have any questions, or wish to discuss this matter further please contact Simon Matthews on (02) 9995 6158.

Yours sincerely

A handwritten signature in black ink, appearing to read 'CF', located above the printed name and title.

**Celeste Forestal**  
**Unit Head**  
**Waste & Resource Recovery**  
(by Delegation)



Protection of the Environment Operations Act 1997

## General Terms of Approval - Issued



Notice No: 1537500

### Administrative conditions

**Note:** Mandatory conditions for all general terms of approval

#### A1. Information supplied to the EPA

A1.1 Except as expressly provided by these general terms of approval, works and activities must be carried out in accordance with the proposal contained in:

- the development application DA 266/2015 submitted to Liverpool City Council on 31 March 2015;
- any environmental impact statement relating to the development; and
- all additional documents supplied to the EPA in relation to the development, including documents listed at <http://www.liverpoolplanning.com.au/Pages/XC.Track/SearchApplication.aspx?id=298244>

#### A2. Fit and Proper Person

A2.1 The applicant must, in the opinion of the EPA, be a fit and proper person to hold a licence under the Protection of the Environment Operations Act 1997, having regard to the matters in s.83 of that Act.

### Limit conditions

#### L5. Waste

L5.1 The licensee must not cause, permit or allow any waste generated outside the premises to be received at the premises for storage, treatment, processing, reprocessing or disposal or any waste generated at the premises to be disposed of at the premises, except as expressly permitted by a licence under the Protection of the Environment Operations Act 1997.

L5.2 This condition only applies to the storage, treatment, processing, reprocessing or disposal of waste at the premises if it requires an environment protection licence under the Protection of the Environment Operations Act 1997.

*Note: Condition L5.2 is included to ensure that a premises based activity is not used as a waste facility (unless that scheduled activity is permitted by another condition).*

#### L6. Noise limits

L6.1 Noise generated at the premises must not exceed the noise limits in the Table below. The locations referred to below have been sourced from the Noise Impact Assessment prepared by Wilkinson Murray (Report 13351 Version B) and Table 2 of the Response to EPA Noise Issues prepared by Wilkinson Murray (WM Project 13317 Ref PP04112015\_Ltr\_JW dated 4 November 2015).

*Note: The Proponent must provide street addresses and/or folio identifiers for all receiver locations for insertion into the Environment Protection Licence.*



Protection of the Environment Operations Act 1997

## General Terms of Approval - Issued



Notice No: 1537500

Location	NOISE LIMITS dB(A)
	Day LAeq (15 minute)
R1	41
R2	38
R3	37
R4	44
R5	43
R6	42
R7	46
R8	45
R9	49
R10	46
R11	44
R12	43
R14	43
R15	37
R16	37
R17	36
R18	47

**L6.2** For the purpose of condition L6.1;

- Day is defined as the period from 7am to 6pm Monday to Saturday and 8am to 6pm Sunday and Public Holidays.

**L6.3** The noise limits set out in condition L6.1 apply under all meteorological conditions except for wind speeds greater than 3 metres/second at 10 metres above ground level.

**L6.4** For the purposes of condition L6.3:

- a) Data recorded by a meteorological station installed on site must be used to determine meteorological conditions; and
- b) Temperature inversion conditions (stability category) are to be determined by the sigma-theta method referred to in Part E4 of Appendix E to the NSW Industrial Noise Policy.

Protection of the Environment Operations Act 1997

## General Terms of Approval - Issued

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Notice No: 1537500

**L6.5** To determine compliance:

- a) with the Leq(15 minute) noise limits in condition L6.1, the noise measurement equipment must be located:
  - approximately on the property boundary, where any dwelling is situated 30 metres or less from the property boundary closest to the premises; or
  - within 30 metres of a dwelling façade, but not closer than 3m, where any dwelling on the property is situated more than 30 metres from the property boundary closest to the premises; or, where applicable
  - within approximately 50 metres of the boundary of a National Park or a Nature Reserve.
- b) with the LA1(1 minute) noise limits in condition L6.1, the noise measurement equipment must be located within 1 metre of a dwelling façade.
- c) with the noise limits in condition L6.1, the noise measurement equipment must be located:
  - at the most affected point at a location where there is no dwelling at the location; or
  - at the most affected point within an area at a location prescribed by conditions L6.5(a) or L6.5(b).

**L6.6** A non-compliance of condition L6.1 will still occur where noise generated from the Premises in excess of the appropriate limit is measured:

- at a location other than an area prescribed by conditions L6.5(a) and L6.5(b); and/or
- at a point other than the most affected point at a location.

**L6.7** For the purposes of determining the noise generated at the premises the modification factors in Section 4 of the NSW Industrial Noise Policy must be applied, as appropriate, to the noise levels measured by the noise monitoring equipment.

### Hours of operation

**L6.8** All construction work at the premises must only be conducted between 7am and 5 pm Monday to Friday and 8 am to 2pm Saturdays and at no time on Sunday or public holidays.

**L6.9** Activities at the premises, other than construction work, may only be carried on between 7am and 5 pm Monday to Friday and 8am to 2pm Saturdays and at no time on Sunday or public holidays. Chipping/mulching of green waste and crushing/ grinding of concrete/bricks may only be carried out between 8am and 4pm Monday to Friday and at no time on Saturday, Sunday or public holidays.

**L6.10** This condition does not apply to the delivery of material outside the hours of operation permitted by condition L6.4 or L6.5, if that delivery is required by police or other authorities for safety reasons; and/or the operation or personnel or equipment are endangered. In such circumstances, prior notification is provided to the EPA and affected residents as soon as possible, or within a reasonable period in the case of emergency.

**L6.11** The hours of operation specified in conditions L6.4 and L6.5 may be varied with written consent if the EPA is satisfied that the amenity of the residents in the locality will not be adversely affected.

Protection of the Environment Operations Act 1997

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### **Operating conditions**

#### **O1. Odour**

*Note: The POEO Act states that no offensive odour may be emitted from particular premises unless potentially offensive odours are identified in the licence and the odours are emitted in accordance with conditions specifically directed at minimising the odours are permitted. Where it is appropriate for a licence to identify and control offensive odours, conditions for the licence should be developed in consultation with Air Policy.*

#### **O2. Dust**

**O2.1** Activities must be carried out in a manner that minimises the generation of dust.

**O2.2** The premises must be maintained in a condition which prevents the emission of dust from the premises.

**O2.3** The licensee must ensure that no material, including sediment or oil, is tracked from the premises.

**O2.4** Trucks entering and leaving the premises that are carrying loads must be covered at all times except during loading and unloading.

#### **O3. Stormwater/sediment control - Construction Phase**

**O3.1** An Erosion and Sediment Control Plan (ESCP) must be prepared and implemented. The plan must describe the measures that will be employed to minimise soil erosion and the discharge of sediment and other pollutants to lands and/or waters during construction activities. The ESCP should be prepared in accordance with the requirements for such plans outlined in *Managing Urban Stormwater: Soils and Construction* (available from the Department of Housing).

*Note: ESCPs are required generally for smaller sites, typically involving the disturbance of less than 2,500 square metres. SWMPs are necessary for large scale developments (greater than 2,500 square metres disturbed area.)*

#### **O4. Stormwater/sediment control - Operation Phase**

**O4.1** A Stormwater Management Scheme must be prepared for the development and must be implemented. Implementation of the Scheme must mitigate the impacts of stormwater run-off from and within the premises following the completion of construction activities. The Scheme should be consistent with the Stormwater Management Plan for the catchment. Where a Stormwater Management Plan has not yet been prepared the Scheme should be consistent with the guidance contained in *Managing Urban Stormwater: Council Handbook* (available from the EPA).

*Note: This condition would normally only be used where a SWMP is required and stormwater management would be incorporated into EPA's licence. For other proposals the EPA may suggest that the consent authority include a similar condition where appropriate. Information relating to structural and non-structural options for managing site stormwater is provided in the "Managing Urban Stormwater: Source Control" and "Managing Urban Stormwater: Treatment Techniques" documents respectively.*

#### **O5. Enclosed Building and Hardstand - Operation Phase**

**O5.1** All waste storage and processing must take place inside an enclosed building and on a suitable hardstand.

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**O5.2** All internal haulage roads must comprise of a suitable hardstand, for example concrete.

### **Monitoring and recording conditions**

*Note: Conditions should be used where applicable (ie where the general terms of approval have indicated limits). If it is proposed to include monitoring conditions in the general terms of approval, condition M1 will need to be included as a general term.*

#### **M1 Monitoring records**

**M1.1** The results of any monitoring required to be conducted by the EPA's general terms of approval, or a licence under the Protection of the Environment Operations Act 1997, in relation to the development or in order to comply with the load calculation protocol must be recorded and retained as set out in conditions M1.2 and M1.3.

**M1.2** All records required to be kept by the licence must be:

in a legible form, or in a form that can readily be reduced to a legible form;

kept for at least 4 years after the monitoring or event to which they relate took place; and

produced in a legible form to any authorised officer of the EPA who asks to see them.

**M1.3** The following records must be kept in respect of any samples required to be collected: the date(s) on which the sample was taken;

the time(s) at which the sample was collected;

the point at which the sample was taken; and

the name of the person who collected the sample.

#### **M2. Requirement to monitor concentration of pollutants discharged**

The EPA requires the proponent adopt the recommendations described in section 3.8 (page 25) of the "Stormwater Management Assessment: Proposed Materials Recycling Facility, 25 Martins Road, Badgerys Creek, NSW" dated March 2014, which include:

- i. Quarterly water/groundwater monitoring for the first year of operations
- ii. Annual water/groundwater monitoring thereafter
- iii. Annual reporting of water/groundwater monitoring
- iv. Daily inspections of all stockpiles and bunds
- v. Monthly maintenance of site swales, bioremediation basins and stormwater pipes and pits

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### **Reporting conditions**

*Note: Mandatory condition to be used on all general terms of approvals*

**R1.1** The applicant must provide an annual return to the EPA in relation to the development as required by any licence under the Protection of the Environment Operations Act 1997 in relation to the development. In the return the applicant must report on the annual monitoring undertaken (where the activity results in pollutant discharges), provide a summary of complaints relating to the development, report on compliance with licence conditions and provide a calculation of licence fees (administrative fees and, where relevant, load based fees) that are payable. If load based fees apply to the activity the applicant will be required to submit load-based fee calculation worksheets with the return.

### **General Conditions**

To be determined.



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### **Administrative conditions**

#### **Other activities**

This licence applies to all other activities carried on at the premises, including:

- **Resource recovery**
- **Waste Storage**
- **Waste processing**

### **Operating conditions**

#### **Activities must be carried out in a competent manner**

Licensed activities must be carried out in a competent manner.

This includes:

- a. the processing, handling, movement and storage of materials and substances used to carry out the activity; and
- b. the treatment, storage, processing, reprocessing, transport and disposal of waste generated by the activity.

#### **Maintenance of plant and equipment**

All plant and equipment installed at the premises or used in connection with the licensed activity:

- d) must be maintained in a proper and efficient condition; and
- e) must be operated in a proper and efficient manner.

### **Monitoring and recording conditions**

#### **Recording of pollution complaints**

The licensee must keep a legible record of all complaints made to the licensee or any employee or agent of the licensee in relation to pollution arising from any activity to which this licence applies.

The record must include details of the following:

- the date and time of the complaint;
- the method by which the complaint was made;
- any personal details of the complainant which were provided by the complainant or, if no such details were provided, a note to that effect;

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- the nature of the complaint;
- the action taken by the licensee in relation to the complaint, including any follow-up contact with the complainant; and

if no action was taken by the licensee, the reasons why no action was taken.

The record of a complaint must be kept for at least 4 years after the complaint was made.

The record must be produced to any authorised officer of the EPA who asks to see them.

### Telephone complaints line

The licensee must operate during its operating hours a telephone complaints line for the purpose of receiving any complaints from members of the public in relation to activities conducted at the premises or by the vehicle or mobile plant, unless otherwise specified in the licence.

The licensee must notify the public of the complaints line telephone number and the fact that it is a complaints line so that the impacted community knows how to make a complaint.

This condition does not apply until 3 months after this condition takes effect.

## Reporting conditions

### Annual Return documents

#### ***What documents must an Annual Return contain?***

The licensee must complete and supply to the EPA an Annual Return in the approved form comprising:

- a. Statement of Compliance; and
- b. Monitoring and Complaints Summary.

A copy of the form in which the Annual Return must be supplied to the EPA accompanies this licence. Before the end of each reporting period, the EPA will provide to the licensee a copy of the form that must be completed and returned to the EPA.

#### ***Period covered by Annual Return***

An Annual Return must be prepared in respect of each reporting, except as provided below

*Note: The term "reporting period" is defined in the dictionary at the end of this licence. Do not complete the Annual Return until after the end of the reporting period.*

Where this licence is transferred from the licensee to a new licensee,

- a. the transferring licensee must prepare an annual return for the period commencing on the first day of the reporting period and ending on the date the application for the transfer of the licence to the new licensee is granted; and
- b. the new licensee must prepare an annual return for the period commencing on the date the application for the transfer of the licence is granted and ending on the last day of the reporting period.

*Note: An application to transfer a licence must be made in the approved form for this purpose.*

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Where this licence is surrendered by the licensee or revoked by the EPA or Minister, the licensee must prepare an annual return in respect of the period commencing on the first day of the reporting period and ending on

- a. in relation to the surrender of a licence - the date when notice in writing of approval of the surrender is given; or
- b. in relation to the revocation of the licence - the date from which notice revoking the licence operates.

### ***Deadline for Annual Return***

The Annual Return for the reporting period must be supplied to the EPA by registered post not later than 60 days after the end of each reporting period or in the case of a transferring licence not later than 60 days after the date the transfer was granted (the 'due date').

### ***Notification where actual load can not be calculated***

(Licences with assessable pollutants)

Where the licensee is unable to complete a part of the Annual Return by the due date because the licensee was unable to calculate the actual load of a pollutant due to circumstances beyond the licensee's control, the licensee must notify the EPA in writing as soon as practicable, and in any event not later than the due date.

The notification must specify:

- a. the assessable pollutants for which the actual load could not be calculated; and
- b. the relevant circumstances that were beyond the control of the licensee.

### ***Licensee must retain copy of Annual Return***

The licensee must retain a copy of the annual return supplied to the EPA for a period of at least 4 years after the annual return was due to be supplied to the EPA.

### ***Certifying of Statement of Compliance and Signing of Monitoring and Complaints Summary***

Within the Annual Return, the Statement of Compliance must be certified and the Monitoring and Complaints Summary must be signed by:

- a. the licence holder; or
- b. by a person approved in writing by the EPA to sign on behalf of the licence holder.

A person who has been given written approval to certify a Statement of Compliance under a licence issued under the Pollution Control Act 1970 is taken to be approved for the purpose of this condition until the date of first review this licence.

### ***Notification of environmental harm***

Note: The licensee or its employees must notify the EPA of incidents causing or threatening material harm to the environment immediately after the person becomes aware of the incident in accordance with the requirements of Part 5.7 of the Act

Notifications must be made by telephoning the EPA's Pollution Line service on 131 555.

The licensee must provide written details of the notification to the EPA within 7 days of the date on which the incident occurred.



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### ***Written report***

Where an authorised officer of the EPA suspects on reasonable grounds that:

- a. where this licence applies to premises, an event has occurred at the premises; or
- b. where this licence applies to vehicles or mobile plant, an event has occurred in connection with the carrying out of the activities authorised by this licence,

and the event has caused, is causing or is likely to cause material harm to the environment (whether the harm occurs on or off premises to which the licence applies), the authorised officer may request a written report of the event.

The licensee must make all reasonable inquiries in relation to the event and supply the report to the EPA within such time as may be specified in the request.

The request may require a report which includes any or all of the following information:

- a. the cause, time and duration of the event;
- b. the type, volume and concentration of every pollutant discharged as a result of the event;
- c. the name, address and business hours telephone number of employees or agents of the licensee, or a specified class of them, who witnessed the event; and
- d. the name, address and business hours telephone number of every other person (of whom the licensee is aware) who witnessed the event, unless the licensee has been unable to obtain that information after making reasonable effort;
- e. action taken by the licensee in relation to the event, including any follow-up contact with any complainants;
- f. details of any measure taken or proposed to be taken to prevent or mitigate against a recurrence of such an event;
- g. any other relevant matters.

The EPA may make a written request for further details in relation to any of the above matters if it is not satisfied with the report provided by the licensee. The licensee must provide such further details to the EPA within the time specified in the request.

## **General conditions**

### **Copy of licence kept at the premises or on the vehicle or mobile plant**

A copy of this licence must be kept at the premises or on the vehicle or mobile plant to which the licence applies.

The licence must be produced to any authorised officer of the EPA who asks to see it.

The licence must be available for inspection by any employee or agent of the licensee working at the premises or operating the vehicle or mobile plant.

## ATTACHMENT B

### The proposal

The proposal is for the construction and operation of a resource recovery facility (RRF) at Lot 1 on Deposited Plan 611519, 25 Martin Rd Badgerys Creek. The RRF will process 60,000 tonnes per year, consisting of 50,000 tonnes of construction and demolition waste, and 10,000 tonnes of greenwaste. The Proponent is Mulgoa Excavations Pty Ltd. Waste will be received at the RRF for initial sorting and separating. Concrete and bricks will be sorted and crushed and greenwaste will be mulched and chipped.

The EPA notes that the proposal will require an environment protection licence with the EPA to lawfully operate.

The EPA has reviewed the additional information provided to council and forwarded to the EPA dated 20 February 2017 in relation to the Proposal. The EPA's comments to this additional information are listed below.

### EPA's comments

#### Noise

##### *1. Comments*

The EPA notes that the Noise Impact Assessment lists nearest residences as R1, R2, etc without any street addresses or other. The proponent should be asked to provide street addresses and/or Lot/DP numbers for all receiver locations in the assessment.

#### Air Quality

##### *2. Comments*

The EPA notes that the proponent has prepared an Air Quality Management Plan (AQMP) dated 20 February 2017. The AQMP lists sources of dust and odour emission from the proposal and sets a framework for: managing these emissions; measuring performance; and responding to excess emissions identified either from the measurements or from complaints.

The AQMP is an operational tool for the proponent to use to ensure their activities are carried out in a manner that minimises emissions. It should operate for the life of the project.

ATTACHMENT 2 – NSW RMS General Terms of Approval

Received By  
23 JUL 2015  
RMS/2015/00941/02

 Transport  
Roads & Maritime  
Services

23 July 2015

Our Reference: SYD14/00941/02 (A9736284)  
Council Ref: DA-266/2015

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

Attention: **Jarrold White**

Dear Sir/Madam,

**CONSTRUCTION OF A RESOURCE RECOVERY FACILITY  
25 MARTIN ROAD, BADGERYS CREEK**

Reference is made to your email dated 1 July 2015, regarding the abovementioned Application which was referred to Roads and Maritime Services (Roads and Maritime) for comment in accordance with *State Environmental Planning Policy (Infrastructure) 2007*.

Roads and Maritime has reviewed the submitted documentation and raise no objection to the Application, subject to the following conditions being included in any consent issued by Council:

Roads and Maritime has the following comment for Council's consideration in the determination of the application:

1. A Construction Traffic Management Plan 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.
2. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004, AS 2890.6:2009, and AS 2890.2 – 2002.
3. The swept path of the longest vehicle (including garbage trucks) 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.

The applicant should be advised that the subject property is within an area currently under investigation in relation to the proposed Western Sydney Infrastructure Plan (WSIP) that includes a proposed Motorway to link The Northern Road and M7 (see attached map). This proposal may change, as no decision has yet been made and accordingly it is not possible at this date to provide any further information as to the likelihood of any part of the subject property being required. Further information can be obtained at [www.rms.nsw.gov.au/projects/sydney-west/infrastructure-plan](http://www.rms.nsw.gov.au/projects/sydney-west/infrastructure-plan) or by contacting WSIP for further information – [wsip@rms.nsw.gov.au](mailto:wsip@rms.nsw.gov.au) or by calling 1800 703 457.

Any inquiries in relation to this development application can be directed to Malgy Coman on 8849 2413 or [development.sydney@rms.nsw.gov.au](mailto:development.sydney@rms.nsw.gov.au).

Yours sincerely,



Angela Malloch  
**Senior Land Use Planner**  
**Network and Safety Section**

