

14 October 2016

Megan Dawson
Resource Assessments/Planning Services
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Ms Dawson

Re: Luddenham Clay/Shale Quarry – Modification 4 (DA 315-7-2003 MOD4)

I write in response to your email dated 12 September 2016 in relation to the exhibition of the proposed modification to the consent for the Luddenham Clay/Shale Quarry described above. Council has considered the application and accompanying Environmental Assessment (EA) and supporting documentation and makes comments as follows in relation to the proposed development:

1. Potential site contamination

Clause 7 of State Environmental Planning Policy (SEPP) 55 – Remediation of Land stipulates that a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated. Furthermore, Clause 7(2) of SEPP 55 requires the consent authority to consider a report specifying the findings of a preliminary investigation of land if the proposed development involves a change of use on any land specified in subclause 4. This includes land on which a development for a purpose referred to in Table 1 of the contaminated land planning guidelines is being, or is known to have been carried out.

The Environmental Assessment Report prepared by National Integrated Creative Solutions dated 25 August 2016 indicated that the land was previously used for agricultural purposes including cropping and grazing. Table 1 of the contaminated land planning guidelines specifies that agricultural/horticultural activities are potentially contaminating activities. Therefore, the Council recommends that the applicant be required to engage the services of a suitably qualified and experienced contaminated land consultant to prepare a Stage 1- Preliminary Site Investigation of the land.

The Preliminary Site Investigation should comply with applicable guidelines made or approved by the NSW EPA under the Contaminated Land Management Act 1997 and identify all past and present potentially contaminating activities; identify potential contamination types; discuss the site condition; provide a preliminary assessment of site contamination; and assess the need for further investigations.

If contaminating activities are suspected or known to have occurred, or if site history is incomplete, it may be necessary to prepare a Stage 2 – Detailed Site Investigation. This investigation would give regard to the potential effects of any contaminants on public health, the environment and building structures and shall meet the sampling density outlined in the NSW EPA Contaminated Sites Sampling Design Guidelines (1995);



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Should a Stage 2 – Detailed Site Investigation indicate that the site poses unacceptable risks to human health or the environment, a Remedial Action Plan (RAP) should be prepared by a suitably qualified and experienced Contaminated Land Consultant in accordance with applicable guidelines made or approved by the NSW EPA under the Contaminated Land Management Act 1997. In these circumstances, it is recommended that the RAP would be referred to Liverpool City Council for review.

2. Referral of the modification to the Environment Protection Authority (EPA) and Office of Water

The NSW Environment Protection Authority is the appropriate regulatory authority for extractive activities including stockpiling and composting at the subject premises. Epic Mining Pty Limited is currently required to comply with conditions imposed by Environment Protection Licence (EPL) Licence Number 12863.

Council recommends that, pursuant to Section 91A(2) of the Environmental Planning and Assessment Act 1979 and Regulations, that the proposed modification application be referred to the NSW Environment Protection Authority (EPA) for comment. It is requested that the NSW EPA reviews the proposed changes to determine that the operation will be undertaken in an environmentally satisfactory manner consistent with conditions imposed by EPL Licence Number 12863.

Council does not raise any objections to the proposed mitigation measures, environmental monitoring and community consultation requirements provided that the modifications are made to the satisfaction of the Department and NSW EPA. It is recommended, however, that in addition to PM₁₀, the Department and NSW EPA should also consider air quality impacts associated with the emission of fine particulate matter from the site to determine whether PM_{2.5} monitoring is required.

Council also recommends that the Office of Water is consulted with regard to any potential impacts on the riparian corridor traversing the site, and that any recommendations it makes are adopted.

3. Onsite Sewage Management System

Council's records indicate that the landholder of 2470 Elizabeth Drive, Luddenham NSW has not been issued an approval to install or construct a waste treatment device or operate a system of sewage management at the subject premises. Consequently, the applicant is required to legitimise the installation and operation of the existing onsite sewage management system in accordance with the Local Government Act 1993.

The applicant is encouraged to contact Council's Environmental Health Section to discuss the application process in further detail. Additionally, the location of the onsite sewage management system and any associated surface/sub-surface irrigation areas, if present, must be carefully considered to ensure that stockpiling and composting activities do not interfere unreasonably with the operation of these systems.

4. Flood Risk

The proposed additional site is located adjacent to the Oaky Creek. The applicant has indicated that 4.5m high earth mounds will be constructed along the 40m wide riparian zone and the site will be protected from potential flooding from the creek. The applicant has also indicated that site has not flooded in the last 5-6 years and the site is unlikely to be affected by flooding due to its topographical position.

In view of the fact that no flood study has been undertaken for the creek to assess flooding affectation of the property, Council recommends that the applicant should undertake a detailed flood study of Oaky Creek for all design events including the 1 in 100 year ARI events and up to the probable maximum flood (PMF) in accordance with

the guidelines of the NSW Floodplain Development Manual. It is further requested that a revised flood impact assessment based on the flood study report be provided for Council's review and approval.

5. Water Quality

A. Groundwater contamination:

The applicant has proposed to implement an on-site groundwater management strategy adopted for the previously approved site at 275 Adams Road Luddenham. Council recommends that a site specific groundwater impact assessment should be undertaken for the proposed site and that appropriate mitigation measures are implemented to ensure groundwater is not adversely impacted by the proposed development activities.

B. Surface water contamination:

The applicant has proposed to implement a "Nil Water Discharge" Policy on site through several mitigation measures including the installation of diversion drains, de-silting of existing sediment ponds and the use of a void to capture most of the water as per existing practice. The applicant has demonstrated that no surface water will be discharged into the adjoining Oaky Creek and will be used onsite.

Council considers that prolonged rainfall could potentially exceed the capacity of the sediment ponds and stormwater runoff may discharge in to the creek. Council recommends that the applicant should undertake appropriate water quality modelling and provide appropriate water quality treatment facilities in accordance with the guidelines of Water Sensitive Urban Design (WSUD) satisfying water quality control requirements of Liverpool Development Control Plan 2008.

6. Traffic and access

The proposed relocation includes construction of a new driveway off Adams Road to a new carpark. However, heavy vehicle access to and from Elizabeth Drive is proposed to be maintained along an existing right of way or lease through the Badgerys Creek Airport site.

It is also noted that the modification application does not include a traffic impact assessment report. Information regarding access arrangements and traffic impact outlined in the EA is limited and does not provide details of the potential traffic impact of the proposed driveway and additional traffic that will be using Adams Road.

Impact on Adams Road - Adams Road is a local road and arrangements should be made to minimise the traffic impact of the proposal. Maintaining heavy vehicle access to and from Elizabeth Drive along an existing right of way or lease through the Badgerys Creek Airport site is supported. However, Council recommends that the applicant be requested to confirm that a lease arrangement has been agreed to by the Commonwealth Government, to ensure that heavy vehicles do not use Adams Road.

Maintaining the existing heavy-vehicle access off Elizabeth Drive requires advisory comments from RMS. It is recommended that the Department seeks RMS advisory comments prior to determination of the application.

The proposed driveway off Adams Road, requires Council approval under Section 138 of the Roads Act 1993. Hence, a detailed design of the driveway is to be submitted to Council for approval prior to the issue of a construction certificate for the new driveway. The proposed driveway is to include appropriate kerb and guttering. Localised road

widening will also be required to ensure that northbound through traffic can bypass a stationary vehicle waiting to turn right into the development site.

It is further requested that the impact of additional traffic through the Elizabeth Drive/Adams Road intersection is assessed. This is to be carried out by a road safety audit. It is recommended that the applicant should engage an independent road safety auditor to prepare and submit a Road Safety Audit, with information on how to implement identified corrective actions as part of the proposed modification.


The following conditions of consent are recommended, should the proposal receive consent:

- 1) A Construction Management Plan is to be submitted for Council's endorsement. During construction the endorsed plan is to be implemented.
- 2) The proposed driveway off Adams Road is to be designed and constructed in accordance with Austroads Guidelines. The driveway is to include appropriate kerb and guttering and localised road widening to ensure that northbound through traffic can bypass a stationary vehicle waiting to turn right into the development site.
- 3) Detailed design of the driveway is to be submitted to Council for approval prior to the issue of a construction certificate for the new driveway
- 4) Specified road works and access provisions are to be completed prior to occupation of the development.
- 5) The developer is to submit a Road Safety Audit, prepared by an independent road safety auditor, with information on how identified road treatments will be implemented as part of the proposed modification. Specified corrective actions are to be implemented prior to occupation of the development.
- 6) The proposed carpark is to be designed and constructed in accordance with AS2890. Prior to the issue of a construction certificate, a detailed design of the car par and the proposed driveway off Adams Road is to be submitted to Council for review and approval.

Conclusion

Thank you for your consideration of these issues. Council would be pleased to discuss these matters further if required. Should you require any further information on this matter, please contact Graham Matthews, Senior Strategic Planner, on 9821 9156.

Yours sincerely



Toni Averay
Director Planning and Growth