

## MEMO

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| <b>Project:</b>   | MARRICKVILLE METRO    | <b>Document No.:</b>    | Mm 01 r02                 |
| <b>To:</b>        | ADCO CONSTRUCTIONS    | <b>Date:</b>            | 27 <sup>th</sup> May 2020 |
| <b>Attention:</b> | Niall Cunningham      | <b>Cross Reference:</b> |                           |
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| <b>From:</b>      | Simon Connolly        | <b>No. Pages:</b>       | 2                         |
| <b>CC:</b>        |                       | <b>Attachments:</b>     | No                        |
| <b>Subject:</b>   | CONSENT CONDITION E19 |                         |                           |

We note there is a conflict between the acoustic consent conditions for CC (B34) and OC (E19). Further, while consent condition E19 provides noise criteria relevant for residential receptors, we believe the criteria has been worded in error such that it is applied to the immediate (non-residential) boundary of the proposed development.

### Consent Conditions

The consent condition of the CC, Condition B34 is as follows:

*A detailed assessment of selected mechanical plant shall be undertaken by an appropriately qualified acoustic consultant to confirm compliance with noise emission criteria within the DECC Industrial Noise Policy. This assessment is to be submitted to the satisfaction of the Certifying Authority prior to issue of the relevant Construction Certificate.*

The consent condition for OC, Condition E19 is as follows:

*Prior to issue of the Occupation Certificate for Stage 1B and the Occupation Certificate for Stage 2, a certificate from an Acoustic Engineer is to be submitted to the Certifying Authority certifying that the garbage compacting system, air-conditioning, lift motors, pumps and plant rooms have been installed so as not to exceed more than 5dB(A) above the background level during the day and evening and not exceeding the background level at night (10.00pm to 6.00 am) when measured at the boundary of the property, and will comply with the DECC Industrial Noise Policy.*

The second part of Condition E19 requires compliance with the DECC (now EPA) Industrial Noise Policy (INP), which is the same requirement as Condition B34. The first part of Condition E19 requires noise to not exceed the background by varying degrees depending on the time of day. This appears to be a specific condition that is normally adopted for residential receivers. However, the wording of Condition E19 technically says this needs to be complied with “at the boundary of the property” rather than “at the residential boundary”.

A literal interpretation of the criteria, as written, could be taken to mean the background plus 5dB / plus 0dB applies at the site boundary or at the adjacent industrial receivers. This would be a highly unusual requirement and far more stringent than the EPA or other Councils would impose.

This inconsistency in the literal interpretation is demonstrated by reference to the Industrial Noise Policy (INP). The requirement within consent condition E19 for a maximum noise emission level of background +5 dBA (Day and Evening) aligns with the Intrusive noise requirement within Section 2.1 of the INP. It is potentially more stringent than the INP requirement during the Night-time hours as the allowable margin in the Consent reduces to 0 dB, rather than 5 dB in the INP. We note that the INP continues to be referenced within Consent Condition E19. The notes within INP Section 2.1 include the following statement in regards to the assessment locations for the intrusive noise criteria:



*This is to be assessed at the most-affected point on or within the residential property boundary or, if that is more than 30 m from the residence, at the most-affected point within 30 m of the residence.*

It is clearly not the intention to apply a noise criterion of this type to a non-residential boundary. We note none of the property boundaries of the development are residential. In all instances, the property is bounded by roads or other public thoroughfares. Further, the closest properties on the opposite side of the thoroughfares are non-residential, being commercial or industrially zoned.

While the INP does not seek to apply the intrusive noise criteria at commercial or industrial boundaries, it does include these property types within limits described within Table 2.1 Amenity Criteria. In that instance the following acceptable noise limits would apply (and are included as part of Conditions B34 and E19):

- Commercial Premises                      65 dB L<sub>Aeq</sub>
- Industrial Premises                         70 dB L<sub>Aeq</sub>

The existing background noise levels near the site boundary have been measured for the purposes of the DA report, with long term RBL background noise levels of 52, 47 and 43 dBA Day, Evening and Night respectively. Applying the E19 criteria at the property boundary would result in noise limits in the commercial / industrial area of 57, 52 and 43 dB L<sub>Aeq</sub> Day, Evening and Night respectively. While appropriate for a residential boundary or property, this is a very significant departure from the criteria of 65 dB L<sub>Aeq</sub> (commercial) and 70 dB L<sub>Aeq</sub> (industrial) derived from the DECC (now EPA) Industrial Noise Policy.

#### **Proposed Revision of Consent Condition E19**

We suggest the rewording of Condition E19 to meet Council's intent:

*Prior to issue of the Occupation Certificate for Stage 1B and the Occupation Certificate for Stage 2, a certificate from an Acoustic Engineer is to be submitted to the Certifying Authority certifying that the garbage compacting system, air-conditioning, lift motors, pumps and plant rooms have been installed so as not to exceed more than 5dB(A) above the background level during the day and evening and not exceeding the background level at night (10.00pm to 6.00 am) when measured at the boundary of **any residential** property, and will comply with the DECC Industrial Noise Policy.*