

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

**DETERMINATION OF DEVELOPMENT APPLICATION
UNDER SECTION 80 OF THE ENVIRONMENTAL PLANNING AND
ASSESSMENT ACT 1979**

I, the Minister for Urban Affairs and Planning, under Section 80 of the “Environmental Planning and Assessment Act, 1979” (“the Act”) determine the development application (“the application”) referred to in Schedule 1 by granting consent to the application subject to the conditions set out in Schedule 2.

The reason for the imposition of conditions generally is to minimise any adverse effects from the development, consistent with the objectives of the Act. These conditions are set out in detail in Schedule 2.

Andrew Refshauge MP
Deputy Premier
**Minister for Urban Affairs and
Planning**
Minister for Aboriginal Affairs
Minister for Housing

Sydney, 3 May 2000

File No. Q95/00007 Pt 2

SCHEDULE 1

Application made by:	Goulburn City Council (“the Applicant”).
To:	The Minister for Urban Affairs and Planning (“the Minister”).
In respect of:	Lot 102 DP791867 in the Parish of Towrang, 143 Gorman Road, Goulburn.
For the following:	Construction of a 600 ML wet weather effluent storage pond, pipework and a transfer pump station (“the development”).

Development Application: DA No. 271-11-99 lodged with the Department of Urban Affairs and Planning on 25 November 1999, accompanied by the Environmental Impact Statement prepared by Goulburn City Council.

Determination:

- 1) To ascertain the date upon which the consent becomes effective, refer to section 83 of the Act.
- 2) To ascertain the date upon which the consent is liable to lapse, refer to section 95 of the Act.
- 3) Section 97 of the Act confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court exercisable within 12 months after receipt of notice.

SCHEDULE 2

Conditions of Development Consent

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ABBREVIATIONS

Approval from EPA	means approved in writing by the EPA or as specified as a condition of a licence
Council	Goulburn City Council
DA	development application
dB(A)	decibel (A-weighted scale)
DLWC	Department of Land and Water Conservation
DPWS	Department of Public Works and Services
EIS	Environmental Impact Statement
EMP	Environmental Management Plan
EMR	Environmental Management Representative
EP&A Act	Environmental Planning and Assessment Act 1979, as amended
EPA	Environment Protection Authority
EPA GTA	EPA General Terms of Approval
EPA Licence	means a licence under the Protection of the Environment Operations Act 1997

NPWS	National Parks and Wildlife Service
POEO Act	Protection of the Environment Operations Act 1997
Subject land/site	the land or site to which the DA and this consent applies
SCA	Sydney Catchment Authority
The Applicant	Goulburn City Council
The Department	Department of Urban Affairs and Planning
The Director-General	Director-General of the Department of Urban Affairs and Planning
The Regulation	the Environmental Planning and Assessment Regulation, 1994, as amended

DEFINITIONS

Offensive odour	as defined under the <i>Protection of the Environment Operations Act, 1997</i> means odour: a) that by reason of its strength, nature, duration, character or quality, or at the time of which it is emitted, or any other circumstances: i. is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or ii. interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or b) that is of a strength, nature, duration, character or quality prescribed by the regulations or that is emitted at a time, or in other circumstances, prescribed by the regulations. <i>Note: There is no definition of ‘harmful’ in the POEO Act. However, ‘harm’ has its ordinary meaning in the Macquarie Dictionary, this being ‘injury, damage or hurt’.</i>
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waste	this term includes: (a) any substance (whether solid, liquid or gaseous) that is discharged, emitted or deposited in the environment in such volume, constituency or manner as to cause an alteration in the environment, or (b) any discarded, rejected, unwanted, surplus or abandoned substance, or (c) any otherwise discarded, rejected, unwanted, surplus or abandoned substance intended for sale or for recycling,
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- reprocessing, recovery or purification by a separate operation from that which produced the substance, or
- (d) any substance prescribed by the regulations to be waste for the purposes of the *Waste Minimisation and Management Act, 1995*.

A substance is not precluded from being waste for the purposes of the *Waste Minimisation and Management Act, 1995* merely because it can be reprocessed, re-used or recycled.

INTEGRATED DEVELOPMENT

Integrated development is development (not being complying development) that, in order for it to be carried out, requires development consent and one or more of the approvals set out in the EP&A Act. The subject proposal is integrated development, as it requires development consent and the approval of the Environment Protection Authority (EPA) under the *Protection of the Environment Operations Act (POEO Act), 1997*. The EPA's general terms of approval therefore form part of this consent.

GENERAL

Adherence to Terms of DA and EIS

1. Development must be carried out in accordance with:
 - (a) Development Application No. 271-11-99; and
 - (b) the "Environmental Impact Statement" prepared by Goulburn City Council dated November 1999

except as modified by the following conditions.

In the event of an inconsistency between this consent and DA No. 271-11-99 (and accompanying EIS), this consent shall prevail.

Compliance with Requirements of the Director-General and Prescribed Conditions

- 2 The Applicant must comply with all reasonable requirements of the Director-General in respect of the implementation of any measures arising from reports submitted in accordance with the conditions of this consent, within such time as the Director-General may agree.

3. The Applicant must comply with all relevant conditions prescribed in Part 7 of the *Environmental Planning and Assessment Regulation, 1994*, as required by Section 80A(11) of the *EP&A Act*.

Structural Integrity

4. The Applicant must ensure that the design and construction of the proposed works is structurally sound and able to withstand all flood events up to at least a 1:100 year Average Recurrence Interval.

Note: An approval under Section 60 of the Local Government Act 1993 (as administered by DLWC) is required for the construction of the wet weather storage pond.

Dispute Resolution

5. In the event that the Applicant or a government authority other than the Department cannot agree on the specification or requirements applicable under this consent, the matter shall be referred by either party to the Director-General or, if not resolved, to the Minister, whose determination of the disagreement shall be final and binding on the parties.

ENVIRONMENTAL MANAGEMENT

Environmental Management Representative

6. A suitably qualified Environmental Management Representative (EMR) must be available during construction activity at the site and be present on-site during any critical construction activities as defined in the Environmental Management Plan (EMP). The EMR must have the responsibility for considering and advising on matters specified in the conditions of consent and compliance with such and facilitation of an induction and training program for all persons involved with the construction activities. The following information shall be provided to the Director-General:
 - a) appropriateness of the qualifications of the EMR including demonstration of general compliance with the principles of AS/NZS ISO 14012:1996 Guidelines for Environmental Auditing: Qualification criteria for environmental auditors;
 - b) role and responsibility of the EMR; and
 - c) authority of the EMR including details of the Applicant's internal reporting structure. This must include the authority to stop work immediately if in the view of the EMR an unacceptable impact is likely to occur or to require other reasonable steps to be taken to avoid or minimise any adverse impacts.

The appointment of the person nominated to serve as the EMR must be approved by the Director-General prior to the commencement of construction.

Environmental Management System

7. The Applicant must ensure the appointment of the contractors that have a demonstrated capability and experience in the implementation of an Environmental Management System prepared in accordance with the AS/NZS ISO 14000 series or BS7750-1994 certified by an accredited certifier and/or have a proven environmental management performance record of a level relevant to the scale of the works being undertaken.

Environmental Management Plan (Construction Stage)

8. The Applicant must prepare an EMP for the construction of the development that reflects and complies with the conditions of this consent. The Plan must include, but not be limited to:
 - a) identification of all the statutory and other obligations which the applicant is required to fulfil including all consents, licences, approvals and consultation;
 - b) outline of all the specific management objectives and strategies for all relevant environmental issues including, but not limited to: noise and vibration; air and water quality, erosion and sedimentation; access and traffic; heritage and archaeology; spoil stockpiling and disposal; waste/resource management; flora and fauna; flooding and stormwater control; geotechnical issues (including landslip and settlement); landscaping and rehabilitation; hazards and risks; energy use; resource use recycling; vermin and utilities;
 - c) definition of the role, responsibility, authority, accountability and reporting of personnel relevant to the EMP;
 - d) measures to avoid and/or control the occurrence of environmental impacts;
 - e) the requirements of Condition No. 17 regarding Soil and Water Management Plan;
 - f) the requirements of Condition No. 27 regarding Dust Management Plan;
 - g) the requirements of Condition No. 32 regarding Construction Noise Management Plan;
 - h) the requirements of Condition No. 44 regarding Groundwater Monitoring Program;
 - i) the requirements of Condition No. 47 regarding Emergency Contingency Management Plan; and
 - j) outline of procedures for monitoring, training and incident management. All staff including contractors and subcontractors must be trained in environmental awareness and responsibility, both generally and specific to the applicant's activities. The Training Program must be implemented annually from the commencement of the development and evaluated by the applicant and a report submitted as part of the Environment Protection Licence Review.

The Construction EMP must be prepared and submitted to the satisfaction of the Director-General within 2 (two) months of the date of this consent (or within such period as

otherwise agreed to by the Director-General), following consultation with the EPA and DLWC.

Environmental Management Plan (Operation Stage)

9. The Applicant must prepare an EMP covering the operation phase of the development. The Plan must include, but not be limited to:
 - a) identification of all the statutory and other obligations which the applicant is required to fulfil including all consents, licences, approvals and consultation;
 - b) outline of all the specific management objectives and strategies for all relevant environmental issues including, but not limited to: noise and vibration; air and water quality, erosion and sedimentation; access and traffic; heritage and archaeology; spoil stockpiling and disposal; waste/resource management; flora and fauna; flooding and stormwater control; geotechnical issues (including landslip and settlement); landscaping and rehabilitation; hazards and risks; energy use; resource use recycling; vermin and utilities;
 - c) steps the Applicant intends to take to ensure that all plans and procedures are being complied with;
 - d) the requirements of Condition No. 24 regarding Wet Weather Storage Facility Management;
 - e) the requirements of Condition No. 32 regarding Operational Noise Management Plan;
 - f) the requirements of Condition No. 44 regarding Groundwater Monitoring Program;
 - g) the requirements of Condition No. 47 regarding Emergency Contingency Management Plan; and
 - h) outline of procedures for monitoring, training and incident management. All staff including contractors and subcontractors must be trained in environmental awareness and responsibility, both generally and specific to the applicant's activities. The Training Program must be implemented annually from the commencement of the development and evaluated by the applicant and a report submitted as part of the Environment Protection Licence Review.

The Operation EMP must be prepared and submitted to the satisfaction of the Director-General at least one month before the commencement of operation (or within such period as otherwise agreed to by the Director-General), following consultation with the EPA and DLWC.

CONDITIONS COMPLIANCE REPORTS

10. At least one month prior to the commencement of substantial construction (or within such period as otherwise agreed to by the Director-General), the Applicant must submit for the approval of the Director-General a Conditions Compliance Report detailing compliance with all relevant conditions that apply prior to commencement of substantial construction and must address:

- a) the dates of submissions of the various studies and/or requirements of various relevant conditions, and their approval and terms of approval; and
 - b) action taken or proposed to implement the recommendations made in terms of approvals and/or studies.
11. At least one month prior to the commencement of operations (or within such period as otherwise agreed to by the Director-General), the Applicant must submit for the approval of the Director-General a Conditions Compliance Report detailing compliance with all relevant conditions that apply prior to commencement of operation and must address:
- a) the dates of submissions of the various studies and/or requirements of various relevant conditions, and their approval and terms of approval; and
 - b) action taken or proposed to implement the recommendations made in terms of approvals and/or studies.

CONSTRUCTION HOURS

12. ¹All construction work at the site that creates audible noise at nearby residences must only be conducted between 7.00am to 5.00pm on Mondays to Fridays and between the hours of 7.00am to 1.00pm on Saturdays. There must be no construction activities on Sundays or public holidays.
13. ²Work may be conducted outside approved hours where:
- a) the delivery of material is required outside the specified hours by police or other authorities for safety reasons;
 - b) the operation or lives or equipment/property is endangered; and/or
 - c) the carrying out of works is necessary to prevent harm to the environment
- and prior notification is provided to the EPA and affected residents where possible or within a reasonable period in the case of emergency.
14. ³The hours of construction specified in Condition No.12 may be varied with the EPA's written consent if the EPA is satisfied that the amenity of the residents in the locality will not be adversely affected.

Note: Any variation to construction hours would require to be undertaken by Notice under Section 58 of the POEO Act 1997.

WATER

Pollution of Water

¹ EPA General Terms of Approval

² EPA General Terms of Approval

³ EPA General Terms of Approval

15. ⁴The site and the activities carried out therein must not pollute surface or groundwater.
16. ⁵There must be no overflow discharges from the wet weather storage facility.

STORMWATER/SEDIMENT CONTROL - CONSTRUCTION PHASE

17. ⁶As part of the Construction EMP specified in Condition No. 8, the Applicant must prepare and implement a Soil and Water Management Plan in consultation with the DLWC. 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 and operation of the pond. The plan 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).
18. ⁷Impervious bunds must be constructed around all fuel, oil and chemical storage areas and the bund volume must be large enough to contain 110 percent of the volume held in the largest container. The bund must be designed and installed in accordance with the requirements of the EPA Environment Protection Manual Technical Bulletin *Bunding and Spill Management*.

WET WEATHER STORAGE

Wet Weather Storage Structure

19. ⁸The wet weather storage pond and associated pumping infrastructure must be designed and constructed to be protected from flood inundation for flood events up to a 1:100 year flood event.
20. ⁹The wet weather storage pond must be lined and maintained to ensure groundwater is protected. Unless otherwise approved by the EPA, the permeability of the liner must have a performance equivalent equal or better to that of a clay liner with a permeability of 1×10^{-9} m/s or less, and thickness of 900mm.
21. ¹⁰Measures must be designed and installed to prevent wind wave erosion impacts to the wet weather storage embankments.

⁴ EPA General Terms of Approval

⁵ EPA General Terms of Approval

⁶ EPA General Terms of Approval

⁷ EPA General Terms of Approval

⁸ EPA General Terms of Approval

⁹ EPA General Terms of Approval

¹⁰ EPA General Terms of Approval

22. ¹¹Any seepage waters from the wet weather storage facility must be returned to the system.
23. ¹²A check survey must be undertaken upon the completion of the wet weather storage facility to confirm its capacity.

Wet Weather Storage Facility Management

24. ¹³As part of the Operation EMP specified in Condition No. 9, the Applicant must develop a management plan for the wet weather storage facility. The plan is to be prepared in consultation with the EPA and must include, but not be limited to, details of:
- the wet weather storage facility liner including a quality assurance program to demonstrate compliance with conditions 15 and 20;
 - strategies for the management of algae;
 - the identification of measures to prevent overflow discharges, including the cessation of flow to the storage pond and the development of a release strategy to minimise impacts from release prior to or during wet weather events;
 - the identification of a program to monitor and document pond volume;
 - the identification of a program to monitor and document the transfer of effluent to and from the wet weather storage pond;
 - the requirements of the groundwater monitoring program as specified in Condition No. 44; and
 - a stored effluent quality monitoring program. (*Note: Opportunities may exist to integrate with existing effluent quality monitoring programs at the premises.*)

A copy of the plan must be submitted to the EPA with the application to vary the Environment Protection Licence.

STORMWATER CHANNEL

25. The stormwater channel, as shown highlighted on the map in Attachment 2 (taken from Towrang 8828-I-S topographic Map, 1:25,000, Central Mapping Authority of NSW), must not be built over.

ODOUR

26. ¹⁴No offensive odour may be emitted from the premises, in accordance with the provisions of the *POEO Act 1997*.

¹¹ EPA General Terms of Approval

¹² EPA General Terms of Approval

¹³ EPA General Terms of Approval

¹⁴ EPA General Terms of Approval

‘Premises’ refers to the land edged heavy black on plan titled “Property Details, Goulburn City Council, Number 2 Effluent Irrigation Farm (see Attachment 1)

DUST

27. ¹⁵As part of the Construction EMP specified in Condition No. 8, the Applicant must prepare a Dust Management Plan. The plan must include, but not be limited to, details of:
- specific measures such as progressive rehabilitation to prevent wind blown dust during construction;
 - equipment to be available and used to control dust generation;
 - procedures to notify property owners and occupiers likely to be affected by dust from the construction site;
 - protocols for handling dust complaints that include recording, reporting and acting on complaints as set out in Condition No. 48.
28. ¹⁶Activities occurring at the site must be carried out in a manner that will minimise emissions of dust from the premises.
29. ¹⁷Trucks entering and leaving the premises that are carrying excavated dusty materials including clays, sands and soils must be covered at all times, except during loading and unloading.
30. ¹⁸Facilities and equipment must be provided for the application of water to disturbed areas to minimise the generation of airborne dust from activities on the site at all times.
31. Material stockpiles and handling areas must be maintained, at all times, in a condition which minimises wind blown or traffic generated dust.

NOISE

32. ¹⁹As part of the Construction EMP and Operation EMP specified in Condition Nos. 8 and 9, the Applicant must prepare and implement a Noise Management Plan for the construction and operational phases of the development, in consultation with the EPA. The plan must include, but not be limited to, details of:
- compliance standards;
 - community consultation;
 - complaints handling monitoring/system as specified in Condition No. 48;

¹⁵ EPA General Terms of Approval

¹⁶ EPA General Terms of Approval

¹⁷ EPA General Terms of Approval

¹⁸ EPA General Terms of Approval

¹⁹ EPA General Terms of Approval

- mitigation measures;
- the design/orientation of the proposed mitigation methods demonstrating best practice;
- construction times;
- contingency measures where noise complaints are received;
- monitoring methods and program.

A copy of the plan must be submitted to the EPA with the application to vary the Environment Protection Licence.

33. ²⁰The level of continuous noise $L_{A10(15min)}$ emanating from operation of the wet weather storage facility in or on the site must not exceed the background level L_{A90} by more than 5 dB(A) when measured at any point within 30 metres from the most affected residence.

Note: $L_{A10(15min)}$ is the sound pressure level that is exceeded for 10% of the time when measured over a 15 minute period.

WASTE

34. ²¹Except as expressly permitted by a licence under the *POEO Act 1997*:
- a) waste generated outside the site must not be received at the site for storage, treatment, processing, reprocessing; and/or
 - b) waste must not be disposed of at the site.
35. ²²Condition No. 34 only applies to the storage, treatment, processing, reprocessing or disposal of waste at the site if the waste is of a type which requires an Environment Protection Licence under the *POEO Act 1997* for its storage, treatment, processing, reprocessing or disposal.

FLORA

36. Any revegetation works proposed or associated with the storage pond are to include grass, plant and tree species native to the Goulburn LGA.

HERITAGE AND ARCHEOLOGY

Aboriginal Heritage

37. In the event that any Aboriginal artefacts are identified on the subject land during the carrying out of works, the Applicant shall cease work immediately in the vicinity of the artefact and contact the NPWS to arrange for the protection of the artefacts.

²⁰ EPA General Terms of Approval

²¹ EPA General Terms of Approval

²² EPA General Terms of Approval

Non-Aboriginal Heritage

38. In the event that any items potentially of non-Aboriginal heritage significance are identified on the subject land during the carrying out of works, the Applicant shall cease work immediately and arrange for a suitably qualified archaeologist to inspect the item/s, determine the level of significance of the item/s and advise on appropriate management measures.

ROAD AND TRAFFIC

39. A new access point on Gorman Road to the subject land must be provided. The access point must be at a suitable location to provide a satisfactory sight distance and the gate of such access point must be set back at least 15 metres from the edge of the sealed carriageway of Gorman Road.

Note: Refer to the most recent publication of “Austroads: Guide to Traffic Engineering Practice” for guidelines on this matter.

40. The section of Gorman Road (as marked on the map in Attachment 2) must be sealed and upgraded. In addition, the corner just to the south of the upgrading section must be enhanced by improving the sight distance by means of tree pruning. The Applicant must undertake the upgrading of this road prior to construction works and contribute \$28,000 to the upgrading.

MONITORING AND REPORTING

Monitoring Records

41. ²³The results of any monitoring required to be conducted by this consent 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 42 and 43.
42. ²⁴All records required to be kept by the licence and/or by this consent must be:
- in a legible form, or in a form that can 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.
43. ²⁵The following records must be kept in respect of any samples required to be collected:

²³ EPA General Terms of Approval

²⁴ EPA General Terms of Approval

- 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.

Groundwater Monitoring Requirements

44. ²⁶As part of the Construction and Operation EMP specified in condition Nos. 8 and 9, a groundwater monitoring program must be designed and implemented in consultation with the EPA and DLWC. The monitoring program should be related to relevant operating procedures and may include both routine and event or incident driven sampling. The program must include details on:
- location of bore holes, including control sites;
 - reporting and assessment of results;
 - site stratigraphy when drilling/constructing the bores;
 - bore construction details including screen levels;
 - opportunities to integrate the monitoring program with other monitoring programs in the vicinity;
 - rationale for final monitoring design;
 - quality control measures where appropriate;
 - groundwater height should be reported against water table contours around the site to assess any variation over time; and
 - the minimum list of parameters that must be considered in the plan are Total Nitrogen including Ammonia-Nitrogen and Nitrate-Nitrogen (mg/l), Electrical conductivity (pS/cm), pH and Groundwater height.

Note: The objective of this program is to ensure waters stored in the wet weather storage are not polluting the surrounding groundwater resource. This objective should be the basis for designing a monitoring regime including the selection of sampling sites, parameters and frequency.

Reporting conditions

45. ²⁷The Applicant must provide an annual return to the EPA in relation to the development as required by the Environment Protection Licence. In the return, the applicant must report on the annual monitoring undertaken, provide a summary of complaints relating to the development, report on compliance with licence conditions and provide a calculation of fees (administrative fees and where relevant, load based fees) that are payable. If load fees apply to the activity the applicant will be required to submit load-based fee calculation worksheets with the return.

²⁵ EPA General Terms of Approval

²⁶ EPA General Terms of Approval

²⁷ EPA General Terms of Approval

46. For the first two annual reports (or for a longer period as required by the Director-General), the Applicant shall furnish a copy of the annual return to the Director-General accompanied by a supplementary report that addresses the following:
- a) on-going compliance with the conditions of development consent; and
 - b) assessment of the key impact predictions made in the EIS and any supplementary studies and detail of the extent to which actual impacts reflect the predictions.
- The suitability of implemented mitigation measures and safeguards shall also be assessed.

EMERGENCY CONTINGENCY

47. ²⁸As part of the Construction EMP and Operation EMP, as relevant, specified in Condition Nos. 8 and 9, the Applicant must develop an Emergency Contingency Management Plan. The plan must include, but not be limited to the following:
- identify threats to the environment and/or public health/life that could arise from the construction and operation of the wet weather facility. These threats may include flooding during construction and operation, overflow, dam failure, power or other utility failure, natural disaster, etc;
 - identify strategies to minimise and ameliorate the effects of any groundwater pollution identified from the groundwater monitoring program detailed in Condition No. 44;
 - develop actions to effectively respond in the event of flooding during construction and operation;
 - develop actions to effectively respond to the disruption of operations so the risk of pollution is minimised;
 - develop a communication strategy for alerting relevant agencies and the potentially affected community in the event of the disruption to operations leading to significant pollution;
 - ensure that all relevant employees are familiar with the emergency management plan; and
 - when developing this emergency plan, opportunities may exist to integrate with existing emergency management plans for the Sewage Treatment Plant.

COMPLAINTS PROCEDURES

48. Prior to the commencement of construction, the Applicant must establish a telephone line that operates 24 hours per day 7 days per week on which complaints about the subject development can be registered. The Applicant must record details of all complaints received and actions taken in response to complaints in an up-to-date log book. The Applicant must ensure that an initial response to complainants is provided within 24 hours and a detailed response within 10 days of the complaint being lodged.

The complaints register must be available for inspection upon request by the Director-General, EPA, DLWC and Sydney Catchment Authority.

²⁸ EPA General Terms of Approval