

**DETERMINATION OF A DEVELOPMENT APPLICATION
FOR STATE SIGNIFICANT, NON-DESIGNATED AND INTEGRATED DEVELOPMENT
UNDER SECTION 80 OF THE
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979**

I, the Minister for Infrastructure and Planning, pursuant to sections 80 of the *Environmental Planning and Assessment Act 1979* ("the Act"), determine the development application ("the Application") referred to in Schedule 1 by granting development consent subject to the conditions set out in Schedule 2.

The reason for the imposition of conditions is to:

- a) minimise any adverse environmental impacts associated with the development;
- b) ensure effective management and safety management of the development; and
- c) provide for the monitoring and reporting of the development.

Craig Knowles MP
Minister for Infrastructure and Planning
Minister for Natural Resources

Sydney,

2004

File No. S03/02213

SCHEDULE 1

Application made by: St Marys Land Limited ("the Applicant");

To: Blacktown City Council;

In respect of: Part Lot 2, DP 893832, Corner of Links and Forrester Roads, St Marys, Blacktown local government area;

For the following: Remediation of the Eastern Sector of the Eastern Precinct within the land to which *State Environmental Planning Policy No. 30 – St Marys* applies, including:

- investigation and validation of access tracks and paths within the Regional Park boundaries to locate and remove any discarded munitions debris;
- slashing of vegetation within a five metre curtilage of access tracks and paths within the Regional Park boundaries;
- capping of Site 15 within the Regional Park with validated material originating from the ADI site;
- investigation of the Zone 2 Post Hole Area, located within the Regional Park, to confirm previous testing, with further remediation if required;
- investigation of all developable areas, outside the Regional Park, to locate and remove any discarded munitions debris, including slashing of vegetation in developable areas, as necessary;
- excavation of a sample area of the QEL Area or implementation of an iterative process;
- investigation of the Eastern Easement and Eastern Easement developable areas to determine the

presence of and remediation, if necessary, of unrecorded tip sites; and

- slashing of 20.2 hectares of vegetation (as listed above), excluding trees with a diameter greater than 100 millimetres.

Development Application:

Integrated DA No. 03-3988, lodged with Blacktown City Council on 19 September 2003, accompanied by *Development Application – Statement of Environmental Effects – St Marys Eastern Sector and QEL Area* prepared by JBA Urban Planning Consultants Pty Limited and dated September 2003;

State Significant Development

The proposal is classified as State significant development under section 76A(7)(c) of the *Environmental Planning and Assessment Act 1979* (the Act).

Integrated Development

The proposal requires an additional approval from National Parks and Wildlife Service under the *National Parks and Wildlife Act 1974*. Consequently, the proposal is classified as Integrated Development under Section 91 of the *Environmental Planning and Assessment Act 1979*.

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SCHEDULE 2

In this consent, except in so far as the context or subject-matter otherwise indicates or requires, the following terms have the meanings indicated:

Act	<i>Environmental Planning and Assessment Act, 1979</i>
Aboriginal object	any deposit, object or material evidence relating to the Aboriginal habitation of the area as defined under <i>National Parks and Wildlife Act 1974</i>
Applicant	St Marys Land Limited (wholly owned by ComLand Limited)
Council	Blacktown City Council
DEC	Department of Environment and Conservation NSW National Parks and Wildlife Service (consisting of the former National Parks and Wildlife Service and the former Environment Protection Authority)
Department	NSW Department of Infrastructure, Planning and Natural Resources
development	the development to which this consent applies
Director-General	Director-General of the NSW Department of Infrastructure, Planning and Natural Resources, or nominee
dust	any solid material that may become suspended in air
eastern easement and eastern easement developable area	area as defined in the document <i>Development Application — Statement of Environmental Effects – St Marys Eastern Sector and QEL Area</i> prepared by JBA Urban Planning Consultants Pty Limited and dated September 2003
EPA	NSW Environment Protection Authority (part of the Department of Environment and Conservation)
Minister	Minister for Infrastructure and Planning, or nominee
remediation works	all activities associated with the remediation works, as described in the document <i>Development Application – Statement of Environmental Effects – St Marys Eastern Sector and QEL Area</i> prepared by JBA Urban Planning Consultants Pty Limited and dated September 2003
Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
site	the land to which this consent applies
Site 15	a former burning ground for munition debris, located within Zone 1 of the Eastern Sector of the former ADI site
Zone 2 Post Hole Area	area as defined in the document <i>Development Application – Statement of Environmental Effects – St Marys Eastern Sector and QEL Area</i> prepared by JBA Urban Planning Consultants Pty Limited and dated September 2003

1. GENERAL

Obligation to Minimise Harm to the Environment

- 1.1 The Applicant shall implement all practicable measures to prevent or minimise any harm to the environment that may result from the construction, operation and where relevant, the decommissioning of the development.

Scope of Development

- 1.2 The Applicant shall carry out the development generally in accordance with:
- a) Development Application No. 03-3988, lodged with Blacktown City Council on 19 September 2003;
 - b) *Development Application – Statement of Environmental Effects – St Marys Eastern Sector and QEL Area* prepared by JBA Urban Planning Consultants Pty Ltd and dated September 2003;
 - c) *Remediation Action Plan for ComLand’s Eastern Sector and QEL Area* prepared by ComLand Ltd and dated September 2002;
 - d) Correspondence from ComLand Ltd to the Department, titled *Proposed Remediation of the Eastern Sector of the Former ADI Site – Aboriginal Heritage* and dated 5 December 2003;
 - e) correspondence from ComLand Ltd to the Department, titled *Proposed Remediation of the Eastern Sector of the Former ADI Site, Blacktown Local Government Area (DA No. 03-3988)* and dated 8 January 2004;
 - f) correspondence from ComLand Ltd to the Department, titled *Proposed Remediation of the Eastern Sector of the Former ADI Site, Blacktown Local Government Area (DA No. 03-3988)* and dated 14 January 2004;
 - g) correspondence from ComLand Ltd to the Department, titled *Proposed Remediation of the Eastern Sector of the Former ADI Site, Blacktown Local Government Area (DA No. 03-3988)* and dated 16 January 2004;
 - h) correspondence from ComLand Ltd to the Department, titled *St Marys Proposed Remediation of Eastern Sector* and dated 23 January 2004;
 - i) facsimile from ComLand Ltd to the Department, titled *Proposed Remediation of the Former ADI Site, St Marys* and dated 28 January 2004;
 - j) ¹correspondence from ComLand Ltd to DEC, titled *Re: Former ADI Site Eastern Sector and QEL relating to Aboriginal Archaeology* and dated 5 March 2004; and
 - k) the conditions of this consent.
- 1.3 In the event of an inconsistency between:
- a) the conditions of this consent and any document listed from condition 1.2a) to 1.2j) inclusive, the conditions of this consent shall prevail to the extent of the inconsistency; and
 - b) any document listed from condition 1.2a) to 1.2j) inclusive, and any other document listed from condition 1.2a) to 1.2j) inclusive, the most recent document shall prevail to the extent of the inconsistency.

Statutory Requirements

- 1.4 The Applicant shall ensure that all licences, permits and approvals are obtained and maintained as required throughout the life of the development. No condition of this consent removes the obligation for the Applicant to obtain, renew or comply with such licences, permits or approvals.

¹ Incorporates a DEC General Terms of Approval (Point 4)

Dispute Resolution

- 1.5 In the event that a dispute arises between the Applicant and Council or the Applicant and a public authority other than the Department, in relation to a specification or requirement 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 dispute shall be final and binding on all parties. For the purpose of this condition, "public authority" has the same meaning as provided under section 4 of the Act.

Note: Section 121 of the *Environmental Planning and Assessment Act 1979* provides mechanisms for resolution of disputes between the Department, the Director-General, councils and public authorities.

2. COMPLIANCE

- 2.1 The Applicant shall ensure that employees, contractors and sub-contractors are aware of, and comply with, the conditions of this consent relevant to their respective activities.
- 2.2 The Applicant shall be responsible for environmental impacts resulting from the actions of all persons on the site, including contractors, subcontractors and visitors.
- 2.3 Prior to each of the events listed from a) to b) below, or within such period otherwise agreed by the Director-General, the Applicant shall certify in writing to the satisfaction of the Director-General, that it has complied with all conditions of this consent applicable prior to that event. Where an event is to be undertaken in stages, the Applicant may, subject to the agreement of the Director-General, stage the submission of compliance certification consistent with the staging of activities relating to that event.
- a) commencement of any activities associated with the development on the site;
 - b) completion of soil remediation and associated physical works.
- 2.4 Notwithstanding condition 2.3 of this consent, the Director-General may require an update report on compliance with all, or any part, of the conditions of this consent. Any such update shall meet the requirements of the Director-General and be submitted within such period as the Director-General may agree.
- 2.5 The Applicant shall meet the requirements of the Director-General in respect of the implementation of any measure necessary to ensure compliance with the conditions of this consent, and general consistency with the documents listed under condition 1.2 of this consent. The Director-General may direct that such a measure be implemented in response to the information contained within any report, plan, correspondence or other document submitted in accordance with the conditions of this consent, within such time as the Director-General may agree.

3. ENVIRONMENTAL PERFORMANCE

Independent Site Audit

- 3.1 Upon the completion of the activities associated with the development, the Applicant shall submit to the Director-General a copy of the site audit statement for the site prepared by an auditor accredited by the EPA under the *Contaminated Land Management Act 1997*.

Note: Nothing in this consent determines future zoning of land, zoning boundaries or public access arrangements to the regional park. These functions are subject to separate approval processes or DEC direction/administration.

Flora and Fauna

- 3.2 Prior to the commencement of any activities associated with the development, the Applicant shall clearly mark areas that capping or slashing is to occur, and shall ensure that these works are fully contained within these areas.
- 3.3 No mature trees located within areas, as defined in condition 3.2, shall be removed unless otherwise necessary for the purposes of survey works and remediation activities.
- 3.4 The Applicant shall ensure that vegetation within the areas as defined in condition 3.2 are not slashed below a height of approximately 10 centimetres.
- 3.5 Should the Applicant become aware of the presence of threatened species not identified and assessed in documents detailed in condition 1.2 (including *Persoonia nutens*) and which are likely to be affected during the course of the activities associated with the development, the Applicant shall cease all work likely to affect the threatened species, and shall inform the Director-General and the Director-General of DEC immediately. Work likely to affect the threatened species shall not recommence until the Applicant has obtained advice from a suitably qualified ecologist to do so, and has consulted with the Director-General and DEC.
- 3.6 The Applicant shall ensure that all employees, contractors and sub-contractors involved with the development are suitably educated and informed of the ecological values of the area, and the environmental safeguards and protocols to be applied during these works.
- 3.7 At least 48 hours prior to the commencement of any activities associated with the development, the Applicant shall notify the DEC (Regional Planning Coordinator, Central Conservation Programs and Planning) of the commencement date and provide contact details for the person (or persons) responsible for the supervision of the development.

Site 15 Capping Material

- 3.8 The Applicant shall ensure that soil used for capping purposes at Site 15 is sourced from areas of minimal weed infestation within the Quality Evaluation Laboratory (QEL) area of the site. Should alternative areas within the site be required to source the necessary capping material for Site 15, the Application shall ensure that these alternative areas are of a comparable soil type and are of minimal weed infestation. Details of any alternative source shall be submitted to DEC (Regional Planning Coordinator, Central Conservation Programs and Planning) prior to any transfer of soil to Site 15.
- 3.9 The Applicant shall ensure that soil used for capping purposes at Site 15 shall be screened for munitions debris, and if necessary, debris removed and suitably disposed of, prior to the transfer of soil to Site 15. A report detailing the results of the screening procedures undertaken shall be submitted to the Director-General and DEC prior to the transfer of soil to Site 15.

Vegetation Rehabilitation Program

- 3.10 The Applicant shall prepare and implement a **Vegetation Rehabilitation Program** for the rehabilitation of the areas located within the future Regional Park affected by capping and/or slashing activities at the site. The program shall be prepared in consultation with DEC and shall be approved by the Director-General prior to the completion of any activities associated with the development. This program shall include, but not necessarily be limited to:
- i) identification of areas of rehabilitation at the site;
 - ii) identification of the criteria to assess the progress of the rehabilitation of these areas;
 - iii) details of the monitoring program (including monitoring frequency, sampling and analysis methodology, and monitoring locations), and details of management protocols to ensure the suitable regeneration of vegetation in these areas and to control of presence of pest flora species in these areas; and
 - iv) details of ameliorative measures to be implemented should the progress of the natural rehabilitation fall below the set criteria or if monitoring detects pest flora species present within these areas. This may include, but not be limited to, weed removal, herbicide application, new plantings and bush regeneration.
- 3.11 The results of the monitoring program detailed in condition 3.10iii) shall be submitted to DEC (Regional Planning Coordinator, Central Conservation Programs and Planning) and to the Director-General (unless otherwise agreed) every six months, following the completion of the activities associated with the development.
- 3.12 Should monitoring conducted in accordance with condition 3.10 detect the need for ameliorative measures outlined in the Vegetation Rehabilitation Program, the Applicant shall consult with DEC (Regional Planning Coordinator, Central Conservation Programs and Planning) with respect to the nature and appropriateness of the selected ameliorative measure/s to be implemented prior to undertaking these works. Once completed, these works shall be monitored in accordance with the monitoring program outlined in condition 3.10iii).
- 3.13 Following the completion of activities associated with the development, the Applicant shall manage and monitor the rehabilitated areas in accordance with the Vegetation Rehabilitation Program (condition 3.10) and, where relevant, report on the rehabilitated areas (condition 3.11) for at least 2.5 years or until the transfer of these areas to DEC (whichever is the lesser).

Heritage

- 3.14 ²Prior to any disturbance to the PAD 1 site, the Applicant shall apply and obtain approval of the Director-General of DEC, under section 90 of the *National Parks and Wildlife Act 1974*.
- 3.15 ³The Applicant shall ensure that ADI-57 site is not impacted on by any activity associated with the development and shall be maintained in open space.
- 3.16 Prior to the commencement of any activities associated with the development, the Applicant shall adequately notify and invite the relevant Aboriginal community groups to be present on the site so that they may be provided with the opportunity to monitor the site for any Aboriginal objects during these activities.
- 3.17 Should any Aboriginal object be uncovered during any of the activities associated with the development, all work in the vicinity of the object shall cease and the Applicant shall contact DEC immediately. The Applicant shall meet the requirements of the DEC with respect to the treatment, management and/or preservation of any such object.

² Incorporates a DEC General Term of Approval (Point 1)

³ Incorporates a DEC General Term of Approval (Point 2)

Aboriginal Heritage Management Plan

- 3.18 ⁴Prior to the commencement of any work associated with the development, the Applicant shall prepare an Aboriginal Heritage Management Plan for the site. The plan shall be prepared in consultation with the relevant Aboriginal community groups and DEC and shall detail, but not necessarily be limited to, the following:
- a) the long-term management strategies and protocols for Aboriginal heritage objects located within the area affected by the development;
 - b) identification of the procedures for investigative and remediation activities in relation to Aboriginal heritage within the area affected by the development; and
 - c) consideration of any relevant issues regarding interpretation, signage and cultural awareness issues and strategies.

The Aboriginal Heritage Management Plan shall be approved by the Director-General prior to the commencement of any activities associated with the development.

Note: The above Plan of Management is to be submitted to DEC as part of the section 90 application. The following documents must also accompany the section 90 application to DEC: a methodology/research design for the archaeological salvage activity (prepared by a suitably qualified archaeologist) and an application for Care and Control for the recovered and collected Aboriginal objects by the Aboriginal community involved.

Noise Impacts

- 3.19 Activities associated with the development shall only be conducted between 7:00 am and 6:00 pm from Monday to Friday inclusive, and from 8:00 am to 1:00 pm on Saturdays. No construction activity is permitted on a Sunday or a public holiday.

Note: This condition does not apply in the event of a direction from police or other relevant authority for safety reasons, or to avoid the loss of life, property or damage to the environment.

- 3.20 Noise resulting from activities associated with the development shall not exceed the construction noise levels outlined in the EPA's *Environmental Noise Control Manual*. In applying these noise criteria, the background noise level should be measured and interpreted as specified in the EPA's *NSW Industrial Noise Policy (2000)*.

Air Quality Impacts

Dust Emissions

- 3.21 The Applicant shall design and undertake activities associated with the development in a manner that minimises or prevents dust emissions from the site, including wind-blown and traffic-generated dust.

Soil and Water Quality Impacts

- 3.22 During the proposed works, the Applicant must take all reasonable measures to minimise soil erosion and the discharge of sediments and pollutants from the site.
- 3.23 The Applicant shall ensure that any material that is to be stockpiled on site is stabilised to prevent contamination, erosion or dispersal of the material.

Waste Generation and Management

- 3.24 All wastes generated on the site during the activities associated with the development shall be classified in accordance with the EPA's publication *Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes* and be disposed of to a facility that may lawfully accept the waste.

⁴ Incorporates a DEC General Term of Approval (Point 3)

- 3.25 The Applicant shall prepare a **Waste Management Protocol** for the handling, management, transportation and removal of munition materials identified during activities associated with the development. This protocol shall also:
- (a) identify safety risks associated with the management, transportation and removal of munition materials and shall detail measures to minimise these risks to levels as low as possible. These measures shall be prepared in reference to the general principles and objectives of the Department's *Hazardous Industry Planning Advisory Paper No.9 – Safety Management*;
 - (b) address the arrangements covering the transport of hazardous material including the details of routes to be used for the movement of vehicles carrying munition materials that could pose a hazardous risk. These arrangements shall be prepared in reference to the general principles and objectives of the Department's draft guideline *Route Selection*. Suitable routes identified in the protocol shall be used except where departures are necessary for emergencies

This protocol shall be approved by the Director-General prior to the commencement of any activities associated with the development.

- 3.26 The Applicant shall prepare a **Contaminated Soil Management Protocol** to detail measures for the management and remediation of any contaminated soil identified during the activities associated with the development. This protocol shall include, but not necessarily be limited to:
- a) procedures for the assessment of contaminated soil in accordance with EPA guidelines;
 - b) description of what remediation works would be implemented to address identified areas of contamination;
 - c) how any impacts associated with the remediation works would be managed and monitored; and
 - d) procedures for the final reporting on contaminated soil, treatment and disposal (if relevant) to the Director-General following the completion of the works.

The protocol shall be approved by the Director-General prior to the commencement of any activities associated with the development.

Zone 2 Post Hole Area, Eastern Easement and Eastern Easement Developable Areas

- 3.27 Should any unrecorded tip sites be detected during investigative works associated with the development, the Applicant shall cease works within these areas and shall notify the Director-General immediately. Prior to the recommencement of any works within these areas (excluding further investigative works), the Applicant shall submit to the Director-General for approval a short report detailing the following:
- a) the location and extent of the unrecorded tip site;
 - b) identification of the type of materials detected at these sites and details of any assessment of the tip site in accordance with EPA guidelines;
 - c) works to be undertaken to remove, remediate and validate these sites; and
 - d) details of the handling, storage, removal and disposal of the excavated contents of the tip sites in accordance with EPA waste guidelines.

Works detailed in this report outlined above shall not commence until the Applicant has obtained the Director-General's approval for the report.

4. COMMUNITY INFORMATION, CONSULTATION AND INVOLVEMENT

- 4.1 Subject to confidentiality, the Applicant shall make all documents required under this consent available for public inspection on request.

Complaints Procedure

- 4.2 Prior to the commencement of activities associated with the development, the Applicant shall ensure that the following are available for community complaints:
- a) a 24-hour, toll-free telephone number on which complaints about the development may be registered;
 - b) a postal address to which written complaints may be sent; and
 - c) an email address to which electronic complaints may be transmitted.

The telephone number, the postal address and the email address shall be advertised on at least one occasion prior to the commencement of construction of the development, through a medium approved by the Director-General. These details shall also be provided on the Applicant's internet site, should one exist.

- 4.3 The Applicant shall record details of all complaints received through the means listed under condition 4.2 of this consent in an up-to-date Complaints Register. The Register shall record, but not necessarily be limited to:
- a) the date and time, where relevant, of the complaint;
 - b) the means by which the complaint was made (telephone, mail or email);
 - c) any personal details of the complainant that were provided, or if no details were provided, a note to that effect;
 - d) the nature of the complaint;
 - e) any action(s) taken by the Applicant in relation to the complaint, including any follow-up contact with the complainant; and
 - f) if no action was taken by the Applicant in relation to the complaint, the reason(s) why no action was taken.

The Complaints Register shall be made available for inspection by the Director-General upon request. The Applicant shall also make summaries of the Register, without details of the complainants, available to the public for inspection upon request.

- 4.4 Should the Applicant have existing systems in place for receiving, recording and responding to community complaints, the Applicant may use these systems to satisfy the requirements of condition 4.2 and/or condition 4.3 with the prior written approval of the Director-General.

5. ENVIRONMENTAL MANAGEMENT

- 5.1 The Applicant shall prepare and implement an **Environmental Management Plan** to outline environmental management practices and procedures to be followed during the site preparation and remediation activities during each stage of the development. The Plan shall include, but not necessarily be limited to:
- a) a description of all activities to be undertaken on the site during site preparation and construction activities, including an indication of stages of activities, where relevant;
 - b) statutory and other obligations that the Applicant is required to fulfil during the activities of the development, including all approvals, consultations and agreements required from authorities and other stakeholders, and key legislation and policies;
 - c) details of how the environmental performance of the activities associated with the development will be monitored, and what actions will be taken to address identified adverse environmental impacts;
 - d) a description of the roles and responsibilities for all relevant employees involved with the development;
 - e) the Management Plans listed under condition 5.2 of this consent; and
 - f) complaints handling procedures during construction and demolition.

Any activity associated with the development shall not commence until written approval has been received from the Director-General for the Environmental Management Plan.

- 5.2 As part of the Environmental Management Plan for the development, required under condition 5.1 of this consent, the Applicant shall prepare and implement the following Management Plans:
- a) a **Waste Management Protocol** to detail measures to manage munitions identified during activities associated with the development (refer to condition 3.25).
 - b) a **Contaminated Soil Management Protocol** to detail measures for the management and remediation of any contaminated soil identified during the activities associated with the development (refer to condition 3.26).
 - c) an **Aboriginal Heritage Management Plan** (refer to condition 3.18);
 - d) a **Dust, Erosion and Sedimentation Management Plan** to detail measures to minimise dust, erosion and the discharge of sediment and other pollutants to lands and/or waters during activities associated with the development. The Plan shall include, but not necessarily be limited to:
 - i) details of erosion, sediment and pollution control measures and practices to be implemented during the development;
 - ii) a description of what actions and measures would be implemented to minimise dust generation during the proposed works, including from traffic movements;
 - iii) demonstration that erosion and sediment control measures will conform with, or exceed, the relevant requirements of the Department of Housing's *Managing Urban Stormwater: Soils and Construction* (1998) and Council's *Erosion and Sediment Control Policy*;
 - iv) details of procedures for the in-situ management of slashed material within and outside the future regional park;
 - v) an monitoring program that would be implemented during activities associated with the development, and details of any additional mitigation measures should any non-compliance be detected. This shall include formalised stockpile of slashed material for use on-site should in-situ management procedures not succeed.
 - e) a **Noise Management Plan** to detail measures to minimise noise generated during activities associated with the development. The Plan shall include, but not necessarily be limited to:
 - i) identification of the potential sources of noise during the proposed works;
 - ii) specification of the noise criteria for the proposed works;
 - iii) a detailed description of what actions and measures would be implemented to ensure that these works would comply with the relevant noise criteria;
 - iv) a description of how the effectiveness of these actions and measures would be monitored during the proposed works, clearly indicating who would conduct the monitoring, how often this monitoring would be conducted, how the results of this monitoring would be recorded; and, if any non-compliance is detected; and
 - v) a description of what procedures would be followed to ensure compliance.

6. ENVIRONMENTAL REPORTING

Incident Reporting

- 6.1 The Applicant shall notify the Director-General of any incident with actual or potential significant off-site impacts on people or the biophysical environment as soon as practicable after the occurrence of the incident. The Applicant shall provide written details of the incident to the Director-General within seven days of the date on which the incident occurred.
- 6.2 The Applicant shall meet the requirements of the Director-General to address the cause or impact of any incident, as it relates to this consent, reported in accordance with condition 6.1 of this consent, within such period as the Director-General may agree.