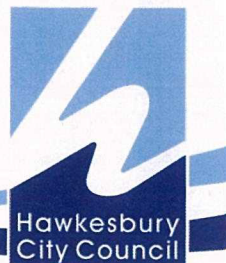


Your Ref: D18/34870
Our Ref: DA0830/15



1 February 2019

Independent Pricing and
Regulatory Tribunal NSW
Level 15, 2-24 Rawson Place
Sydney NSW 2000

E-mail: [REDACTED]

Dear Mr Harmstorf,

Invitation to make a submission on Licence Applications Made under the Water Industry Competition Act 2006 (WICA) (NSW) for 67 Kurrajong Road, Kurrajong.

Thank you for your invitation to make a submission on the licence application for the sewerage scheme at the above address.

It is advised that Council did not support the proposed subdivision application and that the subdivision was approved by the Land and Environment Court on 30 June 2017. As part of the determination of the application Council's experts (Dr Robert Patterson, Guy Paroissien and William Pillon) raised concerns in relation to how the sewerage scheme proposed for the site would operate and whether or not the proposed lots were large enough to allow for:

- the retention of significant trees on the site,
- the construction of a dwelling on each lot,
- the establishment of suitable irrigation areas (including buffers), and
- location of private open space areas separate from the effluent irrigation areas.

Attached to this letter is a copy of the joint expert planning, wastewater and arborist reports which were considered by the Court and specifically detail the issues summarised above.

Other matters raised during the course of the proceedings related to how any future system would be approved, licensed, inspected and managed on an ongoing basis. This is particularly so given that each individual property would have its own separate irrigation areas which would need to be inspected regularly to ensure property owners are maintaining the irrigation areas and that they are in good working order.

Council's experts did not support the proposal based on the information submitted. However the Court determined that the subdivision should be approved subject to the applicant being provided with the opportunity to apply for a licence and imposed condition (No. 27) which reads as follows:

Prior to issuing a Construction Certificate a licence under the Water Industry Competition Act 2006 must be obtained from IPART and an approval under s.68 Local Government Act 1993 must be obtained from Council for the carrying out of sewerage work and the operation of a sewage management system.

A copy of the Judgment and consent issued by the Land and Environment Court is attached for your reference.





After the application was approved by the Land and Environment Court, Council received an application to construct a new wastewater treatment plant on the subject land for the proposed subdivision. The application was reviewed and the applicant advised that insufficient documentation had been provided in order to favorably consider the application, and that the following information would be required:

1. Application to install an on-site sewerage management facility

The application is required to be supported by the information specified on page 3 of Council's 'application to install an on-site sewerage management facility' form.

This information is required to be prepared in accordance with Clause 26 of the Local Government (General) Regulation 2005.

It should be noted that the submission of previous reports prepared for the development application are considered to be conceptual and do not address all the above requirements.

2. Conditions of Development Consent Notice No. DA0830/15

Given the specific nature of the proposed wastewater treatment plant it is required that full specifications and details of the subdivision be provided in order to consider the sewerage management facility application, and should take into consideration:

- *Location and size of on-site detention basins,*
- *Gross pollutant traps,*
- *Location of building envelopes,*
- *Irrigation areas,*
- *Fencing, and*
- *Retaining walls.*

It is advised that full construction details for the subdivision works and potential future building envelopes must be shown as part of this application. This is to ensure that there will be no potential conflict with the services required to be provided for the future development lots and the operation of the proposed facility.

In this regard it is required that all construction certificate details of the application be submitted along with the operational details as outlined under Development Consent No. DA0830/15, and should include but not be limited to the following:

- a) *Complete design and engineering plans of the sewerage treatment plant, including the gravity mains, rising mains and the pump station.*
- b) *Plans showing the size and capacity of each of the on-site detention basins and gross pollutant traps.*
- c) *The location of all the trees that are proposed to be kept under the tree retention plan.*
- d) *Details of fencing or retaining walls that are proposed on each of the proposed service lots.*
- e) *Complete design and engineering plans of the water recycling facility and the recycled water reticulation network including rising mains and lot connection details.*
- f) *In regards to the land application area for the on-site disposal the following information will need to be provided:*



- *A minimum area of 203 square metres for on-site effluent disposal and setbacks as per Condition 64 of Development Consent Notice No. DA0830/15*
 - *Each residential lot is to have a reserve area of 150 square metres set aside for future use as a land application area to replace the original land application system if required*
 - *Advice of compliance with Condition 12 of Development Consent Notice No. DA0830/15*
 - *Submission of the owner's manual for the sub-surface irrigation system as per Condition 28 of Development Consent Notice No. DA0830/15*
 - *Advice on how Condition 75 (j) of Development Consent Notice No. DA0830/15 is to be complied with; and*
 - *Advice on how the dosing of treated effluent to each residential lot is to be achieved and monitored and how it is designed to prevent over irrigation during periods of extended rainfall.*
- g) *Submission of the Plan of Management for the Recycled Water Management Scheme, including the emergency and contingency plans in the event of a system failure or a failure to achieve performance criteria in accordance with Condition 77 and 79 of Development Consent Notice No. DA0830/15.*
- h) *Payment of the application fee of \$7889.55 as per Council's fees and charges.*

Current Position

It is advised that the information provided in relation to the current application with IPART has been reviewed and it is considered that the concerns previously raised by Council still remain and are required to be addressed in order to satisfy Council that the future lots are large enough to support the proposed subdivision and sewerage scheme.

Furthermore, it is considered that the application does not provide any specific detail in relation to the following:

- costs of maintaining the system,
- potential for compaction of soils around irrigated areas,
- location of parking/maneuvering areas for pump out/service vehicles,
- what limitations will apply to effluent irrigation areas,
- what will happen with excess treated water,
- odour impacts associated with the facility,
- noise control measures, and
- the overall appearance of the facility and how it will present to adjacent development.

In response to the questions contained in your letter it is advised that:

1. Currently it is unclear as to whether or not the application relies on the construction of the sewerage buildings based on the concept plans accepted by the Court or if the buildings have been modified since the determination of the application.
2. It is considered that one of the main health and environmental risks posed by the development is in relation to the restrictive use of irrigation areas on small residential lots and the potential for future property owners to modify or interfere with the irrigation areas.



In order to resolve any potential issues in this regard it would be preferred that water be treated to a higher level than what is proposed with the subsurface irrigation areas.

This would allow recycled wastewater to be used for tap use as indicated under Section 3.8.13 of the Martens report, dated October 2018, reference P1504885JR03V04, submitted with the licence application.

Another environmental risk associated with the proposal would be the monitoring of all irrigation areas for each of the individual lots and frequency of inspections. Council is of the understanding that irrigation areas form part of the entire sewerage system as a whole and irrigation areas would need to be covered by a WICA licence which would be issued and managed by IPART and not as part of a separate Section 68 approval. This is similar to what occurs in Pitt Town (Retail Supplier's Licence Number 13_001R). It is unclear as to how such a regime would be managed and controlled during the process of construction and during future inspections.

3. Specific conditions with the application should at a minimum be consistent with the conditions issued as part of the consent including conditions No. 28, 64, 77, 79, 80.
4. Planning measures that could be put in place to protect subsurface irrigation areas would be restrictions on title to prevent building structures on/or interfering with the irrigation areas identified on the land. Consequently, the management of any risks associated with complying development would be reliant upon the relevant certifier obtaining a satisfactory service arrangement with the service provider.

Notwithstanding the above it is noted that any changes to the system proposed as part of the application would need to be consistent with the subdivision approval and may need to be considered as part of a modification application.

Finally given the unique nature of the proposal, and the difficulty in engaging in consultants during the lead up to and over the Christmas/new year period, Council requests that additional time be provided to allow for Council to complete the process of having the application reviewed by its specialist consultant who has experience in this type of system. In the meantime Council officers are happy to arrange a meeting with the IPART Secretariat to discuss the application.

Yours faithfully

Peter Conroy | General Manager | Hawkesbury City Council
☎ [REDACTED] | ☎ (02) 4587 7740 | 🌐 www.hawkesbury.nsw.gov.au

Attachments:

- Joint expert Wastewater report for Land and Environment Court Proceedings 2016/162961
- Joint expert report by town planners for Land and Environment Court Proceedings 2016/162961
- Joint expert arborist/ecologist report for Land and Environment Court Proceedings 2016/162961
- Land and Environment Court Judgement for PRJM Pty Ltd v Hawkesbury City Council 2016/162961
- Land and Environment Court Conditions for PRJM Pty Ltd v Hawkesbury City Council 2016/162961