

12 August 2019

BY EMAIL

ipcn@ipcn.nsw.gov.au

Attention Chris Wilson

Chair
Independent Planning Commission
Level 3
201 Elizabeth Street
Sydney NSW 2000

Dear Chair

Referral of Prestons Industrial Estate (SSD 7155 MOD 5)

We are the Applicants in the above modification application SSD 7155 (MOD 5) (**MOD 5**) and refer to the submissions of Liverpool City Council (**Council**) in relation to MOD 5 published on the IPC Project Portal on 7 August 2019.

It is noted that Council has requested an '*opportunity to meet with IPC members prior to determination to elaborate on Council's concerns*'. It is relevant that, but for the factual matter identified in Council's letter dated 7 August 2019 regarding the Department's report, that no substantively new matters have been raised by Council that were not previously raised and considered by the Department prior to the issue of their positive recommendation report.

In this regard, we are willing to provide the IPC with the Applicant's previous submissions, or any additional response or information which will assist the IPC's determination.

Moreover, we maintain our position that (despite the ongoing dispute between Council and the Applicant as to timing and the need for a works in kind agreement) the additional cost incurred by the Applicant in delivering the drainage works must be taken into account as a material public benefit when applying the provisions of the section 7.11 *Environmental Planning and Assessment Act 1979* (EP&A Act). If the consequence of Conditions B23, B23A and C14 to C17 were that a material public benefit was not taken into account and a credit granted, the consequence is that those conditions could not be reasonable in the circumstances. It is our position that Council's refusal to account for the full costs incurred in delivering the drainage works is not lawful by reason of section 7.11(6) of the EPA Act.

While it is unfortunate that Council has not updated and recosted its ageing Contributions Plan, it is not reasonable to refuse to apply the provisions of the EPA Act on the basis that the Contributions Plan has not appropriately accounted for the real costs of the infrastructure for which it purports to provide. Further, the WIK Policy is not an environmental planning instrument, and there are cogent reasons not apply the policy in circumstance where it prevents implementation of the EPA Act. An updated Contributions Plan may be a more appropriate mechanism through which Council is assisted in managing its infrastructure obligations and mitigate against potential financial concerns.

We respectfully request an opportunity to meet with the Chair, or alternate IPC members, prior to determination of this matter to canvas this matter in full.

Kind Regards
Logos Property Pty Ltd

A handwritten signature in black ink, appearing to read "Craig Thomas". The signature is written in a cursive style with a large initial 'C'.

Craig Thomas
Development Manager