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Ross Fox
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13 March 2020

Western Sydney Planning Partnership
PO Box 257
PARRAMATTA NSW 2124

Dear Sir/Madam

**Western Sydney Aerotropolis Planning Package
Submission**

Crush and Haul Pty Ltd

Property: [REDACTED] **Elizabeth Drive, Badgerys Creek**

We act for Crush and Haul Pty Ltd.

Our client is a tenant of the property at [REDACTED] Elizabeth Drive, Badgerys Creek (**Property**).

We make the following submission on behalf of our client in response to the Western Sydney Aerotropolis Planning Package and its impact on the Property.

1. Summary

According to the *Western Sydney Aerotropolis Structure Plan* (December 2019) the zoning of our client's Property been changed from Flexible Employment to Environment and Recreation.

This new zoning is entirely inconsistent with the existing approved use and likely future uses at the Property. The justification for the proposed zoning for it is fundamentally flawed for the reasons set out below. Our client relies on the attached report from environmental consultants GHD in support of its submission.

Our client requests that the proposed zoning revert to Flexible Employment.

2. Background

Our client currently leases the northern 4 hectares of the Property, where an approved resource recovery facility has commenced and SEARs have been issued and an EIS prepared for the expansion of this facility. This use will not be permitted within the proposed Environment and Recreation zone.

Our client has invested a significant amount of time and money into this Property and the associated environmental approval documents with the intent of servicing the construction

of the Western Sydney Airport. It is a great concern that this is now in jeopardy due to the change in proposed zoning.

3. New proposed zoning is not appropriate

Our client has engaged GHD to provide a review of the Western Sydney Aerotropolis Planning Package and the proposed rezoning in relation to the Property, which is attached.

As this demonstrates, the proposed Environment and Recreation zone for the Property is not appropriate because:

- 3.1 Its current condition is not consistent with the justification or objectives of the zone.
- 3.2 It is not consistent with the desired strategic outcomes for the Badgerys Creek precinct.
- 3.3 It has limited environmental and biodiversity value and is unlikely to support significant biodiversity value because it's relatively small in size and is proposed to be surrounded by intensive Flexible Employment/Enterprise zone land use.
- 3.4 It has existing development approvals which are inconsistent with the proposed zone.
- 3.5 It may increase the risk of wildlife strike.
- 3.6 Its current condition and existing and proposed development is more consistent with a Flexible Employment/Enterprise zone, which will also surround the Property.

Our client requests the zone be reverted to the Flexible Employment/Enterprise zone, because it:

- 3.7 Is consistent with the desired strategic outcomes for the Badgerys Creek precinct.
- 3.8 Was originally proposed in the Western Sydney Aerotropolis – Land Use and Infrastructure Implementation Plan – Stage 1: Initial Precincts (August 2018).
- 3.9 Would be consistent with the conditions of the Property.
- 3.10 Would be consistent with the existing and proposed development on the Property.
- 3.11 Would be consistent with the proposed zoning of the surrounding area.

4. Next steps

Our client would also be pleased to meet the Western Sydney Planning Partnership to discuss its submission in more detail.

Please give me a call if you would like to discuss.

Yours faithfully,

FISHBURN WATSON O'BRIEN



ROSS FOX
Principal
Accredited Specialist Planning and Environment

Att. *Review of the Western Sydney Aerotropolis Planning Package – Factual Report (GHD, March 2020).*



13 March 2020

Crush and Haul Pty Ltd
PO Box 30
BADGERYS CREEK NSW 2555

Our ref: 2219862
Your ref:

Dear Louise

Western Sydney Aerotropolis Planning Package Environment and Planning overview

1 Introduction

GHD Pty Ltd (GHD) has been engaged by Crush and Haul Pty Ltd (C&H) to review the Western Sydney Aerotropolis Planning Package in relation to [REDACTED] Elizabeth Drive, Badgerys Creek (the site). According to the *Western Sydney Aerotropolis Structure Plan* (December 2019) the site is proposed to be zoned Environment and Recreation.

C&H currently have a lease over the northern 10 acres of the site, where they currently operate a resource recovery facility, permissible pursuant to Division 23 Clause 121(1) of *SEPP (Infrastructure) 2007*.

2 Purpose of this report

The purpose of this report is to:

- Review the current zoning of the site
- Consider the existing approvals for the site
- Review the proposed zoning of the site
- Consider the current biodiversity values of the site
- Provide analysis and recommendation in relation to a suitable zone for the site.

3 Current zoning

The site is currently zoned RU2 under *Penrith Local Environmental Plan 2010*. The objectives of the zone are:

1 Objectives of zone

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*

- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*
- *To preserve and improve natural resources through appropriate land management practices.*
- *To ensure development is compatible with the environmental capabilities of the land and does not unreasonably increase the demand for public services or public facilities.*

The current zoning of the site is shown in Figure 1 below.

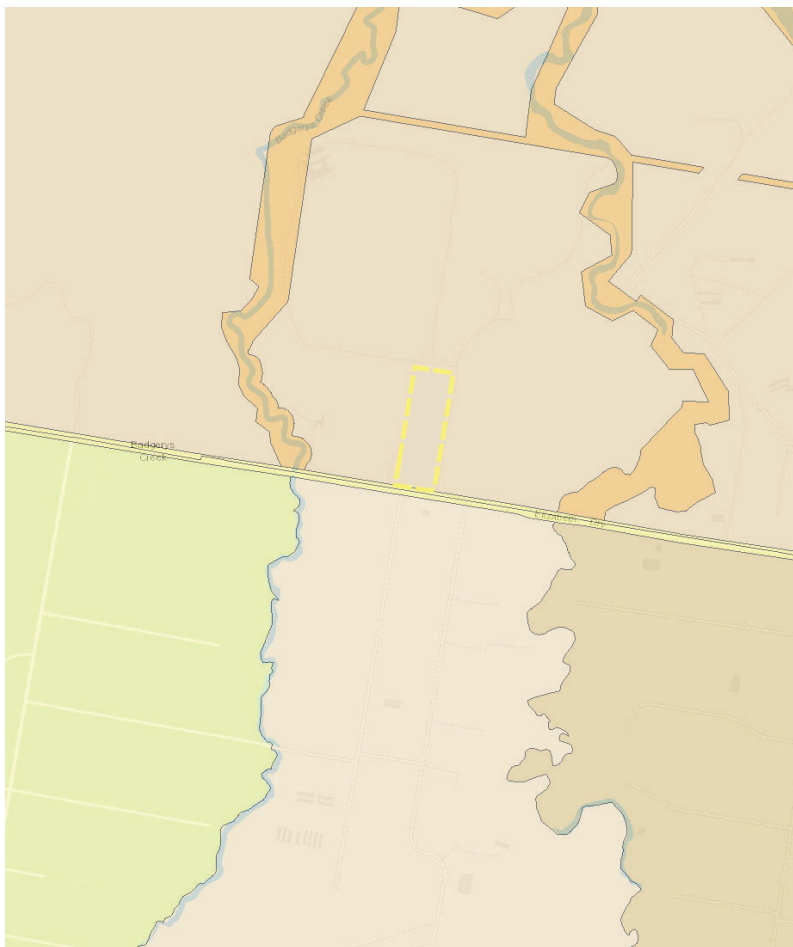


Figure 1 Current zoning

4 Existing approvals

The site is currently used for a range of industrial uses in line with a number of existing and proposed approvals, including:

- Development Consent DA96/0082 for the Erection and Operation of a Poultry Abattoir and Processing Facility which has been partially constructed and has been confirmed by Council to be an active approval. A copy of the approved plans are attached.

- Development Consent 16/0722 for a Resource Recovery Facility which covers the northern 5 acres of the site and is currently under construction. A copy of the approved site layout is attached.
- SEARs have been issued for the expansion of the approved Resource Recovery Facility and the EIS has been prepared. It is anticipated the EIS will be lodged in April 2020. A copy of the proposed site layout is attached.

5 Proposed rezoning

The site is proposed to be rezoned Environment and Recreation zone under the *Western Sydney Aerotropolis Structure Plan* (December 2019) as shown in Figure 2.

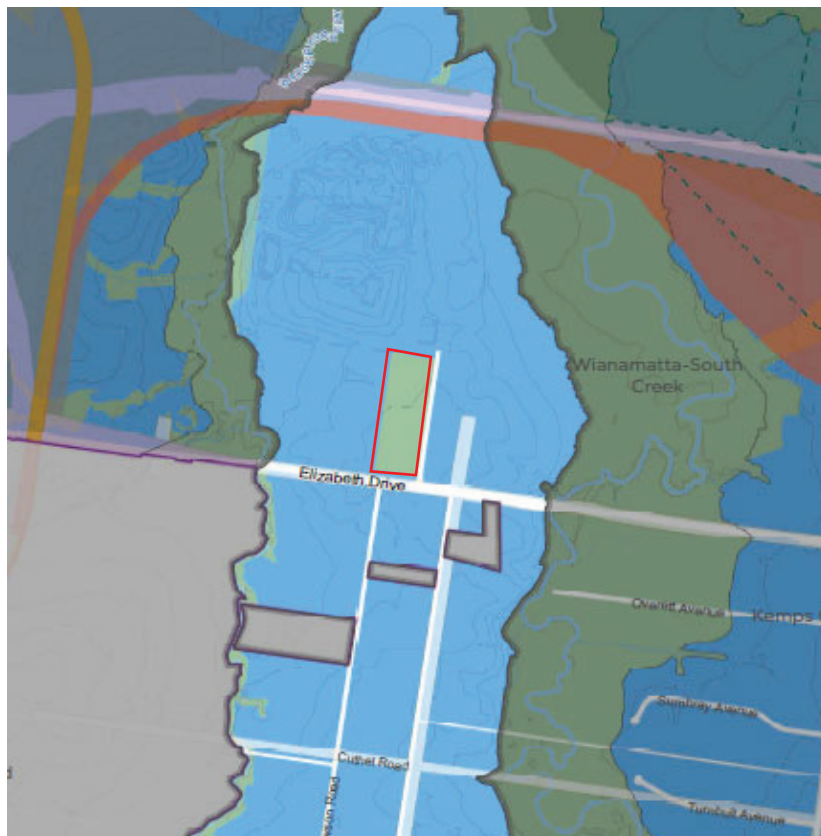


Figure 2 Proposed zoning of the site (outlined in red)

The proposed land use controls for the Environment and Recreation zone in the *Western Sydney Aerotropolis Discussion Paper on the Proposed State Environmental Planning Policy – Draft for public comment* (December 2019) indicates the zone is based on the existing corridors along riparian areas, the 1:100 flood level and high quality native vegetation. The proposed environmental related objectives of the Environment and Recreation zone are:

- *To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.*

- *To prevent development that could destroy, damage or otherwise have an adverse effect on ecological or recreational values.*

Limited justification has been provided in the above document for the proposed rezoning but it would appear that the reasoning for the proposed zoning changing between the 2018 report and the latest December 2019 plan was due to the vegetation that existed on the site prior to the recent developments.

6 Biodiversity value

As shown in Figure 3, the site, in particular the northern portion of the site, currently has minimal vegetation, is surrounded by cleared land and contains limited biodiversity value. It is not connected to any other area of environmental value. The site has been identified on the Blue Green Infrastructure Map as having “Potential for Conservation” and our understanding is this was based on the vegetation that existed on the site prior to the clearing associated with the recent developments mentioned in Section 4.



Figure 3 Recent aerial photograph of the site (outlined in red) dated 22 January 2020

The site is not mapped as having environmental value on:

- OEH Biodiversity Values map – see Figure 4
- Penrith LEP - Natural Resources Sensitive Land map
- Penrith LEP - Flood Planning map

This indicates the site does not contain areas of high ecological value, so the objective of the proposed zone to protect and manage areas of high ecological value does not apply. The objective also mentions restoring areas of high ecological value and while it is feasible the site could be rehabilitated in future, due to the isolation and relatively small size, it is unlikely to create a viable native vegetation community due to edge effects, noise impacts and light pollution from adjoining existing and future flexible employment/ enterprise uses. It's considered unlikely it would be able to establish a significant area of high ecological value.

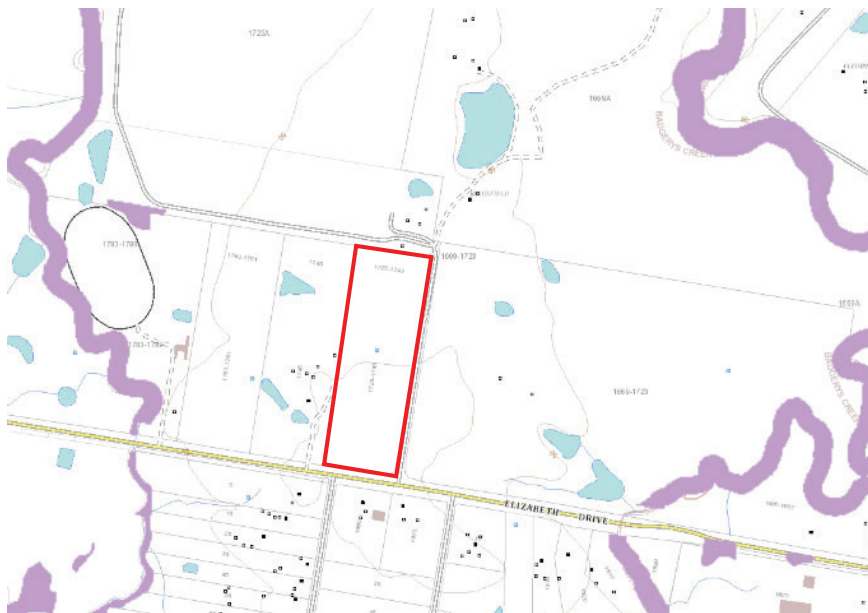


Figure 4 OEH Biodiversity Values map (outlined in red)

It is considered the site is not consistent with the intent or objectives of the proposed Environment and Recreation zone because the site:

- Is currently zoned RU2 Rural Landscape under Penrith LEP 2010
- Has limited environmental and biodiversity value.
- Is not suitable for environmental land use.
- Is subject to a number of existing approvals.
- Is more suitable to the Flexible Employment/Enterprise zone which surrounds the site.

7 Analysis

The site is within the 3 km Wildlife Buffer Zone for the Western Sydney Airport and in direct line of the runway, where conservation areas are considered a moderate wildlife attraction risk. While the *NASF Guideline C – Managing the Risk of Wildlife Strikes in the Vicinity of Airports* indicates this risk can be mitigated, given it is adjacent to a putrescible waste facility, which is considered a high risk and requires mitigation, establishing a conservation area that could provide habitat for birds foraging at the waste facility, is considered to be inconsistent with this guideline.

As mentioned above, the proposed Environment and Recreation zone is primarily based on existing corridors along riparian areas, areas subject to 1:100 year flooding and existing high quality native vegetation.

The site is not within and does not form part of a riparian corridor, nor is it subject to flooding or contain significant areas of high quality native vegetation, so the proposed Environment and Recreation zone intent and objectives are inconsistent with the features of the site.

According to the *Western Sydney Aerotropolis Structure Plan* (December 2019) the strategic outcomes of the Badgerys Creek precinct, where the site is located, are primarily to enable industries to facilitate construction of the Aerotropolis, facilitate commercial and industrial activities to support the Airport over time and provide for transport corridors. The proposed Environmental and Recreation zone is inconsistent with these desired strategic outcomes.

According to the *Western Sydney Aerotropolis Discussion Paper on the Proposed State Environmental Planning Policy – Draft for public comment* (December 2019), the Flexible Employment/Enterprise zone is intended to support a range of commercial and industrial sectors. The objectives of the zone are more consistent with the current condition of the site and the approved and proposed land uses.

The *Western Sydney Aerotropolis Structure Plan* (December 2019) further states that the Badgerys Creek precinct, where the site is located, is intended to support the construction of the Airport and Aerotropolis, with resource recovery facilities listed as a desirable land use.

8 Conclusion

The Western Sydney Aerotropolis Planning Package proposes to rezone [REDACTED] Elizabeth Drive, Badgerys Creek Environment and Recreation zone. The proposed Environment and Recreation zone is not considered appropriate because:

- Its current condition is not consistent with the justification or objectives of the zone.
- It is not consistent with the desired strategic outcomes for the Badgerys Creek precinct.
- It has limited environmental and biodiversity value and is unlikely to support significant biodiversity value because it's relatively small in size and is proposed to be surrounded by intensive Flexible Employment/Enterprise zoned land uses.
- It has existing development approvals which are inconsistent with the proposed zone.
- It may increase the risk of wildlife strike.

- Its current condition and existing and proposed development is more consistent with a Flexible Employment/Enterprise zone, which will also surround the site.

It is considered the Flexible Employment/Enterprise zone is more appropriate, because it:

- Is consistent with the desired strategic outcomes for the Badgerys Creek precinct.
- Was originally proposed in the Western Sydney Aerotropolis – Land Use and Infrastructure Implementation Plan – Stage 1: Initial Precincts (August 2018).
- Would be consistent with the conditions of the site.
- Would be consistent with the existing and proposed development on the site.
- Would be consistent with the proposed zoning of the surrounding area.

Sincerely
GHD

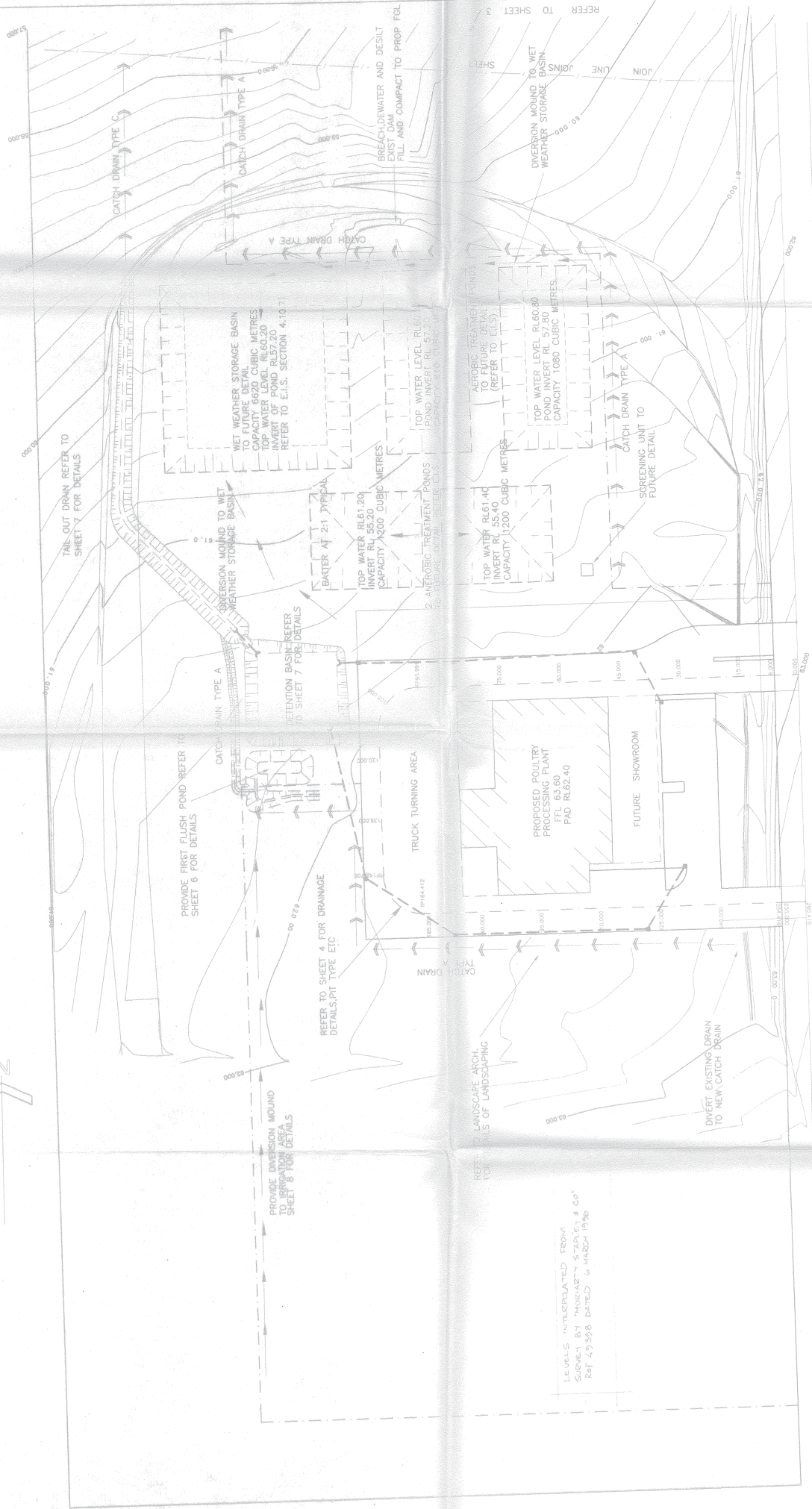


Ben Luffman

Senior Environmental Consultant



Attachments: Approved Poultry Abattoir and Processing Facility site plan
 Approved Resource Recovery Facility site plan
 Proposed expansion to the approved Resource Recovery Facility site plan



RESERVED ROAD

BLH CONSULTING CONSULTANTS & CIVIL ENGINEERS 1/11 MURRAY STREET, SYDNEY NSW 1585 PH: (02) 9550 1111 FAX: (02) 9550 1112 WWW.BLHCONSULTING.COM.AU		PROPOSED POULTRY PROCESSING PLANT No 1725 ELIZABETH DRIVE BADGERYS CREEK		SCALE 1:500 ORIGIN OF LEVELS SSM72487 RL63.98 DATE FEB 97 SHEET OF 2 OVERALL PLAN OF WORKS N2118-C-02	
PROJECT NO. LOT 4 DP240718 LOCALITY BADGERYS CREEK		DATE FEB 97 SHEET OF 2 OVERALL PLAN OF WORKS N2118-C-02		SCALE 1:500 ORIGIN OF LEVELS SSM72487 RL63.98 DATE FEB 97 SHEET OF 2 OVERALL PLAN OF WORKS N2118-C-02	

LEVELS INTERFERED FROM
 SURVEY BY "MURRAY STREET" 4 60"
 REF 49558 DATED 6 MARCH 1998

DRIVE

ELIZABETH

 BLH CONSULTING <small>CONSULTING & DESIGN INC. (INCORPORATED IN THE STATE OF CALIFORNIA) 20001 LEONARD PARKWAY, SUITE 100, SAN LEANDRO, CA 94768-1100 TEL: (925) 466-1200 FAX: (925) 466-1201</small>		PROPOSED POULTRY PROCESSING PLANT No 1725 ELIZABETH DRIVE BADGERYS CREEK		L.S.A. PENRITH CITY COUNCIL PROPERTY DESCRIPTION LOT 4 DP240718 LOCALITY BADGERYS CREEK		SCALE: 1:500 ORDER OF LEVELS SSM/2487 RL 63.98 DATUM AHD		OVERALL PLAN OF WORKS					
						DATE 17/03/88		SHEET 3		OF 3		PROJECT NO. N2118-C-03	

PROPOSED RESOURCE RECOVERY FACILITY

ELIZABETH DRIVE KEMPS CREEK

DEVELOPMENT APPLICATION 16/0722

PENRITH
CITY COUNCIL

This plan / document relates
to Development Consent: **DA16/0722**

Subject to the conditions outlined in the consent

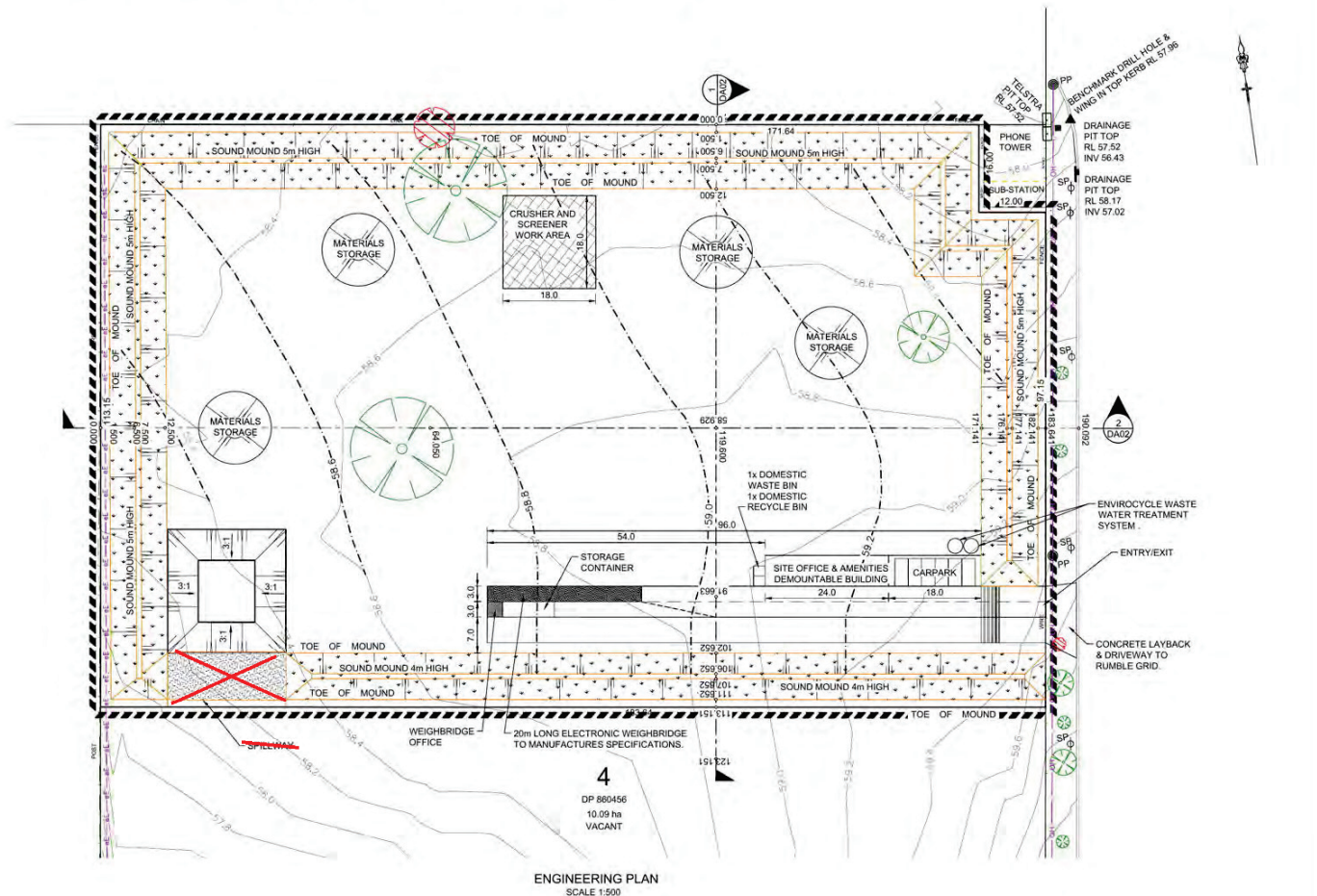
COUNCIL DOES
NOT ATTEST TO
THE ACCURACY
OF DETAILS
IN PLANS



LOCALITY SKETCH
SCALE N.T.S.

CIVIL PLAN INDEX		
PLAN NO.	PLAN NAME	REV
110372/DA01	COVER SHEET & ENGINEERING PLAN	D
110372/DA02	SITE SECTIONS & DETAIL	D
110372/DA03	SOIL & WATER MANAGEMENT, DRAINAGE PLAN & TURNING PATHS	D

LEGEND	
	DESIGN CONTOUR
	NS CONTOUR
	CUT (30m³)
	FILL (3745m³)
	EARTH MOUND
	LIMIT OF WORKS
	OVERHEAD ELECTRICITY POWER POLE
	SIGN POST
	EXISTING TREE TO BE RETAINED
	EXISTING TREE TO BE REMOVED



ENGINEERING PLAN
SCALE 1:500

1:500 (AT A1)
1:1000 (AT A3)

0 10 20 30 40 50
METRES

AMENDMENT	DES	DRN	CKD	APR	DATE
D	MS	NAF	RT	MS	27/09/17
C	JM	JM	RT	MS	22/12/16
B	JM	NM	RT	MS	24/08/16
A	JM	NM	RT	MS	18/08/16

J. WYNDHAM PRINCE CONSULTING CIVIL INFRASTRUCTURE ENGINEERS & PROJECT MANAGERS

PO Box 4366 PENRITH WESTFIELD NSW 2750
P 02 4720 3300 F 02 4720 3399 W www.jwprince.com.au E jwp@jwprince.com.au

AZIMUTH:
DATUM:
ORIGIN:
MGA

CLIENT:
CRUSH & HAUL PTY LTD

ISSUED FOR DA APPROVAL
NOT FOR CONSTRUCTION

PROPOSED RESOURCE RECOVERY FACILITY
ELIZABETH DR, BADGERYS CREEK

PLAN No: 110372/DA01 **D**

FILE No: 110372DA01

SHEET SIZE: A1 ORIGINAL

COVER SHEET & ENGINEERING PLAN

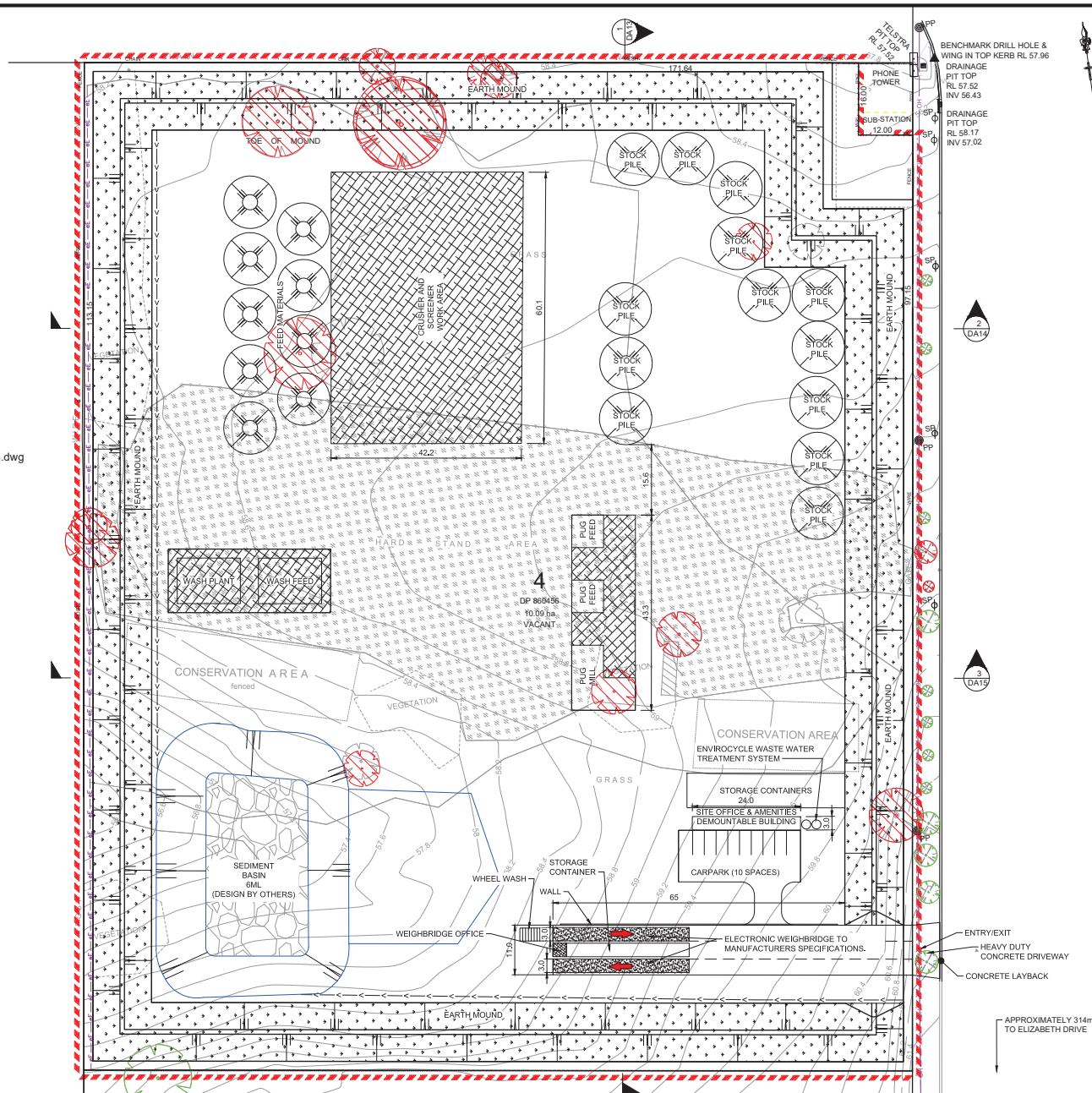
THIS DRAWING MUST NOT BE USED FOR
CONSTRUCTION UNLESS SIGNED AS PART OF AN
APPROVED CONSTRUCTION CERTIFICATE.

LEGEND

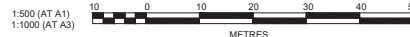
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- 120.0— NS CONTOUR
- EARTH MOUND
- - - - - LIMIT OF WORKS
- HO— OVERHEAD ELECTRICITY
- PP POWER POLE
- ✦ SP SIGN POST
- EXISTING TREE TO BE RETAINED
- ⊗ EXISTING TREE TO BE REMOVED
- <—<—<— CATCH DRAIN

Survey By:
RICHARD HOGAN & CO.
SURVEYING & DEVELOPMENT CONSULTANTS
P.O. BOX 4365, PENRITH PLAZA, NSW 2750
Ph. (02) 4732 6599

NAME AND DATE OF SURVEY FILE:
15662-Lot 4 Elizabeth Drive, Badgerys Creek – Detail Survey Ver B.dwg
13/03/2018



PLAN
SCALE 1:500



J. WYNDHAM PRINCE CONSULTING CIVIL INFRASTRUCTURE ENGINEERS & PROJECT MANAGERS

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AZIMUTH:
DATUM:
ORIGIN:
MGA:

CLIENT:
CRUSH & HAUL PTY LTD

ISSUED FOR DA APPROVAL
NOT FOR CONSTRUCTION

PROPOSED RESOURCE RECOVERY FACILITY
ELIZABETH DR, BADGERYS CREEK

PLAN No: 110372/DA12 **D**
FILE No: 110372DA12
SHEET SIZE: A1 ORIGINAL

ENGINEERING PLAN