

## SARA Conditions RAL21-0138 – Applicants Response No 3.

This response refers to the 'draft' document and 'Approved Plan' supplied by SARA via email on 13 November 2024

### 1. Condition 1

#### The Condition itself is accepted

The inclusion of the additional text in the *Condition Timing* column - **is not**

#### Reason

As provided in Condition 1 of my response of 31 October 2024, professional engineering advice provides a solution that would result in the area "shaded Red" in Lot 51 being removed, in the future, from the *erosion prone* overlay.

The additional wording added "**and to be maintained at all times**, in the *Condition Timing* column, sets the *Amended Plan* referred to in Condition 1 in concrete "*for all time*"

This is considered **unreasonable**

#### Request

Leave the wording as provided in the original advice of 17 October 2024 and as accepted by us on 21 October 2024.

### 2. Condition 2

#### The deletion of this condition is acknowledged

### 3. Condition 3

**The Condition and Condition Timing is accepted.**

### 4. Condition 4

**The condition is Not accepted**

#### Reason

Our reasons remain those as set out in our response to Condition 4,5,8 of 31 October 2024.

PLUS- even if relevant

This condition offends the requirements under the *Planning Act 2016* [45(3)] for a *Code Assessable* development and the requirement it must be carried out **ONLY** against the *assessment benchmarks* in a *categorising instrument* for the that development.

This condition could perhaps be acceptable for Operational Works development, but only if conditioned in quantitative terms, [43(2)] providing:

- references the *assessment benchmarks* and the defined article that constitutes “*clean materials*”; and
- references the *assessment benchmarks* and defines what constitutes, and the prescribed values for, - “*prescribed water contaminant*”.

#### Request

**Delete** – Maybe apply to subsequent development application for *Operational Works*

#### 5. Condition 5

**The Condition is Not accepted**

#### Reason

Our reasons remain those as set out in our response to Condition 4,5,8 of 31 October 2024

#### Request

**Delete** – Maybe apply to subsequent development application for *Operational Works*

#### 6. Condition 6

**The condition is Not accepted**

#### Reason

The reasons remain those as set out for Condition 1 above and Condition 6 in our response of 31 October 2024.

#### Request

**Delete**

#### 7. Condition 7

**The deletion of this Condition is acknowledged**

#### 8. Condition 8

**The condition is Not accepted**

#### Reason

The reasons remain those as set out for Condition 1 above and Condition 6 in our response of 31 October 2024.

#### Request

Delete

9. Condition - Not Numbered

The condition is not accepted

Reason

The reasons remain those as set out in our response for Condition 9 of 31 October 2024

10. Amended Plan 2115302

In my Response No 2, (31 October 2024 - {Condition 1, Requests 1 and 2}.) I flagged concerns I held in relation to text content that was in the amended Plan2115302 [17 October 2024] provided on 23 October 2024.

The reasons were set out in my response.

I note there is no change in the text of amended Plan2115302, provided on 13 November 20234, regarding the concerns I raised.

I do not like to assume, but does this means SARA's position remains unchanged and no change is to be made to the text of that plan?.

If my assumption is correct, I advise that outcome **is not supported.**

I acknowledge SARA's good faith in taking into consideration, the review of the material we provided on 31 October 2024.

Warren Bolton

Thursday, 14 November 2024

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NOTES

*Schedule 10, Part 20, Division 4, Table 2, Item 1 — The chief executive administering the Planning Act 2016 nominates the Director-General of the Department of Environment, Science and Innovation to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:*

I note the above text statement that accompanies the *conditions* and make the following observations.

The use of the term “enforcement authority” would seem to be misplaced and out of context given that at present the *chief executive* (or delegate) is acting as a referral (Concurrence) agency to an *Assessment Manager* in a *development assessment* process.

The process currently being undertaken is to consider a *development applications*, for compliance with the relevant assessment benchmarks and to provide advice in that regards to the *Assessment Manager*

I have never seen this process ever referred to as “enforcement”.

The requirement for **code assessable** development, the subject of the above conditions, is to consider whether the development can comply with the quantitative values of an *assessment benchmark*, called up by a *categorising instrument* and to deliver instructions - in that regard. - That all!