

**In the Land and
Environment Court
of New South Wales**

No. 10257 of 2006

King Mix Pty Limited

Applicant

Campbelltown City Council

Respondent

Order

The orders of the Court are:

1. The appeal is upheld;
2. Development Application 336/2006/DA-DE for a concrete batching and masonry plant at 16 Kerr Road, Ingleburn is determined by the granting of development consent subject to the conditions in Annexure A; and
3. The exhibits are returned.

Ordered: 9 March 2007

By the Court



Susan Dixon
Registrar

ANNEXURE A

GENERAL CONDITIONS

The following conditions have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land.

For the purpose of these conditions, the term 'applicant' means any person who has the authority to act on or benefit of the development consent.

1. Approved Development

Except as modified by the other conditions of this consent the Applicant shall carry out the development in accordance with the development application DA336/2006 lodged with the Council on 7 February 2006, the Environmental Impact Statement entitled "Environmental Impact Statement for Proposed Concrete Batching and Masonry Plant at 16 Kerr Road, Ingleburn" dated 6 February 2006 prepared by Umwelt Environmental Consultants, the document titled "Flood Study Report" prepared by Pavel Kozarovski (Amended 3: 8 January 2007 and the following plans:

- Drawing titled "Site Plan" prepared by Pragmatic Designers, Project No 26019 Drawing No. 1 dated 23/01/07
- Drawing titled "Plan" prepared by Pragmatic Designers, Project No 26019 Drawing No.2 dated 19/12/06
- Drawing titled "Office Plans" prepared by Pragmatic Designers, Project No 260019 Drawing No.3 dated 30/11/06
- Drawing titled "Elevation/Section" prepared by Pragmatic Designers, Project No 26019 Drawing No.4 dated 17/01/07
- Drawing titled "Elevations" prepared by Pragmatic Designers, Project No 26019 Drawing No.5 dated 12/01/07
- Drawing titled "Elevation/Section" prepared by Pragmatic Designers, Project No 26019 Drawing No.6 dated 17/01/07
- Drawing titled "Site Plan" prepared by Pragmatic Designers, Project No 26019 Drawing No.7 dated 13/10/06
- Drawing titled "Landscape" prepared by Landscape Garden Service DWG. No/Issue LC 06 4 drawn by Stephen Clancy dated 12/1/07
- Drawing titled "Noise Barrier Site Layout" prepared by JARS Engineering & Contracting Services, Drawing No. S02 dated 22-01-2007



- Drawing titled "Sections & Details" prepared by JARS Engineering & Contracting Services, Drawing No. 503 dated 22-01-2007
- Drawing titled "Flood Study Proposed Development at No. 16 Kerr Road, Ingleburn" designed by Pavel Kozarovski Job No. 934 Amended 8 Jan 2007

2. Building Code of Australia

All building work must be carried out in accordance with the provisions of the *Building Code of Australia*. In this clause, a reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application for the relevant construction certificate is made.

3. Landscaping

Landscaping shall be provided on the site in accordance with the drawing titled "Landscape" prepared by Landscape Garden Service DWG. No/Issue LC 06 4 drawn by Stephen Clancy dated 12/1/07 except that the trees identified as T3, T4, T6 and T7 shall be replaced by local species such as *malaleuca decora*, *eucalyptus amplifolia*, and *eucalyptus baueriana* and the "tube stock planting detail" is amended by deleting the subsoil drainage system.

A suitably qualified landscape consultant/ contractor shall be engaged to carry out the landscaping works. The landscaping shall be maintained for the life of the development and any landscaping that dies, is destroyed or is significantly damaged must be replaced.

4. External Finishes

The external finishes shall be in accordance with the schedule of finishes that is to be submitted to and approved by Council prior to the issue of a construction certificate for any building work subject of the consent. Any alterations to these finishes will require separate approval by Council.

5. Deliveries

Vehicles servicing the site shall comply with the following requirements:

- a. All vehicular entries and exits shall be made in a forward direction.
- b. All vehicles awaiting loading, unloading or servicing shall be parked on site and not on adjacent or nearby public roads.
- c. All deliveries to the premises shall be made to the loading bay/s provided.



A traffic sign shall be placed adjacent to the driveway at the entrance of the property advising of the above information. Should the sign be damaged or removed, it shall be replaced within 48 hours.

6. Advertising Signs – Separate DA Required

This consent does not permit the erection or display of any advertising signs.

Most advertising signs or structures require development consent. You should make separate enquiries with Council prior to erecting or displaying any advertising or signage.

7. Storage of Goods

All works, storage and display of goods, materials and any other item associated with the premises shall be contained wholly within the building.

8. Security Fencing

All security fencing shall be established behind the required landscape areas and not on the road alignments. No barbed wire style fencing is to be erected in a location that can be seen from a public place.

9. Storage of Dangerous Goods

Prior to the storage of any 'dangerous goods' on the premises, a licence from the Chemical Safety Branch of *Work Cover* shall be obtained and submitted to Council.

10. Graffiti Removal

In accordance with the environmental maintenance objectives of 'Crime Prevention Through Environmental Design', the Applicant shall be responsible for the removal of any graffiti which appears on the buildings, fences, signs or other surfaces on the property within 48 hours of its application.

The acoustic barrier near the southern boundary of the property is to be finished in anti-graffiti finish/texture to discourage the potential for graffiti and to enable graffiti to be easily removed.

11. Unreasonable Noise, Dust and Vibration

The development, including operation of vehicles, shall be conducted so as to avoid unreasonable noise, dust or vibration and cause no interference to adjoining or nearby occupants. Special precautions must be taken to avoid nuisance in neighbouring residential areas, particularly from machinery, vehicles, warning sirens, public address systems and the like.



In the event of a noise, dust or vibration problem arising at the time, the Applicant shall when instructed by Council, cause to be carried out an acoustic or air quality investigation by an appropriate consultant and submit the results to Council. If required by Council, the Applicant shall implement any or all of the recommendations of the consultant and any additional requirements of Council to Council's satisfaction.

12. Engineering Design Works

All designs of engineering works shall be carried out in accordance with the requirements set out in Council's *Engineering Design Guide for Development (as amended)*.

13. Stray Currents and Electrolysis from Rail Operations

The developer is to procure a report on the Electrolysis Risk to the development from stray currents, and the measures that will be taken to control the risk. The developer is advised to consult an Electrolysis expert. The expert's report must be submitted to RailCorp for review by the Senior Electrolysis Engineer or nominated Electrolysis Section personnel.

14. Lights and Reflective Materials

The developer must submit any proposals to RailCorp for the use of lights, signs, and reflective materials, whether permanent or temporary, in the proximity of RailCorp's facilities prior to commencing work.

15. Drainage

Given the site's location next to the rail corridor, drainage from the development must be adequately disposed of/managed and not permitted to be discharged into the corridor unless prior approval has been obtained from RailCorp.

Water shall not be permitted to pond adjacent to the infrastructure to prevent service interruption.

16. Hours of Operation

The development may only be operated between the hours of 7am to 6pm Monday to Friday and 7am to 4pm Saturday, and shall not operate on Sundays or public holidays unless otherwise approved by Council.

16a. Approval Process For Extended Hours of Operation

Prior to any approval by Council to extend operating hours of the site, the proponent must develop and implement a trial program in consultation with DEC and Council. The purpose of the trial is to:



- a. Validate the noise predictions included in the Environmental Impact Statement (EIS) and compliance with the approval conditions relating to the project;
- b. Conduct an environmental review with the aim of optimising performance; and
- c. Identify remedial measures that can be implemented in the event the trial shows a discrepancy between actual and predicted performance

16b. Compliance with Noise Limits

Noise generated at the premises must not exceed the noise limits presented in the table below. The noise limits represent the sound pressure level (noise) contribution, at the nominated receiver locations in the table, as a result of concrete batching and masonry plant activities.

Noise Limits for the Concrete Batching and Masonry Plant

Receiver Locations ⁽¹⁾	Noise Limits dB(A)			
	Morning Shoulder 6am - 7am Monday - Friday		Day 7am - 6pm Monday - Friday 7am - 4pm Saturday	Evening 6pm - 10pm Monday - Friday
	L _{Aeq} (15 minute)	L _{A1} (1 minute)	L _{Aeq} (15 minute)	L _{Aeq} (15 minute)
17 Redfern Street	43	53	46	46
2 Gordon Avenue	45	56	47	48

Notes:

Note 1: Receiver locations nominated in report prepared by Heggies Australia Report No. 30-1351-R1 Proposed Concrete Batching and Masonry Plant, Ingleburn Noise Impact Assessment dated 2 February 2006.

Note 2: To determine compliance with this condition noise from the premises is to be measured at the most affected point on or within the residential boundary or at the most affected point within 30m of the dwelling where the dwelling is more than 30m from boundary. The modification factors presented in Section 4 of the NSW Industrial Noise Policy shall also be applied to the measured noise level where applicable.

Note 3: The noise emission limits identified in condition 4.1 apply under meteorological conditions of:

- a) wind speeds up to 3 m/s at 10m above ground level; or



b) temperature inversion conditions of up to 3°C/100m and wind speeds up to 2 m/s at 10m above ground level.

17. Off-Street Car Parking Spaces

Off-street car parking spaces, with the exception of parallel parking spaces, shall be constructed with wheel stops of 90 mm height and 2 metre width.

18. Ramp Gradients

All ramp grades and change of ramp grades, as part of the development, shall be consistent with the relevant Australian Standard and be capable of servicing articulated vehicles.

19. Reflectivity

The silos shall be finished in a powder coated surface to achieve a low reflectivity index and avoid the potential for glare nuisance.

19a. Lighting

All external lighting associated with the development shall be mounted, screened and directed in such a manner so as not to create a nuisance to surrounding properties or roadways.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions of consent must be complied with prior to the issue of a construction certificate by either Campbelltown City Council or an accredited certifier. All necessary information to comply with the following conditions of consent must be submitted with the application for a construction certificate.

20. Water/Electricity Utility Services

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall submit written evidence of the following service provider requirements:

- a. *Integral Energy* - A letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development.
- b. *Sydney Water* - The submission of a 'Notice of Requirements' under Section 73 of the *Water Board (Corporation) Act 1994*.



21. Telecommunications Utility Services

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall submit written evidence demonstrating that satisfactory arrangements have been made with a telecommunications carrier to service the proposed development.

Advice on telecommunications infrastructure can be obtained by the notification tool located at <https://development.telstrasmartcommunity.com>.

22. Waste Management Plan

Prior to Council or an accredited certifier issuing a construction certificate, the relevant provisions of Council's *Waste Management Plan* is to be completed to the satisfaction of Council.

23. Soil and Water Management Plan

Prior to Council or an accredited certifier issuing a construction certificate, a detailed soil and water management plan shall be submitted for approval.

24. *deleted*

25. Inundation by Flood Waters

- i. Site fill levels shall be at or above the calculated 100 year ARI level and habitable floor levels shall be 300mm above finished site levels and 500mm above 100 year ARI in accordance with the freeboard requirements in accordance with Council's *Engineering Design Guide for Development (as amended)*.
- ii. Any filling required shall be undertaken in accordance with Council's *'Specification for Construction of Subdivision Road and Drainage Works' (as amended)*, *AS3789 'guidelines for Earthworks for Commercial and Residential Development (as amended)*, and the approved construction drawings.
- iii. Where finished floor and surface levels related to flooding are specified as above, a 'work as executed' plan certified by a registered surveyor shall be submitted to Council for approval prior to release of the occupation certificate.

26. Work on Public Land

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall obtain written consent from Council for any proposed work on public land. All inspections, approval and restoration of work shall be undertaken by Council at the applicants



expense prior to the principal certifying authority issuing and occupation certificate.

- 26A.** Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall submit to Council as the appropriate Roads Authority, engineering details and design, including support during construction, to ensure the undercutting of the bank supporting Henderson Road is not compromised. The design shall be prepared by a suitably qualified engineer. The applicant shall obtain written approval from Council prior to commencement of works.

The applicant shall obtain written approval from Council for an appropriate easement of support in Council's favour for the ongoing maintenance.

PRIOR TO THE COMMENCEMENT OF ANY WORKS

The following conditions of consent have been imposed to ensure that the administration and amenities relating to the proposed development comply with all relevant requirements. These conditions are to be complied with prior to the commencement of any works on site. .

27. Erosion and Sediment Control

Prior to the commencement of any works on the land, adequate/approved erosion and sediment control measures shall be fully installed/implemented.

28. Erection of Construction Sign

Prior to the commencement of any works on the land, a sign/s must be erected in a prominent position on the site:

- a. Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours;
- b. Stating that unauthorised entry to the work site is prohibited; and
- c. Pollution warning sign promoting the protection of waterways (issued by Council with the development consent);
- d. Stating the approved construction hours in which all works can occur.
- e. Showing the name, address and telephone number of the principal certifying authority for the work.

Any such sign/s is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.



29. Toilet on Construction Site

Prior to the commencement of any works on the land, toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part thereof. Each toilet provided must be a standard flushing toilet and be connected to:

- a. A public sewer, or
- b. If connection to a public sewer is not practicable, to an accredited sewage management facility approved by Council, or
- c. If connection to a public sewer or an accredited sewage management facility is not practicable, to some other management facility approved by Council.

30. Trade Waste

Prior to the commencement of any works on the land, a trade waste facility shall be provided on-site to store all waste pending disposal. The facility shall be screened, regularly cleaned and accessible to collection vehicles.

31. Vehicular Access During Construction

Prior to the commencement of any works on the land, a single vehicle/plant access to the site shall be provided to minimise ground disturbance and prevent the transportation of soil onto any public place. Single sized 40mm or larger aggregate placed 150mm deep, and extending from the street, kerb/road to the site is to be provided as a minimum requirement.

32. Public Property

Prior to the commencement of any works on site, the applicant shall advise Council of any damage to property controlled by Council which adjoins the site including kerbs, gutters, footpaths, walkways, reserves and the like. Failure to identify existing damage may result in all damage detected after completion of the development being repaired at the applicant's expense.

The applicant shall include Henderson Road adjacent to the site as the development includes the construction of a retaining wall adjacent to the batter abutting the road.

33. Hoarding / Fence

Prior to the commencement of any works, a hoarding or fence must be erected between the work site and a public place if the work involved in the development is likely to cause pedestrian or vehicular traffic in a



public place to be obstructed or rendered inconvenient, or if the building involves the enclosure of a public place in accordance with *Work Cover* requirements.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

A separate land use application under Section 68 of the Local Government Act 1993 shall be submitted to and approved by Council prior to the erection of any hoarding on public land.

DEVELOPMENT REQUIREMENTS DURING CONSTRUCTION

The following conditions of consent have been imposed to ensure that the administration and amenities relating to the proposed development comply with all relevant requirements. These conditions are to be complied with during the construction of the development on site.

34. Construction Work Hours

Any work associated with the construction of the development on the site shall only occur between the following hours:

Monday to Friday	7.00am to 6.00pm
Saturday	8.00am to 1.00pm
Sunday and public holidays	No Work.

The following activities may be carried out at the premises outside the hours specified in the consent:

- a. The delivery of materials as requested by Police or other authorities for safety reasons; and
- b. Emergency work to avoid the loss of lives, property and/or to prevent environmental harm.

35. Erosion and Sediment Control

Erosion and sediment control measures shall be provided and maintained throughout the construction period in accordance with the requirements of the manual – *Soils and Construction (2004) (Bluebook)*, the approved plans, Council specifications and to the satisfaction of the principal certifying authority. The erosion and sedimentation control devices shall remain in place until the site has been stabilised and revegetated.

Note: *On the spot penalties up to \$1,500 will be issued for any non-compliance with this requirement without any further notification or warning.*



36. Work Zones

All loading, unloading and other activities undertaken during construction shall be accommodated on the development site.

Where it is not practical to load, unload or undertake specific activities on the site during construction, the provision of a 'Work Zone' external to the site may be approved by Council following an application being submitted to Council's Traffic Unit outlining the proposal for the work zone. The application is required to be made prior, and approved, to the commencement of any works and is to include a suitable 'Traffic / Pedestrian Management and Control Plan' for the area of the work zone that will be affected. All costs of approved traffic / pedestrian control measures, including relevant fees, shall be borne by the applicant.

37. Dust Nuisance

Measures shall be implemented to minimise wind erosion and dust nuisance in accordance with the requirements of the manual – 'Soils and Construction (2004) (Bluebook)'. All haul roads and construction areas shall be treated/ regularly watered to the satisfaction of the principal certifying authority.

38. Public Safety

Any works undertaken in a public place are to be maintained in a safe condition at all times in accordance with AS 1742.3. Council may at any time and without prior notification make safe any such works Council considers to be unsafe, and recover all reasonable costs incurred from the applicant.

39. Industrial / Commercial Driveway and Layback Crossing

The applicant shall provide a reinforced concrete driveway and layback crossing/s to Council's *Industrial/Commercial Vehicle Crossing Specification and Engineering Design Guide for Development (as amended)*.

A separate application for this work, which will be subject to a crossing inspection fee, fixing of levels and inspections by Council, must be lodged with Council. Conduits must be provided to service authority requirements.

The levels shall be in accordance with the approved stormwater plan accompanying the development.

40. Associated Works

The applicant shall undertake any works external to the development made necessary by the development, including additional road and



drainage works or any civil works required as directed by Council to make a smooth junction with existing work.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions of consent must be complied with prior to the issue of an occupation certificate by either Campbelltown City Council or an accredited principal certifying authority. All necessary information to comply with the following conditions of consent must be submitted with the application for an occupation certificate.

41. Section 73 Certificate

Prior to the principal certifying authority issuing an occupation certificate, the submission of a Section 73 certificate issued by Sydney Water.

42. Structural Engineering Certificate

Prior to the principal certifying authority issuing an occupation certificate, the submission of a certificate from a practising structural engineer certifying that the building has been erected in compliance with the approved structural drawings and relevant SAA Codes and is structurally adequate.

43. Completion of External Works

Prior to the principal certifying authority issuing an occupation certificate, all external works, repairs and renovations detailed in the schedule of treatment/finishes, landscaping, driveways, fencing and retaining walls to be completed to the satisfaction of the principal certifying authority.

44. Public Utilities

Prior to the principal certifying authority issuing an occupation certificate, adjustments to public utilities required as a result of the development shall be completed at the sole cost of the applicant.

45. Industrial / Commercial Inter-Allotment Drainage

Prior to the principal certifying authority issuing an occupation certificate, a work as executed plan for the drainage works shall be submitted demonstrating that inter-allotment drainage and associated easements, in accordance with Council's *Specification for Construction of Subdivisional Road and Drainage Works (as amended)*, and *Engineering Design Guide for Development (as amended)* has been provided to all industrial/commercial lots if required.



46. Council Fees and Charges

Prior to the principal certifying authority issuing an occupation certificate, the applicant shall obtain written confirmation from Council that all applicable Council fees and charges associated with the development have been paid in full. Written confirmation will be provided to the applicant following Council's final inspection and satisfactory clearance of the public area adjacent the site.

46a. Impermeable Barrier

Prior to the principal certifying authority issuing an occupation certificate, the applicant shall construct a continuous impermeable barrier around the underground storage area at the level of the 100 year ARI flood plus 500mm freeboard.

46b. Operation and Management of Underground Storage

Prior to the principal certifying authority issuing an occupation certificate, the applicant shall provide a plan of operation and management of the underground storage area with respect to safety and flooding, including permanent warning signs and emergency lighting which is not dependant on mains supply, to the satisfaction of Council.

DEPARTMENT OF ENVIRONMENT AND CONSERVATION - GENERAL TERMS OF APPROVAL

The following conditions are design requirements and strategies which the Department of Environment and Conservation (DEC) consider essential to ensuring the facility is capable of achieving the environmental outcomes detailed in the Director-General Requirements. DEC considers that the following conditions are most appropriately regulated via the development consent.

Noise

47. Construction is not to include any piling, rock hammering, blasting or other similar activities with a high potential for significant noise impact without the approval of the DEC.
48. The proponent must install the noise mitigation measures as stated in the EIS.
49. Prior to the commencement of operations an assessment of audible alarms shall be undertaken to determine whether the use of audible alarms will exceed the noise limits in the consent. Where it is determined that the use of audible alarms will exceed the noise limits, an assessment of feasible and reasonable measures to reduce the impacts shall be undertaken and implemented.



Conveyors

50. All conveyors used to transfer materials must be fully enclosed and designed and operated to prevent visible dust emissions. Belt scrapers must also be installed to effectively remove material from the underside of each belt.

Cement Silos

51. Any bulk product storage silos must be fitted with following:
- Both a visual and audible alarm system to warn of high levels of material in the storage silos;
 - Filling shut off valves which close automatically when a high level of material is detected;
 - Spring loaded shut off valves, if automatic control systems fail;
 - Tests circuits for high level alarm and shut off valve operation;
- and
- Outlet air from bag filters to be ducted within one metre of ground.

Vehicle Washing

52. All vehicles leaving the site after delivering raw materials to the site must be subject to equipment or facilities to provide a cleaning process for the removal of materials from wheels and underneath the bodies of vehicles. The facilities must be designed and installed with the aim of:
- Preventing materials being carried from the premises to external surfaces; and
 - Collecting, treating and management of polluted water from any vehicle maintenance and truck wash areas in such a way that does not cause pollution of surface and ground waters.
53. All trafficable areas including, but not necessarily limited to, the access road to the site, processing areas and stockpile areas must be sealed.
54. All hardstand areas must be designed, constructed and maintained in a manner that allow the operation of heavy machinery without breaking up hardstand surfaces.



Stormwater Management

55. Paved and sealed areas must be provided with a first flush stormwater management system designed to capture the first 10mm of stormwater for each square meter of catchment area for subsequent reuse.
56. Facilities must be provided to enable the contents of the first flush system to be disposed of in 48 hours in a manner for reuse, which does not pollute waters.

Water Conservation

57. Opportunities to replace raw dam water and/or potable water with; recycled effluent, captured stormwater, or treated process water from the premises or nearby premises, are to be maximised.

Construction Environmental Management Plan

58. A Construction Environmental Management Plan (CEMP) must be prepared and implemented prior to the commencement of construction on the site. The CEMP must address how the proponent will manage any foreseeable environmental risk during the construction phase. This includes but is not limited to documenting measures to ensure there is no pollution to waters, and dust and noise are minimised as far as practicable.

Operational Environmental Management Plan

59. An Operation Environment Management Plan must be prepared and implemented prior to commencement of operation of the facility.

The Plan shall include, but not necessarily be limited to:

- Identification of all statutory and other obligations that the Applicant is required to fulfil in relation to operation of the facility, including all consents, licences, approvals and consultations;
- A description of the roles and responsibilities for all relevant employees involved in the operation of the facility;
- Overall environmental policies and principles to be applied to the operation of the facility;
- Standards and performance measures to be applied to the facility, and a means by which environmental performance can be periodically reviewed and improved; and
- Management policies to ensure that environmental performance goals are met and to comply with the conditions of this consent.



Aboriginal Heritage

60. It is an offence under s90 of the National Parks and Wildlife Act to knowingly damage or destroy Aboriginal objects without the prior

permission of the Director-General of the DEC. Should an Aboriginal object be found, works should stop and the DEC should be notified immediately.

ATTACHMENT A

61. The following are conditions which should be attached to an Environmental Protection Licence (EPL) if development consent is granted.

ADMINISTRATIVE CONDITIONS

Information supplied to the Environmental Protection Authority

- 1.1 Except as expressly provided by these general terms of approval, works and activities must be carried out in accordance with the proposal contained in:
- the development application 336/2006/DA-1 submitted to Campbelltown City Council on 7 February 2006;
 - the environmental impact statement titled "Environmental Impact Statement for Proposed Concrete Batching and Masonry Plant at 16 Kerr Rd Ingleburn"; and
 - all additional documents supplied to the Department of Environment and Conservation (DEC) in relation to the development.

Fit and proper person

- 1.2 The proponent must, in the opinion of the Environment Protection authority (EPA), be a fit and proper person to hold a licence under the Protection of the Environment Operations (POEO) Act, 1997, having regard to the matters in s83 of that Act.

What the EPL authorises and regulates

- 1.3 The EPL authorises the carrying out of the scheduled activities listed below at the premises specified in Condition 1.4.

Scheduled Activity
Concrete Works

Premises Identification

- 1.4 The General Terms of Approval (GTA) would apply to the following premises:

Premises Details
King Mix Pty Ltd 16 Kerr Rd INGLEBURN NSW 2565 Lot 16 DP 717203



LIMIT CONDITIONS

2. Pollution of waters

2.1 Except as may be expressly provided in any other condition of this licence, the licensee must not pollute surface or groundwater and comply with s120 of the POEO Act 1997.

3. No adverse impact on the environment and community

3.1 The concrete batching and masonry plant must be designed and operated so that any emissions from the concrete batching and masonry plant do not result in any adverse impacts to the environment or to human health in the adjacent community.

Air emission requirements

3.2 All plant and equipment must comply with the standard of concentration prescribed in the Clean Air (Plant and Equipment) Regulation 1997 or any later version of the regulation.

Odour

3.3 The proponent must not cause or permit the emission of offensive odour beyond the boundary of the premises.

Note: s129 of the POEO Act 1997, provides that the licensee must not cause or permit the emission of any offensive odour from the premises but provides a defence if the emission is identified in the relevant environment protection licence as a potentially offensive odour and the odour was emitted in accordance with the conditions of a licence directed at minimising odour.

3.4 No condition of these GTA identifies a potentially offensive odour for the purposes of s129 of the POEO Act 1997.

4. Noise

4.1 Noise generated at the premises must not exceed the noise limits presented in the table below. The noise limits represent the sound pressure level (noise) contribution, at the nominated receiver locations in the table, as a result of concrete batching and masonry plant activities.

Noise Limits for the Concrete Batching and Masonry Plant

Receiver Locations ⁽¹⁾	Noise Limits dB(A)		
	Morning Shoulder 6am - 7am Monday - Friday	Day 7am - 6pm Monday - Friday 7am - 4pm Saturday	Evening 6pm - 10pm Monday - Friday



	L _{Aeq} (15 minute)	L _{A1} (1 minute)	L _{Aeq} (15 minute)	L _{Aeq} (15 minute)
17 Redfern Street	43	53	46	46
2 Gordon Avenue	45	56	47	48

Note 1: Receiver locations nominated in report prepared by Heggies Australia Report No. 30-1351-R1 Proposed Concrete Batching and Masonry Plant, Ingleburn Noise Impact Assessment dated 2 February 2006.

- 4.2 Noise from the premises is to be measured at the most affected point on or within the residential boundary or at the most affected point within 30m of the dwelling where the dwelling is more than 30m from boundary, to determine compliance with the L_{Aeq}(15 minute) noise limits in condition 4.1.
- 4.3 Where it can be demonstrated that direct measurement of noise from the premises is impractical, the EPA may accept alternative means of determining compliance. See Chapter 11 of the NSW Industry Noise Policy.
- 4.4 The modification factors presented in Section 4 of the NSW Industrial Noise Policy shall also be applied to the measured noise level where applicable.
- 4.5 The noise emission limits identified in condition 4.1 apply under meteorological conditions of:
- wind speeds up to 3 m/s at 10m above ground level; or
 - temperature inversion conditions of up to 3°C/100m and wind speeds up to 2 m/s at 10m above ground level.

5. Waste

- 5.1 The licensee must not cause, permit or allow any waste generated outside the premises to be received at the premises for storage, treatment, processing, reprocessing or disposal or any waste generated at the premises to be disposed of at the premises, except as expressly permitted by a licence under the POEO Act 1997.
- 5.2 This condition only applies to the storage, treatment, processing, reprocessing or disposal of waste at the premises if it requires an environment protection licence under the POEO Act 1997.

Note: Condition 5.1 is included to ensure that a premises based activity is not used as a waste facility (unless that scheduled activity is permitted by another condition).



OPERATING CONDITIONS

6. Activities must be carried out in a competent manner

- 6.1 Licensed activities must be carried out in a competent manner. This includes:
- a) the processing, handling, movement and storage of materials and substances used to carry out the activity; and
 - b) the treatment, storage, processing, reprocessing, transport and disposal of wastes generated by the activity.

7. Maintenance of plant and equipment

- 7.1 All plant and equipment installed at the premises or used in connection with the licensed activity:
- a) must be maintained in a proper and efficient condition; and
 - b) must be operated in a proper and efficient manner.

8. Dust

- 8.1 The premises must be maintained in a condition which minimises or prevents the emission of dust from the premises.

Dust management systems

- 8.2 The proponent must operate dust suppression measures to ensure compliance with the EPL for the premises. The measures include but are not limited to the following:
- a) operate so that there is adequate water supply for dust suppression;
 - b) operate with an aim of preventing wind blown dust from all sealed surfaces intended to carry vehicular traffic;
 - c) operate to suppress dust at transfer points and discharge to the material stockpiles;
 - d) operate to suppress dust during processing activities; and
 - e) operate to suppress dust during front end loader activities at stockpiles or during loading operations.

Haulage operations

- 8.3 Trucks entering and leaving the premises that are carrying loads must be sealed or covered at all times.

MONITORING AND RECORDING CONDITIONS

9. Monitoring records

- 9.1 The results of any monitoring required to be conducted by this licence or a load calculation protocol must be recorded and retained as set out in this condition.
- 9.2 All records required to be kept by the licence must be:



- a) in a legible form, or in a form that can readily be reduced to legible form;
- b) kept for at least four years after the monitoring or event to which they relate took place; and
- c) produced in a legible form to any authorised officer of the EPA who asks to see them.

9.3 The following records must be kept in respect of any samples required to be collected:

- a) the date(s) on which the sample was taken;
- b) the time(s) at which the sample was collected;
- c) the point at which the sample was taken, and
- d) the name of the person who collected the sample.

10. Recording of pollution complaints

10.1 The licensee must keep a legible record of all complaints made to the licensee or any employee or agent of the licensee in relation to pollution arising from any activity to which this licence applies.

10.2 The record must include details of the following:

- a) the date and time of the complaint;
- b) the method by which the complaint was made;
- c) any personal details of the complainant which were provided by the complainant or, if no such details were provided, a note to that effect;
- d) the nature of the complaint;
- e) the action taken by the licensee in relation to the complaint, including any follow-up contact with then complainant; and
- f) if no action was taken by the licensee, the reason why no action was taken.

10.3 The record of a complaint must be kept for at least four years after the complaint was made.

10.4 The records must be produced to any authorised officer of the EPA who asks to see them.

11. Telephone complaints line

11.1 The licensee must operate during its operating hours a telephone complaints line for the purpose of receiving any complaints from members of the public in relation to activities conducted at the premises or by the vehicle or mobile plant, unless otherwise specified in the licence.

11.2 The licensee must notify the public of the complaints line telephone number and the fact that it is a complaints line so that the impacted community knows how to make a complaint.

11.3 Condition 11.1 and 11.2 do not apply until three months after:



- a) the date of issue of the licence; or
- b) if the licence is a replacement licence within the meaning of the POEO (Savings and Transitional) Regulation 1998, the date on which a copy of the licence was served on the licensee under clause 10 of that regulation.

REPORTING CONDITIONS

12 Annual Return documents

12.1 What documents must an Annual Return contain?

The licensee must complete and supply to the EPA an Annual Return in the approved form comprising:

- a) a Statement of Compliance; and
- b) a Monitoring and Complaints Summary.

12.2 A copy of the form in which the Annual Return must be supplied to the EPA accompanies this licence. Before the end of each reporting period, the EPA will provide to the licensee a copy of the form that must be completed and returned to the EPA.

12.3 Period covered by Annual Return

An Annual Return must be prepared in respect of each reporting, except as provided below.

Note: The term "reporting period" is defined in the dictionary at the end of this licence. Do not complete the Annual Return until after the end of the reporting period.

12.4 Where this licence is transferred from the licensee to a new licensee:

- a) the transferring licensee must prepare an annual return for the period commencing on the first day of the reporting period and ending on the date the application for the transfer of the licence to the new licensee is granted; and
- b) the new licensee must prepare an annual return for the period commencing on the date the application for the transfer of the licence is granted and ending on the last day of the reporting period.

Note: An application to transfer a licence must be made in the approved form for this purpose.

12.5 Where the licence is surrendered by the licensee or revoked by the EPA or Minister, the licensee must prepare an annual return in respect of the period commencing on the first day of the reporting period and ending on

- a) in the relation to the surrender of a licence – the date when notice in writing of approval of the surrender is given; or
- b) in relation to the revocation of the licence – the date from which notice revoking the licence operates.



12.6 Deadline for Annual Return

The Annual Return for the reporting period must be supplied to the EPA by registered post no later than 60 days after the end of each reporting period or in the case of a transferring licence not later than 60 days after the date the transfer was granted (the 'due date').

12.7 Licensee must retain copy of Annual Return

The licensee must retain a copy of the annual return supplied to the EPA for a period of at least four years after the annual return was due to be supplied to the EPA.

12.8 Certifying of Statement of Compliance and signing of Monitoring and Complaints Summary

Within the Annual Return, the Statement of Compliance must be certified and the Monitoring and Complaints Summary must be signed by:

- a) the licence holder; or
- b) by the person approved in writing by the EPA to sign on behalf of the licence holder.

12.9 A person who has been given written approval to certify a Statement of Compliance under a licence issued under the Pollution Control Act 1970 is taken to be approved for the purpose of this condition until the date of first review of this licence.

13 Notification of environmental harm

Note: The licensee or its employees must notify the EPA of incidents causing or threatening material harm to the environment as soon as practicable after the person becomes aware of the incident in accordance with the requirements of Part 5.7 of the Act.

13.1 Notifications must be made by telephoning the DEC's Environment Line service on 131 555.

13.2 The licensee must provide written details of the notification to the EPA within seven days of the date on which the incident occurred.

14. Written report

14.1 Where an authorised officer of the EPA suspects on reasonable grounds that:

- a) where this licence applies to premises, an event has occurred at the premises; or
- b) where the licence applies to vehicles or mobile plant, an event has occurred in connection with the carrying out of the activities authorised by this licence; and
- c) the event has caused, is causing or is likely to cause material harm to the environment (whether the harm occurs on or off premises to which the licence applies), the authorised officer may request a written report of the event.



14.2 The licensee must make all reasonable inquiries in relation to the event and supply the report to the EPA within such time as may be specified in the request.

14.3 The request may require a report which includes any or all of the following information:

- a) the cause, time and duration of the event;
- b) the type, volume and concentration of every pollutant discharged as a result of the event;
- c) the name, address and business hours telephone number of employees or agents of the licensee, or a specified class of them, who witnessed the event;
- d) the name, address and business hours telephone number of every other person (of whom the licensee is aware) who witnessed the event unless the licensee has been unable to obtain that information after making reasonable effort;
- e) action taken by the licensee in relation to the event, including any follow-up contact with any complainants;
- f) details of any measure taken or proposed to be taken to prevent or mitigate against a recurrence of such an event; and
- g) any other relevant matters.

14.4 The EPA may make a written request for further details in relation to any of the above matters if it is not satisfied with the report provided by the licensee. The licensee must provide such further details to the EPA within the time specified in the request.

GENERAL CONDITIONS

15. **Copy of licence kept at the premises or on the vehicle or mobile plant**

15.1 A copy of this licence must be kept at the premises or on the vehicle or mobile plant to which the licence applies.

15.2 The licence must be produced to any authorised officer of the EPA who asks to see it.

15.3 The licence must be available for inspection by any employee or agent of the licensee working at the premises or operating the vehicle or mobile plant.

SPECIAL CONDITIONS

16. **Noise Compliance Monitoring**

16.1 The applicant must develop a noise compliance monitoring procedure for submission with an application for an EPL. The purpose of this



procedure is to identify and document a methodology that allows for an accurate determination of compliance with the noise limits specified in Condition 4.1. The noise monitoring procedure must be undertaken by a suitably qualified acoustical consultant.

The procedure must address but need not necessarily be limited to:

- a) details of methodologies for noise monitoring;
- b) location of noise monitoring;
- c) frequency of noise monitoring;
- d) noise emission limits at specific near field locations including tonality which correspond with compliance noise limits specified in Condition 4.1;
- e) details of methodology to assess the tonality of the noise and comply with the "NSW Industrial Noise Policy".

16.2 A noise compliance assessment shall be undertaken and submitted to DEC no later than three months after the commencement of operations at the premises. The assessment must be prepared by a suitably qualified acoustical consultant to confirm performance and to demonstrate compliance with Condition 4.1.

Note: The EPL may be varied subject to the findings and recommendations of this assessment.



Tim Moore
Commissioner of the Court

ADVISORY NOTES PROVIDED BY THE COUNCIL

The following information is provided for your assistance to ensure compliance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, other relevant Council Policy/s and other relevant requirements. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

ADVICE 1. Environmental Planning and Assessment Act 1979 Requirements

The Environmental Planning and Assessment Act 1979 requires you to:

- a. Obtain a construction certificate prior to the commencement of any works. Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service Centre on 4645 4608.
- b. Nominate a principal certifying authority and notify Council of that appointment prior to the commencement of any works.
- c. Give Council at least two days notice prior to the commencement of any works.
- d. Have mandatory inspections of nominated stages of the construction inspected.
- e. Obtain an occupation certificate before occupying any building or commencing the use of the land.

ADVICE 2. Disability Discrimination Act

Your attention is drawn to the existence of the *Disability Discrimination Act*. A construction certificate is required to be obtained for the proposed building/s, which will provide consideration under the *Building Code of Australia*, however, the development may not comply with the requirements of the *Disability Discrimination Act*. This is the sole responsibility of the owner, builder and applicant.

ADVICE 3. Retaining Walls

A separate development application shall be submitted and approved for any retaining walls that exceeds 800mm in height.

ADVICE 4. Buried Waste

Should buried materials/wastes or the like be uncovered during the excavation of footings or trenches on site works, Council is to be contacted immediately for advice on the treatment/removal methods required to be implemented.



ADVICE 5. Covenants

The land upon which the subject building is to be constructed may be affected by restrictive covenants. Council issues this approval without enquiry as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this permit. Persons to whom this permit is issued must rely on their own enquiries as to whether or not the building breaches any such covenant.

ADVICE 6. Inspection Within Public Areas

All works within public areas are required to be inspected at all stages of construction and approved by Council prior to the principal certifying authority releasing the Occupation Certificate.

ADVICE 7. Adjustment to Public Utilities

Adjustment to any public utilities necessitated by the development is required to be completed prior to the occupation of the premises and in accordance with the requirements of the relevant Authority. Any costs associated with these adjustments are to be borne by the applicant.

ADVICE 8. Salinity

Please note that Campbelltown is an area of known salinity potential. As such any salinity issues should be addressed as part of the construction certificate application. Further information regarding salinity management is available within Council's Engineering Design Guidelines for Development (as amended).

ADVICE 9. Asbestos Warning

Should asbestos or asbestos products be encountered during construction or demolition works you are advised to seek advice and information prior to disturbing the material. It is recommended that a contractor holding an asbestos-handling permit (issued by Work Cover NSW), be engaged to manage the proper disposal and handling of the material. Further information regarding the safe handling and removal of asbestos can be found at:

www.environment.nsw.gov.au
www.nsw.gov.au/fibro
www.adfa.org.au
www.workcover.nsw.gov.au

Alternatively, call Work Cover Asbestos and Demolition Team on 8260 5885.





Land and Environment Court
of New South Wales

CITATION : King Mix Pty Limited v Campbelltown City Council [2007]
NSWLEC 100

PARTIES : APPLICANT
King Mix Pty Limited

RESPONDENT
Campbelltown City Council

FILE NUMBER(S) : 10527 of 2006

CORAM: Moore C

KEY ISSUES: Development Application :-
Drainage
Visual Impact

LEGISLATION CITED: Campbelltown Urban Area Local Environmental Plan

DATES OF HEARING: 19 December 2006 and 19 February 2007

**EX TEMPORE JUDGMENT
DATE :** 19 February 2007

LEGAL REPRESENTATIVES: APPLICANT
Mr C Gough, solicitor
Storey & Gough

RESPONDENT
Mr A Seton, solicitor
Marsdens Law Group

THE LAND AND
ENVIRONMENT COURT
OF NEW SOUTH WALES

Moore C

19 February 2007

10257 of 2006

King Mix Pty Limited v Campbelltown City Council

JUDGMENT

This decision was given as an extemporaneous decision. It has been revised and edited prior to publication.

The consequence of the Court's decision in this appeal is the grant of development consent subject to detailed conditions. These conditions are not reproduced as part of this decision but are available for inspection at the Council. In addition, a copy the Court's Orders and the conditions may be obtained from the Court's registry upon payment of a fee. Details of the fee payable and process for obtaining a copy of the Orders and conditions are available on the Court's web site at <http://www.lawlink.nsw.gov.au/lec/>

1 **COMMISSIONER:** This is an appeal pursuant to s 97 of the *Environmental Planning and Assessment Act 1979* against the refusal by Campbelltown City Council (the Council) on 2 June 2006 of Development Application 336/2006/DA-DE for the erection of a concrete batching plant and factory housing a concrete masonry plant at 16 Kerr Road, Ingleburn, being Lot 16 in Deposited Plan 717203 (the site).

2 Erected on the site, at the present time, is a large structure, the legal status of which might be regarded for the purposes of these proceedings as being partially uncertain, together with a significant portion of the allotment being open and unformed.

3 The site has, along its south-eastern boundary, a short length of private land which separates it from the main southern railway line. However, to all intents and purposes, the visual outlook on that side of the site is across the main southern railway land, the private land and thence into a residential area, the most close residences being in Gordon Street, Ingleburn.

4 During the course of the hearing on 19 December 2006, I had the opportunity of visiting the end of Gordon Street closest to the main southern railway and hearing evidence from a number of the residents about their concerns.

5 A number of those concerns arose out of the present operational behaviour of the proprietor of the present structures on the site and the industrial use that takes place on the site. Those are matters to which I am unable to give weight given the requirement and presumption in proceedings such as these that, if a consent is given to construction and an activity on this site, the person or entity having the benefit of such consent will abide by all conditions which are attached to it.

6 However, during the course of my consideration of the residents' objections, there are a number of matters which arose which have resulted in significant amendments being made to the plans.

7 The first relates to the treatment of the façade and roof line to the south-eastern end of the proposed development to make it more architecturally interesting and to use materials that will be, for the external vertical cladding, both new materials and broadly consistent in colour and presentation to those of the immediately

adjacent building on the Campbelltown side of the site.

8 There is a significant local flooding issue, which will require the creation of a flood drainage canal, structure or depression around the south-eastern perimeter and along the northern perimeter of the site along Henderson Road. That floodway has had its corner chamfered and there will be extensive tree landscaping but no low vegetation planted in that area.

9 In response to a number of matters relating to car parking and visual appearance of the site, the applicant has agreed to the construction of an acoustic barrier along the edge of the south-eastern extremity of the car park between that car park and Gordon Street.

10 That acoustic barrier will be within an area where, in the ordinary course of events, development would be prohibited as a consequence of cl 37 of the *Campbelltown Urban Area Local Environmental Plan* (the LEP). The LEP does not permit structures, except for the purposes of landscaping, access roads and off-street parking on land in this zone which is within thirty metres of the main southern railway line. There is no doubt that the acoustic barrier would otherwise fall foul of that proscription.

11 However, there are, within the site and along the Henderson Road frontage, proposed to be two loading and unloading areas of activity that will involve significant truck movements, including truck reversing. Immediately adjacent and between those areas and the residents of Gordon Street, is proposed to be erected an internal acoustic wall. I am satisfied that that acoustic wall will have some benefit in shielding the residents from the noise of those activities.

12 As a consequence, there are three possible uses or purposes which the acoustic barrier along the edge of the car parking will satisfy.

13 The first is to provide a light shield from headlamps from vehicles parking nose into that wall from intruding on the residences at the closest end of Gordon Street.

14 The second will be to provide a deal of acoustic shielding for those residences from vehicles using those parking areas.

15 The third will be to act as a supplementary acoustic barrier to the major industrial activities taking place further along the Henderson Street frontage.

16 I am satisfied that the value of the noise shielding from the parking vehicles and the headlight shielding of the parking vehicles is at least equal to and somewhat greater than the supplementary value of the acoustic shielding of the industrial activities further along the Henderson Street frontage.

17 I am, therefore, satisfied that their use is sufficiently related to the off-street parking and as a necessary part of making that off-street parking acceptable, that that is consistent with and satisfies the provisions of cl 37 of the LEP.

18 In addition, the drainage engineers who have provided significant assistance to the Court and to the parties in these proceedings, have agreed that if there is an acoustic barrier that is somewhat raised so that there is a gap underneath, that wall will not impede the flow of any overtopping flood waters.

19 I am satisfied that the gap at the bottom of the barrier is not sufficiently high to provide any significant diminishing of the acoustical or light shielding purposes that that barrier will serve.

20 That barrier, coupled with the landscaping which is to take place in the drainage channel, will provide significant shielding benefits, both visually and acoustically, for the residents of Gordon Street. The rearranged

design to that façade of the building will also be a significant improvement on the present visual presentation to those residents.

21 There are undoubtedly difficulties, which arise for residents who live at what is, in effect, a zone boundary (despite the intervention of the main southern railway) and the measures that have now been proposed to be incorporated in the proposal will provide a significant degree of amelioration.

22 It is, as I am sure the residents would well understand, not possible simply to wish that the industrial area go away and have it disappear.

23 The major matter that had also been in contention between the parties, arises out of the zone objectives of the 4A *General Industrial Zone* under the LEP, particularly that which is contained in cl 12(2)(c) of the LEP which requires that there be an encouragement of:

"a high quality standard of development which is aesthetically pleasing, functional and relates sympathetically to nearby and adjoining development".

24 There is no doubt that that standard has to be read in the context of the development being proposed being industrial development. The standard against which I am obliged to test such a development, is whether it is acceptable against that standard and not whether it constitutes the best possible design against that standard.

25 Having said that, I am satisfied that the original comments made by Mr Haskew, the Court-appointed planner in these proceedings, has assisted in a number of revisions to the development that will provide a greater degree of architectural coherence and aesthetic acceptability to the design than had been provided in the original proposal which had been submitted to the Council.

26 There is no doubt that the site will be viewed from Henderson Road - Henderson Road, in its proximity to the site, being significantly elevated by virtue of its bridge over the main southern railway in the vicinity.

27 The landscaping, even when fully established (and I readily accept that there will be some delay in the trees proposed to be planted reaching maturity), will still not completely obscure the site from view from those passing on Henderson Road, and, for a significant period of time until such establishment occurs, the site will be able to be viewed in a largely unadorned fashion.

28 However, there have been a number of significant changes to the building which are described by Mr Haskew in his supplementary statement of evidence, as being the following improvements:

"glazing elements which are logically located and sized, iron rod (metallic finish) cross features in three panels, central to the elevation, wave form exposed truss roof feature, elevated pop-out skylights to roof, circular exhaust pop-outs." He then concluded that, "combined with the previous proposed middle banding, the fenestration and architectural detail, work well in combination and achieve a built form which is legible and of satisfactory architectural merit, having regard to the visual prominence of the site."

29 In evidence, Mr Haskew confirmed that that conclusion should be read as him forming the opinion that the development was satisfactory in its present design, even if viewed without any shielding from the proposed landscaping.

30 As a consequence of the adoption of a further amendment to the plans during the course of the final hearing, which will have a lower element on the south-eastern end where the existing structure is located, there will be a further degree of interest and break in the form when viewed from Gordon Street (if the higher roof element, in fact, be able to be viewed from that location).

31 I am satisfied, on the merits of the option now advanced, that the present design coupled with the landscaping that is to be incorporated in the drainage channel, and the landscaping which it has been able to be incorporated in the car parking area at a slightly higher level than the landscape channel as a result of the removal of a number of parking spaces (parking spaces the removal of which does not impact on the otherwise appropriate level of car parking for the site), renders the development overall acceptable and capable of being given a development consent.

32 The consequence of that is that the appeal will be upheld and the development approved, subject to conditions that remain to be finalised between the parties and subject to the filing of some revised plans which will need to achieve two matters:

- clarification of details concerning the south-eastern elevation which were discussed in the course of the proceedings; and
- the provision of a degree of coherence presently lacking from the plan numbering.

33 I therefore give the following directions.

1. The applicant is to file and serve revised plans by the close of business on 26 February;
2. The respondent is to file and serve revised conditions by the close of business on 28 February;
3. I set the matter down for callover before the Registrar on Wednesday 7 March;
4. If directions 1 and 2 are complied with, including the conditions being filed electronically in accordance with Practice Direction 2 of 2005 and a separate court email sent advising of that, I will make orders in chambers and vacate the callover; and
5. Liberty to re-list on two days' notice if there are any matters unable to be resolved out of directions 1 and 2.

34 The exhibits, other than Exhibit J, are returned. Exhibit J will be returned when the revised plans have been filed.



Tim Moore
Commissioner of the Court