

MODIFICATION OF CONSENT REPORT - DA173/13 (S96008/14) - PROPOSED - MODIFICATION OF CONSENT, LOT 1 DP 125085 – RECYCLING FACILITY, SEWERAGE TREATMENT WORKS GEORDIE STREET LITHGOW NSW 2790

1. PROPOSAL

Council is in receipt of a modification of development consent application from RAY DUGGAN - JR & EG RICHARDS (NSW) PTY LTD C/- DUGGAN & HEDE PTY LTD,

The modification seeks to amend the recently approved shed by:

- Increasing the height of the north elevation from 6m to 6.7m and
- Change the roofing style from a triangle pitch type roof to a flat 2 stepped roof.

The originally approval (DA173/13) was issued by the elected Council, for the proposed upgrade works to the existing depot and material recycling facility.

The application will be assessed under Section 96 1(A) of the *Environmental Planning and Assessment Act 1979*.

2. SUMMARY

To assess and recommend determination of Section 96 Modification of Consent No. S96008/14 of DA173/13. Recommendation will be for approval subject to conditions

3. LOCATION OF THE PROPOSAL

Legal Description : Lot 1 DP 125085
Property Address : SEWERAGE TREATMENT WORKS GEORDIE STREET
LITHGOW NSW 2790

4. DETAILS OF CURRENT APPROVAL

DA173/13 was originally approved under delegation on 28 October 2013, and permitted the PROPOSED UPGRADE TO EXISTING DEPOT AND MATERIAL RECYCLING FACILITY.

5. PERMISSIBILITY: The development being a waste management facility is considered permissible under Lithgow City Council's Local Environmental Plan 1994, subject to development consent. This permissibility is not proposed to change as part of this modification.

It is considered that the proposal is consistent with the aims and objectives of the 1(a) General Rural zone.

5.1 POLICY IMPLICATIONS (OTHER THAN DCP's)

Council's *Policy 7.6 – Development Applications on Council owned land* requires Development Applications on Council land to be referred to the elected Council for consideration and determination and that no aspect of the development is dealt with under delegated authority. Given Council's ownership of this land the proposal is reported to Council for determination.

5.2 FINANCIAL IMPLICATIONS (eg Section 94)

Councils Section 94A Contributions

Section 94A Contributions did not apply to the original development approval as an exemption was applied. This does not change with the modification.

5.3 LEGAL IMPLICATIONS

5.3.2 Environmental Planning and Assessment Act 1979- Section 96 (1A)

(1A) Modifications involving minimal environmental impact

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) it has notified the application in accordance with:
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and**
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections (1), (2) and (5) do not apply to such a modification.

Comment: Council is satisfied that the modification is of a minimal environmental impact. The development is similar to the previously approval, the modification relates only to the style of the roof.

The Regulations do not require the notification of the modification and Council does not have a DCP requiring the notification of the application. Further the modification is considered to be of a minor nature and will not impact on any nearby residents.

Accordingly, the development was not neighbour notified as no submissions were received for the previous approval.

Any Environmental Planning Instruments

Lithgow City Local Environmental Plan 1994

The original application was assessed in accordance with the provisions of Lithgow's Local Environmental Plan 1994, and was found to be compliant. The modification does not require any further assessment under the LEP.

State Environmental Planning Policies

The original application was assessed in accordance with the provisions of the relevant SEPP's, and was found to be compliant. The modification does not require any further assessment under any SEPP.

Any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority

Councils Draft Lithgow City Local Environmental Plan 2013

Council's Draft LEP 2013 – Compliance Check	
Clause	Compliance
SP2 Infrastructure	Yes

Comment: The development is for the continued use of the Lithgow Council's Waste Facility and is therefore permissible under the Draft LEP 2013.

Any Development Control Plan

The original application was assessed in accordance with the provisions of the relevant DCP's, and was found to be compliant. The modification does not require any further assessment under any DCP.

Any planning agreement that has been entered into under Section 93F, or any draft planning agreement that a developer has offered to enter into under Section 93F?

No.

Any matters prescribed by the regulations that apply to the land

The original application was assessed in accordance with the provisions of the Regulations, and was found to be compliant. The modification does not require any further assessment under the Regulations.

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Privacy, Views and Overshadowing: The development is surrounded by non-residential land uses. There would be no privacy, view loss or overshadowing impacts on adjoining landowners from the modification to the building, as the height will only be increased by 0.7m and is a substantial distance from the residential zone.

Drainage: The site is relatively flat and drains from north to south. Existing water runoff tends to be an overland flowpath to the south-east of the existing main building. The roof design would not impact on the drainage runoff.

The Suitability of the site for the development

The original application was assessed in terms of site suitability and was found to be suitable. The modification does not change the roof form to any discernible extent.

Any submissions made in accordance with this Act or the Regulations

Given that the proposed amendment is an the amended roof design the modification is considered to be minor and does not require re-notification. The development was referred to Council's Building Surveyor who had no objection to the modification.

The development will need to be determined by the elected Council as per Council's *Policy 7.6 – Development Applications on Council owned land.*

The public interest

The original application was assessed in terms of the public interest. The proposed modification does not change whether the development is within the public interest.

6. DISCUSSION AND CONCLUSIONS

The application has been thoroughly assessed under Section 96 1(A) of the *Environmental Planning and Assessment Act 1979*, and is appropriate for approval subject to conditions.

A typo error was made within the previous approval for conditions 27 and 28, as they referred to a Section 96 Application instead of a Section 68 Application. This error has been amended within this consent.

7. ATTACHMENTS

Schedule A- Conditions of consent.

Original 79C Report

8. RECOMMENDATION

THAT the Section 96 Modification of Consent application S96008/14 associated with DA173/13 be approved subject to the following amended condition and as outlined in Schedule A.

1. That the development be carried out in accordance with the application, Section 96 Modification Plans, Statement of Environmental Effects, accompanying information, plans listed in the approval and any further information provided during the process unless otherwise amended by the following conditions.

27. A Section 68 Application for connection to Council's water and sewer services is to be submitted and assessed by Council. The Section 68 Application is to:
 - a) Provide details of the existing water connection that services the amenities,
 - b) Location and details of fire hose reels,

28. A Section 68 Application for Trade Waste is to be submitted and assessed by Council. The Section 68 Application is to:
- Provide clarification on silt pit to holding tank,
 - Provide details on backflow prevention on oil water separator and water supply at boundary,(RPZ), the valves would be required as per AS/NZS 3500 .1.

Report prepared by: Lauren Stevens

Group Manager: Andrew Muir

Signed:.....

Signed:.....

Dated:.....

Dated:.....

REASONS FOR CONDITIONS

The conditions in Attachment 1 have been imposed for the following reasons:

- To ensure compliance with the terms of the relevant Planning Instruments
- To ensure no injury is caused to the existing and likely future amenity of the neighbourhood
- Due to the circumstances of the case and the public interest.
- To ensure that adequate road and drainage works are provided.
- To ensure access, parking and loading arrangements will be made to satisfy the demands created by the development.
- To ensure the structural integrity of the development.
- To ensure the protection of the health and safety of the occupants of the development.
- To protect the environment.
- To prevent, minimise, and/or offset adverse environmental impacts.
- To ensure lots are adequately serviced.
- To ensure there is no unacceptable impact on the water quality.
- To ensure compliance with the requirements of the Rural Fire Services.
- To ensure adequate soil conservation and protect against movement of soil and sediments.

Schedule A

Conditions of Consent (Consent Authority)

Please Note: It should be understood that this consent in no way relieves the owner or applicant from any obligation under any covenant affecting the land.

The modified condition has been highlighted in bold for your reference.

ADMINISTRATIVE CONDITIONS

1. **That the development be carried out in accordance with the application, Section 96 Modification Plans, Statement of Environmental Effects, accompanying information, plans listed in the approval and any further information provided during the process unless otherwise amended by the following conditions.**

PRIOR TO COMMENCEMENT OF WORK

Signage

2. That before commencement of any work, a sign is to be erected at the front boundary of the land clearly identifying the lot number and names of the owner, builder and licence number and emergency telephone contact numbers

Notification of commencement of Building work

3. Prior to commencing any construction works, Council is to be notified at least two days prior of the intention to commence building works, in accordance with Section 81A(2)(c) of the Act in Form 7 of Schedule 1 of the Regulations.

DURING CONSTRUCTION

Construction Work Hours

4. All work on 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

Compliance Certificates

5. To ensure structural integrity, the maintenance of minimum health standards, the management of the buildings surrounds and the protection of the environment, compliance certificates are to be issued at significant stages throughout the construction period.

Excavation and Backfilling

6. All excavations and backfilling associated with the approved works must be executed safely and in accordance with appropriate professional standards. All excavations must be properly guarded and protected to prevent them from being dangerous to life or property.
7. If an excavation associated with the approved works extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

Must preserve and protect the building from damage; and
If necessary, must underpin and support the building in an approved manner, and
Must, at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the

building being erected or demolished.

8. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

Bushfire Requirements

Asset Protection Zones

9. At the commencement of building works and in perpetuity a 40 metres APZ shall be maintained around the buildings as per the 'Fire Management Plan' prepared by Duggan & Hede, and shall be managed as an inner protection area (IPA) as outlined within Appendices 2 & 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Water and Utilities

10. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Landscaping

11. Landscaping of the site shall comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

Approval to use structure

12. Prior to the use/occupation of the structure an Occupation Certificate must be issued by the Principal Certifying Authority (PCA). In this regard an application must be lodged with the PCA in conjunction with any request to carry out a final inspection.
13. A final inspection of the sanitary plumbing and drainage installation is to be made and accepted by Council as the duly authorised Plumbing and Draining Regulator to be in accordance with required provisions prior to the issue of an Occupation Certificate.

Amenity

14. The applicant shall ensure that during the construction works all measures are taken to eliminate/suppress any dust nuisance emanating from the site.

Engineering Requirements

15. All development to be constructed in accordance with Lithgow City Council's "Subdivision and Development Code" adopted by Council 28 September 1992, Minute No. 1439.
16. 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 will result in all damage detected after completion of the building work being repaired at the applicant's expense.

Sydney Catchment Authority

17. The site layout and works shall be as specified in the Statement of Environmental Effects (dated August 2013) and shown on the Site Plans (Drawing No. JR282-10-01; Rev. B; dated 08/13) both prepared by Duggan and Hede Pty Ltd. There shall be no change to the layout or external works without the prior agreement of the Sydney Catchment Authority.

Operational Environmental Management Plan

18. An Operational Environmental Management Plan (OEMP) for the site shall be prepared (or if there is an existing OEMP, it shall be updated) in consultation with the Sydney Catchment

Authority by a person with knowledge and experience in the preparation of such plans. The OEMP shall be finalised prior to the commissioning of the new buildings and shall include, but not be limited to, the following:

an inspection and maintenance program for all stormwater structures, including the rainwater tanks, pits, pipes, grassed swale, concrete spoon drain and pond, and detail the role and responsibilities for the monitoring and maintenance of the stormwater structures.

Construction Activities

19. A detailed Erosion and Sediment Control Plan is required for all works proposed or required as part of the facility upgrade. The Plan shall be prepared by a person with knowledge and experience in the preparation of such plans and shall meet the requirements outlined in Chapter 2 of NSW Landcom's 'Soils and Construction: Managing Urban Stormwater' (2004) manual - the "Blue Book" and shall be to the satisfaction of Council.
20. Effective erosion and sediment controls shall be installed prior to all construction works including earthworks for the buildings. The controls shall prevent sediment and contaminated water leaving the construction site or entering roadside drains, and shall be regularly maintained and retained until works have been completed and groundcover established or ground stabilised.

Stormwater and Drainage

21. All stormwater treatment and management measures shall be implemented as specified in Appendix C - Water Cycle Management Study of the Statement of Environmental Effects and shown on the Proposed Site Catchment Plan (Drawing No. JR282-10-09; Rev. B; dated 08/13) both prepared by Duggan and Hede Pty Ltd, except where varied by these conditions.
22. Rainwater tanks shall be installed to collect roof runoff and shall meet the following specific requirements:
 - a minimum total capacity of 10,000 litres to collect roof runoff from the existing and proposed truck parking areas
 - a minimum total capacity of 22,500 litres to collect roof runoff from the existing main building and the future truck washing building (subject to a separate development application DA178/13 currently being processed)be plumbed to toilets, showers and areas of non potable use, including landscape irrigation the roof and gutters of the buildings shall be designed such that roof runoff is captured in the rainwater tanks, and all rainwater tank overflow shall be directed to a runoff control pond.
23. All stormwater runoff from the site, including the rainwater tank overflow via a grassed swale and a concrete spoon drain, shall be directed to the runoff control pond. The pond shall be located, designed and constructed as shown on the Proposed Site Catchment Plan (Drawing No. JR282-10-09, Rev. B, dated 08/13) prepared by Duggan and Hede Pty Ltd, and shall incorporate the following specifications:
 - have a minimum surface area of 90 square metres and a minimum volume of 45 cubic metres
 - a minimum total depth of 0.5 metres
 - inlets and outlets incorporate a scour protection, and
 - have adjacent signs erected, advising of their stormwater quality management function.
24. The pond shall be constructed after all hardstand areas have been sealed and all ground surfaces have been stabilised, and shall replace any temporary construction-phase sediment basin.

25. No variation to the stormwater management shall be approved without prior agreement with the Sydney Catchment Authority.
26. All stormwater management measures shall be inspected and certified by the stormwater consultant (or consultants approved by the Sydney Catchment Authority), as having been constructed or undertaken as specified in these conditions.

Services

27. **A Section 68 Application for connection to Council's water and sewer services is to be submitted and assessed by Council. The Section 68 Application is to: Provide details of the existing water connection that services the amenities, Location and details of fire hose reels,**
28. **A Section 68 Application for Trade Waste is to be submitted and assessed by Council. The Section 68 Application is to:**
 - **Provide clarification on silt pit to holding tank,**
 - **Provide details on backflow prevention on oil water separator and water supply at boundary,(RPZ), the valves would be required as per AS/NZS 3500 .1**
29. Fire service requirements need to be determined prior to the issue of the Construction Certificate.
30. Any new water meter is to be supplied and installed at the developers cost.

ADVISORY NOTES

Building Code of Australia Compliance

- AN1. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- AN2. 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.
- AN3. As Certifying Authority, for water and sewer inspections Council must be contacted to undertake inspections of the various stages of construction as follows:
 - a. Internal and sanitary external drainage prior to covering.
 - b. Hot and cold water plumbing prior to covering
 - c. Final inspection of sewer connection prior to occupation of the building.

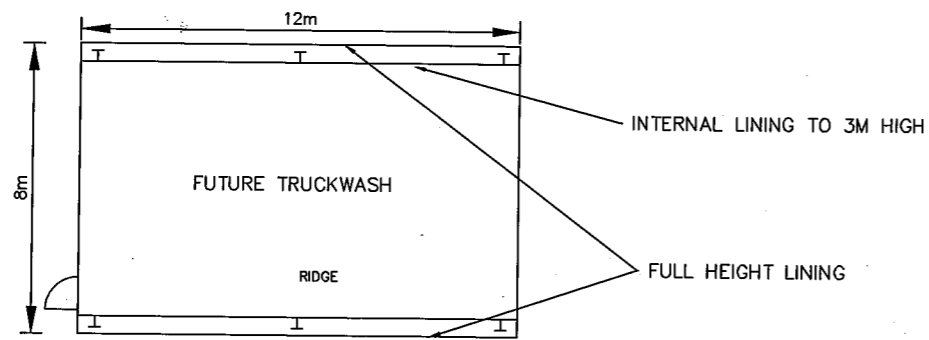
Construction Certificate

- AN4. A construction certificate is required prior to the commencement of any site or building works. This certificate can be issued either by Council as the consent authority or by an accredited certifier.

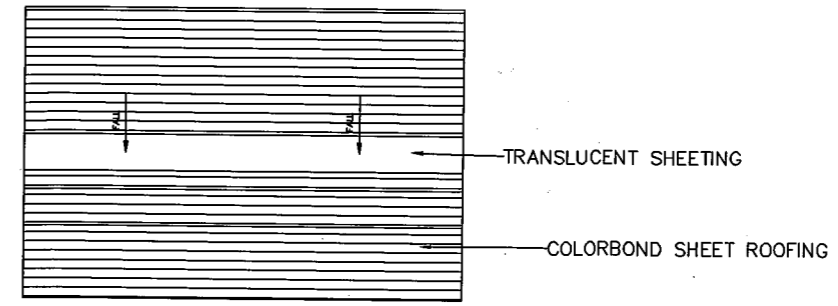
Duration of Construction Certificate

- AN5. A construction certificate becomes effective and operates from the date endorsed on the certificate.
- AN6. A construction certificate lapses 5 years after the date endorsed on the certificate.
- AN7. A construction certificate does not lapse if the development to which it relates is physically

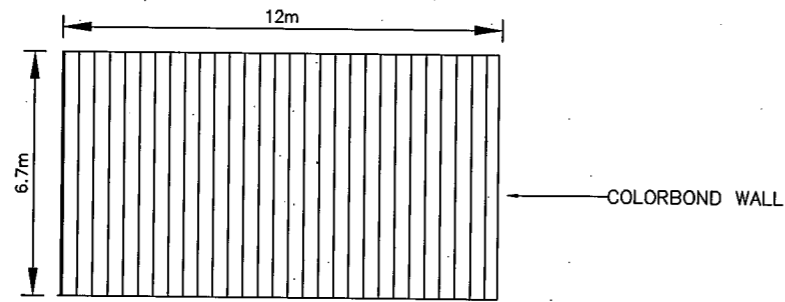
commenced on the land to which the certificate applies within the period of 5 years after the date endorsed on the certificate.



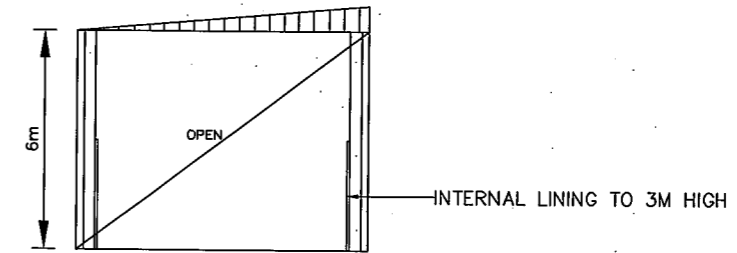
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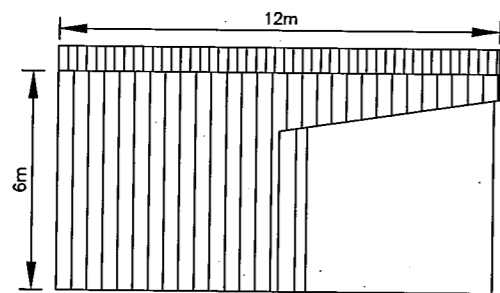
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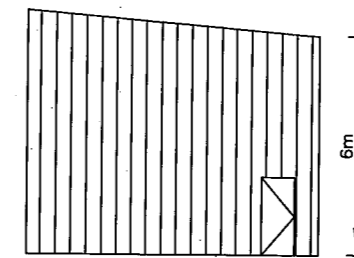
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REVISIONS	No.	BY	DATE	DESCRIPTION	DWG. CHK.
	C	E.D.	02/14	ISSUE FOR APPROVAL	DESIGN
B	S.B.Y.	08/13	ISSUE FOR APPROVAL	DRAWN	E.D.
A	E.D.	07/13	PRELIMINARY ISSUE	DES. CHK.	

TECHNICALLY APPROVED:

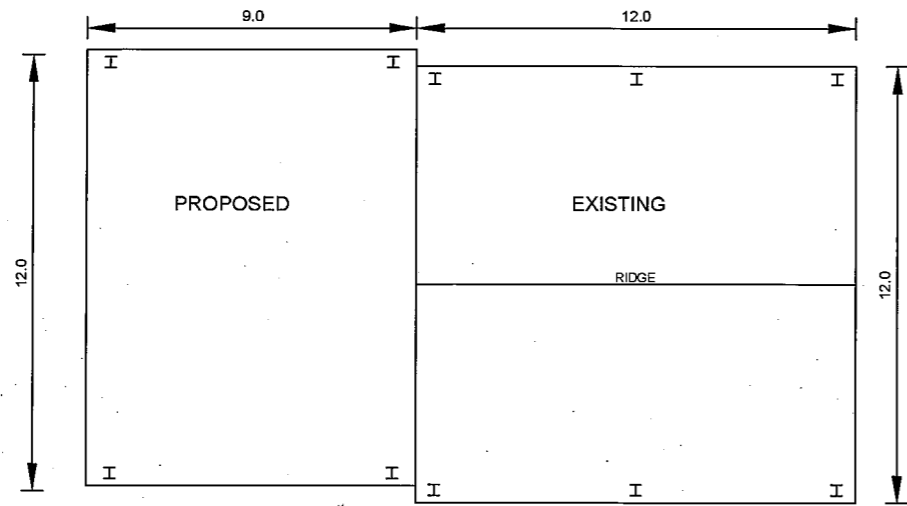
DUGGAN & HEDE PTY LTD
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 Professional Engineers, Planners and Environmental Consultants
 PO Box 496 Clayfield Qld 4011
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JR RICHARDS & SONS

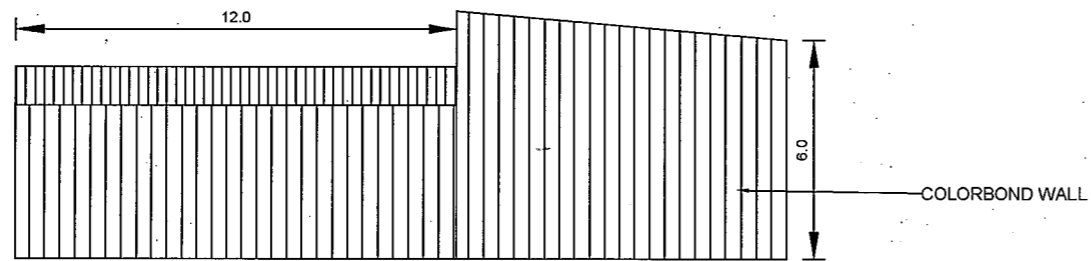
UPGRADES TO GEORDIE ST LITHGOW DEPOT

PROPOSED TRUCKWASH BUILDING

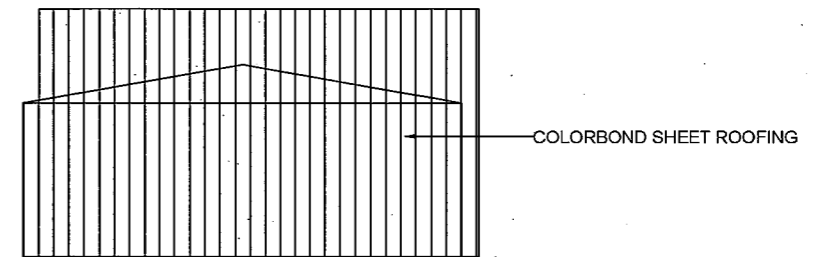
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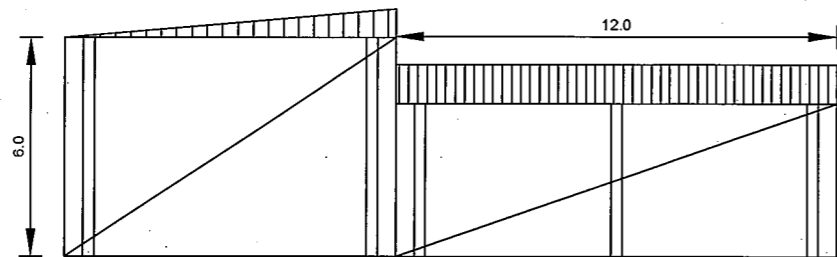
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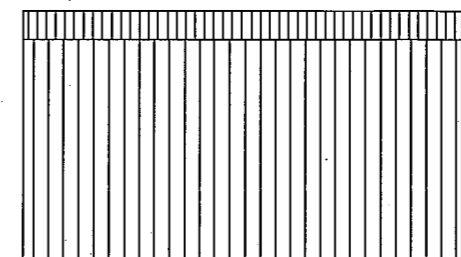
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REVISIONS				PLOT FILE		DATE	TECHNICALLY APPROVED:	DUGGAN & HEDE PTY LTD ACN 077 618 663 <i>Professional Engineers, Planners and Environmental Consultants</i> PO Box 496 Clayfield Qld 4011 Telephone (07) 3357 3666 Facsimile (07) 3857 6233 e_mail dh@dhenv.com.au	JR RICHARDS & SONS		SCALE	AS SHOWN
	B	S.B.Y.	08/13	ISSUE FOR APPROVAL	DRAWN	E.D.	07/13		UPGRADES TO GEORDIE ST LITHGOW DEPOT		SHEET	
	A	E.D.	07/13	PRELIMINARY ISSUE	DES. CHK.				EXISTING AND PROPOSED TRUCK PARKING		REVISION	C
	No.	BY	DATE	DESCRIPTION	DWG. CHK.				DRG No.	JR282-10-04		