

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

DETERMINATION OF DEVELOPMENT APPLICATION NO 117-5-2005

(FILE NO. 9038885)

SUBDIVISION TO CREATE TWO LOTS

I, the Minister for Planning, pursuant to Sections 80 (1) and 80A of the *Environmental Planning and Assessment Act, 1979* and clause 5 of *Sydney Regional Environmental Plan No.29—Rhodes Peninsula* determine the development application referred to in the attached Schedule 1, by **granting consent** to the application subject to conditions of consent in the attached Schedule 2

The reasons for the imposition of conditions are:

- (1) To promote the orderly and economic use and development of land within the Rhodes Peninsula

Frank Sartor MP
Minister for Planning

Sydney, 12 March 2006

SCHEDULE 1

PART A—TABLE

Application made by:	Walker Corporation Pty Ltd Level 10/1 O'Connell Street, Sydney
Application made to:	Minister for Planning
Development Application:	DA No. 117-5-2005
On land comprising:	Lot 9 DP 1047108
Local Government Area	City of Canada Bay Council
For the carrying out of:	Subdivision Development Application to create two Lots. A detailed description of the development consented to is described in Conditions A1, Part A, Schedule 2
Estimated Cost of Works	Nil
Type of development:	Local Development
S.119 Public inquiry held:	No
Approval Body / Bodies:	Not Integrated
Determination made on:	12 March 2006
Determination:	A development consent is granted subject to the conditions in the attached Schedule 2.
Date of commencement of consent:	This development consent commences on the date identified in the formal notification letter accompanying the Determination.
Date consent is liable to lapse	In accordance with conditions of consent, this consent will lapse 2 years from the date of commencement of consent, unless: ▪ a shorter period of time is specified by the Regulations or ▪ a condition in Schedule 2, or ▪ the development has physically commenced or a sub-division certificate issued.

PART B—NOTES RELATING TO THE DETERMINATION OF DA NO. 117-5-2005

Responsibility for other approvals / agreements

The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The Applicant has the right to appeal to the Land and Environment Court under Section 97 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only valid, for a development application, within **12** months after the date on which the Applicant received this notice.

Appeals—Third Party

A third party right to appeal to this development consent is available under Section 123, subject to Section 101, of the *Environmental Planning and Assessment Act, 1979*.

Legal notices

Any advice or notice to the consent authority shall be served on the Director-General.

PART C—DEFINITIONS

In this consent,

Act means the *Environmental Planning and Assessment Act, 1979* (as amended).

Applicant means Walker Corporation Pty Ltd or any party acting upon this consent.

Approval Body has the same meaning as within Division 5 of Part 4 of the Act,

Advisory Notes means advisory information relating to the approved development but do not form a part of this consent.

BCA means the Building Code of Australia.

Certifying Authority has the same meaning as Part 4A of the Act.

Compliance Certificate has the same meaning as Section 109J of the Act.

Council means the City of Canada Bay Council.

DA No. 117-5-2005 means the development application and supporting documentation submitted by the Applicant on 19 May 2005.

Department means the Department of Planning or its successors.

Director means the Director of Urban Assessments (or its successors) within the Department or the nominees of the Director.

Director-General means the Director-General of the Department.

Minister means the Minister for Planning.

Nominated Public Authority means a public authority (within the meaning of the Act) that the Minister or Corporation determines will own, occupy, and maintain land for the benefit of the public.

PCA means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

Regulations means the *Environmental Planning and Assessment Regulations, 2000* (as amended).

Subdivision plan means the plans identified in the table in Condition A2, Part A of Schedule 2

Subject Site has the same meaning as the land identified in Part A of this schedule.

SREP 29 means *Sydney Regional Environmental Plan No.29—Rhodes Peninsula*

Water supply authority has the same meaning as Section 109J of the Act.

SCHEDULE 2**CONDITIONS OF CONSENT****DEVELOPMENT APPLICATION NO. 117-5-2005****PART A—ADMINISTRATIVE CONDITIONS****A1 *Development Description***

Development consent is granted only to carrying out the development described in detail below:

- (1) Subdivision of Lot 9 DP 1047108 to create two lots.

A2 *Development in Accordance with Plans*

The development shall be in accordance with development application number DA No. 117-5-2005 submitted by the Applicant on 1 February 2005, and in accordance with the following:

Statement of Environmental Effects entitled “Development Application - Oulten Avenue, Rhodes - Subdivision of Lot 9 in DP 1047108 into two lots.” prepared by Walker, dated May 2005.
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Subdivision plan prepared by Patrick John Walsh dated 11/11/2004 and amended showing Common Seal accompanying letter signed by Nicole Magurren, Town Planner , Walker Corporation dated 30 August 2005

Walker Corporation Letter signed by Nicole Magurren, Town Planner , Walker Corporation dated 30 August 2005
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and as amended by following conditions:

A3 *Inconsistency between documents*

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.

A4 *Prescribed Conditions*

The Applicant shall comply with any relevant prescribed conditions of development consent under clause 98 of the Regulation.

A5 *Extent of Consent*

In order to clarify the extent of this consent, the development on the Subject Site is restricted to the subdivision of land and does not include any other meaning of development, as defined in Section 4 (1) of the Act.

A6 *Lapsing of Consent*

This consent will lapse in 2 years unless a subdivision certificate has been issued.

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

No Conditions in this Part.

PART C—PRIOR TO COMMENCEMENT OF WORKS

No Conditions in this Part.

PART D—DURING CONSTRUCTION

No Conditions in this Part.

PART E—PRIOR TO SUBDIVISION OR STRATA SUBDIVISION***Applications for Subdivision Certificate******E1 Application***

An application pursuant to Part 4A of the Act shall be submitted to the consent authority or Council with a plan of subdivision prepared by a registered surveyor, for certification prior to the issue of the Subdivision Certificate.

E2 Development of Lot 212

- (1) The Applicant shall, before the issuing of a subdivision certificate, include restrictions pursuant to the *Conveyancing Act, 1919* on the title that Lot 212 cannot be developed for purposes identified as usable floor space in SREP 29.
- (2) This consent is for the subdivision of Lot 9 DP 1047108 and does not imply or infer approval for any future use of proposed Lot 212.

E3 Dedication of Lot 211

Proposed Lot 211 shall be dedicated at no cost to the appropriate Roads Authority as public road.

E4 Boundary adjustment

- (1) Before the issuing of a subdivision certificate, the allotment boundaries shall be adjusted to be consistent with the land identified to be dedicated in the works Authorisation Deed – Private Financing & Construction between the RTA and Walker Corporation Pty Ltd dated December 2003.
- (2) Notwithstanding (1) above, before the issuing of a subdivision certificate, the allotment boundaries shall be adjusted so that the existing ramp providing pedestrian and cycle access from Homebush Bay Drive and the existing pedestrian pathway and cycleway shall be located within Lot 211.

E5 Public access to Lot 211

The Applicant shall, before the issuing of a subdivision certificate, create easements providing for 24 hour unrestricted public access to Lot 211 pursuant to the *Conveyancing Act, 1919*.

E6 Future and Existing Services

- (1) In order that adequate provision for future and existing services exist within the Subject Site, the Applicant shall create easements for services, lighting, drainage, maintenance or any other encumbrances and indemnities required for joint or reciprocal use of part or all of the proposed lots as a consequence of the subdivision, must be created over those lots pursuant to the *Conveyancing Act, 1919*.
- (2) In satisfying the requirement for a Sydney Water Compliance Certificate and where any drainage line or service conduit is to traverse any property other than that which it serves, an easement of not less than 3000mm wide over any public drainage line of inter allotment stormwater drainage or services of any public drainage line shall be identified on the subdivision certificate.

E7 24 Hour unrestricted public access – footway and cycleway

In order that 24 hour unrestricted public access to the existing pedestrian footway and cycleway is available, the Applicant shall, before the issuing of a subdivision certificate, create easements providing for 24 hour unrestricted public access to the existing pedestrian footway and cycleway pursuant to the *Conveyancing Act, 1919*.

E8 Access to Lot 212

The Applicant shall, before the issuing of a subdivision certificate, create an easement over Lot 211 providing for unrestricted access to Lot 212, pursuant to the *Conveyancing Act, 1919*. The easement shall be of sufficient dimensions and be appropriately located to:

- (a) enable vehicular access to Lot 212.
- (b) not impede or restrict public access to or use of the existing pedestrian footway and cycleway.

E9 Remediation

- (1) In order that the subdivision is orderly development under the Act and before issuing a subdivision certificate, the Applicant shall provide a Site Audit Statement prepared by a New South Wales accredited site auditor that:
 - (a) identifies that proposed lot 212 of the subdivision of the Subject Site is suitable for intended uses including open space accessible to the public, and
 - (b) identifies those conditions placed on the Site Audit Statement in order for the site to be suitable for development.
- (2) The Applicant is to include any condition placed on the Site Audit Statements as restrictions on title pursuant to the *Conveyancing Act, 1919*

NOTE: Nothing in the conditions is to imply authorisation or consent for remediation works that may require separate approval or licence.

E10 *Documentary evidence of restrictions on title*

The Applicant is to provide evidence of providing or an intention to provide documentary easements that place restrictions on the title before the issuing of the subdivision certificate.

Compliance**E11 *Sydney Water Compliance Certificate***

Prior to issuing a subdivision certificate, a Compliance Certificate shall be provided to the consent authority or Council showing that the development has met with the detailed requirements of Sydney Water.

The developer shall obtain the Compliance Certificate from Sydney Water in accordance with their requirements and produce this to the satisfaction of the consent authority or Council before the release of the subdivision certificate.

E12 *Requirements of Public Authorities for Connection to Services*

The Applicant shall comply with the requirements of any public authorities (e.g. Energy Australia, Sydney Water, Telstra Australia, AGL, etc) in regard to the connection, relocation and/or adjustment of the services affected by the proposed subdivision. All costs related to the relocation, adjustment or support of services are the responsibility of the Applicant only. Details of compliance with the requirements of any relevant public authorities are to be submitted with the application for a subdivision certificate.

Costs**E13 *Costs to be Borne by Applicant***

All costs associated with the preparation and registration of any covenant or restriction on title or the preparation of any agreement required by this consent, whether directly or indirectly, will be borne solely by the Applicant.

PART F—PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

No Conditions in this Part.

PART G—POST OCCUPATION

No Conditions in this Part.

PART H—GENERAL TERMS

No Conditions in this Part.

ADVISORY NOTES

No Advisory Notes in this Part.