



25 January 2016

Fiona Gibson
Environmental Planning Officer
Department of Planning
23-33 Bridge Street
Sydney, 2000

Dear Fiona,

RESPONSE TO GIBSON HOWLIN LETTER, 3 DECEMBER 2015 – MP06_0191

I refer to the letter addressed to the PCA of MP06_0191, Dean Goldsmith at Blackett Macquire & Goldsmith (BM+G). While I understand BM+G have provided a response to Gibson Howlin addressing the issues raised in this letter, the Department of Planning have also requested Goodman's response to the letter.

This letter deals with the issues raised in the order of those raised in Gibson Howlin's letter, as follows:

1 Flood Validation

Under the heading "Surface Water and Flooding" in Schedule 3 – Specific Environmental Conditions of the Consent (MP06_0191) are Conditions 8, 8A, 9, 10, 11, 12, 13 & 14 which detail what flood control structures are to be built and how they will be checked to ensure they are and will remain both effective and adequate. Gibson Howlin asserts that:

"to ensure that the intent of the Consent is fully realised, it is essential that no Occupation Certificate be issued until it is demonstrated to the Certifying Authority that the Flood Impact Validation is "to the satisfaction of the Secretary"... and

Additionally, as the development has been substantially modified since originally proposed, it is essential that the final Flood Impact Validation clearly indicate that it has been based on a final work as executed survey of all finished surfaces and all finished structures.

Goodman are aware of all the obligations under the abovementioned conditions as applies to the surface water and flooding for MP06_0191, and intend to comply with all these conditions to ensure PCA approval is obtained for the proposal. Goodman understands the importance of ensuring that the final flood impact validation will be based on the final survey of the site as to be constructed.

In addition to compliance with the above conditions, Goodman have recently provided Botany Council with the required \$1,357,355 developer contributions for MP06_0191, to be used by Council to implement flood and drainage improvement as proposed in their "*Springvale Drain and Floodvale Drain Risk Management Study*". These measures are anticipated to benefit the drainage and flood impact of the surrounding area.

Goodman Group

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2 Ongoing Protection of Flood Storage Areas

Gibson Howlin raises the following issues in respect of Condition 8A and 15 of MP06_0191:

“Condition 8A (Schedule 3) & Condition 15 (Schedule2) of the Consent stipulate that prior to the issue of a Subdivision Certificate, a Section 889/E instrument shall be registered over the flood detention areas on proposed Lot 6 (already created and known as Lot 102 DP 1189375) and proposed Lot 9, requiring the maintenance and management of the flood detention basin and prohibiting the use of the land at grade other than for the maintenance of the flood detention basin. Importantly, the instrument must nominate Council, the EPA or another relevant Authority as the authority to release, vary or modify the restriction.”

Goodman acknowledges the requirement under existing conditions 8A and 15 of the Consent, however notes the following in regard to the registered 88B/E instrument as applies to Lot 102 of DP1189375:

- This instrument was lodged by the previous owner of the site, Orica, and not Goodman. This instrument was registered before Goodman took ownership of the site; and
- At the time of the lodgement of the 88B/E instrument in September 2014, Condition 8A of Schedule 3 (14 August 2014 consent) only required the registration of the easement - not that Council (or other authority) be nominated as the only party authorised to release or vary any easement over the flood storage for Lot 102 of DP1189375. This requirement was only established in the 22 April 2015 Consent, which was granted after the instrument had been registered.

Goodman, however, intends to take steps to amend the 88B/E instrument accompanying DP1189375, so that the instrument is consistent with Condition 8A (Schedule 3) & Condition 15 (Schedule 2) of the Consent. Goodman will amend the 88B/E instrument to ensure that only Botany Council has authority to release, vary or modify the relevant easement. We have taken advice that the 88B/E instrument may be varied using an LPI form 13RVM (variation or modification of restriction on the use of land). Once registered the variation will appear alongside the restriction on the certificate of title. We hope to prepare this form and arrange lodgement with the LPI within the next month.

Should you have any queries please do not hesitate to call me on (02) 9230 7225.

Yours faithfully

A handwritten signature in black ink, appearing to be "Guy Smith", written over a faint circular stamp.

Guy Smith
Planning Manager