

Project Approval

Section 75J of the Environmental Planning & Assessment Act 1979

As delegate of the Minister for Planning under delegation executed on 25 January 2010, I, under the *Environmental Planning and Assessment Act 1979*, determine that the project referred to in Schedule 1 subject to the conditions of approval in Schedule 2 and the Proponent's Statement of Commitments in Schedule 3 be approved.

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the project.



Deputy Director-General
Development Assessment & Systems Performance
Department of Planning

Sydney,

20th January 2010

SCHEDULE 1

Application No.: MP09_0217

Proponent: Lipman Properties Pty Limited

Approval Authority: Minister for Planning

Land: 120 – 128 Herring Road, Macquarie Park

Project: Staged Subdivision.

NOTES RELATING TO THE DETERMINATION OF MP NO. 09_0217

Responsibility for other approvals/ agreements: The Proponent is solely responsible for ensuring that all additional approvals and agreements are obtained from other authorities, as relevant.

Appeals: The Proponent has the right to appeal to the Land and Environment Court in the manner set out in the *Environmental Planning and Assessment Act, 1979* and the *Environmental Planning and Assessment Regulation, 2000 (as amended)*.

Legal notices: Any advice or notice to the approval authority shall be served on the Director General.

DEFINITIONS

In this approval the following definitions apply:

Act	means the Environmental Planning and Assessment Act, 1979 (as amended).
Advisory Notes	means means advisory information relating to the approved development but do not form a part of this approval.
BCA	means the Building Code of Australia.
Certifying Authority	has the same meaning as Part 4A of the Act.
Council	means Ryde City Council
CPI	means Consumer Price Index.
Department	means the Department of Planning or its successors.
Director General	means the Director General of the Department or his nominee.
Environmental Assessment (EA)	means the Environmental Assessment prepared by Urbis and dated May 2010.
Minister	means the Minister for Planning.
MP No. 09_0217	means the Major Project described in the Proponent's Environmental Assessment as amended by the Preferred Project Report.
PCA	means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.
Preferred Project Report (PPR)	means the Preferred Project Report/ Response to submissions prepared by Urbis dated September 2010.
Proponent	means Lipman Properties Pty Limited or any party acting upon this approval.
Regulation	means the Environmental Planning and Assessment Regulation, 2000 (as amended).

End of Schedule 1

SCHEDULE 2

RECOMMENDED CONDITIONS OF APPROVAL

PART A - ADMINISTRATIVE CONDITIONS

A1 Development Description

- (1) Project Approval is granted to the development as described below:
- (a) Torrens Title Subdivision of the development site from Morling College and creation of 3 lots known as Stage 1;
 - (b) Torrens Title Subdivision of the Stage 1 allotment into 3 allotments known as Stage 1A; and,
 - (c) Torrens Title Subdivision of the residual development site into 4 allotments known as Stage 2.

A2 Development in Accordance with Plans and Documentation

The development will be undertaken in accordance with MP No. 09_0217 and the Environmental Assessment dated May 2010 prepared by Urbis Pty Ltd, except where amended by the Preferred Project Report (September 2010) and additional information to the Preferred Project Report dated 7 October 2010, and the following drawings prepared by Cameron Phillip Miles Surveyor:

Architectural Drawings prepared for the Environmental Assessment / Preferred Project Report			
Drawing No.	Revision	Name of Plan	Date
091120.DP.STG1	4	Sheet 1 of 1	1/10/2010
091120.DP.STG1A	7	Sheet 1 of 3	1/10/2010
091120.DP.STG1A	7	Sheet 2 of 3	1/10/2010
091120.DP.STG1A	7	Sheet 3 of 3	1/10/2010
091120.DP.STG2	7	Sheet 1 of 3	1/10/2010
091120.DP.STG2	7	Sheet 2 of 3	1/10/2010
091120.DP.STG2	7	Sheet 3 of 3	1/10/2010

except for:

- (1) any modifications which are 'Exempt and Complying Development' as identified in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA; and,
- (2) otherwise provided by the conditions of this approval.

A3 Inconsistency between documents

In the event of any inconsistency between conditions of this approval and the drawings/documents referred to above, including the Proponent's Statement of Commitments, the conditions of this approval prevail.

A4 Prescribed Conditions

The Proponent shall comply with the prescribed conditions of approval under Clause 98 of the *Environmental Planning and Assessment Regulation 2000* in relation to the requirements of the *Building Code of Australia* (BCA).

A5 Lapsing of Approval

Approval of the Project Application shall lapse 5 years after the determination date in Part A of Schedule 1.

PART B – GENERAL CONDITIONS

B1 Modifications

A pedestrian/cycleway, a minimum of 2.5 metres in width, shall be provided across the proposed Lot 11 (Building B) to provide a 24hour/7 day a week connection by right-of-way easement and be located between the new internal road and the north-eastern (side) boundary with the Macquarie University. The design and specifications (including lighting) shall be agreed with the Council prior to the commencement of construction and the access shall be completed and operational prior to the issue of an Occupation Certificate for Building C.

B2 Services

Documentary easements for services, drainage, support and shelter, use of plant, equipment, loading areas and service rooms, repairs, 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 the appropriate lots in the subdivision pursuant to Section 88B of the *Conveyancing Act 1919*.

B3 Car parking restrictions

The on-site car parking spaces, exclusive of service spaces, are not to be used by those other than an occupant or tenant of the subject building. Any occupant, tenant, lessee or registered proprietor of the development site or part thereof shall not enter into an agreement to lease, license or transfer ownership of any car parking spaces to those other than an occupant, tenant or lessee of the building.

These requirements are to be enforced through the following:

- (1) restrictive covenant placed on title pursuant to Section 88B of the *Conveyancing Act, 1919*,
- (2) restriction on use under Section 68 of the *Strata Schemes (Leasehold Development) Act, 1986* to all lots comprising in part or whole car parking spaces, and
- (3) sign visible at exits (excluding fire stairs and individual unit entries) from car parking areas.

These requirements are to be made to the satisfaction of Council. All costs associated with the above requirements are to be borne solely by the Proponent.

B4 Common areas and facilities

No right of exclusive use and enjoyment of the whole or any specified part of the designated common area or similar in the approved plans will be conferred on any person or persons without the prior consent of the relevant Council.

These requirements are to be made, at no cost to Council, and to the satisfaction of Council and a restrictive covenant placed on title pursuant to Section 88E of the *Conveyancing Act, 1919*.

B5 Part 4A Certificate

Prior to the registration of final subdivision plan in the Office of the Registrar-General, a Part 4A certificate shall be obtained under section 109D(1)(d) of the *Environmental Planning and Assessment Act 1979*.

B6 Access

Documentary easements for access must be created over the appropriate lots in the subdivision to provide for public access and access to lifts, lobbies, fire stairs, service areas, loading areas and car parking areas, and created pursuant to Section 88B of the *Conveyancing Act 1919*.

B7 Easements

A subdivision of the developemnt site shall provide for the following:

- a. The creation of individual lots for containing dwellings and any utility lots (garages storage areas etc.), development lots for future stages, community or common property, and areas to be dedicated to the public.
- b. The creation of appropriate easements, rights of way, restrictions on use of land, or positive covenants sufficient to provide appropriate legal rights for access services and facilities where they are not contained in the lot which they benefit.
- c. Provision of binding legal mechanisms to ensure the ongoing maintenance of any facilities or activities in the recreation area required to be carried out over the life of the development, including maintenance of water management facilities, pedestrian and cycle paths, Vegetation Buffer Areas and Core Riparian Zones and to also provide for communal access.
- d. The creation of suitable binding legal mechanisms to ensure the ongoing maintenance of any facilities or activities required to be carried out over the life of the development by this Approval including the maintenance of the water management facilities, roads and parking areas, Vegetation Buffer Areas and Core Riparian Zones, Weed Management, continual maintenance of landscape vegetation, Asset Protection Zones, the gymnasium and swimming pool, and any other proposed common facilities.

B7 Dedication to Council

The Proponent shall dedicate to Ryde Council the internal road, footpath and cycleway following completion. The area to be dedicated is to be subject to a final plan of survey prepared by a registered surveyor and shall be detailed on the required Plan of Subdivision. The required dedication is to take place by way of subdivision. Evidence that the required Subdivision Certificate has been registered shall be provided to the Certifying Authority prior to the issue of the first Occupation Certificate for Building E.

PART C - ADVISORY NOTES

AN1 Sydney Water

An application shall be made to Sydney Water for a Certificate under Part 6, Division 9, Section 73 of the *Sydney Water Act, 1994* (Compliance Certificate). Evidence that a Compliance Certificate has been applied for (i.e. Notice of Requirements) shall be produced to the satisfaction of the PCA prior to the issue of a Construction Certificate. The Section 73 Certificate shall be submitted to the PCA prior to the occupation of the development or release of the linen plan.

AN2 Compliance Certificate, Water Supply Authority Act, 2000

Prior to issuing a subdivision certificate, a Compliance Certificate shall be provided to the approval authority showing that the development has met with the detailed requirements of the relevant water supply authority for the region that the subject site is located within.

The developer shall obtain the Compliance Certificate from the relevant local water supply authority and produce this to the satisfaction of:

- (1) the certifying authority before release of the Construction Certificate,
- (2) the approval authority before the release of the subdivision certificate, and
- (3) the principal certifying authority prior to occupation.

AN3 Requirements of Public Authorities for Connection to Services

The Proponent shall comply with the requirements of any public authorities (e.g. Energy Australia, Sydney Water, Telstra Australia, AGL, etc) in regard to the connection to, relocation and/or adjustment of the services affected by the construction of the proposed structure. Any costs in the relocation, adjustment or support of services shall be the responsibility of the Proponent. Details of compliance with the requirements of any relevant public authorities are to be submitted to the satisfaction of the PCA prior to the issue of the Construction Certificate.

AN4 Compliance with Building Code of Australia

The Proponent is advised to consult with the PCA about any modifications needed to comply with the BCA prior to submitting the application for a Construction Certificate.

AN5 Structural Capability for Existing Structures

The structural capabilities of an existing structure will need to meet the requirements of the BCA and may require engaging a structural engineer.

AN6 Application under Part 4A of the Act

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

AN7 Other Details Required prior to Issue of Subdivision Certificate

The Proponent shall submit to the satisfaction of the approval authority or the council, the following information, prior to the issue of the Subdivision Certificate:

- (1) Documentary evidence of the payment of the open space/ community facility/ transport and access contribution(s),
- (2) An Occupation Certificate, and
- (3) Documentary evidence that the property has been developed in accordance with plans approved by MP09_0218 and MP09_0195 and of compliance (or a Compliance Certificate) with the conditions of that approval.

AN8 Application under Section 37 of Strata Schemes (Freehold Development) Act, 1973

Section 37 and 37A of the *Strata Schemes (Freehold Development) Act, 1973* require an application to be submitted to the council or accredited certifier for approval prior to the issue of the certified strata plan of subdivision.

AN9 Compliance with Conditions

The Proponent will be required to submit, documentary evidence that the property has been developed in accordance with plans approved by MP09_0218 and MP09_0195 and of compliance (or a

Compliance Certificate) with the conditions of that approval, prior to the issuing of Strata Plan of Subdivision.

AN10 Roads Act, 1993

A separate application shall be made to RTA for approval under Section 138 of the *Roads Act, 1993* to undertake any of the following:

- (1) erect a structure or carry out a work in, on or over a public road, or
- (2) dig up or disturb the surface of a public road, or
- (3) remove or interfere with a structure, work or tree on a public road, or
- (4) pump water into a public road from any land adjoining the road, or
- (5) connect a road (whether public or private) to a classified road.

AN11 Consolidation of Lots

Prior to occupation, the lots which form the subject site are to be consolidated and the Plan of Consolidation registered with the Land Titles Office. Evidence of the registration of the Consolidation shall be provided to the satisfaction of the Self-Certifying Authority.

AN12 Road Closure

A temporary road closure permit is to be obtained by Council/RTA prior to the closure of any roads.

End of Schedule 2

SCHEDULE 3

REVISED STATEMENT OF COMMITMENTS

Source: PPR dated October 2010

Prepared by: Urbis Pty Ltd

Revised Statement of Commitments

Project Application – Subdivision

Subject	Commitments	Timing
1. Road Staging	<p>The access road will be constructed in stages. The first stage (Lot 12) will involve the road construction to service proposed Lots 10 (Building A) and Lot 11 (Building B).</p> <p>The construction of the remainder of the road (Lot 23) will be completed prior to the Occupation of Building C or D to enable the required vehicular access.</p>	<p>The construction of the road on Lot 12 to be completed prior to the issue of an Occupancy Certificate for the earlier of Building A or B..</p> <p>The construction of Lot 23 to be completed prior to the issue of an Occupation Certificate for the earlier of Building C or D.</p>
2. Lot Staging	<p>As outlined in the PPR, Stage 1 subdivision proposes a 3 lot subdivision of the Morling College Land which will result in the creation of three allotments:</p> <ul style="list-style-type: none"> ▪ "Lot 1" being an allotment supporting the Stage 1 development works fronting Herring Road. ▪ "Residual Development Site" being the balance of the Development Site allotment. ▪ The remaining Morling College Land Lot <p>The Stage 1A Subdivision (of Lot 1 into Lots 10, 11 and 12) will be submitted for registration concurrently during the construction of Building A on Lot 10. Building B will then be constructed on Lot 11, and Lot 12 is the first stage road lot.</p> <p>The Stage 2 Subdivision is to divide the Residual Development Site into four allotments (Lots 20, 21, 22 and 23) to support the further three residential apartment buildings(C, D & E) on individual allotments (Lots 20, 21 ,22) and the construction of the final section of road (Lot 23)..</p>	<p>This subdivision will be registered with the Land Property Information (LPI) Office prior to the next stage of subdivision.</p> <p>The registration of the Stage 1A subdivision to occur prior to occupation of Building A.</p> <p>The registration of the Stage 2 allotments to occur prior to occupation of Building C or D or E (whichever is constructed first).</p>

Subject	Commitments	Timing
3. Dedication of new access road	While the development scale does not necessitate the construction of a "Type 3" road, the proponent is willing to construct a Type 3 road for the proposed development so that it can be dedicated to Council as a local road in order to deliver additional public benefits to the community. This commitment is however contingent on achieving the scale of development proposed in the PPR.	To be dedicated to Council prior to the issue of the final Occupation Certificate for the final (fifth) building within the proposed 5 building development.
4. Interim access arrangements	Until the access road lot (Lots 12 and 23) has been fully constructed and dedicated to Council, the land owner must grant a right of way/easement in favour of the buildings on Lots 10, 11, 20, 21 and 22 across the future road Lots 12 and 23.	The interim access arrangements to be provided in conjunction with the Subdivision Staging Plan outlined in item 2 above.