

20 May 2014

The Minister
NSW Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Sir/Madam,

**Re: Section 75W Modification of Project Approval (MP 10_0113)
Nos. 110-114 Herring Road, Macquarie Park**

On behalf of Stamford Property Services, we hereby lodge a Section 75W Modification application to amend the Stage 1 Project Approval (MP10_0113). The proposed modifications include:

1. Modify condition B29 to reflect the NSW's current water rating system. This will allow a 3 star WELS appliance rating to be used in lieu of an AAA water rating.
2. Modify condition D1 to reflect Ryde Council's standard construction operating hours.
3. Amend compliance timeframes for Part B of the consent to reflect the proposed staging for the issue of construction certificates.

The proposed development is the subject of a Section 75W modification as they do not constitute a 'radical transformation' to the Stage 1 Project Approval. The proposed modifications relate to administration matters only, in particular the water rating used, construction hours and construction certificate timeframes. As the proposed modification will not result in any changes to the approved use, form, appearance and intensity of the development, there will be no environmental impact over and above that of the approved project.

The submission contains: a brief background to the proposal; the conditions of project consent requested to be modified; a description of the proposed modifications; an environmental planning assessment; and a conclusion.

1 Background

The Concept Plan Approval and Stage 1 Project Approval were granted concurrently by the Planning Assessment Commission (PAC). Subsequent modifications to the Concept Plan Approval and the Project Approval pursuant to Section 75W of the Act have been submitted to, approved by and awaiting approval by the Department of Planning and Infrastructure (now the Department of Planning and Environment). They are as follows:

1. MP10_0112 MOD 1

Approved on 3 June 2013, the modification altered the approved building envelopes and resulted in a slight increase in residential FSR.

2. Proposed Section 75W Modification to MP10_0112 MOD 1

Lodged August 2013 and currently under assessment. The proposed modification seeks to alter the apartment mix. This application is recommended for approval.

3. *Proposed Section 75W Modification to MP10_0113*

Lodged August 2013 and currently under assessment. The proposed modification was lodged concurrently with the proposed Section 75W Modification to MP10_0112 MOD 1. It seeks to reconcile the Project Approval with the modifications approved under MP10_0112 MOD 1, and the new apartment mix sought under the proposed Section 75W Modification to MP10_0112 MOD 1.

2 Statutory Framework

2.1 PART 3A TRANSITIONAL PROJECTS

The project was declared to be a project to which Part 3A of the Act applies on 1 December 2008.

Following the repeal of Part 3A of the Act on 1 October 2011, the project continues to be subject to Part 3A of the Act pursuant to the transitional provisions provided in Schedule 6A of the Act. Clause 2 of the Schedule states, inter alia:

“2 Transitional Part 3A projects

- 1) *The following are, subject to this Schedule, transitional Part 3A projects:*
 - (a) *an approved project (whether approved before or after the repeal of Part 3A),*
 - (b) *a project that is the subject of an approved concept plan (whether approved before or after the repeal of Part 3A),*
 - (c) *a project for which environmental assessment requirements for approval to carry out the project, or for approval of a concept plan for the project, were last notified or adopted within 2 years before the relevant Part 3A repeal date (unless the environmental assessment is not duly submitted on or before 30 November 2012 or on or before such later day as the Director-General may allow by notice in writing to the proponent),*
 - (d) *a project for which an environmental assessment (whether for approval to carry out the project or for approval of a concept plan for the project) was duly submitted before the relevant Part 3A repeal date.”*

As the project is the subject of a Project Approval and a Concept Plan Approval, Part 3A of the Act continues to apply.

2.2 SECTION 75W OF THE ACT

Pursuant to Part 3A of the Act (as in force prior to its repeal), Section 75W provides that the proponent may request the Minister to modify the Minister's approval for a project (including a project approval or a concept plan approval). Such modifications may include:

- (a) *revoking or varying a condition of the approval or imposing an additional condition of the approval, and*
- (b) *changing the terms of any determination made by the Minister under Division 3 in connection with the approval.*

Section 75W does not limit the circumstances in which the Minister may modify a determination made under Division 3 in connection with the approval of a concept plan.

Further, clause 3C of Schedule 6A of the Act provides that s75W continues to apply for the purpose of the modification of a concept plan approved before or after the repeal of Part 3A. Clause 3C of the Schedule states, inter alia:

“3C Modification of concept plans

- (1) *Section 75W continues to apply for the purpose of the modification of a concept plan approved before or after the repeal of Part 3A, whether or not the project or any stage of the project is or was a transitional Part 3A project.*
- (2) *This clause applies despite anything to the contrary in this Schedule (other than provisions relating to approval for the carrying out of a project or stage of a project that is given in connection with an approval to modify a concept plan).”*

Legal advice was obtained from Norton Rose Australia, dated 26 November 2012, in relation to the modifications approved for the Concept Plan, and their consistency with the provisions of s75W. As the proposed modifications to the Project Approval reflect the modified Concept Plan, the advice from Norton Rose is considered to still apply. The advice states, inter alia:

“As you would be aware, the requirements of s75W of the Environmental Planning & Assessment Act 1979 (EP&A Act) have been considered by the Courts on several occasions. The Land and Environment Court has observed that the language of s75W is not constrained by the qualification (contained in s96 of the EP&A Act) that the development as modified be “substantially the same” as the development already approved (Williams v Minister for Planning (2009) 164 LGERA 204). In other words, the power under s75W to modify is broader than the test under s96. Biscoe J expressed the test another way, by stating that s75W does not contemplate a “radical transformation” of the terms of an existing approval (Williams v Minister).

The Court of Appeal subsequently cautioned against seeking to use any descriptive phrase to substitute for or explain the statutory language in s75W. That Court has noted that “the fact that there are no express standards to be applied in considering whether a particular request falls within the terms of the section itself gives rise to an inference that no essential precondition to the consideration of a request was intended” (Barrick Australia Ltd v Williams (2009) 74 NSWLR 733 at 401).”

We submit that the modifications proposed by this application do not constitute a ‘radical transformation’ to either the Concept Plan Approval or the Stage 1 Project Approval for the following reasons:

- The proposed use is the same as that approved under the Concept Plan Approval and the Stage 1 Project Approval.
- There are no variations proposed to the building envelopes, gross floor area, floor space ratio or open space as approved under the Concept Plan Approval (as modified on 3 June 2013) and the Stage 1 Project Approval.
- There will be no increase in the gross floor area or floor space ratio approved under the Concept Plan Approval (as modified on 3 June 2013).
- There will be no reduction of public open space on the site.

3 Proposed Modification

This submission seeks to modify Conditions B29, D1 and compliance timeframe for Part B conditions of the Project Approval (MP10_0113). The existing conditions and the proposed modification to these conditions are outlined below:

3.1 CONDITION B29 WATER RATINGS

Existing condition:

B29 Water Ratings

All water fixtures installed within the premises are to have a AAA water rating or more. The Proponent shall submit to the Certifying Authority a statement demonstrating compliance with the requirements of this condition.

Proposed condition:

B29 Water Ratings

*All water fixtures installed within the premises are to have a **3 star WELS** rating or more. The Proponent shall submit to the Certifying Authority a statement demonstrating compliance with the requirements of this condition.*

3.2 CONDITION D1 HOURS OF WORK

Existing condition:

D1 Hours of Work

The hours of construction, including the delivery of materials to and from the site, shall be restricted as follows:

- (1) *Between 7.00am and 5.00pm, Mondays to Fridays inclusive;*
- (2) *Between 8.00am and 12.00 midday, Saturdays;*
- (3) *No work on Sundays and public holidays.*

Proposed condition:

D1 Hours of Work

The hours of construction, including the delivery of materials to and from the site, shall be restricted as follows:

- (1) *Between 7.00am and **7.00pm**, Mondays to Fridays inclusive;*
- (2) *Between 8.00am and **4.00pm**, Saturdays;*
- (3) *No work on Sundays and public holidays.*

3.3 RELEVANT CONSTRUCTION CERTIFICATE FOR PART B CONDITIONS

Existing Part B:

PART B- PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

Proposed Part B:

PART B- PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions must be satisfied prior to the issue of the identified relevant Construction Certificates, as underlined and bolded below each condition.

The relevant construction certificate has been identified below each condition in Part B and is contained in a schedule attached at **Appendix A**. The relevant construction certificate is **underlined and bolded** for ease of recognition.

4 Description and Rationale of Proposed Modifications

4.1 CONDITION B29 WATER RATINGS

It is proposed to modify condition B29 to allow a 3 star WELS appliance rating to be used in lieu of an AAA water rating. Condition B29 requires all water fixtures to have a AAA water rating. The AAA water rating was a voluntary water labelling scheme that has essentially been phased out by AS/NZS 6400 Water Efficient Products - Rating and Labelling Standard. As the voluntary AAA rating has little or no relevance, a 3 star WELS appliance rating would be more appropriate than the AAA water rating. This has been confirmed in a letter provided by Inhabit Engineering (see **Appendix B**).

4.2 CONDITION D1 HOURS OF WORK

It is proposed to modify condition D1 to amend the construction hours of operation in line with Ryde Council's standard construction operating hours. Condition D1 restricts construction hours to between 7.00am to 5.00pm Monday to Friday and 8.00am to 12 midday on Saturday. The conditioned hours are inconsistent with Ryde Council's standard consent conditions, as contained in the Ryde Offensive Noise Management Policy 2008 – 2011 (still current). We request amended construction hours of between 7.00am to 7.00pm Monday to Friday and 8.00am to 4pm on Saturday to be consistent with Council's.

Furthermore, the conditioned hours would hinder the timely completion of the project and unnecessarily extend construction noise.

4.3 RELEVANT CONSTRUCTION CERTIFICATE FOR PART B CONDITIONS

The relevant construction certificate has been identified for each condition in order to meet the applicant's staging of Construction Certificates. During the course of design development and discussions with a contractor, the proponent has resolved its preferred delivery strategy that includes the sequencing of works on site. Due to the preferred sequencing of works, a staged CC process will be required based on early works requiring completion prior to the commencement of below ground and above ground construction works.

We note that it is proposed to modify condition B30(1) and (2) to allow an application to be made to Sydney Water for a Section 73 Certificate under the Sydney Water Act 1994 prior to the issue of an Occupation Certificate, rather than prior to issuing a Construction Certificate. There is no need for water and wastewater to be connected/augmented during the construction of the development. The logical timing for water and wastewater is at occupation.

In addition, the proponent has negotiated an easement deed with adjoining owners. The sequencing of the easement works forms a logical part of the proponent's early works package for the project inclusive of demolition post the issue of an early works Construction Certificate.

The necessary water works will not be completed until the development is ready to be occupied. Accordingly, we request that the Sydney water requirements, including a Section 73 Compliance Certificate, be met prior to the issue of an Occupation Certificate.

5 Section 75W Assessment

5.1 POTENTIAL ENVIRONMENTAL IMPACT

The proposed modifications have been assessed with regard to its environmental impact, taking into account the potential implications arising from the proposed changes to the consent.

It is proposed to connect water and waste water when the development is ready to be occupied. Water and waste water works are proposed as part of an early works package. There will be no environmental impact in obtaining a s73 Compliance Certificate prior occupation.

The proposal is to update the water efficiency rating system. The 3 Star WELs rating is the current system of rating in accordance with AS/NZS 6400 Water Efficient Products - Rating and Labelling Standard. The AAA rating system is redundant.

The proposed modifications to construction hours are unlikely to adversely impact on existing development in the locality. Council have established standard hours for demolition and construction, as outlined in the Ryde Offensive Noise Management Policy 2008 – 2011. The standard conditions on development consent control and/or mitigate noise impacts. The proposal is consistent with these hours. As Ryde Council is the consent authority for Stage 2 and will be applying the standard conditions of consent, the DoPI project approval will be inconsistent. The proponent will develop the project as one stage, and therefore a consistent application of Council's guidelines is important.

The proposal does not involve any changes to the use, unit mix, envelopes and there will be no internal or external building works. The proposal is for modifications to administration matters only. Accordingly, there will be no changes to the appearance of the building or the development generally.

Overall, it is considered that the proposed modifications will not have any significant environmental impacts.

6 Section 79C Consideration

The matters referred to in Section 79C of the Environmental Planning and Assessment Act 1979 also need to be considered in the assessment of the proposed modification. Each of the matters relevant to the proposal is assessed below:

(a)(i) any environmental planning instrument

The proposed modification has been assessed in accordance with the relevant planning controls. The application has been submitted in accordance with the requirements of Section 75W of the Environmental Planning and Assessment Act 1979.

The proposed modifications do not impact on compliance of the development with any provisions of the state, regional and local planning controls.

(a)(ii) any proposed instrument that is or has been the subject of public consultation

None relevant to the proposal.

(a)(iii) any development control plan

The proposed modifications will not result in any changes to the existing level of compliance with the DCP. In fact it brings the project into line with Council's guidelines.

(a)(iii) any planning agreement or any draft planning agreement

None relevant to the proposal.

(a)(iv) the regulations

None relevant to proposal.

(a)(v) any coastal zone management plan

None relevant to the proposal.

(b) the likely environmental, social and economic impacts

The proposed minor amendment to the approval will not result in any significant environmental, social or economic impacts.

(c) the suitability of the site

The proposed modification will not result in any changes that would affect the suitability of the site to accommodate the proposed development.

(d) any submissions

It is acknowledged that any submissions arising from the public notification of the Section 75W application will need to be assessed by the Minister. Urbis would appreciate being made aware of any issues raised by residents during the notification period to enable the proposal to be reviewed and/or amended, if considered appropriate and necessary.

(e) the public interest

It is considered that the proposed modification will not have any significant impacts on the environment and is in the public interest. The proposed construction hours will ensure the timely completion of the project and delivery of much needed residential accommodation in the area.

7 Summary and Recommendation

Overall, we conclude that the Section 75W Modification application is entirely appropriate and may be approved by the Minister, on the basis that the proposed modifications do not constitute a radical transformation to the Stage 1 Project Approval and there will not be any detrimental natural and built environmental impacts.

Based on the above, it is considered that the proposed modification to Conditions B29, D1 and compliance timeframe for Part B conditions may be approved under the provisions of Section 75W of the Environmental Planning and Assessment Act 1979.

If you would like to discuss the application, please do not hesitate to contact me on (02) 8233 9900.

Yours sincerely,



Elaine Roff
Senior Planner

Appendices

Appendix A: Part B Conditions

Appendix B: Letter from Inhabit Living Engineering

Appendix A

Part B Conditions

PART B- PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions must be satisfied prior to the issue of the identified relevant Construction Certificates, as underlined and bolded below each condition.

B1 Design Modifications

In order to improve amenity for adjoining properties and future residents, the design of the proposed development should be amended as follows:

Height

- (a) The height of Building C shall be reduced from 15 storeys (RL 122.25m) to a maximum of 13 storeys (RL 116.25m);
- (b) The 13 storey portion of Building W (RL 115.05 m) shall be reduced to 11 storeys (RL 105.95).

Open Space

The central park shall provide a minimum of 1,665m² publicly accessible open space and through site links; and

Design

The street to ground level wall of Building H, on both street frontages of the north eastern and north western elevation shall be amended to reduce the blank rendered/painted wall effect and to provide greater articulation and visual interest. Consideration should be given to changing balustrade materials to reduce the height of the wall.

Relevant Construction Certificate for height, open space and design: prior to the issue of construction certificate for detailed architectural design of the relevant building.

Car Parking

The provision of on-site car parking shall be in accordance with the following rates:

- 0.6 spaces per 1 bedroom apartment;
- 0.9 spaces per 2 bedroom apartment;
- 1.4 spaces per 3 bedroom apartment;
- 1 space per 5 for visitors; and
- 1 space per 40m² of commercial GFA;

[Note: the number of basement car parking levels shall be reduced in accordance with the reduction in parking provisions].

Relevant Construction Certificate for car parking: prior to the issue of construction certificate for detailed architectural design of below ground car park.

Street Network

RMS does not provide concurrence to use Epping Road as an exit from the site. The new road along the north western boundary shall be blocked off at Epping Road and an appropriate turning circle is to be provided to the satisfaction of Council.

Relevant Construction Certificate for street network: prior to the issue of construction certificate for demolition.

Amended plans demonstrating compliance with these modifications shall be submitted to, and approved by, the Certifying Authority prior to the issue of any Construction Certificate.

B2 Compliance with the Building Code of Australia (BCA)

Details shall be provided to the satisfaction of the Certifying Authority, with the application for a Construction Certificate, which demonstrate that the proposal complies with the prescribed conditions of approval under Clause 98 of the *Environmental Planning and Assessment Regulation* in relation to the requirements of the *Building Code of Australia (BCA)*.

Relevant Construction Certificate: prior to the issue of any construction certificate.

B3 Monetary Contributions

Following receipt of the approval of the Director-General for the amended plans required by Condition B1, the approved plans must be submitted to Council so that it may calculate the required Section 94 Contributions (in accordance with the City of Ryde's Section 94 Contributions Plan, **acknowledging the offset to be considered for the existing development**). The contributions are to be paid to Council prior to the determination of a Construction Certificate for above ground works.

The above amount, if not paid within the quarter that the consent is granted, shall be adjusted for inflation by reference to the Consumer Price Index published by the Australian Bureau of Statistics (Catalogue No. 5206.0) on the basis of the contribution rates that are applicable at time of payment.

Timing and Method of Payment

The contribution shall be paid in the form of cash or bank cheque, made out to Council accounting purposes, the contribution may require separate payment for each of the categories above and you are advised to check with Council. Evidence of the payment to Council shall be submitted to the Certifying Authority prior to the issue of a Construction Certificate for above ground works.

Indexing

The contribution for land will be adjusted in accordance with the latest annual valuations.

Relevant Construction Certificate: Prior to the issue of a construction certificate/s for detailed architectural design of the relevant building.

B4 Security Bond and Enforcement Levy

(1) A Security Bond for an amount determined by Council and based on the value of the proposed new roads on site shall be deposited with Council prior to the issue of a Construction Certificate for the satisfactory completion of:

- (a) Herring Road maintenance
- (b) New local roads through the development site
- (c) Construction of stormwater and any other infrastructure within the road reserve of the proposed new roads.

Part of the Bond (being 75%) shall be redeemed following certification by the PCA of the practical completion of the work with the remainder (being 25%) being released following a satisfactory 6 month maintenance period following practical completion of the works.

(2) An Enforcement Levy is to be paid to Council on lodgement of a Construction Certificate application in accordance with the requirements of Council's Management Plan (Scheduled Fees)

Relevant Construction Certificate: prior to the issue of a construction certificate for demolition.

B5 Long Service Levy

Prior to the issue of a Construction Certificate, receipt of payment to the Long Service Payments Corporation in accordance with Section 34 of the Building Construction Industry Payments Act 1986 must be presented to the Certifying Authority.

Relevant Construction Certificate: prior to the issue of a construction certificate for detailed architectural design of the relevant building.

B6 Details of Materials, Colours and Finishes

Final design details of the proposed external materials and finishes, including schedules and a sample board of materials and colours, shall be submitted to and approved by the Certifying Authority prior to the issue of a Construction Certificate for above ground works.

Relevant Construction Certificate: prior to the issue of a construction certificate for detailed architectural design of the relevant building.

B7 Reflectivity

The visible light reflectivity from building materials used on the facades of the buildings shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A report demonstrating compliance with these requirements is to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for above ground works.

Relevant Construction Certificate: prior to the issue of a construction certificate for detailed architectural design of the relevant building.

B8 Outdoor Lighting

(1) All outdoor lighting shall comply with, where relevant, AS/NZ1158.3: 1999 *Pedestrian Area (Category P) Lighting* and AS4282: 1997 *Control of the Obtrusive Effects of Outdoor Lighting*. Details demonstrating compliance with these requirements are to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for above ground works.
(2) The Proponent will ensure that adequate lighting is provided to proposed pedestrian through site links on the application site.

Relevant Construction Certificate: prior to the issue of a construction certificate for detailed architectural design of the relevant building.

B9 Disabled Access

Access and facilities for people with disabilities shall be provided in accordance with Part D3 of the BCA's Access Policy. Prior to the issue of a Construction Certificate for each relevant stage, a certificate certifying compliance with this condition from an appropriately qualified person shall be provided to the Certifying Authority.

Relevant Construction Certificate: prior to the issue of a construction certificate for demolition.

B10 Pre-Construction Dilapidation Reports

The Proponent is to engage a qualified structural engineer to prepare a Pre-Construction Dilapidation Report detailing the current structural condition of all existing and adjoining buildings, infrastructure and roads. The report shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate. A copy of the report is to be forwarded to the Department.

Relevant Construction Certificate: prior to the issue of a construction certificate for demolition.

B11 Construction Management Plan

Prior to the issue of a Construction Certificate, the Construction Management Plan shall be updated and submitted to and approved by the Certifying Authority. The Plan shall address, but not be limited to, the following matters where relevant:

- (1) hours of work,
- (2) contact details of site manager,
- (3) noise and vibration management (see also **813** below),
- (4) waste management (see also **814** below),

- (5) traffic management (see also **812** below),
- (6) erosion and sediment control (see also **817**),
- (7) flora and fauna management; and
- (8) stormwater management.

The Proponent shall submit a copy of the approved plan to the Department and Council.

Relevant Construction Certificate: prior to the issue of construction certificate for demolition.

B12 Traffic & Pedestrian Management Plan

Prior to the issue of a Construction Certificate, a Traffic and Pedestrian Management Plan prepared by a suitably qualified person shall be submitted to and approved by the Certifying Authority. The Plan shall address, but not be limited to, the following matters:

- (1) ingress and egress of vehicles to the site,
- (2) loading and unloading, including construction zones,
- (3) predicted traffic volumes, types and routes, and
- (4) pedestrian and traffic management methods.

The Proponent shall submit a copy of the approved plan to the Department and Council prior to commencement of a Construction Certificate. [note: no access to Epping Road is granted by RMS]

Relevant Construction Certificate: prior to the issue of construction certificate for demolition.

B13 Noise and Vibration Management Plan

Prior to the issue of a Construction Certificate, the Noise and Vibration Management Plan shall be updated and shall be submitted to and approved by the Certifying Authority. The Plan shall address, but not be limited to, the following matters:

- (1) identification of the specific activities that will be carried out and associated noise sources,
- (2) identification of all potentially affected sensitive receivers including residences, schools, and properties containing noise sensitive equipment,
- (3) the construction noise objective specified in the conditions of this approval,
- (4) the construction vibration criteria specified in the conditions of this approval,
- (5) determination of appropriate noise and vibration objectives for each identified sensitive receiver,
- (6) noise and vibration monitoring, reporting and response procedures,
- (7) assessment of potential noise and vibration from the proposed construction activities including noise from construction vehicles and any traffic diversions,
- (8) description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction
- (9) justification of any proposed activities outside the construction hours specified in the conditions of this approval.
- (10) construction timetabling to minimise noise impacts including time and duration restrictions, respite periods, and frequency,
- (11) procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration, and
- (12) contingency plans to be implemented in the event of non-compliances and/or noise complaints.

The Proponent shall submit a copy of the approved plan to the Department and Council prior to commencement of a Construction Certificate.

Relevant Construction Certificate: prior to the issue of a construction certificate for demolition.

B14 Construction Waste Management Plan

Prior to the issue of a Construction Certificate, the Proponent shall submit to the satisfaction of the Certifying Authority a Waste Management Plan prepared by a suitably qualified person in accordance with City of Ryde Council's Development Control Plan 2010. The Proponent shall submit a copy of the plan to the Department and Council prior to commencement of a Construction Certificate.

Relevant Construction Certificate: prior to the issue of a construction certificate for demolition.

B15 Tree Management Plan

Prior to the issue of a Construction Certificate, the Proponent shall submit to the satisfaction of the Certifying Authority a Tree Management Plan prepared by a suitably qualified person in accordance with City of Ryde Council's Development Control Plan 2010.

Relevant Construction Certificate: prior to the issue of a construction certificate for demolition.

B16 Lighting Plan

A detailed plan prepared by a suitably qualified lighting engineer must be submitted to PCA for approval prior the issue of a Construction Certificate for above ground works.

All lighting in public domain areas is to comply with the Macquarie Park public Domain Technical Manual requirements and Australian Standard AS1158 for Street Lighting Applications.

The lighting plan should include, lighting designs, supported by luminance calculations and luminance plots, and is to be of a high standard and Energy Australia compatible.

Relevant Construction Certificate: prior to the issue of a construction certificate for detailed architectural design of the below ground car park.

B17 Erosion and Sedimentation Control

Soil erosion and sediment control measures shall be designed in accordance with the document *Managing Urban Stormwater- Soils & Construction Volume 1 (2004) by Landcom*. Details are to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

Relevant Construction Certificate: prior to the issue of a construction certificate for demolition.

B18 Road Design

Kerb and gutter, stormwater drainage, full road width pavement including traffic facilities (roundabouts, median islands etc.) and paved footpaths shall be constructed along the full length of the new roads. All Roads shall be designed in consultation with the relevant requirements of Council and the RMS. Final road design plans shall be prepared by a qualified practising Civil Engineer and submitted to and approved by Council, prior to the issue of a Construction Certificate for above ground works.

NB: This condition needs to be modified if road works require s.138 approval under the Roads Act 1993 by the road authority (Council).

Relevant Construction Certificate: prior to the issue of a construction certificate for detailed architectural design of the below ground car park.

B19 Number of Bicycle Spaces

The proposal is to provide one bicycle space for every apartment. Bicycle parking should:

- (a) be designed in accordance with AS 2890.3 Parking facilities - Bicycle parking facilities;
- (b) ensure that potential conflicts with vehicles are minimised;
- (c) be secure and located undercover with easy access from the street and building entries;
- (d) be located in accordance with Safar by Design principles:

- (e) end of trip facilities accessible to staff (including at least 1 shower and change room in all commercial and retail developments; and
- (f) provide secure bicycle storage in all residential developments.

Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

Relevant Construction Certificate: prior to the issue of a construction certificate for detailed architectural design of the below ground car park.

B20 Number of Loading Bays

The development is to provide loading bays for the development in accordance with Council's DCP 2010. Details of the loading arrangements shall be submitted to the satisfaction of Council and the Certifying Authority prior to the issue of a Construction Certificate.

Relevant Construction Certificate: prior to the issue of a construction certificate for detailed architectural design of the below ground car park.

B21 Car Park and Service Vehicle Layout

(1) Plans are to identify the following traffic and parking details:

- (a) all vehicles should enter and leave the subject Site in a forward direction. In the event that site constraints do not permit heavy rigid vehicles to enter and leave the subject Site in a forward direction, then all reversing movements should be undertaken under the control of certified traffic controllers to ensure public safety when vehicles are reversing;
- (b) car parking associated with the proposal (including queuing areas, grades, turn paths, sight distance requirements, aisle widths, and parking bays) should be in accordance with AS 2890.1-2004 and AS 2890.2-2002 for heavy vehicle usage;
- (c) appropriate pedestrian advisory signs are to be provided at the egress from the car park;
- (d) All works/regulatory signposting associated with the proposed developments shall be at no cost to the relevant roads authority;
- (e) The swept path of the longest vehicle (including garbage trucks) entering and exiting the Subject Site, as well as manoeuvrability through the Subject Site, shall be in accordance with AUSTROADS;

(2) Details demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior the issue of a Construction Certificate.

Relevant Construction Certificate: prior to the issue of a construction certificate for detailed architectural design of the below ground car park.

B22 Car Share Spaces

Details of the car share arrangements are to be submitted to Council and the Certifying Authority prior to the issue of a construction certificate. A total of 3 car share spaces are to be provided for the development.

Relevant Construction Certificate: prior to the issue of a construction certificate for detailed architectural design of the below ground car park.

B23 Storage

The development is to provide dedicated storage within the basement car park or within units at the following rates:

- studio apartments 6m³
- one-bedroom apartments 6m³
- two bedroom apartments 8m³
- three plus bedroom apartments 10m³

Basement storage shall not compromise safety or natural ventilation.

Relevant Construction Certificate: prior to the issue of a construction certificate for detailed architectural design of the below ground car park.

B24 Mechanical Ventilation

All mechanical ventilation systems shall be installed in accordance with Part F4.5 of the Building Code of Australia and shall comply with Australian Standards AS1668.2 and AS3666 Microbial Control of Air Handling and Water Systems of Building, to ensure adequate levels of health and amenity to the occupants of the building and to ensure environment protection. Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for above ground works.

Relevant Construction Certificate: prior to the issue of a construction certificate for detailed architectural design of the relevant building.

B25 RMS Requirements

- (1) RMS fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works.
- (2) The Proponent may be required to enter into a Works Authorisation Deed (WAD) for the abovementioned works. The WAD will need to be executed prior to RMS's assessment of the detailed civil design plans.
- (3) The development shall be acoustically designed to meet appropriate internal noise requirements through property setbacks, site and architectural treatments. Noise walls are not supported by RMS as noise mitigation.
- (4) The layout of the proposed car parking areas (including driveways, grades, turn paths, sight distance requirement, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004 and AS 2809.2- 2002 for heavy vehicle usage;
- (5) Provision for building maintenance vehicles and removalists shall be provided on site;
- (6) All vehicles shall be wholly contained on site before being required to stop;
- (7) All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Epping Road;
- (8) A construction Traffic Management Plan detailing contractor vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate (see **B 11** above); and
- (9) All works associated with the proposed development shall be at no cost to RMS.

Relevant Construction Certificate: prior to the issue of a construction certificate for excavation and site retention works.

B26 Landscape Plan

The Proponent shall submit detailed landscape plan to the Certifying Authority for approval prior to the issue of a Construction Certificate for any above ground works.

Relevant Construction Certificate: prior to the issue of a construction certificate for detailed architectural design of the relevant building.

B27 NatHERS Rating- Multi-Unit Housing

The following NatHERS rating requirements shall be complied with:

- (1) an average rating for all dwellings of 4 stars or better,
- (2) at least 20% of all dwellings shall achieve better than 4.5 stars,
- (3) at least 80% of all dwellings shall achieve better than 3.5 stars, and

- (4) no apartment shall achieve less than 3 stars.

Prior to the issue of a Construction Certificate for above ground works, the Proponent shall submit to the Certifying Authority a NatHERS certificate, prepared by an accredited NatHERS assessor, demonstrating compliance with the requirements of this condition.

Relevant Construction Certificate: prior to the issue of a construction certificate for detailed architectural design of the relevant building.

B28 BASIX Certificate requirements

Prior to the issue of a Construction Certificate for above ground works a BASIX Certificate shall be obtained and submitted to the Certifying Authority to achieve satisfactory levels of thermal comfort, and satisfactory water and energy ratings. The BASIX certificate must be submitted to the Certifying Authority with all commitments clearly shown on the Construction Certificate plans.

Relevant Construction Certificate: prior to the issue of a construction certificate for detailed architectural design of the relevant building.

B29 Water Ratings

All water fixtures installed within the premises are to have a AAA water rating or more. The Proponent shall submit to the Certifying Authority a statement demonstrating compliance with the requirements of this condition.

Relevant Construction Certificate: prior to the issue of a construction certificate for detailed architectural design of the relevant building.

B30 Sydney Water Requirements

- (1) The 100mm and 150mm drinking water mains need to be upsized prior to the issue of an Occupation Certificate;
- (2) The Existing 150mm wastewater mains need to be upsized prior to the issue of an Occupation Certificate;
- (3) 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) prior to the issue of any Construction Certificate.
- (4) The Application must be made through an authorised Water Servicing Coordinator. Please refer to the "Your Business" section of the web site www.sydneywater.com.au then follow the "e-Developer" icon or telephone 13 20 92 for assistance.
- (5) Following application a "Notice of Requirements" will advise of water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

Relevant Construction Certificate: Prior to the issue of an occupation certificate for Items (1) and (2) and prior to the issue of a construction certificate for demolition for Item (3).

B31 Storage and Handling of Operational Waste

The design and management of facilities for the storage and handling of operational waste must comply with the requirements of City of Ryde Development Control Plan 2010. Details are to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

Relevant Construction Certificate: prior to the issue of a construction certificate for detailed architectural design of the relevant building.

B32 Stormwater and Drainage Works Design

Final design plans of the storm water drainage systems, prepared by a qualified practicing professional and in accordance with the requirements of Ryde City Council shall be submitted to the certifier and approved by Council prior to issue of a Construction Certificate. The hydrology and hydraulic calculations shall be based on models described in the current edition of Australian Rainfall and Runoff.

Relevant Construction Certificate: prior to the issue of a construction certificate for detailed design of the below ground car park.

Appendix B

Letter from Inhabit Living Engineering

SYDNEY

GPO Box 5278 Sydney 2001
Tower 2, Level 23, Darling Park
201 Sussex Street
Sydney NSW 2000 Australia

t 02 8233 9900 f 02 8233 9966 e info@urbis.com.au w urbis.com.au Urbis Pty Ltd ABN 50 105 256 228

SA4588_SECTION 75W_FINAL

17 January, 2014

Ref: 0290-LTR-ES-0001 [00]

Urbis

Tower 2, Level 23 Darling Park
201 Sussex Street
Sydney
NSW, 2000

Attention: Mr Ian Caddy

Dear Sir / Madam

**Re: Macquarie Park Village
B29 DA Condition**

Inhabit would like to discuss the option for the modification of the B29 DA Condition for Macquarie Park Village.

Inhabit requests the DoP to update this condition in line with current requirements. The B29 condition requires all water fixtures to have a AAA water rating. The AAA water rating was a voluntary water labelling scheme that has been in existence since 1998.

In February 2004 AS/NZS 6400 Water Efficient Products - Rating and Labelling Standard was introduced. As this standard has now been in force for 10 years, there is no incentive for products to be certified under the AAA rating system and as such, very few products pursue the voluntary rating. Essentially, the voluntary AAA rating has all but been phased out.

As such, Inhabit would request that the DA condition is modified to allow the option of a 3 star WELS appliance to be used in lieu of an AAA water rating.

Yours Sincerely,

On behalf of Inhabit Australasia Pty Ltd.

A handwritten signature in purple ink that reads "Samantha Anderson".

Samantha Anderson
Senior ESD Engineer