

JRPP No.	2010SYE085
DA No.	LDA 2010/0079
Proposed Development	Subdivision of the site into two lots. Lot 1 will be used for residential purposes. Lot 2 will be retained by Sydney Water Corporation, 20 Goulding Rd, Ryde, Lot 5 DP 443866.
Applicant:	Sydney Water Corporation
Report By:	PANEL SECRETARIAT

Assessment Report and Recommendation

Referred to the Joint Regional Planning Panel pursuant to section 89(2)(b) of the Environmental Planning and Assessment Act 1979

27 October 2010

1. EXECUTIVE SUMMARY

The Panel Secretariat has reviewed this application for the Regional Panel's consideration, including a consideration of the views of Council and the applicant. Council's resolution not to determine the DA and request that the DA be withdrawn is not supported as the site is considered suitable for subdivision. Accordingly it is recommended the DA be approved, subject to conditions.

2. SITE DESCRIPTION

The subject site is located at 20 Goulding Street, Ryde on the north western side of Goulding Road. Adjoining the site is a single residential dwelling and Energy Australia land to the north, low density residential development to the east and south and Byron Park to the northwest.

The site is currently occupied by a water reservoir at the rear of the site. At the Goulding Road frontage a radio transmission tower and associated control building are located.

The site is rectangular in shape with a site area of 8,570 m². The site has a street frontage of 50.04 metres to Goulding Road and is 135.635 metres deep.

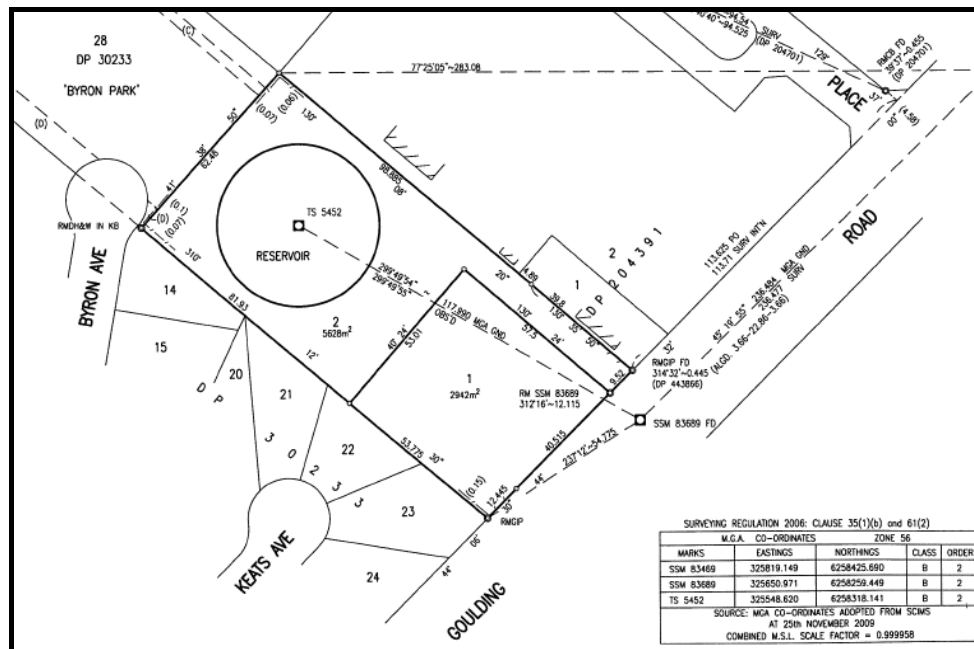
3. PROPOSAL

The application seeks consent to subdivide the subject site into two lots. Lot 1 will have an area of 2942m² and is indicated for future residential purposes. Lot 2 will have an area of 5628m² and will be retained by Sydney Water Corporation for continued use as the site of the reservoir.

The application has been lodged with a Site Compatibility Certificate issued by the Director General of the Department of Planning, dated 15 December 2008 (attachment 1) which permits the use of Lot 1 for residential purposes.

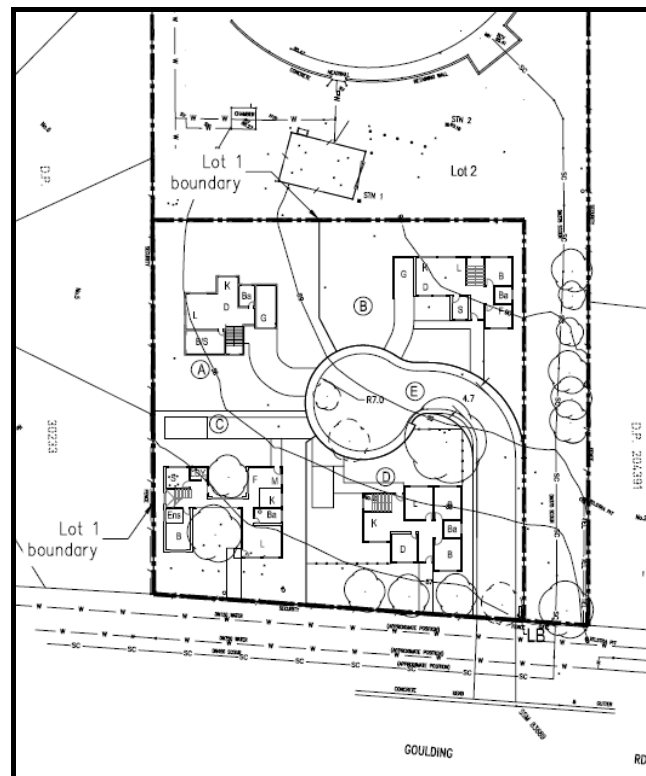
Also submitted with the application is an 'Indicative Development Outcome' plan for Lot 1. This shows a road from Goulding Road into Lot 1 and an indicative subdivision of Lot 1 into four allotments and the placing of a two-storey dwelling house on each allotment. As this is an indicative plan for Lot 1 it does not form any part of the subject application.

Figure 1 Subdivision Plan



Source: Statement of Environmental Effects, 22 Goulding Road, Ryde

Figure 2: Indicative Development Outcome



4. BACKGROUND SUMMARY

- A Site Compatibility Certificate is issued to Sydney Water Corporation on 15 December 2008;
- The development application was lodged with Council on 26 February 2010;
- The proposal was notified from 3 March 2010 to 1 April 2010 with 5 submissions received;
- Council resolved to require Sydney Water to undertake appropriate community consultation prior to the sale of any of its open space for development on 27 April 2010;
- Sydney Water wrote to Council detailing the extent of community consultation undertaken on 10 June 2010;
- Meeting held between Sydney Water and Council's Group Manager Environment and Planning on 12 July 2010;
- Council's officer prepared an assessment of LDA 2010/0079 recommending approval which went to the elected Council on the 17 August 2010. Council resolved to defer the application and ask Sydney Water to withdraw the application;
- Sydney Water referred the application to the Joint Regional Planning Panel on 1 October 2010,
- Sydney Water provided to the Panel Secretariat comments on the draft conditions of consent on the 8 October 2010;
- Council Officer responded to Sydney Water comments on 21 October 2010;
- The DA has been referred to the JRPP as Council has not determined the application in accordance with Clause 80 (1) of the EP & A Act.

5. ENVIRONMENTAL PLANNING INSTRUMENTS

The site is zoned SP2 Reservoir under the Ryde Local Environmental Plan 2010 and the proposed development is not permitted under this zoning. However, the Ryde LEP 2010 was published on 30 June 2010 and contains a savings provision (clause 1.8A), which states that if a development application was made before the commencement of the Plan, the application must be determined as if the Plan had not commenced. As the DA was lodged on 26 February 2010, it must be determined as if the Ryde LEP 2010 had not commenced.

Under the Ryde Planning Scheme Ordinance (RPSO) the subject site is zoned Special uses 'A' – Reservoir. A Site Compatibility Certificate has been issued by the Director General of the Department of Planning and permits the use of the proposed Lot 1 for residential purposes. Since a Site Compatibility Certificate has been issued Lot 1 takes on the provisions of the adjoining 'Residential A' zone, and the proposed subdivision is permissible with consent.

Lot 1 has been identified as potentially contaminated as Sydney Water stored chlorine and associated products on the site. A Site Audit Report concluded that Lot 1 is suitable for residential land use, with gardens and accessible soil. The site therefore meets the objectives of State Environmental Planning Policy No 55 (remediation of land).

The proposed development is generally consistent with:

- State Environmental Planning Policy No 1 – Development Standards
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Exempt and Complying Code) 2008
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- City of Ryde Subdivision Code

6. CONSULTATION AND PUBLIC EXHIBITION

The development application was notified from 3 March 2010 to 1 April 2010 in accordance with Development Control Plan 2006 – Part 2.1 Notification of Development Applications. 5 submissions were received during the exhibition period, objecting to the development.

Issues raised in the submission included objecting to the need to relocate the transmission mast and associated equipment shed for Community Radio 2RRR, displeasure that the radio station may close if the transmission facility cannot be relocated and objecting to the loss of green space in the community.

7. JRPP's STATUTORY ROLE

Section 89(1)(a) of the Environmental Planning and Assessment Act 1979 (EP&A Act) states that a consent authority must not refuse its consent to a Crown development application, except with the approval of the Minister.

Section 89(2)(b) of the Act provides that if a consent authority fails to determine a Crown DA within the prescribed time limit it may be referred by either the applicant or the consent authority to a JRPP.

In this case, given Council's resolution to request the DA be withdrawn and the prescribed time limit, the applicant has referred the application (LDA 2010/0079) to the JRPP for determination.

8 CONSIDERATION OF SECTION 79C(1) OF THE EP&A ACT

Council's officer has undertaken an assessment of the application with regard to the provisions of the EP&A Act and all matters specified under section 79C(1). The assessment report noted the issue is between a landowner and a leasee, however it also noted Sydney Water is assisting the leasee to find an alternative site for the transmission tower and associated facilities. The Panel Secretariat agrees that the issue has been satisfactorily addressed. Council's officer has recommended that the DA be approved, subject to conditions. The Panel Secretariat's review does not alter or reverse these findings.

9. POSITION OF EACH PARTY

The views of Council and the applicant are summarised as follows:

City of Ryde Council

Assessment staff

- Assessment staff have recommended that the application be approved subject to the applicant giving concurrence to the recommended list of conditions. The assessment recommends that the draft conditions of consent for the application be forwarded to Sydney Water Corporation for their acceptance in accordance with Part 4, Division 4 of the Environmental Planning and Assessment Act 1979.
- Upon acceptance by Sydney Water Corporation of the draft conditions, a formal development consent be issued for the application.

Elected representatives

- Ryde City Council Committee of the Whole met on Tuesday 17 August 2010 and resolved that:

‘Council defer this application and make representations to the State Government for Sydney Water to withdraw this application and to dedicate the land earmarked for residential use as open space, retaining 2RRR’s transmitter’.

Applicant - Sydney Water Corporation

- Sydney Water Corporation requests referral of LDA 2010/0079 to the Joint Regional Planning Panel as the DA has not been determined by Council and it is 70 days since lodgement of the DA.

Sydney Water has provided comments on the draft conditions of consent included with Councils assessment report (attachment iv). Council has also provided the Panel Secretariat with a response to Sydney’s water comments (attachment v).

Sydney Water provides comment on conditions 1, 2-8, 16, 19, 20, 21, 22, 23 and 24. Council does not agree to the changes suggested by Sydney Water for conditions 2-8, 10-15, 16, 22, 23 and 24.

The disputed conditions are:

- Condition 2- 8: These conditions deal with design and construction standards, service alterations, restoration, engineering compliance certificate, layout of car parking and gutter and crossing design.
- Condition 10-15: These conditions deal with boundary levels, driveway grades, vehicle footpath crossings, road opening permit, erosion and sediment control plan and stormwater drainage.
- Condition 16: This condition requires the applicant to formalise safe access to the proposed Lot 2 by constructing a minimum 4 metre wide sealed driveway. It also requires a slay corner of at least 3 metres by 3 metres to be provided in the northeast corner of the proposed Lot 1.
- Condition 22: This condition requires the submission to Council before the issues of a subdivision certificate a ‘Works as Executed’ plan of all internal and external road and drainage works.
- Condition 23: This condition requires a Traffic Management Plan to be submitted to Council prior to construction commencing.
- Condition 24: This condition requires the creation of a positive covenant burdening proposed Lot 2 with the requirement to maintain the stormwater detention system on the property.

10. DISCUSSION OF PLANNING MERIT

Discussion of subdivision plan

The development application, involving the two-lot subdivision of land, is suitable for development and is not likely to have any adverse impacts on the existing built environment

or the amenity of the surrounding area. The proposed Lot 1 will produce, through a likely future development application, a residential subdivision that is consistent with the existing subdivision pattern in the area.

Discussion of draft conditions of consent

The conditions disputed are 2-8, 10-15, 16, 22, 23 and 24. Sydney Water and Council both agree to changes to draft conditions 1, 9, 19, 20, 21.

A discussion of these conditions follows:

- Condition 2- 8:

Sydney water agrees to these conditions as long as the words 'any future development of Lot 1 will be subject to the following conditions' is inserted after the heading 'GENERAL'. Council does not support this amendment as the conditions relate to works required to ensure both proposed lots can operate independently of one another.

- Condition 10-15:

These conditions are agreed by Sydney water provided the words 'Any future development of Lot 1 will be subject to the following conditions' is inserted after the heading 'PRIOR TO CONSTRUCTION COMMENCING'. Council does not support this amendment as the conditions relate to the additional works required for Lot 2, including the access way and Stormwater Management System.

- Condition 16

The applicant disagrees with this condition and asks that it be allowed to construct the new access road to the reservoir in accordance with the Infrastructure SEPP. The applicant has proposed replacing the condition with:

'Engineering plans for the above works shall be prepared and submitted to Council in accordance with the Infrastructure SEPP prior to commencement of construction'.

Council has recommended changing the condition in response to the comments to read:

'Access: to formalize safe access to proposed Lot 2, a sealed access driveway including a turning area provided at the end of the battle axe handle that enables the largest vehicle using the site to enter and leave in a forward direction must be provided. The access driveway and turning circle is to fully comply with the requirements of AS2890.2 – 2002 and AS2890.1 – 2004'.

- Condition 22

Sydney Water contends that this condition should be for any future development consent for Lot 1 if inter allotment drainage is necessary. Council does not support deletion of this condition as it relates to works required for the provision of the access way and Stormwater management System.

- Condition 23

Sydney Water does not agree to this condition for a Traffic Management Plan. Council does not support deletion of the condition as it relates to construction work required as part of the subdivision, namely the provision of an access way from Goulding Road.

- Condition 24

Sydney Water currently maintains the stormwater detention system for the whole site and contends that after the proposed subdivision whoever maintains the system will continue to do so, as the proposed subdivision will not affect this responsibility. Council state that the condition is necessary to ensure that the Stormwater Management System is maintained.

Both the Council assessment officer and Sydney Water have no disagreement on the conditions for Lot 1. The disagreement is whether these conditions should apply to Lot 2.

In brief, the proposed subdivision will require:

- a new access road to Lot 2 where the reservoir locates, and
- a change to the current storm water management system to ensure Lot 1 will not be affected by stormwater run off from Lot 2.

The draft conditions proposed by Council are to ensure works to be carried out in Lot 2 will be in accordance with various Council and RTA requirements and environmental standards`.

Sydney Water contends that any future development within Lot 2 will be carried out in accordance with the provisions of the Infrastructure SEPP.

The Panel Secretariat noted the Infrastructure SEPP includes specific planning provisions and development controls for various types of infrastructure development including the approval process, assessment requirements and consultation. It is the applicant's responsibility to determine whether the Infrastructure SEPP applies to a proposal. In this case, the applicant is of the view that the Infrastructure SEPP applies to Lot 2. Thus it is the applicant's responsibility to ensure the new access road and storm water management system amendment will meet the relevant legislative requirements and environmental standards. In the circumstances the Panel Secretariat accepts the applicant's proposed changes to conditions 2-8, 10-16, 22-24.

The Panel Secretariat has reviewed the development application and its associated documents, the Council Officer's assessment report and the views of the applicant and Council and concludes that the proposal to subdivide the site will produce, in a future application, a residential subdivision that is generally consistent with the existing land uses.

The Panel Secretariat recommends the proposal be approved for the above reasons.

11. RECOMMENDATION

It is recommended that the JRPP:

- (A) **consider** all relevant matters prescribed under the *Environmental Planning and Assessment Act 1979*, as contained in the Development Application and associated documents, Council's assessment report and findings and recommendations of this report; and
- (B) **approve** the application, subject to conditions set out in Schedule 1, pursuant to section 80(1)(a) and section 89 of the *Environmental Planning and Assessment Act 1979*, having considered all relevant matters in accordance with (A) above.

Prepared by:

Emily Dickson
Panel Secretariat

Endorsed by:

Carmel O'Connor
Panel Secretariat

12. ATTACHMENTS

- i) Site Compatibility Certificate dated 15 December 2008
- ii) Council Development Assessment Report dated 17 August 2010
- iii) Minutes of Council Meeting dated 17 August 2010
- iv) Sydney Water comments on Conditions of Consent
- v) Councils response to Sydney waters comments on Conditions of Consent

SCHEDULE 1

CONDITIONS OF APPROVAL

Attachment 1 – Conditions of Consent

GENERAL

Any future development of Lot 1 will be subject to the following conditions:

1. Development is to be carried out in accordance with the draft plan of subdivision dated 24 February 2010 prepared by AWT survey and the support information submitted to Council.

2. Design and Construction Standards.

To ensure the development will be completed satisfactorily, all engineering designs and construction shall be carried out in accordance with the requirements as outlined within Council's *Environmental Standards Development Criteria* publication and relevant Development Control Plans except as amended by other conditions in this consent.

3. Service Alterations.

To protect existing public utility services, all public utilities that require adjustments shall be approved by the relevant public authority and all costs associated with the adjustments are to be borne by the applicant. Written approval and signed off at completion from the relevant Public Authority shall be submitted to Council

4. Restoration.

To ensure public areas will be safely maintained at all times and that all disturbed areas satisfactorily restored, all restoration of disturbed road and footway areas for the purpose of connection to public utilities will be carried out by Council, subject to the lodgement of a Road Opening Permit application to Council with payment of appropriate fees, prior to commencement of works. Repairs of damage to any public infrastructure including the removal and replacement of redundant vehicular crossings with kerb and gutter will be carried out by Council following receipt of payment for the works.

5. Engineering Compliance Certificates.

To ensure all engineering works within the public road and/or drainage reserve will be completed satisfactorily, Engineering Compliance Certificates must be obtained from Council for the following works at the specified stage where applicable. Fees for all inspections are to be paid to Council in accordance with Council's Management Plan prior to inspection:

- Prior to backfilling of Council's stormwater pipelines.
- Prior to backfilling of drainage connections to Council's stormwater drainage systems.
- After trimming and compaction of sub-grade.
- After placement and compaction of the applicable sub-base course.
- Prior to casting of Council's pits and other drainage structures including kerb & gutter, access ways, aprons, pathways, vehicular crossings, dish crossings and pathway steps.
- After completion of all works with all disturbed areas satisfactorily restored.

6. The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths and sight distance requirements) should be in accordance with AS2890.1-2004 and 2890.2-2002 for heavy vehicle usage.

7. The design and construction of the gutter crossing on Goulding Road shall be in accordance with RTA requirements (i.e. 6 metres wide at kerb). Details of these requirements should be obtained from RTA's Project Services Manager, Traffic Projects Section, Parramatta (8849 2496). Detailed design plans of the proposed gutter crossing are to be submitted to Council for approval prior to the commencement of any road works.

8. All works associated with the proposal shall be at no cost to the Roads and Traffic Authority.

PRIOR TO CONSTRUCTION COMMENCING

Any future development of Lot 1 will be subject to the following conditions:

9. Boundary Levels.

To ensure a smooth transition between external and internal site works, street alignment levels shall be obtained from Council. These levels shall be incorporated into the design of the internal works e.g. driveway, carparking areas, landscaping, stormwater drainage etc and shall be clearly shown on the Construction Plans prior to construction commencing.

10. Driveway Grades.

To ensure satisfactory and safe access to the proposed development the proposed driveway access and gradients shall be designed and constructed in accordance with Australian Standards AS 2890.1-2004 and City of Ryde Environmental Standards – Development Criteria Section 1 – Driveways. The driveway design is to incorporate Council's issued footpath and gutter crossing levels.

11. Vehicle Footpath Crossings.

To facilitate safe access to and from the site, new concrete layback and apron crossings are to be constructed at locations as indicated on the approved plan for proposed lot 2. The width, design and construction shall conform to Ryde City Council's *Environmental Standards Development Criteria – Section 1-Driveways-1999*. Additionally, crossings are to be constructed in plain reinforced concrete with finished levels that comply with property alignment levels issued by Council's Public Works Division. Kerbs shall not be returned to the property boundary alignment and Bridge and pipe crossings will not be permitted.

12. Road Opening Permit.

To ensure all works within the public road reserve will be completed and restored satisfactorily, the applicant shall apply for a Road Opening permit where a new pipeline is proposed to be constructed within or across the footpath and/or where there are connections proposed to public utility services (e.g. telephone, electricity, sewer, water or gas) within the road reserve. No works shall be carried out on the road reserve without this permit being paid and a copy kept on the site.

13. Erosion and Sediment Control Plan.

To ensure existing environment will be adequately protected an *Erosion and Sediment Control Plan (ESCP)* shall be prepared by a suitably qualified person in accordance with the guidelines set out in the Department of Housing Manual "*Managing Urban Stormwater, Soils and Construction*" and submitted to the Principal Certifying Authority for approval prior to issue of a Construction Certificate. These devices shall be installed prior to commencement of construction and maintained at all times during construction. The following details are to be included in drawings accompanying the *Erosion and Sediment Control Plan*

- (a) Existing and final contours.
- (b) The location of all earthworks, including roads, areas of cut and fill.
- (c) Location of all impervious areas.
- (d) Location and design criteria of erosion and sediment control structures.

- (e) Location and description of existing vegetation.
- (f) Site access point/s and means of limiting material leaving the site.
- (g) Location of proposed vegetated buffer strips.
- (h) Location of critical areas (drainage lines, water bodies and unstable slopes).
- (i) Location of stockpiles.
- (j) Means of diversion of uncontaminated upper catchment around disturbed areas.
- (k) Procedures for maintenance of erosion and sediment controls.
- (l) Details for any staging of works.
- (m) Details and procedures for dust control.

14. Stormwater Drainage.

To minimise stormwater impacts downstream, stormwater runoff from proposed lot 2 shall be collected and piped to Council's stormwater system in Goulding Road via an on-site detention system designed in accordance with Part 8.2 of Council's Stormwater Management manual. Accordingly, the maximum discharge rate permitted to the kerb is 25l/s. Should the calculated PSD for lot 2 exceeds 25 l/s the discharge from lot 2 shall be connected to Council's underground stormwater system located in Goulding Road. In this regard, Council's existing stormwater system shall be extended to the site to facilitate direct connection.

Engineering plans for the internal and external stormwater system prepared by a chartered civil engineer shall be submitted for approval to crown certifier and Council respectively, prior to construction commencing. Assessment and approval of engineering plans for the stormwater extension by Council is subject to payment of an appropriate fee calculated based on Council's management plan at time of lodgement.

15. Access.

To formalize safe access to proposed Lot 2, a sealed access driveway including a turning area provided at the end of the battle axe handle that enables the largest vehicle using the site to enter and leave in a forward direction must be provided. The access driveway and turning circle is to fully comply with the requirements of AS2890.2 – 2002 and AS2890.1 – 2004'

PRIOR TO SUBDIVISION CERTIFICATE

16. A contribution for the services in Column A and for the amount in Column B shall be made to Council prior to the release of the Subdivision Certificate for registration at the Land and Property Management Authority (LPMA).

A	B
Community & Cultural Facilities	\$3,819.50
Open Space & Recreation Facilities	\$9,402.82
Civic & Urban Improvements	\$3,197.98
Roads & Traffic Management Facilities	\$436.14
Cycleways	\$272.48
Stormwater Management Facilities	\$865.78
Plan Administration	\$73.47
The total contribution is	\$18,068.17

This contribution is a contribution under the provisions of Section 94 of the Environmental Planning and Assessment Act, 1979 as specified in Section 94 Development Contributions Plan 2007 adopted by City of Ryde on 11/12/2007. 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.

17. Council will only issue a Subdivision Certificate pursuant to the Environmental Planning and Assessment Act 1979 Section 109J when the conditions of this development consent are complied with and Council or an accredited certifier has lodged documentary evidence of completion of a final inspection of any building or engineering works with Council.

18. Certification Documents.

The submission of all certification as required under this development consent prior to the release of the Subdivision Certificate.