

Our Ref: RJ Dowsett/bp/DA 11/274.06

10 October 2012

The Project Officer
Joint Regional Planning Panel
Email: angela.kenna@planning.nsw.gov.au

Attention: Ms A Kenna

Dear Ms Kenna

REF: 2012 SYE 045
182-196 O'RIORDAN STREET, MASCOT

Your letter dated 4 October 2012 and sent as an email is received.

In response to the issues raised and maintaining your numbering sequence, the following responses are provided for the Panel's consideration.

1. Legality – a DCC approval when concurrence is required from Rail Corp for the integrated development

The decision to make a recommendation to the Panel in the form of a “Deferred Commencement” consent was on advice from RailCorp and I quote hereunder from their letter to Council dated 3 August 2012.

“In this regard, RailCorp has taken the above matters into consideration and has decided to grant its concurrence to the development proposed in development application DA-2011/274 subject to Council imposing the following deferred commencement condition provided in Attachment A and operational conditions listed in Attachment B that will need to be complied with upon satisfaction of the Deferred Commencement Condition.

Should Council choose not to impose the deferred commencement condition in Attachment A or the conditions provided in Attachment B (as written), then RailCorp's concurrence has not been granted to the proposed development.”

2. Legality as to a VPA done by condition (no 74)

Condition 74 has since been removed from the Schedule of Conditions.

3. The inclusion of public domain upgrades outside of S94?

The VPA is to embody the Public Domain Work but Council has a preference for the condition to remain, as the VPA has yet to be dealt with by the Council.

4. The payment timing of S94

Payment of Section 94 Levy now fixed for payment prior to issue of Occupation Certificate – Condition 72.

5. The conditions from RMS which require ‘concurrence’ post approval.

Condition removed.

6. The inclusion of sub-consultant reports as part of condition 1

The preface wording to Condition 1 reflects previous requirement of the Panel in accepting the documentation and reports of the application as “reference documentation”.

7. The power to include many of the sub-conditions of Condition 18 (now 16) from the Police. Many are not matters relating to s79(c) or comply with provisions of s80A of the Act – eg Condition 80.

In respect of conditions required by the NSW Police it has been consistent approach to place them on a consent, without alteration.

8. The sheer number of conditions at 116 where, in addition condition 18 (now 16) has sub sets up to Z, condition 31 (now 30) up to O, condition 35 (now 34) up to h.

There has in the amended condition schedule been a marginal reduction in the number of conditions.

9. Condition 35(h) (now 34h) actually **requires** an easement to be granted by a third party!!!

This is an agreed condition (with the applicant) and its implementation arose from a meeting convened by Council to discuss the development with local residents.

10. The general timing of many conditions is either unreasonable or downright impossible – i.e: construct stormwater drainage system prior to issue of ANY CC.

A number of conditions have since been revised and in this regard a set of amended conditions is attached. It should be noted that Condition 35 requires certification of the design of the stormwater management system

In respect of the required concurrence from Office of Water (O of W), this has not been obtained despite reasonable efforts by the Council to do so. Therefore conditions DC4 and Operational Condition 15 have been added to the terms of the approval and having done this Council received yesterday an email from Mr G Russell (O of W) to the effect that:

"As yet I have not had any direct feedback from our Policy and Planning staff on this matter. You may wish to follow the process that Helen Mulcahy proposed in a previous email (attached). Alternatively, I can provide General Terms of Approval BUT the conditions therein will almost certainly change from the current version (meaning they would be irrelevant or incorrect and therefore not really general terms under which the approval would be granted). Please advise which way you would like to proceed."

In response Council has sent to Mr Russell a copy of Condition DC4 for his review and in reply he concurred with the approach proposed by Council.

The Panel is also advised that subsequent to the preparation of the Planning Report sent on 28th September, a further letter dated 3 October 2012 was received from RMS. A copy of this letter is attached. Apart from matters 1, 2, 3 and 4, the remainder are incorporated in the amended set of conditions (V2.0). In respect of:

Matter 1 The position of the RMS will be tabled at the Local Traffic Committee.
Ref: Page 70 of the Planning Report

Matters 2 – 4 The Council will pursue with RMS a separate agreement for the
landscaping and maintenance of this land.
Ref: Pages 5, 26, 38 and 50 of the Planning Report.

Please circulate this letter and the amended conditions to Panel members.

Yours faithfully

A handwritten signature in black ink, appearing to read 'R J Dowsett', with a long horizontal line extending to the right.

R J DOWSETT
DIRECTOR – PLANNING & DEVELOPMENT

Encl: • Amended set of Conditions and Schedule
• Letter from RMS dated 3 October 2012