

11632
12 October 2012

Panel Secretariat
Joint Regional Planning Panel
Post GPO Box 3415
Sydney NSW 2001

Dear Sir/Madam,

**DEVELOPMENT APPLICATION JRPP REF - 2012SYE064 / DA REF – 2012/410
STAGE 2, DISCOVERY POINT**

We write with reference to the abovementioned Development Application (DA) and the upcoming Sydney East Joint Regional Planning Panel on 17 October 2012 where the DA will be determined. First and foremost, we support Rockdale Council officer's recommendation for approval of the DA, subject to conditions.

The purpose of this correspondence is to provide Panel members with additional information in order to seek to amend/delete specific conditions recommended by Rockdale Council to be imposed on any approval given. For ease of reference, a summary of proposed conditions sought to be amended/deleted is provided, along with the reasons/justification for the amendment sought. A full set of revised conditions with requested amendments/deleted highlighted is attached at **Annexure A**.

1.0 CONDITIONS

Overall, the conditions recommended to be imposed by Council officers on any approval granted are considered to be reasonable and relevant. There are, however, a relative small number of conditions which we would request Panel members to re-consider and accordingly seek to have amended/deleted. The tables below outline those relevant conditions.

Table 1 – General Conditions

	Council Condition	Proponent Response
1	The term of this consent is limited to a period of three (3) years from the date of approval. The consent will lapse if the development does not commence within this time.	Request that the currency of the development consent is not reduced to 3 years. Recommend the period should be five (5) years, consistent with time periods adopted by most Sydney Metropolitan Councils. There have been no special circumstances identified by Council to warrant the reduced period. A 5 year period is also consistent with the recent previous Project Approvals issued by the Department of Planning and Infrastructure in relation to Stage 1 and Stage 6 at Discovery Point. Further, a building of this size is considered to

	Council Condition	Proponent Response
		more than warrant an approval period of 5 years.
2	<p>The development must be implemented substantially in accordance with the plans listed below, the application form and on any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.</p>	<p>Included within the approved plan list are Site Survey Plans by Lockley Land Title Solutions. These are not 'proposed' plans and accordingly are not considered relevant/appropriate are approved documents.</p> <p>Recommend that the line item within the table: Sheets 1 to 11 be deleted.</p> <p>Also included in the list is the Equatica WSUD Strategy which is an evolving document and an is a strategy for the entire Discovery Point site which has not been fully finalised. The recommendations of that report specific to Site 2 have however been adopted and are shown on the landscape general arrangements plan prepared by Turf Design. Recommend that reference to the WSUD report be deleted.</p> <p>The landscape plan is missing from the list. Recommend that the landscape plan prepared by Turf Design be included in the list and form part of the approved plan package</p>
10	<p>157 carparking spaces, 14 motorcycle spaces and 14 bicycle spaces shall be provided in accordance with the approved plans.</p> <p>Parking spaces shall be allocated to residential apartments / non-residential units in the development in accordance with the parking rates specified in Section 7.2 of the Discovery Point Development Guidelines (updated May 2012). Details demonstrating compliance with this condition shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate.</p> <p>All residential visitor spaces, bicycle spaces, motorcycle spaces, car wash bays and loading bays located within the site shall be labelled as common property on the final strata plan for the site.</p>	<p>Recommend that the reference to the version date (i.e. May 2012) of the Development Design Guidelines be removed and replaced with <i>as amended from time to time</i>, as these are in the process of being revised through a s75W Modification Application to the Concept Plan and may be further revised in the future.</p> <p>Recommend that the last two paragraphs of this condition be deleted as the titling arrangements regarding the basement car park are still being finalised and due to the use sharing arrangement of these spaces approved under the Concept Plan the spaces may not be common property on the strata plan. As the residential visitor spaces double with the retail shopper and staff spaces they may not be labelled as common property on the strata scheme but rather sold to one or more retail operators, a car park operator or the resident co-operative.</p>
13	<p>Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), main entry areas to the development and garbage/storage areas. Details to be provided prior to the issue of the Construction Certificate.</p>	<p>Recommended that storage areas are deleted from this condition. The storage areas are located at the end of many resident car spaces and CCTV cameras will not be implemented to cover every individual storage area.</p>

Table 2 – Development Specific Conditions

	Council Condition	Proponent Response
21	<p>The following conditions apply to the design, provision and operation of parking within the Discovery Point site:</p> <p>(i) Parking facilities shall be designed in accordance with Australian Standard AS/NZS 2890.1, except as varied by Council's technical specifications for design of parking facilities.</p> <p>Commercial vehicle facilities shall be designed in accordance with Australian Standard AS 2890.2, except as varied by Council's technical specifications for design of commercial vehicle facilities.</p> <p>(ii) Bicycle parking facilities shall comply with Australian Standard AS 2890.3, except as varied by Council's technical specifications for design of bicycle parking.</p> <p>(iii) The design of the parking and commercial vehicle facilities shall be designed that all vehicles, including commercial vehicles, enter and exit the facility in a forward direction.</p> <p>(iv) All loading and unloading associated with the use of the development shall take place from designated on-street loading bays. Loadings bays shall not be used for storage or any other purpose that would restrict their use for the purposes of loading and unloading.</p>	<p>Request that part (i), (ii) and (iii) be amended to delete reference to <i>except as varied by Council's technical specifications for design of parking facilities</i>.</p> <p>The parking facilities have been designed to comply with the relevant Australian standards and therefore seek deletion of references to Council's technical specifications which may be more onerous than the Australian Standards.</p> <p>We would also like the conditions part (iv) clarified to reflect that all loading bays provided for Stage 2 will be provided on-street as per the Concept Plan approval and Stage 2 application.</p>
22	<p>The following conditions apply to the design, provision and operation of the internal road infrastructure works:</p> <p>(i) The design of the streetscape in the internal road network shall comply with the Wolli Creek and Bonar Street Public Domain Plan.</p> <p>(i) The detailed design for the construction of the road infrastructure shall comply with all current Australian Standards and current AUSTROADS Guides. Where a conflict exists between the provisions of these design standards the provisions of AUSTROADS shall prevail.</p> <p>(ii) Emergency vehicle access shall be designed in accordance with the NSW Fire Brigade Code of Practice.</p> <p>(iii) The works specification for the construction of the road infrastructure shall be Rockdale City Council's AUSTROADS.</p> <p>(iv) The cost of all road infrastructure works, including the provision of roads, footpaths, services, traffic management, traffic and parking signage, landscaping, lighting and street furniture within the development and where it connects to adjacent roads shall be provided by the developer or other party executing the consent at no cost to Council or the NSW Roads and Traffic Authority.</p> <p>(v) Traffic Management Plans shall be submitted to Council for approval of any activity that affects traffic or pedestrian movements on public roads or the private internal road network. The plans shall be prepared in accordance with NSW Roads and Traffic Authority guidelines and include details of traffic diversions, timings and the methodology for achieving the activities during the various stages of construction.</p> <p>(vi) The road infrastructure, and property containing the road infrastructure, shall be owned by the Discovery Point.</p> <p>(vii) Prior to the completion of each stage of road infrastructure works a road infrastructure maintenance specification shall be prepared and submitted to Council for approval. The specification shall include:</p> <ul style="list-style-type: none"> a. Maintenance Management Plan; b. Activity Specifications; and c. Activity Contract Requirements, which includes: <ul style="list-style-type: none"> i. Road Traffic Score (Category); ii. Recording Levels; iii. Response Times; and iv. Compulsory Intervention Levels. <p>(viii) A positive covenant for the management of the road infrastructure shall be placed on the Certificate of Title of the lot containing the</p>	<p>Part (i)</p> <p>The approved Concept Plan is very particular in its wording and provides flexibility in achieving consistency with the Wolli Creek and Bonar Street Public Domain Plan.</p> <p>This application of flexibility has also been embraced by Council's landscape officer, who has on a number of occasions made recommendations to streetscape design and landscaping that differs from Council's own Public Domain Plan.</p> <p>To ensure an appropriate level of flexibility is carried forward (consistent with the approach taken in stage 1 and Stage 6 Project Approvals), it is recommended that the condition is amended accordingly to:</p> <p><i>'The design of the streetscape in the internal road network shall generally comply with the Wolli Creek and Bonar Street Public Domain Plan, unless variations are agreed in consultation with Council.'</i></p> <p>We seek to correct the apparent typographical errors with regard to references to AUSTROADS and delete the reference to AUSTROADS being a Rockdale City Council document which it is not.</p> <p>We seek to clarify in (vi) and (viii) that the internal road infrastructure will continue to be owned by Discovery Point and the external road infrastructure such as Magdalene Terrace will continue to be owned by Council, however new kerb and guttering, footpath and street trees on Council land in front of Site 2 will be provided by the developer at no cost to Council.</p>

	Council Condition	Proponent Response
	<p>infrastructure. The positive covenant shall instruct that all management undertaken in the road reserve (including but not limited to maintenance and cleaning) shall be conducted in accordance with the approved Road Reserve Maintenance Specification. The public infrastructure in the road reservation includes, but is not limited to, all:</p> <ul style="list-style-type: none"> a. Road carriageway and footpath pavements; b. Road carriageway and footpath furniture; c. Road carriageway and footpath pavement markings and signs; d. Road drainage pipelines, inlet pits, and subsoil drainage; and e. Street trees and landscaping. 	
23	<p>The following conditions apply to the design, and construction, of the modifications to the road, footpath and traffic facilities in Magdalene Terrace.</p> <ul style="list-style-type: none"> (i) Details of the works in Magdalene Terrace shall be submitted to Council for assessment prior to the commencement of works, pursuant to Section 138 of the Roads Act 1993. (i) The design of the streetscape in Magdalene Terrace shall comply with the Wolli Creek and Bonar Street Public Domain Plan. (ii) The detailed design for the construction of the works in Magdalene Terrace shall comply with all current Australian Standards, current AUSTROADS Guides. Where a conflict exists between the provisions of these design standards the provisions of AUSTROADS shall prevail. (iii) The cost of the works and cost of relocation of services shall be provided by the developer or other party executing the consent at no cost to Council or the NSW Roads and Traffic Authority. 	<p>Part (ii)</p> <p>As above, recommend that the condition is amended accordingly to:</p> <p><i>'The design of the streetscape in Magdalene Terrace shall generally comply with the Wolli Creek and Bonar Street Public Domain Plan, unless variations are agreed in consultation with Council.'</i></p>
24	<p>The following conditions apply to the design and provision of stormwater drainage.</p> <ul style="list-style-type: none"> (i) The design of stormwater drainage facilities shall be undertaken in accordance with Council technical specifications for the design of stormwater management facilities, and the principles of Water Sensitive Urban Design (WSUD). (i) A stormwater drainage system shall be designed and implemented through the site to the Cooks River for the drainage of Magdalene Terrace, the internal access roads, and Tempe House precinct. The drainage system shall comprise pipe or culvert underground conduits and overland flow paths. The overland flow paths must convey the design flows while maintaining design freeboard at all times. (ii) All pipelines within the internal road network shall have a minimum internal diameter of 375 mm, and shall be RCP or FRC. (iii) Detailed soil and water management plans shall be developed and implemented in accordance with the NSW Department of Housing "Managing Urban Stormwater, Soils and Construction". The design shall include the preparation of an inspection and maintenance programme for soil and water management controls. (iv) Soil and water management controls shall be installed and maintained in accordance with the inspection and maintenance programme in the detailed soil and water management plans. (v) A Positive Covenant is required, binding all present and future owners of the property to the following: <ul style="list-style-type: none"> a. Submission to Council of a structural check of the pipeline/culvert every ten (10) years; b. Responsibility for maintenance of the culvert in perpetuity and its replacement when required; c. Submission to Council of a report every 3 years certifying that the overland flow path through the site remains clear of obstructions. 	<p>Part i (the second one) nominates Tempe House Precinct and internal access roads with respect to stormwater drainage design. Neither of these two aspects form part this particular application.</p> <p>Drainage should be limited to the site boundary and adjustments to existing kerb drainage where required for WSUD.</p> <p>Recommend the condition is amended accordingly, removing reference to stormwater requirements outside of the site boundaries.</p> <p>It is requested that part (i) regarding the stormwater drainage condition is deleted as this appears to be a more master plan condition rather than specific to Stage 2, and the 900mm pipe associated with this has already been constructed. Request to delete the second bullet point of this condition.</p>
25	The following conditions apply to the management of flood risk.	Part (ii) requires underground carparking

	Council Condition	Proponent Response
	<p>(i) A flood evacuation plan is to be prepared for each stage. The plan is to include warning alarms and evacuation routes. The approved flood evacuation plan is to be updated every five (5) years and copies are to be provided to Council and the local State Emergency Service (SES).</p> <p>(ii) Underground car parking areas are to be floodproofed to a minimum of 3.6m AHD. The flood proofing system is to be independent of the stormwater drainage system.</p> <p>(iii) The flood protection level currently provided for the Wolli Creek Railway Station (RL 4.3m AHD) is not to be reduced, either temporarily, or permanently, by construction of the development including the sub-podium.</p> <p>(iv) The habitable floor level and entry to the underground areas is to be constructed to a minimum of 500mm above the 0.5% Annual Exceedence Probability (AEP) flood. These levels are to be certified by a registered surveyor prior to pouring of slabs.</p> <p>(v) All local services (power, water, gas, telephone) within the sub-podium levels must be flood protected to the 0.5% AEP level.</p>	<p>areas to be flood-proofed to a minimum of 4.3m AHD. This level is higher than the Probable Maximum Flood (PMF) level of RL 3.6m AHD. As such, the level should be adjusted to the PMF Level of RL 3.6m AHD consistent with the Concept Plan Approval requirement.</p> <p>Recommend condition is amended accordingly.</p>
26	<p>The following fees shall be paid to Council prior to the issue of a construction certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.</p> <p>i. A Footpath Reserve Restoration Deposit of \$ 24598.45 (to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths). The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.</p> <p>ii. A Soil and Water Management Sign (811) fee of \$15.45.</p> <p>iii. An environmental enforcement fee of 0.25% of the cost of the works.</p>	<p>Request that Condition 26(i) be deleted as Discovery Point is required in accordance with the conditions of this consent to undertake all the streetscape works including footpath, kerb and guttering and street trees along the Magdalene Terrace frontage immediately in front of Site 2. Consequently a footpath reserve restoration deposit is not required to be paid as the developer is required to undertake the works rather than Council.</p>

Table 3 – Prior to Issue of the construction Certificate

	Council Condition	Proponent Response
37	<p>Details shall be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993 in relation to the following:</p> <p>i) The design of the streetscape in Magdalene Terrace (on the Discovery Point Pty Ltd owned side of the road) demonstrating compliance with Rockdale City Council's Wolli Creek and Bonar Street Public Domain Technical Manual and current AUSTROADS guides.</p> <p>ii) The detailed design for the construction works in Magdalene Terrace.</p>	<p>Recommend that the condition is deleted as it is covered by Condition 23.</p>
40	<p>A Construction Management Plan (CMP) shall be prepared in accordance with the requirements of all relevant regulatory approval bodies. Access to the site for construction purposes via Magdalene Terrace is not permitted. Prior to commencement of works the Certifying Authority shall be satisfied that the Construction Management Plan has obtained all relevant regulatory approvals. The Construction Management Plan shall be implemented during demolition, excavation and construction.</p> <p>Prior to the issue of the relevant Construction Certificate, a Construction Traffic Management Plan (TMP) 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:</p> <p>(a) ingress and egress of vehicles to the site;</p>	<p>Strongly object to a condition preventing access from Magdalene Terrace. Construction access from Magdalene Terrace is critical and the only feasible option available.</p> <p>This restriction of construction access was originally included in draft conditions for Stage 1, but was subsequently removed by the Department of Planning and Infrastructure in response to representations made by Australand. The deletion of the condition will</p>

	Council Condition	Proponent Response
	(b) loading and unloading, including construction zones; (c) predicted traffic volumes, types and routes; and (d) pedestrian and traffic management methods. Copies of the CMP and TMP shall be submitted to Council	<p>ensure the orderly construction of this development without impacting on Brodie Spark Drive.</p> <p>To ensure consistency with Stage 1, it is recommended that this aspect of the condition is deleted.</p>
41	<p>The contaminated site shall be remediated in accordance with 'State Environmental Planning Policy No 55 Remediation of Land' (SEPP55) prior to the issue of a Construction Certificate. A Site Remedial action Plan (SRAP) prepared by a suitably qualified and experienced Contaminated Land Consultant, shall be submitted to Council being the Regulatory Authority for the management of contaminated land. It is preferable that the plan be prepared by the same consultant who assessed the site for contamination.</p>	<p>This appears to be a standard condition. The proposal does not involve bulk excavation works. These were covered off and approved under Stage 1.</p> <p>The Discovery Point site has been the subject of extensive environmental investigations, remediations and validations due to historic contaminating land uses. Two site audits have been completed with respect to the Discovery Point site for the Concept Plan and Stage 1.</p> <p>A Site Management Plan has also been prepared for the site, dealing with residual contamination remaining on the site.</p> <p>The requirement to prepare a RAP is therefore not considered necessary and duplicates historic contamination assessments and endorsed audits and management plans.</p> <p>It is therefore recommended that this condition is deleted. Condition 63 is considered more than sufficient to cover off contamination. This same condition was all that was imposed on Stage 6 (which has similar site conditions to Stage 2) in relation to contamination and reads:</p> <p><i>"Any new information discovered during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council being the Regulatory Authority for the management of contaminated land."</i></p>
42	<p>An accredited site auditor under the Contaminated Land Management Act 1997 shall review the Site Remedial Action Plan prepared by the contaminated land consultant and issue a Site Audit Statement. The accredited auditor shall provide a copy of the Site Audit Report and Site Audit Statement to Council being the Regulatory Authority for the management of contaminated land prior to the issuing of the Construction Certificate.</p>	<p>As above. Recommend condition is deleted.</p>
43	<p>The groundwater shall be assessed by a suitably qualified and experienced environmental consultant in accordance with relevant contaminated sites guidelines published by NSW Department of Environment Climate Change and Water. A copy of the report shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate. A copy shall also be submitted to Council if Council is not the Certifying Authority.</p>	<p>Request to delete condition, as the proposal is within the existing diaphragm wall built as part of previous stages and hence groundwater will not be impacted by the proposal.</p>

Council Condition	Proponent Response
<p>44 Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.</p> <p>Prior to the issue of the Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to Council or an Accredited Certifier for assessment and approval. Design certification, in the form specified in Rockdale</p> <p>Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans.</p> <p>A temporary drainage pond is to be provided on site. It is to be designed so that it is capable of containing the 1 in 100 year flood events and be located to capture at least 75% of the runoff from the site. Details shall be provided with the stormwater documentation.</p>	<p>Recommend that the requirement for a temporary drainage pond is deleted.</p> <p>Australand's civil engineers have advised that this has never been part of the flood strategy for Discovery Point land and is inconsistent with the Concept Plan approval in that regard.</p>

Table 4 – Prior to Commencement of works

Council Condition	Proponent Response
<p>52 A dilapidation survey shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) prior to issue of the Construction Certificate. The insurance cover shall be a minimum of \$10 million.</p>	<p>Recommend the insurance cover is reduced and in line with that approved for Stage 1 and Stage 6 (being \$1 Million). This level of cover is considered to be more reasonable.</p>

Table 5 – Prior to Issue of OC

Council Condition	Proponent Response
<p>75 Details of the apartments containing clothes lines and storage areas per apartment to demonstrate compliance with the Discovery Point Development Guidelines (updated May 2012) shall be provided to the Certifying Authority prior to the issue of the Final Occupation Certificate.</p>	<p>Recommend that the reference to the version date (i.e. May 2012) of the Development Design Guidelines be removed and replaced with <i>as amended from time to time</i>, as these are in the process of being revised through a s75W Modification Application to the Concept Plan and are likely to be further revised in the future.</p>
<p>80 After completion of the remedial works, a copy of the Validation Report shall be submitted to Council being the Regulatory Authority for the management of contaminated land, prior to the issue of an Occupation Certificate. The Validation Report shall be prepared in accordance with the NSW Environment Protection Authority's (EPA) guidelines, Consultants Reporting on Contaminated Sites, and shall:</p> <ul style="list-style-type: none"> describe and document all works performed; include results of validation testing and monitoring; include validation results of any fill imported on to the site; show how all agreed clean up criteria and relevant regulations have been complied with; and include clear justification as to the suitability of the site for the proposed use and the potential for off-site migration of any residual contaminants. 	<p>As per Condition 41 and 42, recommend that this condition is deleted.</p>
<p>81 An accredited site auditor under the Contaminated Land Management Act 1997 shall review the Validation Report prepared by the contaminated land consultant and issue a Site Audit Statement (SAS). The accredited auditor shall provide Council being the Regulatory Authority for the</p>	<p>As per Condition 41 and 42, recommend that this condition is deleted.</p>

Council Condition	Proponent Response
management of contaminated land, with a copy of the Site Audit Report and Site Audit Statement, prior to issue of the Occupation Certificate, clearly demonstrating that the site is suitable for the intended use. Conditions imposed on the SAS shall form part of this consent. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, the consent shall prevail to the extent of inconsistency and a S96 application pursuant to the Environmental Planning & Assessment Act 1979 will be required.	

2.0 SUMMARY

We hope this submission to the Panel is useful in its consideration of the proposed DA.

In light of the merits of the proposal, we have no hesitation in supporting Council officer's recommendation for the proposed development to be approved, subject to reasonable and relevant conditions. Should you have any queries about this matter, please do not hesitate to me on 9956 6962.

Yours faithfully



Alexis Cella
Principal Planner



Clare Swan
Associate

cc – Rockdale City Council (Attention: Marta Sadek – Senior Development Assessment Planner)

ANNEXURE A – RECOMMENDED MODIFICATIONS TO CONDITIONS OF CONSENT