

CONDITIONS OF CONSENT FOR COMPLEX DEVELOPMENTS

RMLA Roadshow

July 2014

The Source of the Complexity

- Environmental effects
- Spatial extent
- Timing
- Stakeholders / affected persons
- Technical complexity
- Public / private control issues

Fundamentals Still Apply

- Scope of proposal
- Foreseeing potential effects
- Regulatory jurisdiction
- Ambit of control
- Language
- Context
- Sources of potential error

Totality

- The entire proposal
- Every necessary or desirable consent
- The real consenting issues
- Integral / essential or subsidiary / additional

Totality over Time

- Single process or staged – What defines the stages?
- Development timeline - fully worked out?
- Anticipated life of the development
- Long-term consequences
- Need for an end-of-life scenario
- Involvement of others, now or in the future

Feasibility

- Is proposal achievable?
- Not a question of viability, but may involve sustainability
- Who has ultimate financial responsibility?
- Adaptive management - What failsafe or fall-back measures are proposed?

Infrastructure

- Common services for common benefit
- Increasing complexity
- Government involvement
- Accountability – funding

Infrastructure Issues

- Availability – location, timing, capacity
- Capital cost – connection, upgrade, levels of service, differentials
- Operating cost – revenue, depreciation, extraordinary expenditure
- Apportionment of existing – future users

Sharing

- Financial contributions
- Litigating “reasonable” apportionment
 - leads to:
- Development contributions under LGA
- Methodology and scope

Dealing with long run costs

- Whole life of development
- Ensuring arrangements are clear and robust
- Likely to be maintained over 50 – 100 years
- Security

Integration

- Logically ordered and laid out
- Provide a narrative for the development
- References – internal and external
- Not just a collection of recommendations
- Stand back and look at the whole

Be prepared

- Address the future as fully as the present
- Don't put off difficult questions to others or for another day
- Assess whether adaptive management may result in latter day reconsideration of whether consent should have been granted in the first place

Accountability

- Is there a clear distinction between public and private infrastructure?
- Is private shared infrastructure appropriate in the circumstances of the case?
- What clear methods exist to address on-going management of roading, water and drainage, parks and shared facilities?

Review methods

- Management plans
- Adaptive management
- Potential review circumstances
- Scope for change or variation