

# Project Approval

## Section 75J of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning and Infrastructure under delegation dated 27 February 2013, I the Executive Director of Development Assessment Systems and Approvals grant approval to the development application referred to in Schedule 1, subject to the conditions in Schedule 2 and Statement of Commitments provided in Schedule 3.

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development.



Chris Wilson  
**Executive Director**  
**Development Assessment Systems and Approvals**

Sydney

11 Jun

2013

### SCHEDULE 1

<b>Application No.:</b>	MP 10_0180
<b>Proponent:</b>	EG Funds Management
<b>Approval Authority:</b>	Minister for Planning and Infrastructure
<b>Land:</b>	2-32 Smith Street, Summer Hill (Lot 1 DP 73521, Lot 1 DP 131120, Lot 2 DP 131120, Lot 1 DP 171676, Lot 1 DP 302585, Lot B DP 171931, Lot B DP 172600, Lot 1 DP 182276, Lot 16 DP 130884 and Lot 15 DP 315)
<b>Approved Development:</b>	<p>mixed use residential, retail and commercial development, comprising demolition of existing structures and construction of:</p> <ul style="list-style-type: none"><li>• 44 dwellings;</li><li>• 443m<sup>2</sup> of commercial/retail space;</li><li>• basement car parking for 53 vehicles;</li><li>• two new public streets;</li><li>• pedestrian / cycle access to the Lewisham West light rail stop;</li><li>• six lot subdivision to facilitate delivery of the Concept Plan (MP 10_0155) site; and</li><li>• dedication of road reserves and open space to Ashfield Council.</li></ul>

## DEFINITIONS

Advisory Notes	Advisory information relating to the approval but do not form a part of this approval
Proponent	Approval holder or person with the benefit of the development approval
Application	The development application and the accompanying drawings plans and documentation described in Condition A2.
BCA	Building Code of Australia
Construction	The demolition of buildings or works, the carrying out of works, including bulk earthworks, and erection of buildings and other infrastructure covered by this approval.
Council	Ashfield Council
Certifying Authority	Professionals that are accredited by the Building Professionals Board to issue construction, occupation, subdivision, strata, compliance and complying development certificates under the EP&A Act, <i>Strata Schemes (Freehold Development) Act 1973</i> and <i>Strata Schemes (Leasehold Development ) Act 1986</i> or in the case of Crown development, a person qualified to conduct a Certification of Crown Building works
Department	Department of Planning and Infrastructure
Director-General	Director-General of the Department of Planning and Infrastructure
Director General's approval, agreement or satisfaction	A written approval from the Director- General (or nominee/delegate)
EA	Environmental Assessment prepared by SJB PI dated March 2013
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
Minister	Minister for Planning and Infrastructure, or nominee
OEH	Office of the Environment and Heritage
PCA	Principal Certifying Authority, or in the case of Crown development, a person qualified to conduct a Certification of Crown Building works
RTS	Response to Submissions report prepared by SJB Planning dated 7 June 2013
RMS	Roads and Maritime Services Division, Department of Transport
Site	Land referred to in Schedule 1
Sensitive receiver	Residence, education institution (e.g. school, university, TAFE college), health care facility (e.g. nursing home, hospital), religious facility (e.g. church) and children's day care facility.
Zone of Influence	The horizontal distance from the edge of the excavation to twice the maximum excavation depth.

## SCHEDULE 2

### PART A ADMINISTRATIVE CONDITIONS

#### A1. DEVELOPMENT DESCRIPTION

Development approval is only granted to carrying out the development described in detail below:

- (a) demolition of the following existing structures:
  - former administration building;
  - all encroachments into the light rail corridor including the awning and structures over the rail sidings to the Mungo Scott building and adjacent to the timber slabs; and
  - the northern metal shed addition to the Mungo Scott Building to facilitate access to the light rail corridor;
- (b) construction of four (4) new buildings up to a maximum height of 6 storeys - identified as:
  - Building 1C – being a two storey retail/commercial (286m<sup>2</sup>) building;
  - Building 4A – being a 4 storey residential flat building containing 18 units and 157m<sup>2</sup> of retail;
  - Building 4B – being a 6 storey residential flat building containing 17 units; and
  - Building 4C - being 9 terraces of 2/3 storeys.
- (c) construction of a common basement car park for residents under Buildings 4A, 4B and 4C containing 53 spaces, including 5 accessible spaces, bicycle parking, storage, garbage rooms, plant rooms and rainwater storage facilities;
- (d) construction and dedication of two new streets linking Edward Street and Smith Street, including on-street parking for 13 cars (including 2 spaces to be provided as designated car share scheme spaces) to service the proposed commercial/retail uses;
- (e) construction and dedication of a pedestrian/cycle link to provide public access through the Site from Smith Street to the Lewisham West light rail stop; and
- (f) six (6) lot subdivision to facilitate the delivery of the Concept Plan through four stages and enable the creation of road reserves and open space which is proposed to be dedicated to Ashfield Council.

#### A2. TERMS OF APPROVAL

The Proponent shall carry out the project generally in accordance with the following documentation:

- (a) Environmental Assessment (EA) and supporting documents prepared by SJB Planning dated March 2013;
- (b) Response to Submissions report prepared by SJB Planning dated June 2013;
- (c) The conditions of this approval; and
- (d) The following drawings, except for:
  - a. any modifications which are Exempt or Complying Development;
  - b. otherwise provided by the conditions of this approval.

Architectural (or Design) Drawings prepared by Hassell			
Drawing No.	Revision	Name of Plan	Date
DA-011		Location Plan	11.02.13
DA-012		Subdivision Plan	11.02.13
DA-040		Construction Management Plan	11.02.13
DA-050		Demolition Plan	11.02.13
DA-099		Basement_Site 1	11.02.13

DA-100		Ground_Site 1	11.02.13
DA-101		Level 1_Site 1	11.02.13
DA-102		Level 2_Site 1	11.02.13
DA-103		Level 3_Site 1	11.02.13
DA-104		Level 4_Site 1	11.02.13
DA-105		Level 5_Site 1	11.02.13
DA-106		Roof Plan_Site 1	11.02.13
DA-110		Adaptable Apartment	11.02.13
DA-200		Ground_Site 2	11.02.13
DA-201		Level 1_Site 2	11.02.13
DA-300		Elevation 1_Site 1	11.02.13
DA-301		Elevation 2_Site 1	11.02.13
DA-302		Elevation 3_Site 1	11.02.13
DA-500		Section 1_Site 1	11.02.13
DA-501		Section 2_Site 1	11.02.13
DA-600		Elevation & Section 1 Building 1C Site 2	11.02.13
DA-700		Area Schedule	11.02.13
<b>Landscape / Materials Drawings prepared by Hassell</b>			
<b>Drawing No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Date</b>
DA-1000	C	Landscape Plan	04.06.13
DA-1002	C	Streetscape Design Site 1	04.06.13
DA-1001	B	Tree Removal Plan	04.06.13
DA-1003	C	Site Through Link Site 2	04.06.13
DA-1004	C	Community Courtyard Site 1	04.06.13
DA-1005	C	Courtyard Type 01-02	04.06.13
DA-1006	C	Streetscape Planting Site 1	04.06.13
DA-1007	C	Site Through Link Planting_Site 2	04.06.13
DA-1008	C	Community Courtyard Planting_Site 1	04.06.13
DA-1009	C	Courtyard Planting Type 01-02	04.06.13
DA-1010	C	Streetscape Sections	04.06.13
DA-1011	C	Courtyard Sections	04.06.13
DA-1012	C	Courtyard Details	04.06.13
DA-2000		Material Board	11.02.13

### **A3. INCONSISTENCIES BETWEEN DOCUMENT**

In the event of any inconsistency between the plans and documentation referred to above, the most recent document shall prevail to the extent of the inconsistency. However, conditions of this approval prevail to the extent of any inconsistency. Where there is an inconsistency between approved elevations and plans, the elevations prevail.

#### **A4. PRESCRIBED CONDITIONS**

The Proponent shall comply with all relevant prescribed conditions of development consent under Clause 98 of the EP&A Regulation in relation to the requirements of the Building Code of Australia.

#### **A5. CONSTRUCTION CERTIFICATE**

Prior to the commencement of any construction works associated with the approved development (including excavation and building construction), it is necessary to obtain a Construction Certificate. A Construction Certificate may be issued by Council or an Accredited Certifier. Plans and documentation submitted with the Construction Certificate are to be amended to satisfy all relevant conditions of this development approval.

#### **A6. LAPSING OF APPROVAL**

This approval shall lapse 5 years after the date of approval unless the building works associated with the project have physically commenced.

#### **A7. FURTHER APPROVALS**

This approval does not permit the following, which are required to obtain separate approval (except where exempt and complying development applies):

- (a) strata subdivision;
- (b) retail fit out, commercial fit out; and
- (c) any advertising signage.

#### **A8. RESPONSIBILITY FOR OTHER APPROVALS / AGREEMENTS**

The Proponent is responsible for ensuring that all additional approvals and agreements are obtained from other authorities, as relevant.

**End of this Section**

## **PART B      GENERAL**

### **B1.    REMEDIATION**

The Proponent shall remediate the site in accordance with the approved Remedial Action Plan (RAP) Survey prepared by Aargus and dated October 2012. Amendments to the approved RAP required as a result of further investigations must be prepared by a suitably qualified and experienced expert and approved by the site auditor.

A site audit must be carried out by a site auditor prior to the commencement of remediation works. A copy of the site auditor's endorsement of the amended RAP is to be forwarded to the Department, Council and relevant authorities prior to work commencing.

Upon completion of the remediation works on the Site, the Proponent shall submit a site audit report and a site audit statement prepared by an accredited site auditor. The site audit report and site audit statement must verify that the land is suitable for the proposed uses and be provided to the PCA and Council prior to the issue of the Occupation Certificate.

Note: The Proponent must comply with clauses 17 and 18 of *State Environmental Planning Policy No.55—Remediation of Land*.

Note: Words and expressions used in these conditions have the same meaning as in the *Contaminated Land Management Act 1997*

### **B2.    APPROVALS REQUIRED UNDER THE ROADS ACT OR THE LOCAL GOVERNMENT ACT**

No works, uses or activities shall be carried out on public land (including a road) adjacent to the development site, without approval under the Roads Act 1993 and/or the Local Government Act 1993. An application, together with any necessary fee, shall be submitted and approval granted by Ashfield Council prior to any works, uses or activities commencing on public land.

**End of this Section**

## PART C PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

### C1. DESIGN MODIFICATIONS

In order to improve residential privacy and amenity, privacy screens are to be applied to the windows on the western façade of Unit 4B-1.3 and Unit 4B-2.3 in Building 4B. Details shall be submitted to and approved by the Director-General or his nominee prior to the issue of a Construction Certificate.

### C2. SUBDIVISION PLAN MODIFICATIONS

Drawing No. DA-012 Subdivision Plan shall be revised to consolidate all land to be dedicated to Council as open space (Portions 2, 3, 5, 6 and 8) into one portion. Details shall be submitted to and approved by the Director-General or his nominee prior to the issue of a Construction Certificate for works on any land proposed to be dedicated.

### C3. DESIGN OF INTERNAL ROADS, FOOTPATHS AND TREE PLANTING

- (a) Prior to the release of any Construction Certificate, approval is to be obtained from Council on the detailed technical design of the internal streets, access pathway between Smith Street and the Light Rail corridor boundary and street 'roundabout' at the corner of Smith and Edward Streets. Details are to include:
  - i) road construction, kerb and gutter and drainage, footpaths and street tree planting; and
  - ii) accessway pavement finishes and structural substrate, tree planting types and locations, seating types and location, lighting type and locations and power supply, drainage and access locations to any infrastructure.
- (b) Prior to the release of any Construction Certificate for works associated with the pedestrian / cycle accessway link to the Lewisham West light rail corridor, the Proponent shall consult with Transport for NSW on the connection to the light rail corridor.
- (c) Prior to the release of any Construction Certificate, the Infrastructure and Traffic Management Plan is to be approved by Roads and Maritime Services, in consultation with Ashfield Council.

### C4. SECTION 94 CONTRIBUTIONS

In accordance with Section 80A(1) of the *Environmental Planning and Assessment Act 1979* and the Ashfield Council Development Contributions Plan, the following monetary contributions (taking into consideration the proposed development and providing a credit of 1,674.5m<sup>2</sup> for the existing two level technical centre / administration building) shall be paid to Council Prior to issue of a Construction Certificate to cater for the increased demand for community infrastructure resulting from the development:

Community Infrastructure Type	Contribution
Local Roads	\$10,125.38
Local Public Transport Facilities	\$42,858.63
Local Car Parking Facilities	\$0.00
Local Open Space and Recreation Facilities	\$792,780.17
Local Community Facilities	\$44,570.79
Plan Preparation and Administration	\$36,015.03
<b>TOTAL</b>	<b>\$926,350.00</b>

If the contributions are not paid within the financial quarter that this consent is granted, the contributions payable will be adjusted in accordance with the provisions of the Ashfield Development Contributions Plan and the amount payable will be calculated on the basis of the contribution rates applicable at the time of payment in the following manner:

$$\text{\$C}_c = \frac{\text{\$C}_p \times \text{CPI}_c}{\text{CPI}_p}$$

Where:

**\\$ C<sub>c</sub>** is the amount of the contribution for the current financial quarter

**\\$ C<sub>p</sub>** is the amount of the original contribution as set out in this development consent

**CPI<sub>c</sub>** is the Consumer Price Index (Sydney – All Groups) for the current financial quarter as published by the ABS.

**CPI<sub>p</sub>** is the Consumer Price Index for the financial quarter at the time of the original consent.

Prior to payment of the above contributions, the applicant is advised to contact Council's Planning Division on 9716 1800. Payment may be made by cash, money order or bank cheque.

Council's Development Contributions Plan may be viewed at [www.ashfield.nsw.gov.au](http://www.ashfield.nsw.gov.au) or a copy may be inspected at Council's Administration Centre.

## **C5. LANDSCAPE AND EMBELLISHMENT WORKS**

The proponent shall prepare, in consultation with Council, a Landscape Plan at scale 1:100 or 1:200 (prepared by a landscape architect, landscape designer or other suitably qualified person who is eligible for membership of the Australian Institute of Landscape Architecture or the Australian Institute of Landscape Designers and Managers). The Landscape Plan shall be consistent with the approved development plans and demonstrate:

- (a) a Maintenance and Embellishment Strategy to ensure plants are successfully established and maintained;
- (b) demonstrate that the soil depth for the turf area within the communal open space areas is a minimum 650mm;
- (c) all proposed trees to be retained are to be protected in accordance with AS 4970-2009 *Protection of Trees on Development Sites*;
- (d) all trees are to be planted from minimum 200 litre containers grown to Natspec 2 *Specifying Trees, a Guide to Assessment of Tree Quality* specification; and
- (e) utility services are not to be located in the mulched garden areas or within the dripline of the existing retained and protected trees.

The plan shall be consistent with the approved development plans and prepared in consultation with Council.

## **C6. STORMWATER AND DRAINAGE WORKS**

- (a) The proponent shall submit an investigation and design report to Sydney Water and Council for approval. The report should highlight potential impacts and requirements to protect the Smith Street drain. The design works should consider that all building and civil works are to be structurally independent of Sydney Water stormwater assets and ensure those assets are protected.
- (b) The proponent should ensure the existing Sydney Water and Council stormwater assets are protected at all times during demolition and construction works. The proponent should provide dilapidation surveys and video of all stormwater assets, through or within 10 metres of work on the site, to Sydney Water and Council prior to construction.
- (c) After the completion of works, the proponent should also provide Sydney Water and Council with a Work as Executed (WAE) Plan, post construction dilapidation report and video of all stormwater assets. Any damage to the stormwater asset is to be rectified to the satisfaction of Sydney Water or Council whichever is the asset owner.



- (d) The location and design of any new site culverts carrying stormwater from Smith Street and Edward Street to Hawthorn Canal, through the site shall be approved by Sydney Water and Council prior to the release of a Construction Certificate.

#### **C7. SYDNEY WATER NOTICE OF REQUIREMENTS**

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.

#### **C8. ROAD DESIGN**

Kerb and gutter, stormwater drainage, full road width pavement including traffic facilities 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 (if applicable). Final road design plans shall be prepared by a qualified practising Civil Engineer and submitted to the Certifying Authority prior to the issue of a Construction Certificate.

#### **C9. PUBLIC UTILITY AUTHORITIES**

Arrangements shall be made to the satisfaction of all utility authorities and telecommunications providers including cable television network providers in respect to the services supplied to the development by those authorities. The necessity to provide or adjust conduits/ services within the road and footway areas shall be at full cost to the Proponent.

Details are also to be provided that demonstrates all regulatory requirements of Ausgrid are satisfied and Ausgrid has provided concurrence to this effect. A copy is to be forwarded to the Department for information.

#### **C10. ACCESS FOR PEOPLE WITH DISABILITIES**

Prior to the issue of the relevant Construction Certificate, plans shall be submitted to the Principal Certifying Authority demonstrating general compliance with the recommendations of the Access Report prepared by Accessibility Solutions dated 28 February 2013, as amended by detailed design resolution.

#### **C11. COMPLAINTS HANDLING PLAN**

Prior to the issue of a Construction Certificate, a Complaints Handling Plan is to be prepared by a suitably qualified person and shall be submitted to and approved by the Certifying Authority. Details addressing, but not limited to, how to prevent or minimise any complaint from the public or government authority, how to site employees up to date with accurate information and in a caring manner, and how to manage the complaint in a thoughtful and respectful manner, by understanding the concerns or needs of the person or authority.

#### **C12. COMPLIANCE REPORT**

Prior to the issue of the relevant Construction Certificate, the Proponent, or any party acting upon this approval, shall submit to the Principal Certifying Authority a report addressing compliance with all relevant conditions of Part B and C of this approval.

**End of this Section**

## **PART D PRIOR TO COMMENCEMENT OF WORKS**

### **D1. SITE NOTICE**

A site notice(s) shall be prominently displayed at the boundaries of the Site for the purposes of informing the public of project details including, but not limited to the details of the Builder, PCA and Structural Engineer.

The notice(s) is to satisfy all but not be limited to, the following requirements:

- (a) Minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
- (b) The notice is to be durable and weatherproof and is to be displayed throughout the works period;
- (c) The approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice; and
- (d) The notice(s) is to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the Subject Site is not permitted.

### **D2. NOTICE OF COMMENCEMENT OF WORKS**

The PCA and Council shall be given written notice, at least 48 hours prior to the commencement of excavation, building or subdivision works on the Site.

### **D3. STRUCTURAL DETAILS**

Prior to the commencement of construction, the Proponent shall submit to the satisfaction of the PCA structural drawings prepared and signed by a suitably qualified practising Structural Engineer that comply with:

- (a) the relevant clauses of the BCA,
- (b) the development approval, and
- (c) drawings and specifications comprising the Construction Certificate.

### **D4. DEMOLITION**

The demolition work shall comply with the provisions of *Australian Standard AS2601: 2001 The Demolition of Structures*. The work plans required by AS2601: 2001 shall be accompanied by a written statement from a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the statement of compliance shall be submitted to the satisfaction of the PCA prior to the commencement of works.

### **D5. CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN**

Prior to the commencement of any works on the Site, a Construction Environmental Management Plan (CEMP) shall be submitted to the PCA. The Plan shall address, but not be limited to, the following matters where relevant:

- (a) hours of work,
- (b) 24 hour contact details of site manager,
- (c) traffic management, in consultation with the local council,
- (d) construction noise and vibration management, prepared by a suitably qualified person
- (e) management of dust to protect the amenity of the neighbourhood
- (f) erosion and sediment control,
- (g) measures to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the Subject Site;
- (h) external lighting in compliance with AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting; and
- (i) flora and fauna management.

The CEMP must not include works that have not been explicitly approved in the development approval. In the event of any inconsistency between the approval and the CEMP, the approval shall prevail.

The Proponent shall submit a copy of the CEMP to the Department and to the Council, prior to commencement of work.

#### **D6. WASTE MANAGEMENT PLAN DURING CONSTRUCTION**

Prior to the commencement of any works on the Subject Site, a Construction Waste Management Plan prepared by a suitably qualified person in consultation with the Council, shall be submitted to the PCA. The Plan shall address, but not be limited to, the following matters:

- (a) recycling of demolition materials including concrete;
- (b) removal of hazardous materials and disposal at an approved waste disposal facility in accordance with the requirements of the relevant legislation, codes, standards and guidelines, prior to the commencement of any building works; and
- (c) details demonstrating compliance with the relevant legislative requirements, associated with the removal of hazardous waste, particularly the method of containment and control of emission of fibres to the air, are to be submitted to the satisfaction of the PCA prior to the removal of any hazardous materials.

The Proponent shall submit a copy of the Plan to the Department and to the Council, prior to commencement of work.

The Proponent must notify the Roads and Maritime Authority's Traffic Management Centre (TMC) of the truck route(s) to be followed by trucks transporting waste material from the Site, prior to the commencement of the removal of any waste material from the Site.

#### **D7. TRAFFIC & PEDESTRIAN MANAGEMENT PLAN**

Prior to the commencement of any works on the Subject Site, a Traffic and Pedestrian Management Plan prepared by a suitably qualified person shall be submitted to the PCA. The Plan must be prepared in consultation with the Council, and where required, the approval of the council's traffic committee obtained.

The Plan shall address, but not be limited to, the following matters:

- (a) ingress and egress of vehicles to the Subject Site,
- (b) loading and unloading, including construction zones,
- (c) predicted traffic volumes, types and routes,
- (d) pedestrian and traffic management methods, and

The Proponent shall submit a copy of the final Plan to the Council, prior to the commencement of work.

#### **D8. SUPERVISING ARBORIST**

Prior to the commencement of any demolition, excavation or construction works on the site, the proponent shall engage a suitably qualified arborist to oversee works relating to removal of trees and retention of trees on site.

#### **D9. DAMAGE DEPOSIT TO ASHFIELD COUNCIL**

A Council Infrastructure Damage Deposit of \$405,000 shall be paid to Ashfield Council to cover potential damage to local roads, footpaths, public infrastructure and drainage network, prior to the commencement of any demolition on site.

**End of this Section**

## **PART E DURING CONSTRUCTION**

### **E1. APPROVED PLANS TO BE ON-SITE**

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the Site at all times and shall be readily available for perusal by any officer of the Department, Council or the PCA.

### **E2. HOURS OF WORK**

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

- (a) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
- (b) between 8:00 am and 1:00 pm, Saturdays;
- (c) no work on Sundays and public holidays.
- (d) works may be undertaken outside these hours where:
  - i) the delivery of vehicles, plant or materials is required outside these hours by the Police or other authorities;
  - ii) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm;
  - iii) a variation is approved in advance in writing by the Director-General or his nominee.

### **E3. EROSION AND SEDIMENT 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 included in the CEMP submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate for below ground works.

### **E4. DISPOSAL OF SEEPAGE AND STORMWATER**

Any seepage or rainwater collected on-site during construction or groundwater shall not be pumped to the street stormwater system unless separate prior approval is given in writing by Council.

### **E5. PROTECTION OF TREES**

No street trees are to be trimmed or removed unless it forms a part of this development approval or prior written approval from Council is obtained or is required in an emergency to avoid the loss of life or damage to property.

All street trees shall be protected at all times during construction. Any tree on the footpath, which is damaged or removed during construction due to an emergency, shall be replaced, to the satisfaction of Council.

All trees on the Site that are not approved for removal are to be suitably protected by way of tree guards, barriers or other measures as necessary are to be provided to protect root system, trunk and branches, during construction.

### **E6. CONSTRUCTION NOISE MANAGEMENT**

The development shall be constructed with the aim of achieving the construction noise management levels detailed in the Interim Construction Noise Guideline (Department of Environment and Climate Change, 2009). All feasible and reasonable noise mitigation measures shall be implemented and any activities that could exceed the construction noise management levels shall be identified and managed in accordance with the CEMP.

If the noise from a construction activity is substantially tonal or impulsive in nature (as described in Chapter 4 of the NSW Industrial Noise Policy), 5dB (A) must be added to the measured construction noise level when comparing the measured noise with the construction noise management levels.

Wherever practical, and where sensitive receivers may be affected, piling activities are completed using bored piles. If driven piles are required they must only be installed where outlined in the CEMP.

#### **E7. VIBRATION CRITERIA**

Vibration caused by construction at any residence or structure outside the Site must be limited to:

- (a) for structural damage vibration, German Standard DIN 4150 Part 3 Structural Vibration in Buildings. Effects on Structures;
- (b) for human exposure to vibration, the evaluation criteria set out in the Environmental Noise Management Assessing Vibration: a Technical Guideline (Department of Environment and Conservation, 2006); and
- (c) These limits apply unless otherwise outlined in the CEMP.

#### **E8. HOARDING REQUIREMENTS**

The following hoarding requirements shall be complied with:

- (a) no third party advertising is permitted to be displayed on the subject hoarding/fencing; and
- (b) the construction site manager shall be responsible for the removal of all graffiti from any construction hoardings or the like within the construction area within 48 hours of its application.

**End of this Section**

## **PART F      PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

### **F1.   PUBLIC ACCESS AND RIGHTS OF WAY**

Documentary rights of footway and carriageway must be created over the appropriate lots in accordance with the approved plans subject to this approval in the subdivision pursuant to Section 88B of the *Conveyancing Act 1919*.

### **F2.   SERVICES**

Documentary easements for services, drainage, support, shelter, use of plant, equipment, loading areas and service rooms, repairs, maintenance and any other encumbrances and indemnities required for joint or reciprocal use of part of the proposed lots as a consequence of the subdivision, must be created over the appropriate lots in the subdivision pursuant to Section 88B of the *Conveyancing Act 1919*.

### **F3.   WATER AUTHORITY COMPLIANCE CERTIFICATE**

Prior to issuing a subdivision certificate, a Compliance Certificate shall be provided to the certifying authority showing that the development has met with the detailed requirements of the relevant water supply authority.

**End of this Section**

## **PART G PRIOR TO OCCUPATION OR COMMENCEMENT OF USE**

### **G1. PRIOR TO OCCUPATION OR USE OF THE DEVELOPMENT**

The Development shall not be occupied or used until:

- (a) a Final Occupation Certificate is issued and provided to Council for the development; or
  - (b) an Interim Occupation Certificate is issued and provided to Council for the development.
- This shall clearly identify the part of the development to which the Interim Occupation Certificate.

### **G2. STRUCTURAL INSPECTION CERTIFICATE**

A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Occupation Certificate and/or use of the premises. A copy of the Certificate with an electronic set of final drawings (contact approval authority for specific electronic format) shall be submitted to the approval authority and the Council after:

- (a) The site has been periodically inspected and the Certifier is satisfied that the Structural Works is deemed to comply with the final Design Drawings.
- (b) The drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

### **G3. WORKS AS EXECUTED INFORMATION**

Certification shall be provided from a registered surveyor to the effect that:

- (a) all civil engineering works required by this development approval have been carried out in accordance with the terms of the development approval and the approved engineering drawings with regard to location and level;
- (b) all pipes, pits and detention facilities lay within their relevant existing or proposed easements; and
- (c) all rights-of-way or positive covenants required by conditions of this development approval have been provided.

### **G4. ROAD DAMAGE**

The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the Site as a result of construction works associated with the approved development, is to be met in full by the Proponent/developer prior to the issue of any Occupation Certificate.

*Note: Should the cost of damage repair work not exceed the Damage Deposit, Council will automatically call up the Deposit to recover the costs. Should the repair costs exceed the Deposit amount, a separate invoice will be issued.*

### **G5. REGISTRATION OF EASEMENTS**

Prior to the issue of any Occupation Certificate, the Proponent shall provide to the PCA evidence that all matters required to be registered on title including easements required by this approval, approvals, and other consents have been lodged for registration or registered at the NSW Land and Property Information.

### **G6. WATER AUTHORITY COMPLIANCE**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. The Section 73 Certificate must be submitted to the PCA prior to issue of the occupation certificate.

### **G7. RELEASE OF SECURITY DEPOSIT**

The Proponent shall arrange for an appropriate Council officer to inspect all rectification works or any other works which a security bond is being held for and release the security bond if the works have been completed to the satisfaction of Council or release the remaining funds, if funds have been deducted from the Security Deposit for the cost of replacement of the works.

**G8. COMPLIANCE WITH BASIX CERTIFICATE**

Prior to the issue of the any Occupation Certificate, the Proponent shall implement the commitments outlined in BASIX Certificate No. 455321M\_02.

**G9. ROAD AND INFRASTRUCTURE WORKS**

Prior to the issue of an Occupation Certificate, the access pathway between Smith Street and the Inner West Light Rail Line boundary and the roundabout at the corner of Smith and Edward Street is to be constructed and operational. .

**End of this Section**



## **ADVISORY NOTES**

### **APPEALS**

AN1 The Proponent has the right to appeal to the Land and Environment Court in the manner set out in the *Environmental Planning and Assessment Act, 1979* and the *Environmental Planning and Assessment Regulation, 2000* (as amended).

### **OTHER APPROVALS AND PERMITS**

AN2 The Proponent shall apply to the council for all necessary permits including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits and/or any other approvals under Section 68 (Approvals) of the *Local Government Act, 1993* or *Section 138 of the Roads Act, 1993*.

### **STREET NUMBERING**

AN3 Street numbers and the building name(s), if any, will need to be clearly displayed at either end of the ground level frontages in accordance with the council's policy, prior to the occupation of the building(s) or commencement of the use. If street numbers or changes to street numbers are required, a separate application shall be made to the Council.

### **TEMPORARY STRUCTURES**

AN4 An approval under *State Environmental Planning Policy (Temporary Structures) 2007* must be obtained from the council for the erection of the temporary structures. The application must be supported by a report detailing compliance with the provisions of the Building Code of Australia.

AN5 Structural certification from an appropriately qualified practicing structural engineer must be submitted to the council with the application under *State Environmental Planning Policy (Temporary Structures) 2007* to certify the structural adequacy of the design of the temporary structures.

### **ASBESTOS REMOVAL**

AN6 All excavation works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence and removal must be carried out in accordance with NOHSC: "Code of Practice for the Safe Removal of Asbestos".

### **SITE CONTAMINATION ISSUES DURING CONSTRUCTION**

AN7 Should any new information come to light during demolition or construction works which has the potential to alter previous conclusions about site contamination then the Proponent must be immediately notified and works must cease. Works must not recommence on site until the consultation is made with the Department.

### **BELOW GROUND (SUB-SURFACE) WORKS – NON-ABORIGINAL RELICS**

AN8 If any archaeological relics are uncovered during the course of the work, then all works shall cease immediately in that area and the OEH Heritage Branch contacted. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the *NSW Heritage Act 1977* may be required before further works can continue in that area.

## **DISCOVERY OF ABORIGINAL HERITAGE**

AN9 In the event that surface disturbance identifies a new Aboriginal object, all works must halt in the immediate area to prevent any further impacts to the object(s). A suitably qualified archaeologist and the registered Aboriginal representatives must be contacted to determine the significance of the objects. The site is to be registered in the Aboriginal Heritage Information Management System (AHIMS) which is managed by OEH and the management outcome for the site included in the information provided to AHIMS. The proponent must consult with the Aboriginal community representatives, the archaeologist and OEH to develop and implement management strategies for all objects/sites.

**End of this Section**

## SCHEDULE 3 – STATEMENT OF COMMITMENTS



Sydney  
Level 2, 490 Crown St  
Surry Hills NSW  
2010 Australia  
T 02 9380 9911  
F 02 9380 9922

Melbourne  
Level 1, Building D  
80 Dorcas St  
Southbank VIC  
3006 Australia  
T 03 8648 3500  
F 03 8648 3599

[sjb.com.au](http://sjb.com.au)  
[planning@sjb.com.au](mailto:planning@sjb.com.au)

Item	Commitment	Timing
1. Construction Management	A Construction Management Plan will be prepared including, but not limited to the methods of soil and sedimentation protection, restriction of public access, vegetation protection, construction, traffic management, crane height and location details and the like.	A Construction Management Plan will be prepared prior to the commencement of construction on-site.
2. Section 94 Contributions	Section 94 Contributions relevant to the proposal will be made in accordance with the Section 94 Contribution Plan for Ashfield Council consistent with the rates detailed in the plan.	The required Section 94 Contributions will be paid prior to the issue of any Construction Certificates for the erection or conversion of buildings that generate a demand for services.
3 Pedestrian facility upgrades	The upgrade of pedestrian facilities identified in Table 2 of the Infrastructure and Traffic Management Plan provided at Attachment 7 of the Project Application EA	The works will be undertaken and completed prior to the release of occupation certificates for the buildings within Stage 1
4. Public access to the Lewisham West light rail stop	The access path will be constructed and dedicated to Council.	The construction works will be implemented prior to dedication to Ashfield Council as part of the Subdivision Certificate and title registration process.
5. Publicly accessible open space	Publicly accessible open space will be provided and embellished consistent with the architectural and landscape plans. The publicly accessible open space will be subject to the implementation of an easement for public access in favour of Ashfield Council.	The construction works will be implemented prior to final occupation and the easement for public access will be created as part of the Subdivision Certificate and title registration process.