

1 September 2020

## RESPONSE TO SUBMISSIONS AND PROPOSED CONDITION AMENDMENTS Ivanhoe Estate, Macquarie Park - Stage 1

This response has been prepared by Ethos Urban on behalf of Frasers Property Australia to outline a response to submissions and additional amendments proposed to SSD-8903-Mod 1 as outlined in the table in Section 1.

Extracts from Government agency and authority submissions received in relation to SSD-8903-Mod-1, and a response to each of these matters, has been outlined in the table in Section 2.

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## 1.0 Amendments to Conditions

Due to the progression of documentation required prior to the issue of the Subdivision Works Certificate, additional amendments have been highlighted by the certifier to ensure that consent conditions reflect the reporting and phasing requirements of the certifier and construction program. Accordingly, additional amendments are proposed to Condition B55, B56, B57, B58, B60, B61 and B90 as shown in ***Bold Italics*** with text deleted shown in ~~strikethrough~~ below.

### Amendments to Conditions

B55. The Applicant must ensure that following demolition of any existing buildings, roads, electricity substations and in-ground utilities as part of the Stage 1 works, further investigation of soil contamination is undertaken within the footprint of those buildings, roads, electricity substations and in-ground utilities prior to undertaking any construction works. Details confirming compliance must be submitted to the Certifier **following the completion of all demolition works.** ~~commencement of any works. issue of the relevant stage Subdivision Certificate or Occupation Certificate~~

Reason: The details required by this condition cannot be produced to the certifier without demolition works (permitted within the scope of the Stage 1 consent) commencing on site. This also enables the certifier to issue a Subdivision Works Certificate.

B56. The Applicant must conduct additional site investigations and prepare an updated Remedial Action Plan to address any identified contamination with proper regard to the:

- (a) NSW EPA Sampling Design Guidelines
- (b) Guidelines for the NSW Site Auditor Scheme (3rd edition) 2017
- (c) Guidelines for Consultants Reporting on Contaminated Sites 2011
- (d) National Environment Protection (Assessment of Site Contamination) Measure 2013 as amended
- (e) other guidelines approved under section 105 of the *Contaminated Land Management Act 1997*.

Details confirming compliance must be submitted to the Certifier **following the completion of all demolition works.** ~~commencement of any construction works issue of the relevant stage Subdivision Certificate or Occupation Certificate~~

Reason: The details required by this condition cannot be produced to the certifier without demolition works (permitted within the scope of the Stage 1 consent) commencing on site. This also enables the certifier to issue a Subdivision Works Certificate.

~~B57. A Section A Site Audit Statement and accompanying Site Audit report, certifying the site is suitable for the approved use, must be submitted to the Certifier prior to the commencement of any construction works~~

***B57. A Section A1 Site Audit Statement – or a Section A2 Site Audit Statement accompanied by an Environmental Management Plan (prepared by a NSW EPA-accredited Site Auditor) – certifying that the relevant site is suitable for the proposed use, must be submitted to the Planning Secretary and the Certifier prior to use of the relevant building and/or infrastructure included in this SSD consent***

Reason: We agree with the EPA proposed change (refer to the below section), plus the addition of 'relevant' considering this proposed works in the Stage 1 consent are staged.

B58. The Applicant must provide details of the proposed remediation and validation strategy to the accredited site auditor in a Works Plan and a Validation Sampling and Analysis Quality Plan for review by the site auditor prior to remediation works commencing. Details confirming compliance must be submitted to the Certifier **following the completion of all demolition works and/or the relevant stage Subdivision Certificate or Occupation Certificate.** ~~commencement of any works issue of the relevant stage Subdivision Certificate or Occupation Certificate~~

Reason: The details required by this condition should be required following demolition works and/or prior to the issue of the relevant stage Subdivision Certificate or Occupation Certificate. This enables the Site Audit Statement to be prepared in stages to align with the construction program.

## Amendments to Conditions

B60. The Applicant is required to engage a site auditor accredited under the Contaminated Land Management Act 1997 to review the adequacy of the site investigations and required unexpected finds protocol, remedial works and management plans. Details confirming compliance must be submitted to the Certifier **following completion of demolition works.** ~~commencement of any works issue of the relevant stage Subdivision Certificate or Occupation Certificate~~

Reason: The details required by this condition cannot be produced to the certifier without demolition works (permitted within the scope of the Stage 1 consent) commencing on site. This also enables the certifier to issue a Subdivision Works Certificate.

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B61. The Applicant is to ensure that all reports prepared for the assessment of contamination must be prepared, or reviewed and approved, by a consultant certified under either the Environment Institute of Australia and New Zealand's Certified Environmental Practitioner (Site Contamination) Scheme (CEnvP(SC)) or the Soil Science Australia Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) scheme. Details confirming compliance must be submitted to the Certifier **following the completion of all demolition works.** ~~commencement of any works issue of the relevant stage Subdivision Certificate or Occupation Certificate~~

The details required by this condition cannot be produced to the certifier without demolition works (permitted within the scope of the Stage 1 consent) commencing on site. This also enables the certifier to issue a Subdivision Works Certificate.

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B90. All public domain areas are subject to the standards and requirements of Council's DCP 2014 Part 4.5 Macquarie Park Corridor and Council's Public Domain Technical Manual Section 6 – Macquarie Park Corridor. In the event of any inconsistency, the approved Landscape Plans **and Landscape Design Report** are to prevail. Details demonstrating compliance must be submitted to the Certifier prior to the issue of the relevant Crown Building Works Certificate for each building or Subdivision Works Certificate.

Reason: to ensure that the Landscape Design Report which supplements the approved Landscape Plans is considered with this condition.

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## 2.0 Authority and agency submissions

Extract	Response
<b>Department of Planning, Infrastructure and Environment</b>	
B28: The RLs refer to the top of the plant for each tower plus the top of the parapet for the highest townhouse. I therefore don't think there's any need to add parapets into the condition. The RL stated in condition B27 is slightly below the Building A1 parapet height so that change appears reasonable.	Noted, no objection raised.
B47: The Department is keen to retain an approval role for the BMP.	Noted, no objection raised.
C48: Council specifically recommended Part 8.2 of the DCP be referred to in this condition which relates to stormwater and floodplain management, beyond the standard construction activities measures referred to in Part 8.1.	Noted, no objection raised.
D48: The removal of Council from review/endorsement of the covenant is not supported.	Noted, no objection raised.
<b>Environmental Protection Agency</b>	
<ul style="list-style-type: none"> <li>Condition B56 – Although not specifically requested in the applicant's modification request, the EPA notes that some guidelines provided in condition B56 are outdated and suggests updating the condition as follows:  The Applicant must conduct additional site investigations and prepare an updated Remediation Action Plan to address identified contamination with proper regard to:                (a) NSW EPA Sampling Design Guidelines, 1995                (b) Guidelines for the NSW Site Auditor Scheme (3<sup>rd</sup> edition), 2017                (c) <del>Guidelines for Consultants Reporting on Contaminated Sites 2011</del> Consultants Reporting on Contaminated Land (Contaminated Land guidelines), (EPA, 2020)                (d) National Environment Protection (Assessment of Site Contamination) Measure, 2013 as amended (as amended 2013)                (e) <del>other</del> Relevant guidelines made or approved by the EPA under s105 of the Contaminated Land Management Act 1997                 Details confirming compliance must be submitted to the Certifier prior to the commencement of any construction works.             </li> </ul>	Noted, no objection raised.
	We agree with the intention on the proposed change. We request that the requirement for the Site Audit Statement A be submitted prior to the relevant building or the relevant subdivision works given the staging of the development.

Extract	Response
<ul style="list-style-type: none"> <li>Condition B57 – Although not specifically requested in the applicant’s modification request, the EPA suggests updating condition B57. As such it is recommended to: <ol style="list-style-type: none"> <li>delete existing condition B57: <del>A Section A Site Audit Statement and accompanying Site Audit report, certifying the site is suitable for the approved use, must be submitted to the Certifier prior to the commencement of any construction works.</del></li> <li>and replace with the following: <b>A Section A1 Site Audit Statement – or a Section A2 Site Audit Statement accompanied by an Environmental Management Plan (prepared by a NSW EPA-accredited Site Auditor) – certifying that the site is suitable for the proposed use, must be submitted to the Planning Secretary and the Certifier prior to use of buildings and infrastructure included in this SSD consent.</b></li> </ol> </li> </ul>	<p>In this respect, we propose the following condition in response to the EPA recommendation:</p> <p>A Section A1 Site Audit Statement – or a Section A2 Site Audit Statement accompanied by an Environmental Management Plan (prepared by a NSW EPA-accredited Site Auditor) – certifying that the <b>relevant</b> site is suitable for the proposed use, must be submitted to the Planning Secretary and the Certifier prior to use of <b>the relevant</b> building and/or infrastructure included in this SSD consent.</p>
<ul style="list-style-type: none"> <li>Condition B59 – The EPA is satisfied that condition B59 requiring the lodgement of an Unexpected Contamination Finds Protocol (UFP) can be deleted. The applicant states this was submitted with the SSD application. The EPA’s submission on the EIS (letter dated 19.06.19) noted that the Remediation Action Plan (RAP) included a UFP but understood that it did not appear to explicitly address post-demolition investigation of the footprint and immediate environs of existing buildings, roads, electricity substations and utilities. Importantly under condition B58, the applicant must provide details of relevant reports to the Site Auditor for review, and that the Site Auditor must be satisfied before issue of a Site Audit Statement (A1 or A2) under B57.</li> </ul>	<p>Noted. Should the condition be deleted as recommended by the EPA, it will supersede the proposed amendment to Condition B59 as detailed in Section 1. No objections are raised in this regard.</p>
<ul style="list-style-type: none"> <li>Condition B60 – The EPA does not agree with deleting the requirement to engage a Site Auditor due to additional site investigations being undertaken (in accordance with B56 and B57). The EPA suggests deleting the existing condition and replacing with the following: <p><b>The Applicant must engage a NSW EPA-accredited Site Auditor throughout the duration of works to ensure that any work required in relation to soil or groundwater contamination is appropriately managed.</b></p> <p><b>The Applicant must adhere to the management measures in the Remediation Action Plan that has been approved by the Site Auditor. Any variations to the approved Remediation Action Plan must be approved in writing by the Site Auditor.</b></p> </li> </ul>	<p>Noted, no objection raised.</p>
<ul style="list-style-type: none"> <li>Condition B63 – The EPA is satisfied that B63 can be deleted provided that the demolition being undertaken under the separate planning process (i.e. application for the demolition of all existing buildings, paths and driveways, fencing and miscellaneous public structures) includes requirements to ensure hazardous materials are managed appropriately.</li> </ul>	<p>Noted, no objection raised.</p>

Extract	Response
<p><b>Department of Planning, Industry and Environment – Environment, Energy and Science Group</b></p> <p>EES notes that the Biodiversity Assessment Report and Offset Strategy prepared by EcoLogical dated 2019 states that "<i>Shrimptons Creek is currently in extremely poor condition</i>" and "<i>is infested with weeds such as Small-leaved Privet</i>". Given that, EES recommends the Biodiversity Management Plan (BMP) is implemented for more than five years, preferably ten years, to better ensure the long-term viability of vegetation on site. EES has no comment on the requirement that the BMP is to be approved by the Planning Secretary.</p>	<p>The modification seeks to impose a 5 year vegetation monitoring and maintenance period. This would comprise a 3 year establishment phase followed by a 2 year maintenance phase. This nominated 5 year period is 3 years longer than the standard period specified by the Natural Resource Access Regulator (former Office of Water) in the Guidelines for Vegetation Management Plans on Waterfront Land, and as such it is considered to be sufficient and appropriate. Eco Logical has also confirmed that this period is widely accepted as being suitable for Vegetation Management Plans developed for other riparian land in Sydney. In this respect, we contend that a 5 year period is satisfactory and that a 10 year period would be unreasonable and superfluous.</p>
<p><b>Department of Planning, Industry and Environment – Water</b></p> <p><u>DPIE Water response</u></p> <p>DPIE Water accepts the deletion of condition B85, and is</p> <ul style="list-style-type: none"> <li>satisfied with the proponent's commitment to comply with condition C45.</li> </ul> <p>DPIE Water additionally notes that any inflow of groundwater must be licensed in accordance with the <i>Water Management Act 2000</i>. Where less than 3 ML/yr is predicted, a licensing exemption is available under cl. 7 of Schedule 4 of the Water Management (General) Regulation. To exercise this exemption certain requirements must be met to ensure that less than 3 ML of water is taken. To qualify for the exemption, refer to clause 21(6) of the Water Management (General) Regulation 2018 which includes requirements to:</p> <ul style="list-style-type: none"> <li>record the water take within 24 hours in the approved form and manner;</li> <li>provide the water take records to the Minister by no later than 28 July for the year ending 1 July during which the water was taken (e.g. included in the annual report);</li> <li>keep the water take records for a period of five years.</li> </ul>	<p>Noted, no objection raised.</p>
<p><b>Transport for NSW (RMS)</b></p> <p>TfNSW has reviewed the modification application and notes that the applicant is not seeking to modify any TfNSW conditions. Therefore TfNSW does not raise any objections to the modification application.</p>	<p>Noted.</p>