

# Development Assessment Report

Subject	Development Application: 10.2015.202.1 2-32 Smith Street SUMMER HILL Stage 3 (DA1)
Council File No	2015.202.1
JRPP File No	2015SYE160
Prepared by	Brian Kirk
Application to be determined by	Sydney East Joint Regional Planning Panel

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## 1.0 EXECUTIVE SUMMARY

This application seeks development consent for part of Stage 3 (being DA 1) of the Concept Plan approval issued for the site under the State Environmental Planning Policy (Major Development) 2005. The development proposed by this development application is for a total of 135 dwellings, 66m<sup>2</sup> of commercial floor space and 672m<sup>2</sup> of publicly accessible open space.

The primary matter for consideration is the consistency of the application with the terms and conditions of the approved Concept Plan. It is important to note that Condition 1 of Schedule 3 of the Concept Plan requires that *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development* apply to this development.

In addition, Council's controls and other relevant environmental planning instruments apply in so far as they do not conflict with the approved Concept Plan.

Compliance of the proposal is generally satisfactory. The development is recommended for approval subject to conditions including deferred commencement conditions.

## 2.0 BACKGROUND

Applicant	SJB Planning (NSW) Pty Ltd C/- EG Funds Management
Owner:	Australian Executor Trustees Ltd ( <i>atf</i> the Summer Hill Ownership Trust); and DH Summer Hill Pty Ltd
Lot/DP	Lot 1, DP 951124, Lot 1, DP 955001, Lots 11, 13 & 14, DP 315, Lots A & B, DP 302421, part Lot 1, DP 73521, and part Lot 100, DP 221222
Area	24,738m <sup>2</sup>
Date lodged	16/10//2015
Capital Investment Value	\$65,271,647
Section 94 Contribution	\$1,952,755.40

# Development Assessment Report

## 3.0 SUBMISSIONS

Exhibition Period	04/11/2015 to 26/11/2015
Number Notified	327 owners & occupants
Submissions Received	Two (2) <ul style="list-style-type: none"><li>• 34 Edward Street, Summer Hill</li><li>• 22 Spencer Street, Summer Hill</li></ul>
Summary of Issues	<ul style="list-style-type: none"><li>• The changes to the design of the basement car park from the Concept Plan brings it closer to the common boundary and results in:<ul style="list-style-type: none"><li>○ Unreasonable excavation impacts; particularly vibration and noise</li><li>○ Unreasonable fumes and noise from the car park once operating</li><li>○ Substation is now too close to the common boundary</li></ul></li><li>• The private road running behind the properties in Edward Street should provide rear vehicular access to those properties</li><li>• The proposed retaining wall along the rear common boundary should be no higher than the landfall on the properties 32 to 38 Edward Street</li><li>• The submitted design is not clear on the location of waste bin storage areas for the development</li><li>• Construction Issues:<ul style="list-style-type: none"><li>○ Noise and vibration</li><li>○ Dust</li><li>○ Construction traffic</li><li>○ A dilapidation report should be required</li></ul></li><li>• The 2 additional storeys to the existing silo structure (4 pack – Building 3C) will make it 14 storeys and out of context with surrounding development. It will also provide opportunities for direct overlooking of surrounding backyards resulting in a loss of privacy and amenity.</li></ul>

## 3.0 DESCRIPTION OF PROPOSAL

The development proposed by this development application is for a total of 135 dwellings, 66m<sup>2</sup> of commercial floor space and 672m<sup>2</sup> of publicly accessible open space.

This development application proposes the development of part of Stage 3 (DA 1) of the approved Concept Plan (MP10\_0155 – originally approved on 7 December 2012 and modified on 10 March 2015 and 16 May 2016) for the former Allied Mills flour mill.

The proposed development is for a total of 135 dwellings, 66m<sup>2</sup> of commercial floor space and 672m<sup>2</sup> of accessible communal open space

The entire site area covered by the Concept Plan is 24,738m<sup>2</sup>.

## Development Assessment Report

The approved Concept Plan is for a mixed use residential, retail and commercial development over **4 stages** incorporating:

- Residential, retail and commercial floor space
- Basement car parking
- Publicly accessible open space and communal open space
- Road works at the intersection of Old Canterbury Road and Edward Street and Edward Street and Smith Street
- Off-site pedestrian upgrades

Notice of Determination dated 16 May 2016 from the NSW Department of Planning & Environment approved the Applicant's request to modify the concept approval (MP 10\_0155 MOD 2). This modification deletes all reference to the dedication of open space and clarifies that all internal roads will remain as private roads.

This modification application arose from the resolution of Council on 9 February 2016 that all internal roads and open space for this project are to remain in private ownership but be publicly accessible via easements in favour of Ashfield Council (now Inner West Council).

Current applications and previous consents for the development of earlier stages is listed as follows:

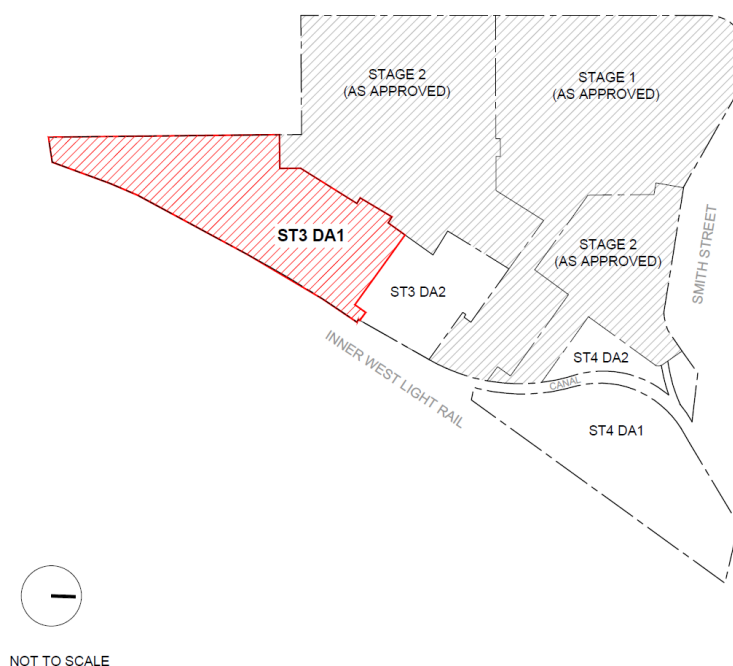
- **Stage 1** (MP10\_0180) was granted on 11 July 2013 (as modified on 3 March 2014) comprising:
  - 44 dwellings
  - 443m<sup>2</sup> of retail/commercial space
    - *Total GFA of 5,125m<sup>2</sup>*
- **Stage 2** (DA 10.2014.70 – JRPP Ref: 2014SYE055 DA) was granted on 25 September 2015 comprising:
  - 83 dwellings
  - 433m<sup>2</sup> of commercial space
    - *Total GFA of 8,412m<sup>2</sup>*
- **Part Stage 3** (DA 10.2015.203 – Stage 3 (DA 2)) was granted development consent by Ashfield Council at its final meeting on 10 May 2015 for alterations and additions to the *Mungo Scott* building and attached 2 storey administration building (identified as Buildings 2A & 2B in the approved Concept Plan) for the use of the buildings into four (4) ground floor level retail tenancies and five (5) levels (including the existing mezzanine) of commercial tenancies above; and include a waste store, amenities (for staff and for the public) and a cold store.
- **Part Stage 4** (DA 10.2015.201 – Stage 4 (DA 2)) under assessment to be determined under Officer delegation for the construction of a private road bridge and a pedestrian footbridge over Hawthorne Canal to provide vehicular and pedestrian access from Smith Street to the proposed Building 1A, which is the subject of DA 201500584 (Stage 4 (DA 1)) over land within the former

## Development Assessment Report

Marrickville LGA. Land either side of the road bridge and footbridge will be revegetated and a planting plan accompanies this application.

- **Part Stage 4** (DA 201500246– Stage 4 (DA 1)) originally submitted to Marrickville Council. This is under assessment and is to be determined by the Sydney East Joint Regional Planning Panel (JRPP Reference: 2015SYE140) for the demolition of the existing improvements on the site and construction a 9 storey strata-titled residential flat building (Building 1A) with 64 dwellings and 3 levels of basement car parking.
- **This current DA** (Part Stage 3 (DA 1) – identified in **Diagram 1** below) seeks development consent for a total of 135 dwellings (GFA = 11,750m<sup>2</sup>), 1 ground floor commercial tenancy (GFA = 66m<sup>2</sup>) plus 672m<sup>2</sup> of publicly accessible open space. This application also seeks consent to subdivide the Stage 3 part of the site (including the Mungo Scott building) into 3 lots.

**Diagram 1** (Stage 3 (DA 1) Site Identification):



The specific components of the proposed Stage 3 (DA1) development comprise of:

- A. The demolition of a number of small existing disused buildings on the south end of the site, predominantly brick and steel shed structures and awnings.
- B. 135 residential units in the following mix:
  - 1 x studio
  - 31 x 1 bedroom
  - 80 x 2 bedroom
  - 23 x 3 bedroom
- C. 1 ground floor commercial tenancy
- D. A description of each building is as follows:

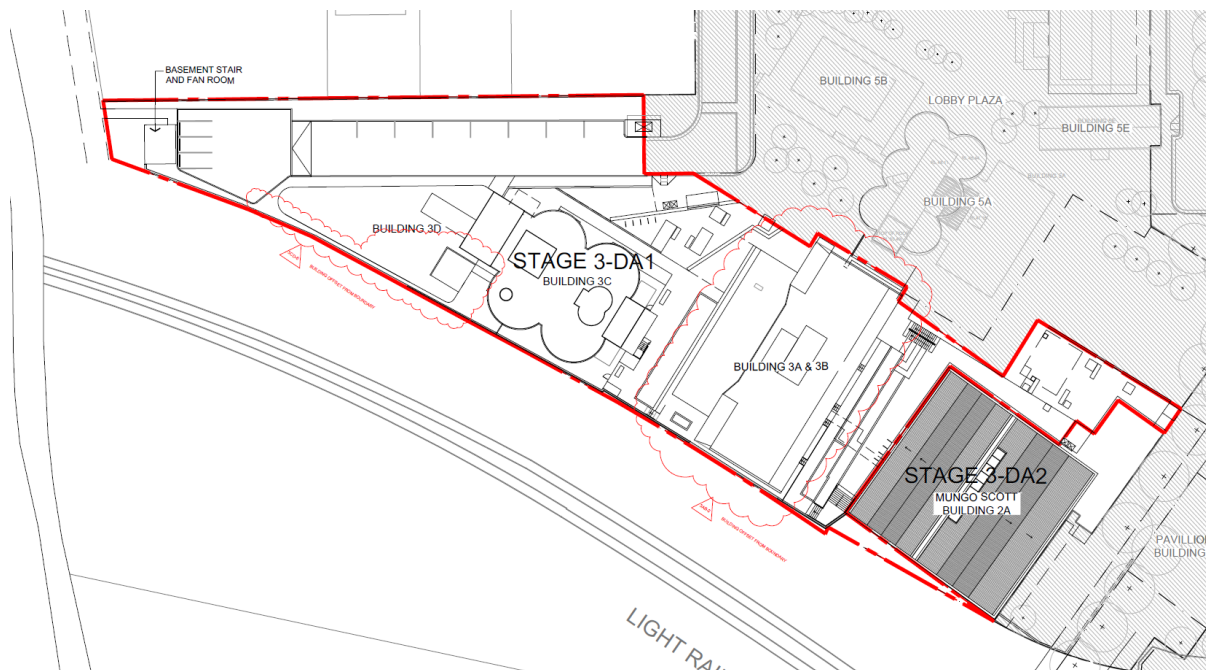
## Development Assessment Report

- one (1) new 9 storey residential building (**Building 3A**) and one (1) new 4 storey residential building (**Building 3B**) which is annexed to Building 3A. Containing a total of 52 dwellings and the one (1) ground floor commercial tenancy (66m<sup>2</sup>)
- one (1) 14 storey residential building (**Building 3C**) adapted from the existing grain silo structures; containing 56 dwellings
- one (1) 9 storey building (**Building 3D**) containing 27 dwellings, which is connected to Building 3C and occupies the triangular south end corner of the site

Each building is identified in **Diagram 2** below.

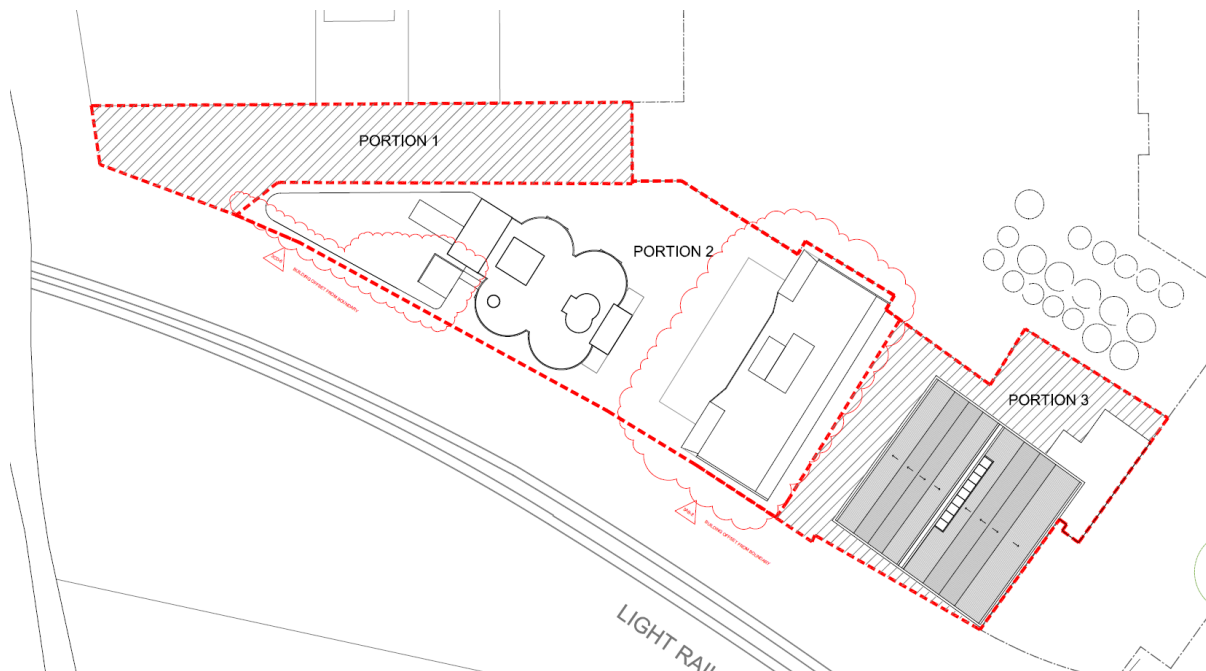
- E.** Excavation and construction of two (2) levels of basement car parking for residents, visitors and retail tenants (including waste storage and plant facilities). This basement will connect with the Stage 2 basement (previously approved) and will also provide parking which will service the Mungo Scott Building.
- F.** External landscaping above the basement car park with open space and plazas (publicly accessible) between Buildings 3C and 3A & 3B
- G.** New shared way (private) street access (as an extension of the roadway approved for Stage 2), which provides 11 street parking spaces and pedestrian access to residential lobbies
- H.** Ground level retail in Building 3A facing the pedestrian link and the landscaped plaza between Building 3A and the Mungo Scott building.
- I.** Subdivision of the Stage 3 part of the site (including the *Mungo Scott* building) into 3 lots as per **Diagram 3** below.
- J.** The roadway, car parking and communal open space will remain in private ownership on completion of the development.

**Diagram 2** (Building Locations):



# Development Assessment Report

**Diagram 3** (Stage 3 Indicative Subdivision Plan):



## 4.0 SITE AND SURROUNDING DEVELOPMENT

The site of the approved Concept Plan (MP\_0155) is located on a large area of land (24,738m<sup>2</sup>) bounded by Smith and Longport Streets to the north, Edward Street to the west, the Inner West Light Rail line to the east and Old Canterbury Road to the south. The land straddles the Hawthorn Canal and is located primarily in Summer Hill in the former Ashfield local government area but a portion of the site to the east of the canal is located in Lewisham in the former Marrickville local government area.

Surrounding development to the west is primarily low density residential with a small amount of light industrial development to the north and south west of the site.

That part of Stage 3 of the development which is the subject of this application is defined by the red outline in **Diagram 1**.

## 5.0 APPLICATION HISTORY FOR THE TOTAL SITE

A description of applications submitted to Council for the subject site include:

No.	Determination Date	Proposal	Determination
MP10_0155	07.12.2012	Concept Plan Approval: Mixed use residential and commercial development.  This consent forms the basis for the assessment of the subject application.	Approved
MP10_0180	11.07.2013	Stage 1: Mixed use residential and commercial	Approved

# Development Assessment Report

		development	
MP10_0180 Modification 1	11.07.2013	Stage 1 Modification to Condition C4 – s.94 contributions	Approved
10.2014.154	11.09.2014	Some internal and external works to the <i>Mungo Scott</i> Building and the attached administration annexe and the temporary use as a marketing/sales office	Approved
10.2014/70	25.09.2014	Stage 2: Demolition of buildings; additions to Building 5A (silos) and construction of new buildings as a mixed use residential and commercial development. Construction of a new access road from Edward Street	Approved
MP10_0155 Modification 1	10.03.2015	<p>Modifications to the Concept Plan Approval to allow (within the Ashfield LGA):</p> <ul style="list-style-type: none"> <li>• Adaptive re-use of the existing Mungo Scott Building, silo structures and 3 other buildings and 12 new building envelopes</li> <li>• Staged construction over 4 stages</li> <li>• Up to 360 dwellings (and up to 33,500m<sup>2</sup> GFA)</li> <li>• Up to 4,000m<sup>2</sup> of commercial floor space</li> <li>• Up to 2,500m<sup>2</sup> of retail floor space</li> <li>• a floor space ratio of 1.4 - 1.6:1</li> <li>• Up to two levels of basement car parking and a minimum of 35 on-street car parking spaces</li> <li>• 4,806m<sup>2</sup> of public open space to be dedicated to Council and an additional 5,287m<sup>2</sup> of publicly accessible open space</li> <li>• New local streets serving the development</li> <li>• Road works including a roundabout at Edward and Smith Streets as part of Stage 1 and a signalised intersection at Old Canterbury Road as part of Stage 3</li> <li>• Off-site pedestrian upgrade works in the surrounding area and to Summer Hill Village</li> </ul>	Approved
MP10_0155 Modification 2	16.05.2016	<p>Modification to the approved Concept Plan seeking to retain open space and internal roads in private ownership by deleting reference to dedication in the Development Description and in the Future Environmental Assessment Requirements.</p> <p>This modification application is consistent with the decision of the Council at its meeting on 9 February 2016. This application effects the subject development application insofar as the proposed road and road bridge are to be privately owned but publicly accessible.</p> <p>Condition 23 of the Future Environmental Assessment Requirements is relevant to this application and is now modified to read:</p> <p><i>“A detailed maintenance program, outlining the ongoing scheduled maintenance of the publicly accessible open space <b>and roads</b>, shall be submitted to and approved by Council prior to the commencement of occupation/use of the development.”</i></p>	Approved



# Development Assessment Report

10.2015.202	<b>This application</b> To be determined by JRPP	Part Stage 3 (DA 1): <ul style="list-style-type: none"> <li>Excavation for and construction of two (2) levels of basement car parking, plus waste storage and plant facilities (to interface with Stage 2 basement already approved)</li> <li>Construction of a new nine (9) storey residential flat building comprising of 52 dwellings, (with one ground floor commercial tenancy having a floor area of 66 m<sup>2</sup>) referred to on the DA plans as Building 3A &amp; 3B</li> <li>Adaptation, refurbishment and conversion of an existing grain silo building, comprising four silos to a 14 storey residential flat building comprising of 56 dwellings, referred to on the DA plans as Building 3C</li> <li>Construction of a new nine (9) storey residential flat building comprising 27 dwellings, referred to on the DA plans as Building 3D</li> <li>Construction of a new (private) roadway and footpath (as an extension of the roadway approved for construction under Stage 2)</li> <li>Provide approximately 75m of private roadway incorporating 11 on-street car parking spaces. The roadway, car parking and communal open space pertaining to this DA will all remain in private ownership on completion of the development.</li> </ul>	Pending
10.2015.203	10.05.2016	Part Stage 3 (DA 2): This DA covers that land described by the outline of the Mungo Scott warehouse, the attached administration building and the existing brick annex which is to the south of the administration building. Internal and external refurbishment works are to be carried out to allow for the adaptive re use of the buildings for retail and commercial uses.	Approved
DA 201500246	To be determined by JRPP	Part Stage 4 (DA 1) originally submitted to Marrickville Council. Proposes the demolition of the existing improvements on the site and construction a 9 storey strata-titled residential flat building (Building 1A) with 64 dwellings and 3 levels of basement car parking.	Pending
10.2015.201	To be determined under Delegated Authority	Part Stage 4 (DA 2): Construction of a vehicle access and pedestrian bridge from Smith Street to connect to Building 1A (see above).	Recommended for Approval

The following table outlines the history of this development application.

Date	Application Details
16.10.2015	<b>DA 10.2015.201</b> lodged with Council.
26.11.2014	<b>Notification period completed.</b> One (1) submission received.
09.02.2016	<b>Application referred to Sydney Trains</b> under <i>State Environmental Planning Policy (Infrastructure) 2007</i> in accordance with Division 15 - Railways, Subdivision 2 - Development in Rail Corridors, cl.85 - Development immediately adjacent to rail corridors; and with regard to the <i>Future Environmental Assessment Requirements</i> listed under Schedule 3 of the Concept Plan.
12.02.2016	<b>Application referred to Roads &amp; Maritime Services</b> under <i>State Environmental Planning</i>



# Development Assessment Report

	<i>Policy (Infrastructure) 2007 as Traffic Generating Development specified in Schedule 3; and with regard to the Future Environmental Assessment Requirements listed under Schedule 3 of the Concept Plan.</i>
12.02.2016	<p><b>The Applicant submitted legal advice from Minter Ellison</b> to address Council's question whether the proposed development (as submitted) remains "<i>generally consistent</i>" with the terms of Concept Approval. This question arose because the submitted plans for the proposed basement levels show a noticeably larger footprint than the approved Concept Plan. Under Schedule 6A clause 3B (2) of the <i>Environmental Planning &amp; Assessment Act 1979</i>, the consent authority must not grant consent to this application unless it is satisfied that the development is generally consistent with the terms of the Concept Approval. The summary opinion is in Paragraphs 2.4 &amp; 2.5 of the letter from Minter Ellison, which state:-</p> <p><i>2.4 In our view, the Stage 3A DA is "generally consistent" with the Concept Approval for the following reasons:</i></p> <ul style="list-style-type: none"> <li><i>(a) there is a significant degree of flexibility and latitude permitted under future development applications under the Concept Approval</i></li> <li><i>(b) the Stage 3A DA complies with the maximum number of car parks pursuant to Schedule 3 Condition 3. The conditions of the approval prevail over any inconsistency with approved plans; and</i></li> <li><i>(c) in relation to the requirement that the Stage 3A DA is "generally in accordance with" the relevant incorporated documents and plans under the Concept Approval, in our view, the Stage 3A DA satisfies this requirement. Considering the overall scope of the Concept Approval, the proposed increase in the basement carpark has limited environmental impacts and is not significant in the overall context of the development.</i></li> </ul> <p><i>2.5 Accordingly, the JRPP as the relevant consent authority, can lawfully approve the Stage 3A DA.</i></p>
04.03.2016	<p><b>Application referred to NSW Department of Primary Industries - Water</b> as Condition 41 in Schedule 3 of the approved Concept Plan requires that:</p> <p><b>Groundwater</b></p> <p><i>41. Future applications shall provide an assessment of ground water, including the need for licences in relation to taking or interfering with ground water and dewatering.</i></p>
07.04.2016	<b>Following receipt of cheques from the Applicant</b> for referral fees to both Sydney Trains and Roads & Maritime Services the cheques were forwarded to each organisation.
14.04.2016	<b>Meeting with RMS</b> at Parramatta was held.
04.05.2016	<b>Meeting with Sydney Trains</b> at Ashfield Council was held with Officers from Marrickville and the Applicant in attendance.
18.05.2016	<b>Further Meeting with RMS</b> at Parramatta was held with Officers from Marrickville in attendance.
01.06.2016	<b>Sydney Trains advised the Applicant</b> that an agreement formalised in 1920 and still active for access to railway land does extend right of access for the purposes of accessing the rail corridor to enable construction and future maintenance, accordingly, new buildings are to be setback to enable construction and maintenance within the site.
24.06.2016	<p><b>Revised plans submitted to Council</b> incorporating minimum 900mm setbacks to the light rail corridor for the proposed new buildings. The same drawings were submitted to Sydney Trains on 27.06.2016.</p> <p>Due to the minor changes in the design, it was not considered necessary to re-notify this application.</p>
18.07.2016	<b>Response from Sydney Trains</b> received by Council which included recommended conditions of consent (refer to discussion further in this report).
05.08.2016	<b>Council wrote to the Applicant Council</b> stating that Council had been informed by the NSW Roads and Maritime Services that the <i>Future Environmental Assessment Requirements</i> (FEARs) listed in Schedule 3 to the Determination of MP No: 10_0155 dated 7 December 2012 (as amended) had not been satisfied. Council's position was that this DA cannot be determined by the granting of consent without first obtaining the concurrence of the RMS. Accordingly, your immediate attention to this matter is required.
09.08.2016	<b>The Applicant submitted information to the RMS</b> with regard to the Future Environmental Assessment Requirements listed under Schedule 3 of the Concept Plan.

# Development Assessment Report

10.08.2016	<p><b>The Applicant submitted legal advice from Minter Ellison</b> to address Council's letter of 5 August 2016. The summary opinion is in Paragraphs 2.1 &amp; 2.2 of the letter from Minter Ellison, which state:-</p> <p>2.1 <i>In our view, there is no bar or impediment to the grant of consent for the Stage 3 DA 1 because</i></p> <p><i>(a) conditions 18 and 19 of the Concept Approval have been satisfied; and</i></p> <p><i>(b) the provisions of clause 104 of the Infrastructure SEPP only apply if the RMS makes a submission within 21 days of being provided with a written notice by the consent authority under that clause. This does not appear to have occurred.</i></p> <p>2.2 <i>Accordingly, the JRPP can lawfully approve the Stage 3 DA 1.</i></p> <p>The Applicant's legal advisors, acting on behalf of their client, have stated that their client will accept a condition of consent requiring that the RMS to be satisfied as to all their requirements prior to the issue of an Occupation Certificate.</p>
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## 6.0 ZONING / PERMISSIBILITY / HERITAGE

- The site is zoned *IN2-Light Industrial* under the provisions of Ashfield LEP 2013.
- The property is a heritage item. Listed as Heritage Item I619 under the ALEP 2013.
- The property is located within the vicinity of a heritage conservation area. Located adjacent to the *Quarantine Ground Conservation Area (C51)*
- This site is the subject of Concept Approval MP 10\_0155 issued by the NSW Department of Planning and Infrastructure on 7 December 2012 under the transitional provisions of Part 3A of the *Environmental Planning and Assessment Act 1979*.

Although the proposed works are prohibited on the site, they are permissible by virtue of the operation Concept Approval MP 10\_0155 under the provisions of *State Environmental Planning Policy (Major Development) 2005*.

## 7.0 SECTION 79C ASSESSMENT

The following is an assessment of the application with regard to the heads of consideration under the provisions of Section 79C of the Environmental Planning and Assessment Act.

### 7.1 The provisions of any Environmental Planning Instrument

#### 7.1.1 Local Environmental Plans

- Ashfield Local Environmental Plan 2013

The site is zoned *IN2-Light Industrial* and the following summarises the assessment of the proposal against the relevant clauses of the Ashfield Local Environmental Plan 2013.

- Clause 1.2 – Aims of the Plan

## Development Assessment Report

- Clause 2.3 – Zone objectives and land use table
- Clause 4.3 – Height of Buildings
- Clause 4.4 – Floor Space Ratio
- Clause 5.3 – Development near zone boundaries
- Clause 5.9 – Preservation of trees or vegetation
- Clause 5.10 – Heritage Conservation
- Clause 6.1 - Earthworks
- Clause 6.2 – Flood Planning

While the proposed development (i.e. the residential uses) is prohibited under ALEP 2013 within the IN2-*Light Industrial* zone; and in addition, the proposal exceeds the maximum height limit for the site of 10m and the maximum floor space ratio of 1:1; this site is the subject of an approved Concept Approval and clause 3B (2) (f), Schedule 6A of the Environmental Planning and Assessment Act 1979 has effect.

Accordingly, any provisions of the ALEP 2013 which is inconsistent with the approved concept plan for the site (MP10\_0155) do not have effect to the extent to which they are inconsistent with the terms of the approval of the concept plan.

### 7.1.2 State Environmental Planning Policies

- State Environmental Planning Policy (Major Development) 2005

The application has been prepared under the provisions of SEPP (Major Development) 2005 and the approved Concept Plan for the site No: MP 10\_0155 (as amended). Upon the repeal of Part 3A of the Environmental Planning and Assessment Act, 1979 this Policy became subject to Schedule 6A of the Act as a transitional Part 3A project; and approval to carry out this development is subject to Part 4 or 5 of the Act (as relevant).

Accordingly, a consent authority must not grant consent under Part 4 for the development unless it is satisfied that the development is generally consistent with the terms of the approval of the Concept Plan. An assessment against the relevant terms of the Concept Plan (as amended) is included as follows:

Concept Plan Approval MP10_0155 (as amended):		
Schedule 2: Part A – Terms of Approval		
Clause No.	Condition	Comment
A1	<b>Development Description</b>  Summary of requirements: <ul style="list-style-type: none"> <li>• Up to 360 dwellings (up to 33,500m<sup>2</sup> GFA)</li> <li>• Up to 4,000m<sup>2</sup> commercial floor space</li> <li>• Up to 2,500 m<sup>2</sup> retail floor space</li> </ul>	Development over all 4 stages of the site is limited to the Development Description (as amended on 16 May 2016). When combined with the development which has been approved for Stages 1 & 2 and that proposed for Stage 4, the overall development will provide for: <ul style="list-style-type: none"> <li>• The total dwellings will be 360 with a total GFA of 35,450m<sup>2</sup> <i>This application proposes 135 dwellings with a GFA of 11,750m<sup>2</sup></i></li> <li>• The total commercial floor space will have a GFA of 3,659m<sup>2</sup> <i>This application proposes Nil m<sup>2</sup></i></li> <li>• The total retail floor space will have a GFA of 1,378m<sup>2</sup> <i>This application proposes 66m<sup>2</sup></i></li> </ul>

# Development Assessment Report

	<ul style="list-style-type: none"> <li>FSR of 1.4 to 1.6:1</li> <li>Up to 2 levels of basement parking and 35 on-street (internal) parking spaces</li> <li>10,093m<sup>2</sup> of publicly accessible open space</li> </ul>	<ul style="list-style-type: none"> <li>The total FSR will be 1.6:1 (rounded down)</li> <li>2 levels basement levels will accommodate a total of 158 vehicles and a total of 37 on-street spaces will be provided (refer also to Condition 4 of the Future Environmental Assessment Requirements) <i>This application proposes 153 basement car spaces (including 14 accessible spaces) and 11 on-street spaces</i></li> <li>The total development will provide the required total of 10,093m<sup>2</sup> of publicly accessible open space required for the whole 4 stages of development. This application provides 672m<sup>2</sup> of publicly accessible open space</li> </ul>
<b>A2</b>	<b>Plans &amp; Documentation</b>	Having regard to the legal advice provided by the Applicant, the proposed development is generally consistent with the requirements of this condition and the plans and documentation approved as part of the Concept Plan; including the <i>Statement of Commitments</i> prepared by SJB Planning dated 5 May 2015.
<b>A3</b>	<b>Inconsistencies Between Documentation</b>	It is noted that in the event of any inconsistency between modifications of the Concept Plan approval identified in this application and the drawings/documents including the Statement of Commitments, the modifications of the Concept Plan shall prevail.
<b>A4</b>	<b>Building Envelopes</b>	Having regard to the legal advice provided by the Applicant the building footprints are generally consistent with the approved Concept Plan.
<b>A5</b>	<b>Maximum Gross Floor Area</b>	Refer to A1 above. The maximum GFA requirements by type or in total for the whole site will not be exceeded.
<b>A6</b>	<b>Maximum Number of Residential Units</b>	Refer to A1 above. The number of dwellings proposed by this development application will maintain the maximum number permitted.
<b>A7</b>	<b>Lapsing of Approval</b>	Approval of the Concept Plan shall lapse 5 years after the determination date shown on this Instrument of Approval, unless an application is submitted to carry out a project or development for which concept approval has been given.  Development consent for Stage 1 was granted on 11 June 2013. Stage 1 and Stage 2 are currently under construction.
<b>Schedule 2: Part B – Modifications</b>		
<b>Clause No.</b>	<b>Condition</b>	<b>Comment</b>
<b>B1 to B3</b>	<b>Building Height</b>	Building 3C, being the 14 storey residential building adapted from the existing grain silo structures will maintain the maximum height of RL 57.5.

<b>Schedule 3: Future Environmental Assessment Requirements</b>		
<b>Clause No.</b>	<b>Condition</b>	<b>Comment</b>
<b>1</b>	<b>Residential Amenity</b>	a) The total development is for 360 units. 70% of this total will receive 3 hours solar access to living areas and balconies in mid-winter. b) More than 60% will be capable of natural cross-ventilation.
<b>2</b>	<b>ESD</b>	The ESD statement prepared by ARUP demonstrates compliance. A BASIX certificate has been completed for the development.
<b>3</b>	<b>Car Parking</b>	153 basement car spaces are provided for as part of this application. This is divided amongst 118 resident spaces, plus 14 visitor spaces and the remaining 21 spaces will service the retail and commercial functions of the

# Development Assessment Report

		<i>Mungo Scott</i> building.
4	<b>On Street Parking</b>	There will be a total of 37 on-street parking spaces provided for the whole development. This is 2 more than the minimum (35) required by the modified Concept Plan.
5	<b>Bicycle Parking</b>	83 bicycle spaces will be provided for the whole development in accordance with the requirements of this condition.
6	<b>Car Share</b>	Not relevant to this application. The required 2 car share spaces were provided in the design for Stage 1.
7	<b>Retail Tenancies</b>	The proposed retail tenancy is 66m <sup>2</sup> which is below the 500m <sup>2</sup> maximum set by this condition.
8	<b>Heritage</b>	A Conservation Management Plan has been submitted.
9	<b>Heritage</b>	The adaptive re-use of the <i>Mungo Scott</i> Building is the subject of a separate development application (DA 10.2015.203 – Stage 3 (DA 2)) was granted development consent by Ashfield Council at its final meeting on 10 May 2015)
10	<b>Heritage</b>	A photographic record of the whole site has previously been lodged with Council.
11	<b>Local Street Design</b>	These requirements have been modified upon the determination of MP10_0155 Modification 2. These internal roads are no longer to be dedicated to Council will remain in private ownership. The internal roads have been designed to Austroads design standards and include foot paths and street planting.
12	<b>Local Street</b>	Applies to Building 1A in Stage 1 only – not applicable to Stage 3.
13	<b>Edward Street Footpath</b>	A condition of consent to Stage 2 satisfies this requirement (DA 10.2014.70 – JRPP Ref: 2014SYE055 DA).
14	<b>Service vehicle access</b>	All waste collection will be via the internal street approved as part of Stage 2.
15 - 17	<b>Road Infrastructure Upgrades</b>	These were assessed as Part of Stage 1 (MP10_0180 was granted on 11 July 2013 (as modified on 3 March 2014))
18 & 19	<b>RMS Requirements</b>	Applies to Stage 3 only and as at the date of this report the Applicant had submitted information to the RMS in order to move towards satisfying these requirements but no response from the RMs had been received. As stated previously in this report, a condition of consent is recommended requiring that the RMS to be satisfied as to all their requirements prior to the issue of an Occupation Certificate.
20	<b>Workplace Travel Plan</b>	Applies to Stage 3 only. A workplace travel plan has been prepared for the development and is included in the traffic and parking study prepared by ARUP.
21 - 22	<b>Landscaping</b>	The proposed landscape works shall include indigenous plant species endemic to the area.
23 - 24	<b>Open Space/Public Access</b>	These requirements have been modified upon the determination of MP10_0155 Modification 2. No area of open space is now to be dedicated to Council. This application proposes 672m <sup>2</sup> of open space that will be publicly accessible, which will contribute towards the minimum requirement of 10,093m <sup>2</sup> . In accordance with this Condition, a maintenance program for the publicly accessible open space will have to be submitted to (and approved by) Council prior to use/occupation of the development.
25	<b>Public Access</b>	These requirements have been modified upon the determination of MP10_0155 Modification 2.

## Development Assessment Report

		Public access to the light rail was provided in the approval of Stage 1. Open space provided for by this current application is private land that will be publicly accessible. The relevant instruments for creating rights of public access are to be executed prior to the commencement of the use/occupation of the development:
26	<b>Light Rail Access</b>	This condition was addressed in Stage 1.
27	<b>Flora and Fauna</b>	An ecologist will check the site prior to works commencing. The proposed Construction Management Plan includes worker induction on the Long-Eared Bandicoot. Perimeter fencing along the rail corridor will prevent movement of ground fauna across the site.
28	<b>S94 Contributions</b>	Conditions requiring the payment of contributions under Council's s94 Plan are recommended. No part of the existing development on this site provides any offsets.
29	<b>Noise and Vibration Impacts</b>	An acoustic report was submitted with this application and this was referred to Sydney Trains for review. Sydney Trains has not raise any objection on these grounds and has recommended a condition requiring a final acoustic assessment based on the final approved development be prepared in compliance with the Department of Planning's guidelines.
30	<b>Adaptable Housing</b>	135 units are proposed under this current application. 14 are proposed as "adaptable". This is in accordance with the requirement for 10% of the total.
31 -34	<b>Flooding</b>	Flood modelling for the entire site has been completed. A review of flooding issues was undertaken for Stages 3 & 4 and accompanies this application. The submitted design provides for 500mm freeboard for residential floor levels and basement level entry crests. A draft flood emergency response plan has been submitted with this application.
35	<b>Stormwater</b>	This applies to Stage 4 only.
36	<b>Consultation with Transport NSW</b>	Recommended conditions have been provided to Council by Sydney Trains.
37	<b>Flood Impacts – Building 2A (Mungo Scott building)</b>	Not relevant to this application as it only relates to Building 2A.
38	<b>Consultation with Sydney Water</b>	This was carried out in Stage 1.
38 to 40	<b>Sydney Water Requirements</b>	The report from NPC confirms the WSUD treatment plan achieves the required pollution and nutrient load reductions in stormwater runoff.
41	<b>Groundwater</b>	Investigations are ongoing as work progresses and in accordance with the recommendations of the <i>Environmental Site Assessment</i> report by Aargus (June 2008) submitted with this (and previous) application.
42	<b>Contamination</b>	There is a Remedial Action Plan to remediate affected parts of the entire site which have been identified as contaminated/potentially contaminated with the Aargus Environmental Site Assessment dated June 2008.
43	<b>Railcorp Requirements</b>	Recommended conditions have been provided to Council by Sydney Trains in relation to these requirements.

# Development Assessment Report

Schedule 4: Statement of Commitments (SJB: 5 May 2015)		
Clause No.	Condition	Comment
1	<b>Construction Management</b>	A condition is recommended requiring the preparation of a Construction Management Plan.
2	<b>BCA Compliance</b>	All building and structures over the entire site are required to be constructed in accordance with the Building Code of Australia (BCA). A BCA compliance report was submitted with this application.
3	<b>Augmentation of Utilities</b>	The subject site is capable of being serviced. The approval for connection to existing utility service will be obtained, and any required augmentation works will be undertaken.
4	<b>Section 94</b>	The s.94 contributions calculated to apply to this application total \$1,952,755.40
5	<b>Public Domain</b>	As part of this proposed development 672m <sup>2</sup> of open space will be publicly accessible. The embellishment and establishment of all public access areas to be completed prior to the final Occupation Certificate for the development.
6	<b>Remediation of Land</b>	As part of the approval of Stage 1, a Remediation Action Plan was approved for the entire site for those areas identified as contaminated/potentially contaminated with the Aargus Environmental Site Assessment dated June 2008.
7	<b>Transport Management</b>	The relevant intersection and traffic management upgrades are to be approved by the RMS and will be provided prior to the issue of an Occupation Certificate.
8	<b>Car Share</b>	Not relevant to this application as this formed part of the Stage 1 approval.
9	<b>Bicycle Facilities</b>	83 bicycle spaces will be provided for the whole development in accordance with Council's requirements.
10	<b>Ecologically Sustainable Development (ESD)</b>	The proposed development is accompanied by an ESD statement.
11	<b>Water Sensitive Urban Design (WSUD)</b>	WSUD have been incorporated into the design.
12	<b>Flood Management</b>	Flood risk and mitigation measures have been incorporated into the design. The objective of all proposed measures and strategies is to manage and where possible minimise the potential flood hazard posed by flood waters from the Sydney Water culvert that traverses beneath the adjoining light rail corridor.
13	<b>Noise Mitigation</b>	Recommended noise and vibration mitigation measures are required to be implemented.
14	<b>Aboriginal Archaeology</b>	The recommendations and requirements of the Aboriginal Archaeology assessment undertaken by AHMS will be implemented in all Stages of development.
15	<b>Affordable rental housing</b>	Not relevant to this application. To be provided in Stage 4.
16	<b>Design Guidelines Building 1A</b>	Not relevant to this application.



## Development Assessment Report

- State Environmental Planning Policy No. 55 - Remediation of land

The approved Concept Plan was the subject of an Environmental Site Assessment (ESA). The ESA specified that a Remediation Action Plan (RAP) be prepared for the areas of potential contamination.

- State Environmental Planning Policy (Infrastructure) 2007

The site is located immediately adjacent to a rail corridor. Clauses 85 and 86 of *State Environmental Planning Policy (Infrastructure) 2007* provide guidelines for development immediately adjacent to rail corridors including excavation in, above or adjacent to rail corridors. Clause 87 of the SEPP relates to the impact of rail noise or vibration on non-rail development, and for a development for the purpose of a building for residential use, requires appropriate measures are incorporated into such developments to ensure that certain noise levels are not exceeded. The development also involves excavation works in the vicinity of a Rail Corridor.

The application was referred to the Sydney Trains on the 9 February 2016. A response has been received from Sydney Trains with recommended conditions of consent, which have been incorporated into the recommendation attached to this report.

The application was also referred to the Roads and Maritime Services on 12 February 2016, as the proposal is a Traffic Generating Development under the provisions of Schedule 3 of the SEPP. As at the date of preparing this report, no response from the RMS had been received. Notwithstanding, conditions have been recommended to require the Applicant to satisfy the requirements of the RMS; particularly the RMS requirements included in Conditions 18 and 19 of the Concept Plan Approval.

- State Environmental Planning Policy (BASIX) 2004

An ESD Report has been prepared by ARUP and accompanies this application. This report proposes energy and water saving initiatives proposed and provides an assessment that this development is capable of achieving BASIX compliance. BASIX certification of this development is provided.

- State Environmental Planning Policy No. 65 - Design Quality Of Residential Flat Development

Condition 1 of Schedule 3 of the Concept Plan Approval requires future applications to demonstrate compliance with this SEPP and the accompanying *Residential Flat Design Code* (now the *Apartment Design Guidelines* (ADG)).

The Development Application was lodged on 16 October 2015. The direction from the Department of Planning and Environment is as follows:

*"For apartment development applications lodged from 19 June 2015 and determined after 17 July 2015, the Apartment Design Guide, along with the changes to SEPP 65 applies."*

## Development Assessment Report

Having regard to the above, the application is therefore subject to the relevant design criteria contained within the Apartment Design Guide.

Clause 6A of the SEPP provides that development control plans cannot be inconsistent with the Apartment Design Guide and applies in respect of the objectives, design criteria and design guidance set out in Parts 3 and 4 of the Apartment Design Guide. In addition, the subject site is covered by a Concept Plan Approval which stipulates various conditions and requirements that must be complied with and these override any development control plan.

Clause 30(1) of the SEPP provides the following:

*“If an application for the modification of a development consent or a development application for the carrying out of development to which this Policy applies satisfies the following design criteria, the consent authority must not refuse the application because of those matters:*

- (a) if the car parking for the building will be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,*
- (b) if the internal area for each apartment will be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide,*
- (c) if the ceiling heights for the building will be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.”*

The proposed development satisfies the Concept Plan requirements for car parking. Further, as the proposal complies with the minimum internal area for apartments specified in Part 4D of the ADG, this standard cannot be used as grounds for refusal.

Notwithstanding the above, the proposal does not fully meet the ADG design criteria for visual privacy (building separation).

The Design Criteria for visual privacy states that minimum separation distances between windows and balconies is provided are to ensure visual privacy is achieved.

<b>ADG SEPARATION REQUIREMENTS</b>		
<b>Building Height</b>	<b>Habitable rooms &amp; balconies</b>	<b>Non-habitable rooms</b>
<i>Up to 12m (4 storeys)</i>	<i>6m</i>	<i>3m</i>
<i>Up to 25m (5-8 storeys)</i>	<i>9m</i>	<i>4.5m</i>
<i>Over 25m (9+ storeys)</i>	<i>12m</i>	<i>6m</i>

The non-compliances are:-

- Building 3A – Level 5 which has a varying separation distance of 10m – 12m from the balconies on that level and the commercial levels in the adjoining *Mungo Scott* building. The requirements is for 12m for all the balconies on this level.
- Building 3B & 3C – Ground to Level 4 which has a separation distance between the habitable rooms/balconies of 10m when the requirement is for 12m.

The objective of the Design Criteria relating to visual privacy is as follows:

## Development Assessment Report

*Adequate building separation distances are shared equitably between neighbouring sites to achieve reasonable levels of external and internal visual privacy.*

Despite not achieving strict compliance with the separation requirements, the proposal is considered to be consistent with the intent of the controls as detailed below:

- Windows are designed to allow for light and ventilation without enabling direct opportunities for lines of sight to the active living areas of the adjoining property.
- The footprint of the higher levels of these buildings does not change from the lower levels and this results in the minor non-compliances with the setback controls on the lower levels.
- The building setback increases at the higher levels which in the context of the proposed development is an appropriate design solution to achieve the permitted FSR at the site. The proposal represents an efficient allocation of the permitted density at the site
- In terms of the building separation within the site, adequate privacy measures have been incorporated into the design of the building such that there will be minimal internally overlooking within the site.

In light of the above, the proposal ensures that an appropriate degree of visual privacy is maintained between dwellings for future residents.

SEPP 65 Objectives and Principles have been taken into consideration, as have the relevant guidelines in the Apartment Design Guide. This application has been assessed against the relevant design quality principles contained within the SEPP as follows:

### (i) Context

The Context for the site is:-

- “infill development” within a Heritage Item site, a place which was originally a light industrial use in that it manufactured flour and related products distributed throughout Sydney.
- a Concept Plan approval has been given which included diagrams showing the placement of buildings on the site, the maximum height of buildings, the minimum amount of open space.
- An interface with “railways land” where Council wishes to pursue a proposed “GreenWay” which will be a regional pedestrian and bike trail linking the Iron Cove to Cooks River.

### (ii) Built Form & Scale

The building scale, building bulk and location, generally accords with the Concept Plan approval. The development responds to the desired future scale and character of the site. The height of the development overall is acceptable in terms of solar

## Development Assessment Report

access and residential amenity impacts. The setbacks allow for landscape areas, entrances and deep-soil zones. The proposal addresses matters such as privacy and open space matters.

The design of the building elements provide an architectural character particular to this site. The ultimate form of development is achieved in the articulation of the elevations and the selection of colours and materials.

### (iii) Density

The proposal provides an appropriate built form outcome and complies with the maximum Floor Space Ratio requirements for the site reflecting the desired density range for the site.

### (iv) Sustainability

The design achieves good natural ventilation and will minimise the dependency on energy resources in heating and cooling. The achievement of these goals then contributes significantly to the reduction of energy consumption, resulting in a lower use of valuable resources and the reduction of costs.

### (v) Landscape

The landscape plan indicates that all open spaces will be appropriately landscaped with native trees and shrubs to provide a high quality finish. The proposed landscaping integrates with the overall appearance of the development.

### (vi) Amenity

The building design has generally been developed to provide for the amenity of the occupants as well as the public domain. However, as portrayed in the 3 dimensional solar access diagrams, many of the lower level apartments of Building 3A and 3B will receive either very little or no solar access during winter, as shown below:-



9am – Winter Solstice



Noon – Winter Solstice

This situation has resulted from having to locate buildings within a heritage listed site and having to contend with the location of the historic *Mungo Scott* building and the historic silo buildings. Given this “heritage conservation situation”, a relaxation of the

## Development Assessment Report

ADG building separation (privacy) guidelines can be supported. Any alternative would require a major change to the location and configuration of buildings approved under the Concept Plan.

### (vii) Safety

As explained in the Design Verification Statement, the site will have good levels of surveillance of the public areas.

### (viii) Housing Diversity & Social Interaction

The location of this development provides a good mix of dwelling size within a precinct that will provide in the future, a range of support services.

### (ix) Aesthetics

The Context of this site has an influence on the architectural composition ("aesthetics") and urban design of the proposal.

The Design Verification Statement explains that the *"design makes strong references to the industrial aesthetic and history of the site, building upon the qualities of the existing and former structures on the site, whilst also taking special care to give each building its unique character and identity"*.

*"The design of the façade with its continuous textured skin and vertical expression strongly evokes the aesthetic qualities of the former structure which was characterised by continuous corrugated metal cladding and monolithic expression"*.

Generally, the chosen building style in Stage 3 is in contrast to the style of the prominent former timber framed silo building (now demolished) and brick *Mungo Scott* building. Within the circumstances of the Concept Plan approval, the historic industrial nature of the site gives some license to entertain what would otherwise be considered "quasi brutalist" buildings.

There will be a long wall along the boundary with the railways land approximately 120 metres in length, being also the boundary with the future GreenWay proposal, required to keep out stormwater in the event of flood. This might eventuate to be a high wall, and it is under documented and it would be unfortunate if it was to be a blank rendered wall subject to graffiti. Under the GreenWay proposal there will be pedestrian and bike paths along this wall within the railway lands, with a very high number of users, noting in this area there will be around 3000 new residents. This is a matter that will be finally determined by Sydney Trains.

In summary, SEPP 65 Objectives and Principles have been taken into consideration, as have the relevant guidelines in the *Apartment Design Guide*. For the reasons stated above, the proposal is found to be satisfactory due to the following circumstances, providing the matters below are addressed:-

- With regard to the Context, Scale, Amenity, and Aesthetic Principles, most of the site layout and building form (including height) results from the Concept Plan approval. This results in some parts of the proposal not being precisely compliant with some guidelines in the ADG, such as for Buildings 3A/B and inadequate building separation for privacy and low resident amenity in terms of

## Development Assessment Report

winter solar access for lower level apartments. However, given that the location of Building 3A/B is required to respond to the site being a heritage item (i.e. it reflects the location of the demolished historic timber silo building), these guideline non compliances can be accepted in these circumstances.

- With regard to the Context Principle, the proposal's 120 metre long boundary wall with the future GreenWay should be designed to ensure that it is not a blank monolithic concrete wall. Under the GreenWay proposal there will be pedestrian and bike paths along this wall within the railway lands, with a very high number of users being affected, and the visual quality of the GreenWay corridor also being affected. Final details of design will depend on the approval of Sydney Trains.

### **7.2 The provisions of any Draft Environmental Planning Instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority.**

No draft environmental planning instruments apply to the land.

### **7.3 The provisions of any Development Control Plan.**

The Ashfield Interim Development Assessment Policy 2013 came into effect in February 2014 pursuant to Section 79C of the Environmental Planning and Assessment Act (public interest provisions). The Interim Policy will be used to assess development applications submitted under the Ashfield LEP 2013 and for administrative purposes. The Policy will remain in place until a new comprehensive Ashfield Development Control Plan (DCP) is adopted by Council. It is considered the application is consistent with the aims and objectives of the AIDAP 2013.

Council has prepared a new Draft Comprehensive Development Control Plan for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park & Summer Hill. This applies to the area affected by the Ashfield Local Environmental Plan 2013, and contained within the former Ashfield LGA. The draft Ashfield DCP is proposed to replace the Ashfield Development Control Plan 2007. It is considered the application is consistent with the aims and objectives of the Draft DCP.

### **7.4 Any matters prescribed by the regulations that apply to the land to which the development application relates.**

These matters have been considered as part of the assessment of the development application.

### **7.5 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality.**

These matters have been considered as part of the assessment of the development application. It is considered that the proposed development will have no significant adverse environmental, social or economic impacts upon the locality.

### **7.6 The suitability of the site for the development**

# Development Assessment Report

These matters have been considered as part of the assessment of the development application. Although subject to flooding and impacted by minor contamination issues, suitable engineering and remedial measures will be implemented to mitigate potential adverse impacts. The proposed development is consequently considered suitable in the context of the locality.

## 7.7 Any submissions made in accordance with this Act or the regulations

The proposal was notified to all adjoining and nearby affected property owners and occupants and Councillors on 2 occasions; from 4 November 2015 until 26 November 2015. Notification was checked during site inspection and was acceptable.

### 7.7.1 Summary of submissions

Two (2) submissions were received.

#### **A summary of the issues raised in submissions follows:**

- The changes to the design of the basement car park from the Concept Plan brings it closer to the common boundary and results in:
  - Unreasonable excavation impacts; particularly vibration and noise
  - Unreasonable fumes and noise from the car park once operating
  - Substation is now too close to the common boundary
- The private road running behind the properties in Edward Street should provide rear vehicular access to those properties
- The proposed retaining wall along the rear common boundary should be no higher than the landfall on the properties 32 to 38 Edward Street
- The submitted design is not clear on the location of waste bin storage areas for the development
- Construction Issues:
  - Noise and vibration
  - Dust
  - Construction traffic
  - A dilapidation report should be required
- The 2 additional storeys to the existing silo structure (4 pack building) will make it 14 storeys and out of context with surrounding development. It will also provide opportunities for direct overlooking of surrounding backyards resulting in a loss of privacy and amenity.

#### **The Applicant has provided a response to the issues raised as follows:-**

- *Construction impacts could be managed through a standard condition on construction hours. Any excavation will be in accordance with geotechnical advice noting that a significant area of the basement was already approved as part of the stage 2 works.*
- *Car park access is consistent with the concept approval and will be exhausted centrally on the site.*
- *Substation has been positioned with reference to authority requirements and is in an accessible location as required by Ausgrid.*
- *The road is private and the Concept Plan does not require additional access to be provided to other properties by this road. The general access required is for pedestrian access through the development.*
- *The height of the retaining wall is only sufficient to ensure that adjacent land is supported.*



# Development Assessment Report

- *The waste rooms are clearly delineated in the basement of the development.*
- *The imposition of standard conditions on (construction) impact mitigation is expected to be imposed on any consent issued. "A dilapidation report should be required" – A condition of consent could be imposed if deemed necessary.*
- *The additions to the silos were specifically addressed in the Concept Plan approval and the separation distances to other dwellings found to be well above the now applicable ADG distances that guide the suitable separations to support the maintenance of privacy*

## Planner's comments

- It is considered that the Applicant has provided reasonable responses to the issues raised.
- Construction activities will be required to be properly managed through the imposition of appropriate conditions of consent.
- The issues raised regarding the potential overlooking and loss of privacy were matters that were explored in the development of the approved Concept Plan.

## 7.8 The public interest

The proposal allows for urban renewal through the adaptive re-use of a disused heritage listed industrial site in a manner which preserves the historic significance of the site while creating a useful contemporary addition to the urban fabric.

In particular, it will contribute positively to the local area with the provision of mixed use residential, retail and commercial facilities alongside high quality public open space in close proximity to a public transit node and will serve to improve its integration into the existing urban framework.

Adverse impacts upon the surrounding residential neighbourhood are avoided by way of careful site planning which centres the larger scale elements around the existing industrial structures and away from the existing lower scale development nearby. Given these considerations, it is considered that the proposal provides significant public benefit.

## 8.0 Internal Referrals

Internal Referrals	
Officer	Comments
Building Surveyor	Supported subject to conditions of consent.
Traffic Engineer	Advice provided by Council's Traffic Engineer that some minor design changes are required for the proposed basement car parking to fully comply with the relevant design standards.  A condition is included requiring the preparation of amended plans and specifications prior to the issue of a Construction Certificate demonstrating that the vehicular access and off street parking facilities will comply with the relevant provisions of Australian Standards, including but not limited to AS/NZS 2890.1-2004 <i>Parking Facilities - Off-Street Car Parking</i> , AS 2890.2-2002 <i>Parking Facilities - Off-Street commercial vehicles facilities</i> , AS/NZS 2890.6-2009 <i>Off-street parking for people with disabilities</i> and AS 2890.3-1993 <i>Parking Facilities - Bicycle parking facilities</i>
Drainage Engineer	Supported subject to application of conditions.
Heritage Adviser	Supports the application as submitted.

# Development Assessment Report

## 8.2 External Referrals

External Referrals	
Referral Body	Comments
Sydney Trains	A letter dated 18 July 2016 with recommended conditions to apply to this development in accordance with clause 86(1) of the State Environmental Planning Policy (Infrastructure) 2007. The recommended conditions (including a deferred commencement condition) are included under the heading <i>Sydney Trains</i> in the attachment to this report.
Roads & Maritime Services (RMS)	This DA was forwarded to the RMS on 12 February 2016 under clause 104 of the <i>State Environmental Planning Policy (Infrastructure) 2007</i> , as a Traffic Generating Development as specified in Schedule 3.  As at the date of this report no response has been received. Notwithstanding that no response has been received, the consent authority is only required to take into consideration of any submission that the RMS provides within 21 days after the notice was given. The relevant 21 day period expired on 4 March 2016.

## 9.0 Building Code of Australia (BCA)

A Construction Certificate will be required to be applied for by condition of consent.

## 10.0 Financial Implications

Should the application be approved, it will be subject to the following section 94 contributions:

**Development Application # :** DA 202/2015  
**Property Address:** 2-32 Smith Street, SUMMER HILL  
**CPI Quarter:** Mar-16

<u>Community Infrastructure Type</u>	<u>Contribution</u>
Local Roads	\$51,869.15
Local Public Transport Facilities	\$101,148.02
Local Car Parking Facilities	\$0.00
Local Open Space and Recreation Facilities	\$1,633,161.27
Local Community Facilities	\$85,507.83
Plan Preparation and Administration	\$81,069.12
<b>TOTAL</b>	<b>\$1,952,755.40</b>

# **Development Assessment Report**

## **11.0 Public Consultation**

See 7.7

## **12.0 Conclusion**

The application has been assessed in accordance with the provisions of the Environmental Planning and Assessment Act, 1979 as amended with all matters specified under Section 79C (1) Clauses (a) to (e) having been taken into consideration.

The proposal is considered to be positive contribution to the locality which successfully balances the appropriate adaptive re-use of this heritage listed site with residential, retail and commercial uses, ready access to public transport, public open space and the amenity of the existing surrounding population.

The proposal is generally acceptable and is recommended for conditional approval.

## **13.0 ATTACHMENTS**

Attachment 1 – Submissions

Attachment 2 – Heritage Advisor's comments

Attachment 3 – Sydney Trains letter to Ashfield Council dated 18 July 2016

Attachment 4 – Conditions

Attachment 5 – Plans of the proposed development

## **14.0 RECOMMENDATION**

**A That Sydney East Joint Regional Planning Panel as the consent authority pursuant to Clause 80(1) of the Environmental Planning and Assessment Act 1979 (as amended) grant deferred commencement consent to Development Application No. 10.2015.202.1 for the following:-**

- a) Demolition of a number of disused buildings and structures**
- b) Excavation and construction of two (2) levels of basement car parking (incorporating waste storage and plant facilities)**
- c) Construction of a new nine (9) storey residential flat building comprising of 52 dwellings, (with one ground floor commercial tenancy having a floor area of 66 m2) referred to on the DA plans as Building 3A & 3B**
- d) Adaptation, refurbishment and conversion of an existing grain silo building, comprising four silos to a 14 storey residential flat building comprising of 56 dwellings, referred to on the DA plans as Building 3C**
- e) Construction of a new nine (9) storey residential flat building comprising 27 dwellings, referred to on the DA plans as Building 3D**
- f) New shared way (private) street access (as an extension of the roadway approved for Stage 2), which provides 11 street parking spaces and pedestrian access to residential lobbies**
- g) Subdivision of the Stage 3 part of the site into 3 lots**

## **Development Assessment Report**

**on Lot 1, DP 951124, Lot 1, DP 955001, Lots 11, 13 & 14, DP 315, Lots A & B, DP 302421, part Lot 1, DP 73521, and part Lot 100, DP 221222, known as 2-32 Smith Street, Summer Hill, subject to the recommended conditions:**

### **Conditions**

See over.

# Development Assessment Report

## CONDITIONS

**DA 2015.202.1**

2-32 Smith Street SUMMER HILL 2130

### **A. DEFERRED COMMENCEMENT CONDITIONS**

The deferred commencement conditions listed below are to be satisfied within 12 month from the date of issue of this deferred commencement consent. Failure to satisfy those conditions within the specified time frame will cause this consent to lapse despite any other statement on this consent.

The correspondence issued by Council, once the above conditions are satisfied, and any associated documents submitted to satisfy the deferred commencement conditions are to form part of this consent and the correspondence is to be provided to the Principal Certifying Authority with the Construction Certificate as applicable.

1. This consent is not to operate until the Applicant satisfies the Council, within 12 months of the date of this consent, that it has obtained approval/certification from Sydney Trains as to the following matters and the approval/certification has been forwarded to the Council:

The Applicant shall prepare and provide to Sydney Trains for approval/certification the following items:

- (1) An FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor. The analysis is required to predict ground movements associated with the proposed shoring system.

Any conditions issued as part of Sydney Trains approval/certification of the above documents will also form part of the consent conditions that the Applicant is required to comply with.

### **B. GENERAL CONDITIONS**

#### **(1) Approved plans stamped by Council**

The development must be carried out only in accordance with the plans and specifications set out in the table below and stamped as approved by Council, and any supporting documentation received with the application, except as amended by the conditions specified hereunder.

Drawing Number	Revision	Date	Title	Prepared By
ST3_DA1_001	A	06.10.2015	Cover Sheet	Hassell
ST3_DA1_011	B	24.06.2016	Site Plan	Hassell
ST3_DA1_012	B	24.06.2016	Subdivision Plan	Hassell
ST3_DA1_040	B	24.06.2016	Construction Management Plan	Hassell
ST3_DA1_050	A	06.10.2015	Demolition Plan	Hassell
ST3_DA1_095	B	24.06.2016	Basement 2 Plan	Hassell
ST3_DA1_096	B	24.06.2016	Basement 1 Plan	Hassell
ST3_DA1_100	B	24.06.2016	Ground Floor Plan	Hassell
ST3_DA1_101	B	24.06.2016	Level 1 Floor Plan	Hassell
ST3_DA1_102	B	24.06.2016	Levels 2 - 3 Floor Plan	Hassell
ST3_DA1_103	B	24.06.2016	Levels 4 - 8 Floor Plan	Hassell
ST3_DA1_104	B	24.06.2016	Levels 9 – 11 Floor Plan	Hassell

## Development Assessment Report

ST3_DA1_105	B	24.06.2016	Levels 12 – 13 Floor Plan	Hassell
ST3_DA1_106	B	24.06.2016	Level 14 Plant Room Floor Plan	Hassell
ST3_DA1_110	B	24.06.2016	Roof Plan	Hassell
ST3_DA1_120	B	24.06.2016	Adaptable Apartments	Hassell
ST3_DA1_300	B	24.06.2016	Elevations Sheet 01	Hassell
ST3_DA1_301	B	24.06.2016	Elevations Sheet 02	Hassell
ST3_DA1_302	B	24.06.2016	Elevations Sheet 03	Hassell
ST3_DA1_303	B	24.06.2016	Elevations Sheet 04	Hassell
ST3_DA1_500	A	06.10.2015	Sections Sheet 01	Hassell
ST3_DA1_501	A	06.10.2015	Sections Sheet 02	Hassell
ST3_DA1_600	<i>"Issue for Coordination"</i> dated 25.09.15		Material Board	Hassell
ST3_DA1_700	A	06.10.2015	Apartment Key Plan	Hassell
ST3_DA1_701	B	24.06.2016	Area Schedule	Hassell
ST3_DA1_L001	C	24.06.2016	Cover Sheet & Material Palette	Hassell
ST3_DA1_L111	B	24.06.2016	Landscape Site Plan	Hassell
ST3_DA1_L112	B	24.06.2016	Tree Removal Plan	Hassell
ST3_DA1_L201	C	24.06.2016	Landscape Plan 1	Hassell
ST3_DA1_L202	B	24.06.2016	Landscape Plan 2	Hassell
ST3_DA1_L501	B	24.06.2016	Planting Plan 1	Hassell
ST3_DA1_L502	B	24.06.2016	Planting Plan 2	Hassell
ST3_DA1_L601	B	24.06.2016	Landscape Sections – Sheet 1	Hassell
ST3_DA1_L602	B	24.06.2016	Landscape Sections – Sheet 2	Hassell
ST3_DA1_L603	B	24.06.2016	Landscape Elevations	Hassell
ST3_DA1_L604	B	24.06.2016	Landscape Sections – Sheet 4	Hassell
ST3_DA1_L701	B	24.06.2016	Typical Details	Hassell
Supporting Document/Plan Title			Prepared By	Date
Statement of Environmental Effects			SJB Planning	October 2015
Summer Hill Flour Mill Project (Stage 3) SEPP 65 Statement			Hassell (Matthew Pullinger – Registered Architect 6226)	June 2016
Summer Hill Flour Mill – Stages 3 & 4 Design Report – Revision B			Hassell	24.06.2016
BERS Analysis Report - Job Number 226506			ARUP	02.10.2015
BASIX Certificate No: 670552M			Arup Pty Ltd	11.08.2016
Traffic and Parking Study – Stage 3 and 4 Job No: 220640			ARUP	01.10.2015

# Development Assessment Report

Workplace Travel Plan – Job No: 220640	ARUP	01.10.2015
Tree Assessment–Summer Hill Flour Mill Stages 3 & 4	Stuart Pittendrigh	May 2015
BCA Capability Report	Vic Lilli & Partners Consulting	30.09.2015
Civil Engineering Report – Revision A	James Taylor & Associates	September 2015
Statement of Heritage Impact	John Graham & Associates	13.08.2015
Conservation Management Plan	John Graham & Associates	25.09.2015
Detailed Environmental Site Assessment	Aargus Pty Ltd	June 2008
Geotechnical Investigation Report–Report No: SE07146-A	Aargus Pty Ltd	17.02.2011
Review of Flooding Issues – Job No: 2521	NPC	October 2015
Noise Impact Assessment – Revision 3	Acoustic Logic	06.10.2015
Waste Management Plan – Revision B	Elephants Foot Waste Compactors P/L	28.09.2015
Access Report – Summer Hill Flour Mill - Stage 3 & 4	Mark Relf	14.10.2015
Plan Showing Detail Over Part of the Site – Revision 9	Aurecon	07.09.2015

In the event of any inconsistency between the approved plans and the conditions, the conditions will prevail.

Where there is an inconsistency between approved elevations and floor plan, the elevation shall prevail.

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

The existing elements (walls, floors etc...) shown to be retained on the approved plans shall not be removed, altered or rebuilt without prior consent of the consent authority.

**Note:** Carrying out of works contrary to the above plans and/ or conditions may invalidate this consent; result in orders, on the spot fines or legal proceedings.

If the estimated cost of works for the construction certificate application exceeds the estimate supplied with the development application, an additional fee and any contributions and bonds based on the revised estimate must be paid to Council prior to the release of the Construction Certificate.

## (2) Land to which Consent Applies

This consent applies only to the land identified as Stage 3 for DA 1 on drawing number ST3-DA-011 Revision B dated 24.06.2015 prepared by Hassell.

## (3) Lodgement of separate development application

A separate development application is to be submitted to Ashfield Council for the use and fit-out of the proposed retail and commercial tenancies including any advertising.

## (4) Sydney Trains Conditions

B1. Unless amendments are required by Sydney Trains as part of the review and approval/certification of the documentation listed in Deferred Commencement Condition 4



# Development Assessment Report

and/or condition B2 below, all excavation and construction works are to be undertaken in accordance with the details, methodology, advice, undertakings and recommendations detailed in the following documents:

- Geotechnical Investigation prepared by Douglas Partners (Ref:85097.02) dated January 2016.
- Stage 3 Cover Sheet - Drawing No. C.300 Revision C, dated 17/05/2016, prepared by James Taylor & Associates.
- Stage 3 Excavation Plan - Drawing No. C.303 Revision C, dated 21/03/2016, prepared by James Taylor & Associates.
- Stage 3 Piling Elevation Sheet 1 - Drawing No. C.304 Revision B, dated 21/03/2016, prepared by James Taylor & Associates.
- Stage 3 Capping Beam Reinforcement Plans - Drawing No. C.305 Revision B, dated 21/03/2016, prepared by James Taylor & Associates.
- Stage 3 Piling Elevation Section P1 - Drawing No. C.306 Revision B, dated 21/03/2016, prepared by James Taylor & Associates.
- Stage 3 Piling Elevation Section P2 - Drawing No. C.307 Revision B, dated 21/03/2016, prepared by James Taylor & Associates.
- Stage 3 Piling Sections Sheet 1 - Drawing No. C.308 Revision C, dated 17/05/2016, prepared by James Taylor & Associates.
- Stage 3 Piling Sections Sheet 2 - Drawing No. C.309 Revision C, dated 17/05/2016, prepared by James Taylor & Associates.
- Flood Wall Details Sheet 1 - Drawing No. C.510 Revision D, dated 17/05/2016, prepared by James Taylor & Associates.

The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that the documentation listed in this condition have not be superseded with the approval/certification of documentation in compliance with the Deferred Commencement Condition 4 and/or Condition B2 below. Should Sydney Trains advise that any of the documentation listed in this condition have not been superseded, then the measures detailed in those specific documents are to be incorporated into the construction drawings and specifications prior to the issuing of the Construction Certificate. Prior to the commencement of works the Principal Certifying Authority is to provide verification to Sydney Trains that this condition has been complied with.

B2. The Applicant shall prepare and provide to Sydney Trains for approval/certification the following items:

- Ground movement monitoring plan
- The shoring supporting the rail corridor shall be designed for "at rest" pressures. A surcharge loading should also be nominated.
- A Structural Report containing (as a minimum) an outline of the site constraints, the design approach, assumed design criteria, structural analysis (summary at least) and design outcomes (summary at least).
- Revised Drawing No. C.300 that includes minimum required curing times for concrete elements under the construction sequence.
- Revised Drawing No. C.308 that:
  - Indicates how N12-600 galvanised bars are connected to piles (Section 3).
  - Includes details of anchors currently shown as "TBA".
  - Indication of distances/dimension between rail the boundary and nearest building/shoring element.
  - Provision of surface and subsurface drainage details.
- Revised Drawing No. C.309 that:
  - Includes details of anchors currently shown as "TBA".

## Development Assessment Report

- Indication of distances/dimension between rail the boundary and nearest building/shoring element.
- Provision of surface and subsurface drainage details.
- Provision of notes sheet indicating concrete grade, cover to reinforcing and bar lap lengths for all concrete shoring elements.
- Demonstration that there will is no change in the direction or quantity of surface water flows within the rail corridor.
- Revised construction methodology addressing the following items:
  - As the development is more or less at grade with the corridor and immediately adjacent to corridor land, Section 2.1.11 does not contain enough detail when addressing environmental concerns such as spoil and spillage into the corridor.
  - In relation to Section 2.1.13 the light rail operator requires input as to the location of the monitors as well as receiving a copy of the results periodically.
  - Section 2.1.19 is to amend “Trans Dev” to Transdev and that they are the “light rail operator” and not the “light rail authority”
  - Construction methodology to mandate that there will be no access to the rail corridor. If required then this will be via Transdev approval.

Any conditions issued as part of Sydney Trains approval/certification of any of the above documents will also form part of the consent conditions that the Applicant is required to comply with. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming which of the documentation listed in this condition are to now apply and supersede the documentation in Deferred Commencement Condition 4 and/or condition B1. The measures detailed in the documents approved/certified by Sydney Trains under this Condition are to be incorporated into the construction drawings and specifications prior to the issuing of the Construction Certificate. Prior to the commencement of works the Principal Certifying Authority is to provide verification to Sydney Trains that this condition has been complied with.

- B3. All excavation works with 25m of the rail corridor are to be supervised by a geotechnical engineer experienced with such excavation projects.
- B4. No rock anchors/bolts are to be installed into Sydney Trains property.
- B5. The following items are to be submitted to Sydney Trains for review and endorsement prior to the issuing of a Construction Certificate:
- Machinery to be used during excavation/construction.

The Principal Certifying Authority is not to issue the Construction Certificate until it has received written confirmation from Sydney Trains that this condition has been complied with.

- B6. Sydney Trains and Transport for NSW, and persons authorised by it for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or are being constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought.
- B7. Copies of any certificates, drawings or approvals given to or issued by Sydney Trains, Transport for NSW or the light rail operator must be submitted to Council for its records.
- B8. Prior to the commencement of works and prior to the issue of the Occupation Certificate, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from the light rail operator Transdev and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.

## Development Assessment Report

- B9. A final acoustic assessment based on the final approved development is to be prepared in compliance with the Department of Planning's document titled "*Development Near Rail Corridors and Busy Roads- Interim Guidelines*" and submitted to Council.
- B10. A final Electrolysis Report based on the final approved development is to be prepared prior to the issue of a construction certificate. The Applicant must incorporate in the development all the measures recommended in the report to control that risk.
- B11. Given the possible likelihood of objects being dropped or thrown onto the rail corridor from balconies, windows and other external features (e.g. roof terraces and external fire escapes) that are within 20m and face the rail corridor, the Applicant is required to install measures (e.g. awning windows, louvres, enclosed balconies, window restrictors etc.) which prevent the throwing of objects onto the rail corridor. These measures are to comply with Sydney Trains requirements. The Principal Certifying Authority is not to issue the Construction Certificate until it has confirmed that these measures are to be installed and have been indicated on the Construction Drawings.
- B12. The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of the light rail operator.

The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the light rail operator confirming that this condition has been satisfied.

- B15. Prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains and the light rail operator for review and comment on the impacts on rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains and the light rail operator confirming that this condition has been satisfied.
- B16. No metal ladders, tapes and plant/machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment. This applies to the train pantographs and catenary, contact and pull-off wires of the adjacent tracks, and to any high voltage aerial supplies within or adjacent to the rail corridor.
- B17. Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains and the light rail operator a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains and light rail operator requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains and the light rail operator confirming that this condition has been satisfied.
- B18. Rainwater from the roof must not be projected and/or falling into the rail corridor and must be piped down the face of the building which faces the rail corridor.
- B19. Prior to the commencement of works appropriate fencing is to be in place along the rail corridor to prevent unauthorised access to the rail corridor during construction. Details of the type of fencing and the method of erection are to be to the satisfaction of Sydney Trains and the light rail operator prior to the fencing work being undertaken.
- B20. The development shall have appropriate fencing fit for the future usage of the development site to prevent unauthorised access to the rail corridor by future occupants of the development. Prior to the issuing of an Occupation Certificate the Applicant shall liaise with Sydney Trains and the light rail operator regarding the type of new fencing to be installed. The method of erection is to be to the satisfaction of Sydney Trains and the light rail operator prior to the fencing work being undertaken.
- B21. The developer must provide a plan of how future maintenance of the development facing the rail corridor is to be undertaken. The maintenance plan is to be submitted to Sydney Trains

## Development Assessment Report

and the light rail operator prior to the issuing of the Occupancy Certificate. The Principal Certifying Authority is not to issue an Occupation Certificate until written confirmation has been received from Sydney Trains and the light rail operator advising that the maintenance plan has been prepared to its satisfaction.

- B22. No scaffolding is to be used facing the rail corridor unless prior written approval has been obtained from the light rail operator. To obtain approval the proponent will be required to submit details of the scaffolding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor. Unless agreed to by the light rail operator in writing, scaffolding shall not be erected without isolation and protection panels.
- B23. Prior to the issue of a Construction Certificate the Applicant is to submit to Sydney Trains the demolition, excavation and construction methodology and staging for review and endorsement. The Principle Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- B24. Prior to the undertaking of works or the issuing of a Construction Certificate (whichever occurs first), the Applicant must hold current public liability insurance cover for a sum to be determined by Sydney Trains the light rail operator. This insurance shall not contain any exclusion in relation to works on or near the rail corridor and rail infrastructure. The Applicant is to contact Sydney Trains Rail Corridor Management Group and the light rail operator to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains and light rail operator written advice to the Applicant on the level of insurance required.
- B25. Prior to the undertaking of works or the issuing of a Construction Certificate (whichever occurs first), the Applicant is to contact Sydney Trains Rail Corridor Management Group and the light rail operator to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the entire works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains and the light rail operator. Prior to the issuing of the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains and the light rail operator confirming the lodgement of this Bond/Bank Guarantee.
- B26. Drainage from the development must be adequately disposed of/managed and not allowed to be discharged into the corridor unless prior approval has been obtained from Sydney Trains.
- B27. All proposed new buildings shall have a minimum 900mm setback from the rail corridor boundary and/or easement. Prior to the commencement of works the Registered Surveyor shall clearly peg-out this setback to ensure there is no encroachment.
- B28. Prior to the issuing of an Occupation Certificate the Applicant is to submit the as-built drawings to Sydney Trains and Council. The as-built drawings shall indicate that there has been no encroachment into the rail corridor and that a 900mm setback has been provided for all new buildings. The Principal Certifying Authority is not to issue the Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- B29. No work (including the installation of sedimentation control) is permitted within the rail corridor, or its easements, at any time unless prior approval or an Agreement has been entered into with Sydney Trains, Transport for NSW and the light rail operator. Where the Applicant proposes to enter the rail corridor, the Principal Certifying Authority shall not issue a Construction Certificate until written confirmation has been received from those entities confirming that its approval has been granted.
- B30. There is a need to ensure that the roots and foliage of trees being planted beside the rail corridor do not have an impact on the rail corridor. The development landscaping and planting plan should be submitted to the light rail operator for review and endorsement.

# Development Assessment Report

- B31. Where a condition of consent requires Sydney Trains, Transport for NSW and light rail operator endorsement the Principal Certifying Authority is not to issue a Construction Certificate or Occupancy Certificate, as the case may be, until written confirmation has been received from those entities that the particular condition has been complied with.

## **(5) Roads and Maritime Services Conditions**

- a) Prior to the issuing of a Construction Certificate the Applicant is to liaise and obtain all necessary approvals and requirements of the Roads and Maritime Services.
- b) Prior to the issue of a Construction Certificate the applicant is to contact Roads and Maritime Services to determine the need for the lodgement of a Bank Guarantee for the duration of the works.
- c) Prior to issue of any Occupation Certificate the applicant shall submit to Council a certificate or letter from Roads and Maritime Services demonstrating compliance with requirements or conditions of Roads and Maritime Services.

# Development Assessment Report

## **B**      **Design Changes**

### **(1) Amended plans to be submitted**

Amended plans and specifications incorporating the following amendments are to be submitted prior to the issue of a Construction Certificate. The applicant shall submit to and obtain approval from Council or the accredited certifier detailed drawings demonstrating that the vehicular access and off street parking facilities will comply with the relevant provisions of Australian Standards, including but not limited to AS/NZS 2890.1-2004 *Parking Facilities - Off-Street Car Parking*, AS 2890.2-2002 *Parking Facilities - Off-Street commercial vehicles facilities*, AS/NZS 2890.6-2009 *Off-street parking for people with disabilities* and AS 2890.3-1993 *Parking Facilities - Bicycle parking facilities*. The following specific issues must be addressed in the design:

- a) The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004.
- b) The longitudinal profile of the access and any ramps within the parking facilities must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004 for a B99 design vehicle.
- c) The gradient of the driveway for the first 6 metres from the property boundary must not exceed 1 in 20 (5%) in accordance with the requirements of Clause 3.3(a) of AS/NZS 2890.1-2004.
- d) Minimum headroom of 2200mm must be provided throughout the access and parking facilities.
- e) Minimum headroom of 2500mm must be provided above any dedicated accessible parking space(s) and adjacent Shared Area(s). Note that the headroom must be measured to the lowest projection from the ceiling, such as lighting fixtures, sprinklers, services, ducts, etc. The headroom at any door opening must be measured to the lowest point of the open door. Headroom at a 'sag' type grade change must be measured in accordance with Figure 5.3 of AS/NZS 2890.1-2004.
- f) The vehicular access ramp must comply with the ramp grade requirements of Section 3.3 of AS/NZS2890.1-2004.
- g) Longitudinal sections must be provided along each outer edge of all ramps within the parking facilities demonstrating compliance with the above requirements. The longitudinal sections at the entry/exit access ramp(s) must extend to the centreline of the connecting road carriageway.
- h) The car parking facilities must be appropriately line marked and signposted in accordance with the requirements of Section 4 of AS/NZS2890.1-2004.
- i) Small car spaces are not to be designated to residents.

# Development Assessment Report

## **C      Conditions that must be satisfied prior to issuing/releasing a Construction Certificate**

### **(1)    Footpath, kerb and gutter protection**

The applicant is to take all precautions to ensure footpaths and roads are kept in a safe condition and to prevent damage to Council's property.

Pedestrian access across this footpath must be maintained in good order at all times during work. Any damage caused will be made good by Council at Council's restoration rates, at the applicant's expense.

### **(2)    Damage deposit/footpath, road, kerb and gutter**

A Damage Deposit of **\$7,400** is to be submitted prior to the release of the Construction Certificate covering repair and/or replacement of adjoining footpath, road shoulder, road pavement, kerbing and guttering both outside the subject site and the surrounding area. This is to be paid to Council and may be refunded subject to satisfactory completion of construction or demolition.

This Damage Deposit covers unforeseen damage to the above property by construction vehicles, skip bins, construction methods etc.

**Note:** Should repair works or maintenance be required on Council land, a Road Opening Permit must be obtained before those works take place.

**Bank Guarantees** are accepted in lieu of any Council security deposit/bond subject to the following:

It must be an **original with no end date** and issued in favour of Council, details of the proponent's address shall be included.

A charge equal to the value multiplied by the current "*overdue rates interest charge*" be levied, per month or part thereof, with a minimum charge of three months is to be paid upon lodgement.

Any remaining charge is to be calculated at the prevailing "*overdue rates interest rate*" for each month or part thereof beyond the original three months that the Bank Guarantee was held, and paid prior to its release.

Any costs incurred in the acceptance, administration or release of such Bank Guarantees be on-charged to the entity claiming the release of such Bank Guarantee, and that these amounts be paid prior to its release.

At the time of lodgement, Council will seek verification of the Bank Guarantee. Please provide contact details for the branch (phone number and officer) to assist with verification of the bona fides of the Bank Guarantee.

Until all items above are completed, no documents or usage sought from Council by the party lodging the Bank Guarantee can be issued. Please allow a minimum of 2 business days for this process.

The return of the Damage Deposit shall not be refunded until all conditions of Consent have been completed and the Occupation Certificate has been released.

### **(3)    Footpath/laneway- photographs to be submitted**

Prior to the release of the Construction Certificate, the applicant shall lodge with Council photographs of the roadway, footpath at the site property boundary both in Edward Street and Smith Street indicating the state of the relevant pavements. At the completion of construction, again at the expense of the applicant, a new set of photographs is to be taken to determine the extent, if any, of any damage, which has occurred to the relevant pavements. If any damage has occurred, the applicant shall meet the full cost to repair or reconstruct these damaged areas to Council's relevant standard. Failure to do this will result in the applicant being held accountable for the cost of all repair works in the area near / at the site.

### **(4)    Services adjustment or relocation**



# Development Assessment Report

The applicant shall meet the full cost for Telstra, Sydney Electricity, Sydney Water or Natural Gas Company to adjust/relocate their services as required. The applicant shall make the necessary arrangements with the service authority. (For information on the location of these services contact the "Dial before you Dig" service on 1100.)

Documentary evidence from the public utility authorities confirming that all of their requirements have been satisfied shall be submitted to Council with the Construction Certificate under Section 68 of the Local Government Act, 1993, for construction of the development.

## **(5) Direct discharge into Dobroyd Canal or Hawthorne Canal needs approval of Sydney Water**

Hawthorne Canal are assets owned by Sydney Water. Where it is proposed to discharge stormwater directly into a drainage system under the control of Sydney Water, the applicant must submit to Council or the Principal Certifying Authority written approval from Sydney Water that it has no objection to the proposed method of discharge.

This approval shall also include approval from Sydney Water in relation to the proximity of the proposed building to the drainage line.

## **(6) Stormwater runoff-collection/discharge**

Stormwater runoff from all roof and paved surfaces shall be collected and discharged by means of a gravity pipe system to the nearest appropriate stormwater drainage line connecting to Hawthorne Canal at a maximum Permissible Site Discharge (PSD) where the Pre-development equals the Post-development discharge of a 1:100 ARI event.

## **(7) Building below the Standard Flood Level**

Buildings 3A, B, C & D which have been approved to be built below the standard flood level whether it be either habitable or non-habitable shall be built using flood compatible materials as stated in Ashfield Interim Development Policy 2013, Part E the "*Interim Flood Development Policy*".

## **(8) Electrical Installations**

All electrical installations are to comply with the relevant Australian Standards. In this regard, prior to the issue of a Construction Certificate, the applicant is to submit to Council documentary evidence indicating that the proposed electrical installations comply with Council's Draft Interim Development Assessment Policy 2014 Part E8 *Interim Flood Development Control Policy* and that all electrical installations will be located above 9.73m Australian Height Datum.

## **(9) Stormwater drainage – compliance with approved plans**

Prior to the issue of an Occupation Certificate, written verification from a suitably qualified professional civil engineer shall certify that the new building works have been designed and built in accordance with Ashfield Interim Development Policy 2013, Part E the *Interim Flood Development Policy*, which would include building materials and electrical works.

## **(10) Flood Emergency Response Planning**

A flood risk management report, prepared by a qualified practicing Civil Engineer must be prepared to make provision for suitable paths of egress to minimise risk to personal safety of occupants and to also minimise the risk of property damage for the Stage 3 (DA 1) development. This report must be submitted to Council's satisfaction before the issue of an Occupation Certificate

Suitable paths of egress will need to be highlighted as people on the site at the time of flooding may respond to the flooding risk by attempting to leave the site. Both Hawthorne Canal mainstream flooding and the Smith Street overland flow flooding contribute to evacuation difficulties.

The applicant shall clearly demonstrate that places of refuge above PMF levels are available in all buildings proposed as part of Stage 3 works. Also proposed signage (including depth markers) and

## Development Assessment Report

clear posted directions in each proposed building highlighting safe paths of egress in the event of flooding Key is that people are directed away from Smith Street and toward Edward Street.

The above details shall be tabulated and will be included in the Positive Covenant for the site. This work shall be carried out prior to the release of the Occupation Certificate.

### **(11) Amended Plans to address Flood Risk Report**

Architectural plans, amended to address all relevant recommendations of the approved flood risk assessment report must be provided to Council or the Principal Certifying Authority prior to the issue of a Construction Certificate.

The design must be prepared/ amended to make provision for the following:

- a) Specification of materials
- b) Waterproofing works, where applicable.

### **(12) Engineering Design to address Flood Risk Report**

An engineering design that addresses all relevant recommendations of approved flood risk assessment report, prepared by a qualified practicing Structural Engineer must be provided to Council or the Principal Certifying Authority prior to the issue of a Construction Certificate.

The design must be prepared/ amended to make provision for the following:

- a) Structural integrity of all structures from immersion and/or impact of velocity and debris.
- b) Waterproofing works, where applicable.

### **(13) Erosion, dust, topsoil and sediment control**

Temporary measures shall be provided during construction eg. bunding, shade cloth to prevent dust leaving the site, sandbags around Council/private stormwater pits etc. in order to prevent sediment, dust, topsoil and polluted waters discharging from the site. Plans showing such measures shall be submitted to Council or the Principal Certifying Authority and approved prior to the release of the Construction Certificate.

### **(14) Soil and Water Management Plan**

Prior to the issue of a Construction Certificate, the applicant shall submit to Council or the Principal Certifying Authority and obtain approval from Council or the Principal Certifying Authority of a Soil and Water Management Plan and Statement which clearly identifies site features, constraints and soil types together with the nature of proposed land disturbing activities and also specifies the type and location of erosion and sediment control measures and also rehabilitation techniques necessary to deal with such activities.

The Plan shall be compatible with any Construction and Site Management Plan and shall ensure the following objectives are achieved, namely:

- (a) to minimise the area of soils exposed at any one time
- (b) to conserve top soil
- (c) to identify and protect proposed stockpile locations
- (d) to preserve existing vegetation and identify revegetation techniques and materials
- (e) to prevent soil, sand, gravel, and any other sediment or spoil from leaving the site in an uncontrolled manner
- (f) to control surface water flows through the development construction site in a manner that:-

diverts clean run-off around disturbed areas  
minimises slope gradient and flow distance within disturbed areas.  
ensures surface run-off occurs at non-erodable velocities.  
ensures disturbed areas are promptly rehabilitated

# Development Assessment Report

- (g) to ensure regular monitoring and maintenance of erosion and sediment control measures and rehabilitation works.

The plan is to be prepared in accordance with “*Managing Urban Stormwater: Soils and Construction Manual*” prepared by NSW Department of Housing (1998).

## (15)Erosion & sedimentation control-management plan

Prior to issue of a Construction Certificate the applicant shall prepare and submit to Council or the Principal Certifying Authority an erosion and sedimentation control plan in accordance with Part 4 of the guidelines titled “*Pollution Control Manual for Urban Stormwater*”, as recommended by the Environmental Protection Authority.

Any stormwater runoff collected from the site must be treated in accordance with the Guidelines, before discharge off the site to comply with the *Protection of the Environment Operations Act 1997* or other subsequent Acts.

Where sedimentation control basins are provided discharge shall be to the requirements of the Environmental Protection Authority.

Applicants are further advised to refer to the following publications for additional information:

- (a) “*Sedimentation and Erosion Control*” - Department of Conservation and Land Management.
- (b) “*Soil and Water Management for Urban Development*” - Department of Housing.

The plan must be submitted with the application for a construction certificate.

Further information may be obtained from:

Environment Protection Officer  
Environment Protection Authority  
Inner Sydney Region  
Locked Bag 1502  
BANKSTOWN NSW 2200

## (16)Section 94 Development 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 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:

<u>Community Infrastructure Type</u>	<u>Contribution</u>
Local Roads	\$51,869.15
Local Public Transport Facilities	\$101,148.02
Local Car Parking Facilities	\$0.00
Local Open Space and Recreation Facilities	\$1,633,161.27
Local Community Facilities	\$85,507.83
Plan Preparation and Administration	\$81,069.12
<b>TOTAL</b>	<b>\$1,952,755.40</b>

# Development Assessment Report

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.

## **(17) Services and infrastructure adjustment/relocation**

The applicant shall meet the full cost for Telstra, Sydney Water, Energy Australia, AGL Electricity/AGL Retail Energy or alternative service/energy providers to adjust/relocate their services/infrastructure as required. The applicant shall make the necessary arrangements with the relevant service authority or relevant retail Energy Company.

(For information on the location of services contact the "Dial before you Dig" service on 1100.)

Documentary evidence from the utility authorities/retail energy company confirming that all of their requirements have been satisfied shall be submitted to Council or the Principal Certifying Authority with the application for a Construction Certificate.

## **(18) Site Remediation**

The applicant shall remediate the site suitable for residential purposes. A stage 2 Remediation Action Plan shall be submitted to Council or the Principal Certifying Authority with the application for a Construction Certificate demonstrating that the site can be remediated unconditionally for residential use. Prior to the issue of Occupation Certificate the applicant/developer is to provide a verification certificate to Council demonstrating that the site has been remediated in accordance with the final Remediation Action Plan.

## **(19) Home Building Act 1989 Insurance**

Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (where not Council) has given Council written notice of the following information:-

(a) in the case of work for which a Principal Contractor is required to be appointed:

(i) the name and licence number of the Principal Contractor, and

(ii) the name of the insurer by which the work is insured under Part 6 of that Act,

(b) in the case of work to be done by an owner-builder:

# Development Assessment Report

- (i) the name of the owner-builder, and
- (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under this condition becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (where not Council) has given Council written notice of the updated information. A copy of either the Builders Home Warranty Insurance OR a copy of the Owner-Builder Permit shall be submitted to Council.

## **(20) Security devices/measures**

In order to achieve satisfactory levels of surveillance and ongoing security on the site, the following shall occur:

- (a) To Street/Road ground and first floor level windows, shall have fitted security locking devices, which comply with the relevant Australian Standard.
- (b) Ground floor and entry porticos shall have as a minimum double barrel security and fire locks.
- (c) Any hedging or other landscaping behind the fencing off Street/Road shall have a maximum mature height of 1m.
- (d) Where any tree planting is proposed along the eastern boundary with properties off Street/Road, it shall have tree planting of the following type:
  - tall canopies which commence at approximately 2.5m off ground;
  - semitransparent canopies which have a large degree of visual transparency.

Details to be shown on the plans and drawings submitted with the application for a Construction Certificate.

## **(21) Lighting to basement/pedestrian routes-safety**

Lighting which meets the relevant Australian Standard of 40 lux., spaced at appropriate intervals to provide the required surveillance shall be provided to the vehicular basement parking area and along pedestrian access routes for safety and security purposes during the evenings.

Details to be shown on the plans and drawings submitted with the application for a Construction Certificate.

## **(22) Surveillance**

A surveillance system, for the building, open space and basement car park is to be designed by a professionally recognised security firm, which include the following:

- o a closed circuit television (surveillance cameras);
- o deleted
- o tapes/digital data 'on disc' to be properly stored and retained on site for a minimum of twenty-one (21) days for the availability of Council or NSW Police.

Details to be shown on the plans and drawings submitted with the application for a Construction Certificate and provided to Ashfield Police prior to the issue of an Occupation Certificate.

## **(23) Entry control - safety**

At the entry to the basement car park, the following shall be provided:

- a secure garage door or gate;
- an intercom system between visitors and residents to entry and exit from the car park.

# Development Assessment Report

Each ground level entry area to the building shall have an intercom system whose purpose is to contact residents or the manager/caretaker to allow entry to visitors. Details to be shown on the plans and drawings submitted with the application for a Construction Certificate.

## **(24) Street numbering**

An application for street numbering shall be lodged with Council for approval, prior to the release of a Construction Certificate, or Subdivision Certificate, whichever occurs first.

## **(25) Subdivision certificate to be obtained from Council**

A subdivision certificate, being a certificate that authorises the registration of a plan of subdivision under Division 3 of Part 23 of the *Conveyancing Act 1919* is to be obtained from Council in accordance with Section 109C(1)D of the *Environmental Planning and Assessment Act 1979*.

## **(26) Plan of subdivision - Council signature**

A final plan of subdivision, prepared by a registered surveyor, and six (6) paper copies, are to be submitted to Council for signature, prior to registration at the Land Titles Office.

## **(27) Subdivision Certificate issue requirements**

A subdivision certificate will not be issued until:

- The Section 94 contributions and relevant fees and bonds are paid.
- A Compliance/Occupation Certificate is issued.
- The property has been developed in accordance with plans approved by this development consent and documentary evidence of compliance (or a compliance certificate) with conditions of consent has been submitted to Council.

## **(28) Pumpout system specifications**

A pump out system may be permitted to discharge small volumes of stormwater from the basement car parking area. Full details of the pump size, capacity, performance curves, friction losses etc. from the manufacturer's specifications must be submitted with the stormwater drainage calculations demonstrating that the pump will function in accordance with the manufacturer's specifications for the required volume of stormwater at the subject total head. Minimum pump capacity allowable is for a 5 minute 1 in 20 ARI storm.

The drainage sump storage area for the pump shall be a bunded area able to cater for a 1 hour 1 in 20 ARI storm to minimise flooding in the event of a power blackout during a storm.

A dual pump out arrangement will be necessary, these pumps will be required to be connected in parallel and alternate automatically, with each pump being capable of emptying the holding tank or holding area at the permissible site discharge rate. (All pumps must be Class 1 Zone 2, if the pumps are located within a building (i.e. in the basement).

The stormwater volumes discharged from the pump outs are to be included in the permissible amount of stormwater discharged from the site as stated in other relevant conditions.

## **(29) Long service levy**

Compliance with Section 109F of the Environmental Planning and Assessment Act 1979 – payment of the long service levy under Section 34 of the Building and Construction Industry Long Service Payments Acts 1986 – is required. All building works in excess of \$25,000.00 are subject to the payment of a Long Service Levy fee. A copy of the receipt for the payment of the Long Service Levy shall be provided to the Principal Certifying Authority (PCA) prior to the issue of a Construction

# Development Assessment Report

Certificate stage 2. Payments can be made at Long Service Payments Corporation offices or most councils.

## **(30) Design Verification Statement**

A statement from a qualified Architect, verifying that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design principles set out in Schedule 1 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development must be submitted to the Principal Certifying Authority's satisfaction before the issue of a Construction Certificate.

## **(31)BASIX Comittments**

Plans fully reflecting the selected commitments listed in BASIX Certificate submitted with the application for development consent must be submitted to the Principal Certifying Authority's satisfaction before the issue of a Construction Certificate.

## **(32)Adaptable Housing**

A total of fourteen (14) dwellings must be constructed as adaptable housing as nominated on the approved plans and are to comply with AS 4299:1995.

Detailed plans drawn to the scale of 1:50 shall be submitted detailing compliance with the requirements of AS 4299:1995, AS 1428.1:2009 shall be submitted prior to the issue of a Construction Certificate. These plans must detail compliance with the above standards in terms of complying levels, ramp slopes, door widths and circulation spaces.

## **(33)Structural engineer's certificate - superimposed loads**

A practicing structural engineer's certificate to be submitted to the Principal Certifying Authority with the Construction Certificate application certifying that the existing dwelling is structurally capable of supporting the superimposed loads of the addition.

## **(34)Structural Engineering Details**

Structural engineer's details prepared and certified by a practising structural engineer for all reinforced concrete and structural members is to be submitted to the Principal Certifying Authority for approval with the Construction Certificate.

# Development Assessment Report

## **D Conditions that must be complied with before work commences**

### **(1) Notice of Commencement – Notification of Works**

Work must not commence until the Principal Certifying Authority or the person having the benefit of the development consent has given Notification in Writing to Council no later than two days before the building work commences.

### **(2) Requirement for a Construction Certificate**

In accordance with the provisions of Section 81A of the *Environmental Planning and Assessment Act 1979* the erection of a building and/or construction works must not commence until:

- (a) detailed plans and specifications of the building, construction and earth works have been endorsed with a Construction related to works the following stages:-
  - Construction Certificate stage 1 – Shoring and excavation;
  - Construction Certificate stage 2 – Construction of basement structure; and
  - Construction Certificate stage 3 – Construction of all above ground structures.
- (b) detailed plans and specifications of the relevant building, construction and earth works are to be endorsed with each Construction Certificate by:
  - (i) Council; or
  - (ii) an accredited certifier; and
- (c) a principal certifying authority (PCA) has been appointed and the Council has been notified in writing of the appointment, and
- (d) at least two days' notice, in writing, has been given to Council of the intention to commence work.

The documentation required under this condition shall show that the proposal complies with all development consent conditions and the *Building Code of Australia*.

**Note:** If the principal certifying authority is the Council, the appointment will be subject to the payment of a fee for the service to cover the cost of undertaking building work and / or civil engineering inspections.

**WARNING:** Failure to obtain a Construction Certificate prior to the commencement of any building work is a serious breach of Section 81A (2) of the *Environmental Planning & Assessment Act 1979*. It is a criminal offence that attracts substantial penalties and may also result in action in the Land and Environment Court and orders for demolition.

### **(3) Resident Notification**

Before commencing works the person acting on this consent must provide a contact number for a designated person to be available during the demolition and construction for residents to contact regarding breaches of consent or problems relating to the construction.

### **(4) Inspections required by Principal Certifying Authority**

Inspections shall be carried out at different stages of construction by Council or an accredited certifier. If Council is selected as the Principal Certifying Authority (PCA) the inspection fees must be paid for in advance which will be calculated at the rate applicable at the time of payment.

### **(5) Sanitary facilities - demolition/construction sites**

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.



# **Development Assessment Report**

The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.

## **(6) Layout of buildings**

The layout of all external walls, including retaining walls and contiguous piling must be checked and verified by survey prior to the commencement of construction to ensure that building construction complies with the development consent and does not encroach beyond the boundaries of the site.

## **(7) Crane permit**

Should the applicant need to use a crane during the course of building, it will be necessary to first obtain a "Crane Permit" from Council's One Stop Shop. A fee of is payable for the permit. The approval of other authorities (e.g. Police Department, RTA) may be required for the use of a crane.

## **(8) Site fencing/security**

The site must be appropriately secured and fenced to the satisfaction of Council during demolition, excavation and construction work to ensure there are no unacceptable impacts on the amenity of adjoining properties. Permits for hoardings and or scaffolding on Council land must be obtained and clearly displayed on site.

## **(9) Public liability insurance – Works on Council/public lands**

The applicant or any contractors carrying out works on public or Council controlled lands shall have public liability insurance cover to the value of \$10 million and shall provide proof of such cover prior to carrying out the works.

## **(10) Demolition and Construction Management Plan**

A Demolition and Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control must be provided to and approved by Council before the commencement of works

## **(11) Construction zone**

All construction vehicle activity should be accommodated on site. A construction zone would only be considered pending Traffic Committee approval, and that construction vehicles could use the kerb immediately outside the site without interfering with traffic movement through the area. A plan showing details of the length required and reasons to why construction vehicles could not be accommodated on site shall be submitted to Council in a minimum period of (6) weeks before commencement of construction for referral to the Traffic Committee. Relevant fees will apply as set out in Council's Fees and Charges.

## **(12) Road opening permit- Council controlled lands**

A "road use-opening permit" shall be obtained for all works carried out in public or Council controlled lands. Contact Council's Works and Infrastructure Department for details.

## **(13) Traffic control on public roads**

Where works are undertaken on public roads, adequate traffic control in accordance with AS 1742.3 1996 "Traffic Control Devices for work on Roads", particularly regarding traffic movement controllers, advance warning signs and directions to motorists, shall be provided. Where such measures are not satisfactorily provided to this Australian Standard, Council may provide such and recover the costs from any bonds held.

## **(14) Spoil and building materials on road and footpath**

Spoil and building materials shall not be placed or stored within any public roadway or footpath.

# Development Assessment Report

## **(15) Building location - check survey certificate**

To ensure that the location of the building satisfies the provision of the approval, a check survey certificate shall be submitted to the Principal Certifying Authority either prior to the pouring of the ground floor slab or at dampcourse level, whichever is applicable or occurs first, indicating the: -

- (i) location of the building with respect to the boundaries of the site;
- (ii) level of the floor in relation to the levels on the site (all levels are to be shown relative to Australian Height Datum);
- (iii) site coverage of the buildings on the site.

## **(16) Protection of public places - erection or demolition of building**

- (a) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient or involves the enclosure of a public place; a hoarding or fence must be erected between the work site and the public place.
- (b) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- (c) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- (d) Any such hoarding, fence or awning is to be erected prior to works commencing and only with Council approval in accordance with Workcover requirements. The temporary structures are to be removed when the work has been completed.

## **(17) Support for neighbouring buildings and notice to adjoining owners**

- (1) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
  - (a) must preserve and protect the building from damage, and
  - (b) if necessary, must underpin and support the building in an approved manner, and
  - (c) must at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (2) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

**Notes:** (i) Details of underpinning works, prepared and certified by a practicing structural engineer shall be submitted to and approved by the Principal Certifying Authority prior to the commencement of ANY works.

- (ii) *Allotment of land* includes a public road and any other public place.

## **(18) Demolition work plan**

Prior to demolition, the applicant shall submit a Work Plan prepared in accordance with AS 2601 by a person with suitable expertise and experience to the Principal Certifying Authority. The Work Plan shall identify any hazardous materials, the method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.

# Development Assessment Report

All demolition work must:

- a) Be carried out in accordance with the requirements of Australian Standard AS 2601 - *The demolition of structure* and the Occupational Health and Safety Act and Regulations; and
- b) Where asbestos is to be removed it shall be done in accordance with the requirements of the WorkCover Authority of NSW and disposed of in accordance with requirements of the Department of Environment, Climate Change and Water.

## **(19)Asbestos sheeting removal - EPA/Workcover Authority**

Asbestos removal is to be carried prior to principal works commencing in accordance with Environmental Protection Authority and Workcover Authority requirements. Proper procedures shall be employed in the handling and removal of asbestos and products containing asbestos so as to minimise the risk to personnel and the escape of asbestos particles in the atmosphere. Work is only to be carried out with the prior consent of the Work Cover Authority.

Note: There are substantial penalties for non-compliance with the above requirements.

## **(20)Garbage skips on Council land - Council approval**

Bulk refuse bins or garbage skips shall not be placed on grass verge, footpath or roadway without Council permission. Application forms and details of applicable fees are available from Council's Customer Service on telephone 9716 1800.

## **(21)Haulage route information**

Full details of proposed haulage routes, estimated number of vehicle movements and trip locations related to demolition/construction activities are to be submitted to Council prior to work commencing.

**Note:** All vehicles carrying materials to, or from the site, must have their loads covered with tarpaulins or similar covers.

## **(22)Ground water**

Treatment of ground water is to be addressed in accordance with the recommendations of the report by Aargus dated 22 August 2013 and documentary evidence of this provided to Council.

## **(23) Dilapidation Report**

A Dilapidation report on the current structural condition of the existing building at 34 Edward Street, Summer Hill must be prepared by a practicing structural engineer. The Dilapidation Report must be completed and submitted to the owner of the subject property and Council prior to the commencement of any demolition, excavation or construction works. At the completion of the works, a second Dilapidation Report recording the structural condition must be prepared. That Report must be submitted to the owner of the subject property and to Council

# Development Assessment Report

## **E Conditions that must be complied with during construction or demolition**

### **(1) Building work in compliance with BCA**

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

### **(2) Plans to be available on site**

The Council stamped approved plans, Development Consent and Construction Certificate shall be held on site to be produced unobliterated to Council's officer at any time when required.

### **(3) Notification Sign**

A rigid and durable sign must be erected in a prominent position on the site, before work commences. The sign must be maintained at all times until all work has been completed. The sign is to include:

- a) The name, address and telephone number of the PCA;
- b) A telephone number on which Principal Contractor (if any) can be contacted outside working hours; and
- c) A statement advising: *Unauthorised Entry To The Work Site Is Prohibited.*

### **(4) Demolition/excavation/construction - hours of work**

Demolition, excavation and construction work, including loading and unloading of materials and machinery, shall be restricted to between the hours of 7.00 am to 6.00 pm, Monday to Friday and from 7:00 am to 1.00 pm on Saturday. Work is prohibited on Sundays, and on public holidays.

### **(5) Materials and colour schemes**

Materials of construction are to be as specified in the schedule of finishes submitted with the development application and on the approved plans, except where amended by the conditions hereunder.

### **(6) Long-nosed Bandicoots**

The person acting on this Determination must ensure that all workers on the site, including subcontractors, as part of their site induction, are made aware of the potential presence of Long-nosed Bandicoots (including what they look like) and measures to avoid physical harm to bandicoots before commencing any works on site including site preparation works.

### **(7) BASIX Requirements**

The new works shall be constructed in accordance with, and comply with the undertakings given on the BASIX (Building Sustainability Index) Certificate as obtained from the Department of Infrastructure, Planning and Natural Resources. For more information visit [www.basix.nsw.gov.au](http://www.basix.nsw.gov.au).

### **(8) Redundant vehicle crossings – removal and replacement**

All redundant vehicular crossings shall be removed and replaced with concrete footpath, sandstone kerb and concrete gutter at no cost to Council at the Applicant's expense.

### **(9) Footpath, kerb and gutter protection**

The applicant is to take all precautions to ensure footpaths and roads are kept in a safe condition and to prevent damage to Council's property.

Pedestrian access across this footpath must be maintained in good order at all times during work. Any damage caused will be made good by Council at Council's restoration rates, at the applicant's expense.

# Development Assessment Report

## **(10)Redundant vehicular crossings-removal and replacements**

All redundant vehicular crossings shall be removed and replaced with concrete footpath, concrete kerb and concrete gutter at no cost to Council at the applicant's expense. This work shall be carried out prior to the release of the Occupation Certificate.

## **(11)Finished ground surface levels at property boundary**

Finished ground surface levels shall match existing levels at the property boundary.

## **(12)Road opening permit- Council controlled lands**

A "road use-opening permit" shall be obtained for all works carried out in public or Council controlled lands. Contact Council's Works and Infrastructure Department for details.

## **(13)Traffic control on public roads**

Where works are undertaken on public roads, adequate traffic control in accordance with AS 1742.3 1996 "Traffic Control Devices for work on Roads", particularly regarding traffic movement controllers, advance warning signs and directions to motorists, shall be provided. Where such measures are not satisfactorily provided to this Australian Standard, Council may provide such and recover the costs from any bonds held.

## **(14)Sydney Water Requirements**

Water supply and waste water connections are to be as set out in Sydney Water's letter dated 23 August 2011.

## **(34)Engineering staff to inspect roadworks/drainage**

An inspection by Council's staff will be required for (kerb/gutter/crossing etc) at the following stages:

- (i) After excavation.
- (ii) After the erection of formwork and the placement of reinforcement and prior to pouring of concrete.
- (iii) After placement of road base course.
- (iv) After completion of any pits.
- (v) After pipes have been laid and prior to backfilling.
- (vi) On completion of works.

A minimum of 24 hours notice is required to be given to Council to obtain an inspection. Work is not to proceed until the works or activity covered by the inspection is approved.

## **(35)Surface overflow paths – storm recurrence event**

Surface overflow paths shall be provided to allow for the 1-hour 1 in 100 year storm recurrence event, and any more intense events.

Should it not be possible to provide an overland escape route for excessive stormwater an increase of 50 % in the required volume of stormwater storage will be required.

## **(36)Excavations and backfilling - safety/standards**

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

## **(37)Advertisements on hoardings prohibited**

# Development Assessment Report

No advertisements of any kind shall be affixed to the hoarding except a board which may show the builder's or architect's name or any particulars regarding the subject building.

## **(38) Billposters - sign on hoarding**

A sign "*Billposters Will Be Prosecuted*" shall be attached to or printed upon the front of the hoarding.

## **(39) Demolition/excavation/construction - noise - Protection of the Environment Operations Act 1997**

Noise arising from demolition/excavation/construction works shall be controlled in accordance with the requirements of *Protection of the Environment Operations Act 1997* and guidelines currently contained in the *NSW EPA Environmental Noise Control Manual*.

## **(40) Noise control during construction and demolition**

For construction and demolition periods of 4 weeks or less the L10 level, measured over a period of 15 minutes when the construction or demolition site is in operation, must not exceed the background level by more than 20dB.

## **(41) Dust control**

Adequate measures are to be implemented, including, for example, water spraying/mesh barriers, to prevent dust from causing any nuisance.

You are to ensure that ALL vehicles leaving the site are free of mud and debris. Loads are to be fully covered and vehicles/wheels washed down to ensure that no nuisance occurs.

## **(42) Demolition requirements/standards**

Demolition is to be carried out in accordance with the following:

- (a) Australian Standard 2601 and any requirements of the Workcover Authority.
- (b) The Waste Management Plan submitted with the Development Application.
- (c) The property is to be secured to prohibit unauthorised entry.
- (d) All precautions are to be exercised in the handling, removal and disposal of all asbestos materials. Licensed contractors and the disposal of asbestos is to be carried out in accordance with the requirements of the Work Cover Authority.
- (e) All other materials and debris is to be removed from the site and disposed of to approved outlets.
- (f) Any demolition on the site is to be conducted in strict accordance with, but not limited to, sections 1.5, 1.6, 1.7, 3.1 and 3.9 of the AS 2601 - 1991, demolition of structures. The following measures must be undertaken for hazardous dust control:
- (g) Prior to demolition, the applicant shall submit a Work Plan prepared in accordance with AS 2601 by a person with suitable expertise and experience to the Principal Certifying Authority. The Work Plan shall identify any hazardous materials, the method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- (h) Hazardous dust must not be allowed to escape from the site or contaminate the immediate environment. The use of fine mesh dust proof screens, wet-lead safe work practices, or other measures is required.

## Development Assessment Report

- (i) All contractors and employees directly involved in the removal of hazardous dusts and substances shall wear protective equipment conforming to AS 1716 Respiratory Protective Devices and shall adopt work practices in accordance with WorkSafe Requirements (in particular the WorkSafe standard for the *Control of Inorganic Lead At Work* (NOHSC: 1012, 1994) and AS 2641, 1998).
- (j) Any existing accumulations of dust (e.g. ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter and disposed of appropriately.
- (k) All dusty surfaces and dust created from work is to be suppressed by a fine water spray. Unclean water from the suppressant spray is not to be allowed to enter the street gutter and stormwater systems.
- (l) Demolition is not to be performed during high winds that may cause dust to spread beyond the site boundaries without adequate containment.
- (m) All lead contaminated material is to be disposed of in accordance with the NSW Environment Protection Authorities requirements.
- (n) Construction and demolition waste, particularly timber, bricks and tiles, concrete and other materials need not be disposed of- they can be recycled and resold if segregated properly from any hazardous waste contamination.

### **(43)Site investigation & site audit statement**

Following demolition activities, the soil must be tested by a person with suitable expertise, to ensure the soil contaminant levels are below acceptable health criteria for residential areas. The soil investigation shall be carried out in accordance with the NSW Environment Protection Authority's *Guidelines for consultants reporting on contaminated sites*.

### **(44)Signposting**

All signposting and line marking work for the new internal road shall be carried out by the applicant, and the cost of this work shall be borne by the applicant.

### **(45)Vehicle wash bays**

All vehicle wash bays shall be provided with a tap connected to a continuous supply of water and the wash bays shall be bunded and graded to a floor waste connected to the sewer.

### **(46)Flora and Fauna Protection**

Suitable measures shall be implemented during construction to protect the long-nosed bandicoot population within the site and/or local area.

### **(47)Waterproofing materials/installation – BCA/Australian Standards – Class 2-9 buildings**

Approved products that are impervious to water shall only be used as a substrate or as a lining and as a finish to floors and walls of wet areas (i.e. bathroom/shower room, WC compartment and laundry). Floors and cubicles shall be properly graded and drained to approved outlets.

The wet areas in the building shall be impervious to water as required by Part F1.7 of the Building Code of Australia (BCA) and AS 3740 'Waterproofing of wet areas within residential buildings'. The junction between the floor and wall and the construction of the bath shower recess, basin, sink or the like shall be in accordance with the BCA and AS 3740.

On completion of the waterproofing of the wet areas, the Principal Certifying Authority shall be furnished with a certificate from the person responsible. This is to state that the materials are suitable

## Development Assessment Report

for the situation and that the application and/or installation has been carried out in accordance with the manufacturer's instructions, the BCA and AS 3740.

### **(48) Safety Glazing - BCA**

Safety glazing complying with B1 of the *Building Code of Australia* is to be used in every glazed door or panel that is capable of being mistaken for a doorway or unimpeded path of travel. The glazing must comply with AS 1288 – Glass in Buildings – Selection and Installation.

Framed panels or doors enclosing or partially enclosing a shower or bath shall be glazed with "A" or "B" grade safety glazing material in accordance with AS 1288, Table 4,5, *SAA Glass Installation Code* (Human Impact Considerations) BCA 3.6.4.



# Development Assessment Report

## ***F      Conditions that must be complied with prior to installation of services***

nil

## ***G      Conditions that must be complied with before the building is occupied***

### **(1) Approval to use/occupy building**

The building or any part thereof must not be used or occupied until an Occupation Certificate has been obtained from the Principal Certifying Authority.

**Note:** If Council is chosen as the Principal Certifying Authority a fee is applicable prior to the release of the Construction Certificate.

### **(2) Roads and Maritime Services Requirements**

The road infrastructure upgrades and Roads and Maritime Services requirements required by conditions 18 and 19 within the Concept Approval MP10\_0155 (as modified) must be completed to Roads and Maritime Services satisfaction before the issue of any Occupation Certificate (whether it be an Interim or Final Occupation Certificate).

### **(3) Sydney Water - Section 73 Compliance Certificate**

A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the "Your Business" section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then follow the "e-Developer" icon or telephone Sydney Water 13 20 92 for assistance.

Following application, a "Notice of Requirements" will advise of water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the release of an occupation certificate.

### **(4) Landscaping completion**

All site works and landscaping are to be carried out in accordance with the approved landscaping plans prior to completion and/or occupation of the premises.

### **(5) Engineering conditions to be satisfied prior to the issue of occupation certificate**

Prior to the release of the Occupation Certificate when the on-site building works are completed there are three (3) conditions that must be satisfied.

They are:

#### **(a)      *Work-As-Executed Plans***

A "Work-as-Executed" plan prepared and signed by a registered surveyor is to be submitted to Council's Engineering Department at the completion of the works showing the location of the detention basin with finished surface levels, contours at 0.2 metre intervals and volume of storage available. Also the outlet pipe from the detention basin to its connection to Council's drainage system, is to be shown together with the following information:

- location
- pipe diameter
- gradient
- pipe material i.e. PVC or EW etc

# Development Assessment Report

- orifice size
- trash screen at orifice
- all buildings (including floor levels) and finished ground and pavement surface levels

## *(b) Engineer's Certificate*

A qualified practising Civil Engineer shall certify on the completion of drainage works in respect of:

- the soundness of the storage structure;
- the capacity of the detention storage;
- the emergency overflow system being in place;
- the works being constructed in accordance with the Council approved plans; and
- the freeboard from maximum water surface level to the finished floor and garage levels are at or above the minimum required in Council's Stormwater Code.
- basement car park pumps are class one zone two (if used).

## *(c) Restriction-As-To-User*

A "Restriction-as-to-User" is to be placed on the title of the subject property to indicate the location and dimensions of the detention area. This is to ensure that works, which could affect the function of the stormwater detention system, shall not be carried out without the prior consent in writing of the Council.

Such restrictions shall not be released, varied or modified without the consent of the Council.

## **(6) Positive Covenant-stormwater detention/surface flow paths-occupation certificate**

A Positive Covenant under Section 88E of the Conveyancing Act shall be created on the title of the property detailing the

- (a) surface flow path
- (b) finished pavement and ground levels
- (c) prevent the erection of any structures or fencing
- (d) The flood wall placement

The wording in the Instrument shall be submitted to and approved by Ashfield Municipal Council prior to lodgement at the Land Titles Office and prior to the release of the Occupation Certificate. The Instrument shall be registered prior to the completion of development.

**Note:** On-site detention is not required.

## **(7) Rights of Public Access**

The Applicant shall at its cost prepare the terms of easements for public pedestrian right of way for all areas approved as publicly accessible within the Concept Approval MP10\_0155 (as modified) to Council's satisfaction before the issue of any Occupation Certificate (whether it be an Interim or Final Occupation Certificate).

Relevant documentation creating the easements shall be submitted to Council for its approval prior to lodgement with the Land Titles Office. Proof of lodgement of the documents, creating the easement for public pedestrian right of way with the Land Titles Office, shall be provided to Council prior to release of the occupation certificate.

The terms of the easements to be created for the public pedestrian rights of way shall include, but not necessarily be limited to, the following matters:

- A lighting system to be incorporated along the public pedestrian right of way at the Applicant's cost.

## Development Assessment Report

- The maintenance of, and public liability insurance for users of, the public pedestrian right of way to be the responsibility of the Applicant, with Certificates of Currency to be provided to Council annually.
- Opening hours of the public pedestrian right of way to be twenty four (24) hours a day seven (7) days per week.

These must be registered on the title of any lots comprising the site prior to the issue of any Occupation Certificate.

# Development Assessment Report

## ***H      Conditions that are ongoing requirements of development consents***

### **(1) Noise levels not to be exceeded**

The LA10 noise level emitted from the premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz - 8 kHz inclusive) by more than 5dB between 7:00am and 10:00pm at the boundary of any affected residence. The LA10 noise level emitted from the premises shall not exceed the background noise level in any Octave Bank Centre Frequency (31.5Hz - 8 kHz inclusive) between 10:00pm and 7:00am at the boundary of any affected residence. Notwithstanding compliance with the above, the noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 10:00pm and 7:00am.

### **(2) Air conditioners - noise control - Protection of the Environment Operations Act 1997**

The air conditioners as approved by this consent shall be installed and operated at all times so as not to cause "Offensive Noise" as defined by the *Protection of the Environment Operations Act 1997* that will adversely affect the amenity of the premises in close proximity to the property.

### **(3) Garbage bin storage/placement for collection - strata title plan**

All garbage/recycling bins are to be kept in the garbage bin storage area in the main block. Bins are only to be placed in the designated pick up area on the day of garbage collection and are to be returned to the storage area immediately after collection. This requirement is to be incorporated into the Strata Title of the property.

### **(4) Accessibility to be maintained**

A continuous path of travel not exceeding 1:14 grade or complying with AS 1428 and/or a lift is to be maintained between the main street entrance to the residential complex, adaptable units, accessible car parking spaces, letter boxes, garbage storage area, recreation areas and clothes drying areas.

### **(5) Air conditioners**

To preserve the streetscape, air conditioners or any plant equipment shall not be placed along the street façade or any place/part of the building that is visible from the public domain.

### **(6) Maintenance of Landscaping**

The applicant is to maintain the soft landscaping of the site to Council satisfaction at all times.

# Development Assessment Report

## **I. Advisory Notes**

### **A. Other approvals**

This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, including:

- an Application for Approval under Section 68 of the *Local Government Act 1993* for any proposed activity under that Act, including any erection of a hoarding. All such applications must comply with the *Building Code of Australia*.
- an application for an Occupation Certificate under Section 109(C)(2) of the *Environmental Planning and Assessment Act 1979*.  
**Note:** An application for an Occupation Certificate may be lodged with Council if the applicant has nominated Council as the Principal Certifying Authority.
- an Application for a Subdivision Certificate under Section 109(C)(1)(d) of the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed.
- an Application for Strata Title Subdivision under the *Strata Schemes (Freehold Development) Act 1973*, if strata title subdivision of the development is proposed.
- a development application for demolition approval under the *Environmental Planning and Assessment Act 1979* if consent for demolition is not granted by this consent.

### **B. Works and requirements of other authorities**

- Sydney Water may require the construction of additional works and/or the payment of additional fees. Other Sydney Water approvals may also be necessary prior to the commencement of construction work. You should therefore confer with Sydney Water concerning all plumbing works, including connections to mains, installation or alteration of systems, and construction over or near existing water and sewerage services.
- Contact Sydney Water, Rockdale (Urban Development Section) regarding the water and sewerage services to this development.
- Australia Post has requirements for the positioning and dimensions of mail boxes in new commercial and residential developments. A brochure is available from your nearest Australia Post Office.
- Energy Australia/AGL Electricity/AGL Retail Energy or other alternative service/energy providers have requirements for the provision of connections.
- Energy Australia has a requirement for the approval of any encroachments including awnings, signs, etc over a public roadway or footway. The Engineer Mains Overhead Eastern Area should be contacted on 9663 9408 to ascertain what action, if any, is necessary.
- Telstra has requirements concerning access to services that it provides.

### **C. Application for a Construction Certificate**

The required application for a Construction Certificate may be lodged with Council. Alternatively, you may apply to an accredited private certifier for a Construction Certificate.

**WARNING:** Failure to obtain a Construction Certificate prior to the commencement of any building work is a serious breach of Section 81A(2) of the *Environmental Planning & Assessment Act 1979*. It is also a criminal offence which attracts substantial penalties and may also result action in the Land and Environment Court and orders for demolition.

# Development Assessment Report

## D. Modifications to your consent - prior approval required

Works or activities other than those authorised by the approval including changes to building configuration or use will require the submission and approval of an application to modify the consent under Section 96 of the *Environmental Planning & Assessment Act 1979*. You are advised to contact Council immediately if you wish to alter your approved plans or if you cannot comply with other requirements of your consent to confirm whether a Section 96 modification is required.

**Warning:** There are substantial penalties prescribed under the *Environmental Planning and Assessment Act 1979* for breaches involving unauthorised works or activities.