

**ATTACHMENT C**

**NOTICE OF DETERMINATION D/2008/102/B**

**67-77 EPSOM ROAD AND  
95 DALMENY AVENUE, ROSEBERY**



**NOTICE OF DETERMINATION - APPROVAL** issued under Section 80(1)(a) of the Environmental Planning and Assessment Act 1979

<b>Development Application No.</b>	D/2008/102/B
<b>Applicant</b>	LJB URBAN PLANNING PTY LTD PO BOX 617 ROUND CORNER NSW 2158
<b>Land to be developed</b>	67-77 Epsom Road , ROSEBERY & 95 Dalmeny Avenue , ROSEBERY  Lot 1 DP 858174, Lot 2 DP 858174
<b>Approved development</b>	Stage 1 DA for five residential buildings ranging in height from 4 to 8 storeys and one mixed use building ranging in height from 1 to 13 storeys, all with associated basement levels. Public domain works include a 3,260 sqm public park, four new internal roads, the dedication and setback of a 1.4 metre strip of land along the Epsom Road boundary of the site and the dedication and setback of two strips of land along the eastern boundaries of the site for future footpath extensions or landscaping areas.
<b>Cost of development</b>	\$232,900,000
<b>Determination</b>	The application was determined by the Central Sydney Planning Committee and was granted consent subject to the conditions in Schedules 1 and 2.  This Section 96 modification application was determined under delegation of Council and was granted consent <b>subject to the attached conditions</b> .
<b>Section 61 Contribution</b>	A Section 61 Contribution (under the City of Sydney Act 1988) does not apply to this development.
<b>Consent is to operate from</b>	30 July 2010
<b>Consent will lapse on</b>	30 July 2015
<b>Date of Section 96(1A) Modification</b>	<b>17 October 2014</b>

**Reasons for conditions**

Unrestricted consent may affect the environmental amenity of the area and would not be in the public interest.

**Right of Appeal**

If you are dissatisfied with this decision, Section 96(6) of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environmental Court within 6 months after the date of this Notice of Determination.

Alternatively, you may request a review under Section 96AB of the Act within 28 days of the date of this notice (NB section 96AB is not applicable to integrated or designated development).

**GRAHAM JAHN**

Director - City Planning, Development & Transport

## ATTACHMENT C

## CONDITIONS OF CONSENT

## (1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2008/102 dated 24 January 2008 and the Statement of Environmental Effects – Revised Scheme prepared by Urbis dated October 2008, and and the following drawings:

Drawing Number	Architect	Date
DA-A07 Rev H	Joshua Farkash and Associates	27 July 2009
DA-A08 Rev H	Joshua Farkash and Associates	27 July 2009
DA-A08A Rev H	Joshua Farkash and Associates	27 July 2009
DA-A08B Rev H	Joshua Farkash and Associates	27 July 2009
DA-A08C Rev H	Joshua Farkash and Associates	14 April 2009
DA-A08D Rev H	Joshua Farkash and Associates	27 August 2009
DA-A08E Rev H	Joshua Farkash and Associates	27 July 2009
DA-A09 Rev H	Joshua Farkash and Associates	27 July 2009
DA-A10 Rev H	Joshua Farkash and Associates	18 May 2010
DA-A11 Rev H	Joshua Farkash and Associates	18 May 2010
DA-A12 Rev G	Joshua Farkash and Associates	14 April 2009
01 Rev A: Basement and Deep Soil Plan and Principles	McGregor Coxall	Submitted 25 January 2012

and as amended by the conditions of this consent.

- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.
- (c) Notwithstanding (a) above, the front setback along the Dalmeny Avenue frontage of the site may be reduced to 4 metres in accordance with the South Sydney DCP 1997.
- (d) The existing commercial building referred to as Building A6 is to be demolished.***

(Amended via Section 96 (1A) application dated 2 February 2012)

***(Amended via Section 96 (1A) application dated 17 October 2014)***

## (2) COMPLIANCE WITH THE VOLUNTARY PLANNING AGREEMENT

The scope of works relevant to each stage of the development as specified in the Voluntary Planning Agreement submitted to Council on 1 April 2010 by the developer Overland Consolidated Pty Ltd, must be completed to the satisfaction of Council prior to the issue of any Occupation Certificate for each of those stages.

# ATTACHMENT C

**(3) NO WORK SHALL OCCUR UNTIL A STAGE 2 DEVELOPMENT APPLICATION AND CONSTRUCTION CERTIFICATE IS ISSUED FOR THE BASEMENT TO GROUND FLOOR OF THE BUILDINGS**

No tree removal, demolition or works shall commence until a detailed Stage 2 Development Application is approved.

**(4) DESIGN QUALITY EXCELLENCE**

The detailed design of the whole development shall exhibit design excellence. In particular, the detailed design of Building A shall be of an international design standard.

**(5) STREET ACTIVATION**

The detailed design of the ground floor and associated uses within Building A must promote activation of the street frontages.

**(6) ADDITIONAL DETAILS TO BE PROVIDED WITH FUTURE DEVELOPMENT APPLICATION**

The future Stage 2 Development Applications must provide full and precise details in relation to:

- (a) Details demonstrating compliance with the terms of this Stage 1 consent;
- (b) Details demonstrating compliance with the provisions of SEPP 65 – Design Quality of Residential Flat Development, and the provisions of the Residential Flat Code;
- (c) Details demonstrating compliance with the relevant provisions of ~~South Sydney LEP 1998, South Sydney DCP 1997, South Sydney DCP No. 11 (Transport Guidelines for Development), City of Sydney Access DCP 2004,~~ **the Sydney Local Environmental Plan 2012, Sydney Development Control Plan 2012**, Policy for Waste Minimisation in New Developments and any other relevant Council policies at the time of lodgement.
- (d) ~~Details demonstrating compliance with the provisions of Section 6.1 (Residential Amenity) of Central Sydney DCP 1996.~~

**(Amended via Section 96 (1A) application dated 17 October 2014)**

**(7) DESIGN OF END WALLS**

Future proposals for development, particularly the end walls of buildings built to the boundary, are to be appropriately designed to provide articulation and visual interest when viewed from the surrounding public domain.

**(8) HEIGHT OF BUILDINGS**

- (a) The maximum building envelope shall not exceed:

Building	RL
Building A1	RL 50.87

## ATTACHMENT C

Building	RL
Building A2	RL 53.87
Building A3	RL 65.87
Building A4	RL 50.87
Building A5	RL 44.87
Building A6	RL 35.87
Building A7	RL 27.87
Building A8	RL 42.87
Building B	RL 47.75
Building C	RL 37.95 (4 storey section) RL 34.95 (3 storey section)
Building D	<del>RL 48.64</del> RL 48.70 (8 storey section) <del>RL 42.64</del> RL 42.70 (6 storey section) <del>RL 39.64</del> RL 39.70 (5 storey section)
Building E/F	RL 42.87 (6 storey section) RL 39.66 (5 storey section)
Building G	RL 43 (6 storey section) RL 40 (5 storey section)
Building H	RL 43 (6 storey section) RL 40 (5 storey section)

- (b) The building envelopes are approved on the basis that the ultimate building design, ~~including~~ excluding services and lift over-runs, parapets or articulation elements or courtyards elevated above ground, will be entirely within the approved envelopes and provide an appropriate relationship with neighbouring and approved buildings.

(Amended via Section 96 (1A) application dated 2 February 2012)

**(9) FLOOR TO CEILING HEIGHT**

Each storey of each building is to have a minimum floor to ceiling height of 2.7m.

**(10) FLOOR SPACE RATIO**

- (a) The Floor Space Ratio of the proposed development must not exceed 2:1 calculated in accordance with the ~~South Sydney Local Environmental Plan 1998~~ **Sydney Local Environmental Plan 2012**. For the purpose of the calculation the floor space area is 66,800sqm (~~55,444sqm~~ **58,030sqm** residential, ~~7,585sqm~~ **4,999sqm** commercial and 3,771sqm retail).
- (b) Precise details of the distribution of floor space shall be provided with future development applications.
- (c) ***The proposed development may exceed the maximum permitted floor space under section (a) above but only when calculated in accordance with Clauses 4.4, 6.13 and 6.21 under the Sydney LEP 2012 to the maximum floor space permitted in accordance with these clauses, when those clauses apply.***

(Amended via Section 96 (1A) application dated 17 October 2014)

# ATTACHMENT C

## **(11) ELECTRICITY SUBSTATION**

If required by the applicable energy supplier, the owner must dedicate to the applicable energy provider, free of cost, an area of land within the development site, but not in any landscaped area or in any area visible from the public domain, to enable an electricity substation to be installed. The size and location of the substation is to be submitted for the approval of Council and Energy Australia as part of the Stage 2 Development Application.

## **(12) ECOLOGICALLY SUSTAINABLE DEVELOPMENT**

The subject development shall be designed to achieve best practice ESD standards, not to simply pass Basix requirements. The development should incorporate innovative and pioneering ESD features and relevant reports should be provided with all future Stage 2 Development Applications for the site.

## **(13) WIND TUNNELLING**

Wind tunnel testing shall be prepared and submitted with the Stage 2 development application for Building A.

## **(14) SYDNEY AIRPORT CORPORATION**

The applicant/developer shall liaise and obtain approval from the Sydney Airport Corporation as part of any future Stage 2 Development Application for Building A.

## **(15) CONSTRUCTION MANAGEMENT**

All Stage 2 Development Applications shall be supported by a detailed construction management plan.

## **(16) COMPLIANCE WITH ACOUSTIC ASSESSMENT**

- (a) The development shall be designed and constructed to include the recommendations in the acoustic report ref: TD670-01F02 prepared by Renzo Tonin and Associates, dated 18 December 2007.
- (b) The Principal Certifying Authority (PCA) shall ensure that a statement from an accredited acoustic consultant certifying that the acoustic mitigation measures identified in the acoustic assessment report prepared by Renzo Tonin and Associates dated 18 December 2007 are suitable incorporated into the development, and the noise criteria in the report have been met prior to issue of an occupation certificate.

## **(17) UPGRADE TO EPSOM ROAD / LINK ROAD INTERSECTION**

- (a) Any Stage 2 Development Application for the site shall be accompanied by a plan showing works to upgrade the intersection of Epsom Road / Link Road. The intersection shall be designed as follows:
  - (i) Link Road approach – left turn lane (30-40m) + shared through / right turn lane + right turn only lane;
  - (ii) Epsom Road (East) approach – shared left/through lane + 60m through lane + 60m right turn only lane; and



## ATTACHMENT C

- (iii) Epsom Road (West) approach – free flow left turn slip lane + 20m long bus only lane + right turn only lane.
- (b) Detailed signal and road design plans of the proposed new traffic signals and interchange at Epsom Road/Link Road will need to be forwarded to the RTA for approval prior to the commencement of any roadworks. The plans must show all dimensions (e.g. lane width, kerb return radius), pavement marking, bike lane and logo, parking controls, bus zones, pedestrian crossing, median islands, signs and driveways. The RTA fees for administration, plan checking, signal works inspections and project management shall be paid for by the developer prior to the commencement of the works.
- (c) Works to upgrade the intersection shall be completed prior to the issue of any Occupation Certificate which permits more than 320 apartments to be occupied across the entire site ~~prior to the issue of a Construction Certificate for any part of the development.~~

(Amended via Section 96 (1A) application dated 2 February 2012)

### **(18) CAR PARKING AND LOADING REQUIREMENTS**

- (a) Endorsement of the Stage 1 application is conditional upon compliance with the maximum rates for on-site parking set in the ~~South Sydney DCP 11 – Transport Guidelines for Development 1996 and the Green Square Amendment to South Sydney DCP 1997: Urban Design~~ **Sydney LEP 2012 and Sydney DCP 2012.**
- (b) Bicycle parking is to be provided in accordance with the above DCPs and the minimum requirements of Australian Standard AS 2890.3 – 1993 Parking Facilities Part 3: Bicycle Parking Facilities.
- (c) The proposed layout, arrangement and number of parking spaces are not approved and do not form part of this consent. The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS 2890.1-2004 and AS 2890.2 – 2002 for heavy vehicle usage.
- (d) The Stage 2 Development Application for Building A shall provide a sufficient number of loading bays to accommodate the expected peak loading for that building. Loading bays must be designed for building maintenance vehicles and removalists of minimum 12.5 metres in length and shall be provided in accordance with Council's Policy for Waste Minimisation in New Developments.
- (e) Where a car park is accessed by a security gate, that gate must be located at least 6 metres within the site from the street front property boundary.

**(Amended via Section 96 (1A) application dated 17 October 2014)**

### **(19) TRAFFIC REQUIREMENTS**

## ATTACHMENT C

- (a) All road, lane and footway widths must comply with the ~~Green Square DCP~~ **Sydney DCP 2012**. This will result in the requirement to reduce the lane widths of the road marked as Road 4 where the swale does not exist. This can be altered as part of the detailed design of the site.
- (b) Any proposals for alterations to the public road, involving traffic and parking arrangements, must be designed in accordance with RTA Technical Directives and must be referred to and approved by the Sydney Traffic Committee prior to any work commencing on site.
- (c) The swept path of the largest vehicle (including garbage trucks) entering and existing the site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.
- (d) All driveways entering the development sites must be designed with standard driveway crossovers, not with kerb returns.
- (e) All proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclists travelling along the footpaths of Epsom Road and Dalmeny Avenue. The required sight lines to pedestrians or other vehicles in or around all car park entries are not to be compromised by landscaping or signage.
- (f) The development is located within a 40km/h speed restriction zone. The applicant must ensure the internal streets are design to comply with the RTA's requirements for designing roads for this speed. All designs should assume the road locations for the adjoining development to the east are in place and constructed.
- (g) All proposed pedestrian crossings within the development must meet the RTA warrants for new crossings. The applicant must apply to the Sydney Traffic Committee (STC), via the City's Traffic Operations Unit, for the approval of all the pedestrian crossings. The applicant must include all the relevant information to show that all the RTA warrants for the crossings can be met. All crossings must be constructed as per the conditions of the STC, and it must be designed and constructed at no cost to Council.

***(Amended via Section 96 (1A) application dated 17 October 2014)***

### **(20) CYCLEWAY REQUIREMENTS**

The developments Epsom Road and Dalmeny Avenue frontages are identified as future cycle routes in the City's adopted Cycle Strategy and Action Plan 2007 – 2017. The applicant must contact the City's Cycle Team to discuss provision of these Cycleways. The applicant must construct the cycleway along this frontage at no cost to Council, unless they are given exemption from doing so from the Cycling Team.

### **(21) PUBLIC DOMAIN LIGHTING**

The Lighting Plans, prepared by Lightmatters (Dwg No. 02/LS01 and 02/LS02) are not approved. The lighting of all areas which are to be used by the public must comply with AS/NZS 1158 and shall include but not be limited to: -

## ATTACHMENT C

- (a) Lighting in laneways, pedestrian pathways and pedestrian pathways through parks to comply with AS1158.3.1 Category P2;
- (b) Lighting in footpaths along Epsom Road, Dalmeny Avenue and all footpaths along roads within the development to comply with AS 1158.3.1 Category P2;
- (c) Lighting in traffic roads along Epsom Road, Dalmeny Avenue and all roads within the development to comply with AS1158.1.1 Category V3

The Public Domain Lighting is to be designed in accordance with the City of Sydney's Public Domain Manual.

### **(22) SITE LANDSCAPE PLAN**

The Landscape Plan (Dwg. DA-L03 Rev. B, prepared by McGregor + Partners) is not approved. A detailed Landscape Plan of all private landscaped areas, drawn to scale, by a landscape architect or approved landscape consultant, must be submitted to and approved by Council with all future Stage 2 Development Applications. The plan must include:

- (a) Details of landscape finishes, materials and levels;
- (b) Location of existing and proposed structures on the site including existing trees, canopy over, pavilions, and pergolas (if applicable);
- (c) Details of earthworks including mounding and retaining walls and planter boxes (if applicable);
- (d) Details of landscaping on slab including soil depth, drainage, and waterproofing (if applicable);
- (e) Details of any water feature (if applicable);
- (f) Location, type of plant species;
- (g) Details of proposed landscaped areas to adjoining buildings and spaces for co-ordination purposes.

Special attention must be paid to the treatment of landscaping above a slab.

### **(23) SCREEN PLANTING**

Screen planting is to be provided along the southern boundary of the site between Road 01 and the adjoining property. Screen planting to be a minimum of 4 metres tall when mature (following 5 years growth).

### **(24) PUBLIC DOMAIN PLAN**

- (a) The Public Domain Plan (including all areas to be dedicated to Council) accompanying this Development Application has not been approved by this consent
- (b) A Public Domain Plan must be prepared by an architect, urban designer or landscape architect and must be submitted to and approved by Council with all future Stage 2 Development Applications.

# ATTACHMENT C

- (c) The Public Domain Plan must be prepared in accordance with the City of Sydney's Public Domain Manual, Sydney Streets Design Code and the Street Tree Masterplan.

## **(25) ROAD NETWORK AND GEOMETRIC ROAD DESIGN**

- (a) The amended drawing submission prepared by GHD Pty Ltd in drawing Nos.DA-C001/D, DA-C002/F, DA-C003/C, DA-C010/F, DA-C011/F, DA-C013/F, A-C020/D, DA-C021/B, DA-C040/F, DA-C041/D, DA-C042/C, DA-C045/D, DA-C060/C and DA-C061/B have not been approved by this consent. These drawings shall be further developed with the future Stage 2 Development Applications in association with Council and, where relevant, the developer of the adjacent site at 87-103 Epsom Road.
- (b) The design and construction of all roadworks shall be undertaken in accordance with Council's Development Specifications for Civil Works (design & construction). Detailed plans for the works shall be prepared and submitted to Council for approval prior to issue of any Construction Certificate or approval under Section 138 of the Roads Act 1993 for the proposed road, drainage, infrastructure and open space works within the development site and on the existing public way fronting the site. The detailed plans and supporting documentation shall include as a minimum the following information;
- (i) General subdivision plan with contour details, clearly indicating the extent of work;
  - (ii) Typical road cross sections showing road and footway widths, pavement configuration, batter slopes, retaining walls (engineered), kerb and gutter types;
  - (iii) Plan and longitudinal section showing gutter invert, kerb and boundary alignments of the existing and proposed future public road network including public utility services;
  - (iv) Drainage plan and schedule of drainage elements and any special pit requirements;
  - (v) Drainage profiles and longitudinal sections with hydraulic grade lines and other standard features;
  - (vi) Road cross sections and longitudinal sections of the kerb returns with pedestrian ramps;
  - (vii) Road pavement structure design, kerb and gutter, drainage works, traffic management measures, traffic and pedestrian signage, kerbside parking signage, wheel stops, and any necessary minor works and matching adjustments to the existing road network;
  - (viii) Details of intersections with existing roads, including a minimum 300mm road restoration of the existing road formation;
  - (ix) Footpaths, pedestrian and bicycle facilities and management, street lights and street trees and other associated verge works

# ATTACHMENT C

- (x) Adjustments/upgrades to utility services as required;
  - (xi) Intersection layout details including line marking, pavement marking and signposting;
  - (xii) Standard engineering and structural details plan;
  - (xiii) Erosion and sedimentation control plans;
  - (xiv) Compliance with all relevant Council requirements including, road opening permits, public liability insurance and compliance with Council' Quality Assurance for design(design certification report and check lists 1-9 from Council's Development Specification for Civil Works),Quality System requirements involving construction inspection and supervision procedures;
  - (xv) Drainage pit lids throughout the public domain shall be heel guarded and bicycle safe, finish flush with the adjacent pavement to avoid trip hazards and be clear of obstructions for easy opening and cleaning. Drainage pit lids shall be in accordance with Council Standards.
- (c) Note: All design documentation shall be completed in accordance with the relevant standards and specifications as adopted by Council from time to time. All engineering plans and calculations shall be checked, signed and certified by a suitably qualified practicing civil Engineer.

## **(26) EASEMENTS AND COVENANTS**

An appropriate documentary drainage easement and associated restrictive or positive covenant is to be created over any relocated/proposed local drainage system within private property, registered on Title of the affected land(s) pursuant to Section 88E of the *Conveyancing Act 1919*. The easement and covenant are to be created appurtenant to and in a location and in terms to the satisfaction of Council.

## **(27) RELATIONSHIP TO ADJACENT SITE AT 87-103 EPSOM ROAD**

- (a) Any future Stage 2 Development Applications involving detailed design and documentation of the civil, road network connection, stormwater and other public domain works necessary for the Stage 1 component of this consent shall be designed in association with the planned development of the adjoining site at 87-103 Epsom Road where relevant to deliver an at-grade road connection between the two sites.
- (b) The design of all civil, stormwater and other public domain works shall compliment any works approved as part of future detailed Stage 2 development applications within the Stage 1 component of this consent.

## **(28) FUTURE SUBDIVISION**

- (a) Any proposal to subdivide the site to separate the components of the development, create Public Reserve and dedicate roads to the public, will require separate applications to Council to obtain development consent for the proposal and subsequent approval of the final Plan of Subdivision and

## ATTACHMENT C

issue of the Subdivision Certificate under Part 4A of the Environmental Planning and Assessment Act 1979.

- (b) Any proposal to strata subdivide the building will require separate applications to obtain development consent from Council and subsequent approval of the final Strata Plan and endorsement of the Strata Certificate by Council or an accredited certifier in accordance with Section 37 of the Strata Schemes (Freehold Development) Act 1973.

**SCHEDULE 2**

**PRESCRIBED CONDITIONS**

The prescribed conditions in accordance with Division 8A of the *Environmental Planning and Assessment Regulation 2000* apply:

- Clause 98 Compliance with *Building Code of Australia* and insurance requirements under the *Home Building Act 1989*
- Clause 98A Erection of signs
- Clause 98B Notification of *Home Building Act 1989* requirements
- Clause 98C Conditions relating to entertainment venues
- Clause 98D Conditions relating to maximum capacity signage
- Clause 98E Conditions relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 8A of the *Environmental Planning and Assessment Regulation 2000*. This can be accessed at: <http://www.legislation.nsw.gov.au>