

**ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979**

**DETERMINATION OF MAJOR PROJECT NO. 08-0064**

**(FILE NO. S08/00646)**

**ADDITIONS TO THE MUSEUM OF CONTEMPORARY ART**

**140 GEORGE STREET, THE ROCKS**

I, the Minister for Planning, having considered the following, pursuant to Part 3A of the *Environmental Planning & Assessment Act, 1979*, section 75J Clause (2) determine the major project referred to in the attached Director General's Environmental Assessment Report, by **giving of approval** to the major project referred to in the attached Schedule 1 subject to the conditions of approval in the attached Schedule 2.

This approval applies to the plans, drawings and documents cited by the Proponent in their Environmental Assessment and the Proponent's Statement of Commitments in Schedule 3, subject to the conditions of approval in the attached Schedule 2.



The Hon Kristina Keneally MP  
**Minister for Planning**

Sydney, *26/6/*

2009

## SCHEDULE 1

### PART A—TABLE

<b>Application made by:</b>	Museum of Contemporary Art
<b>Application made to:</b>	Minister for Planning
<b>Major Project Application:</b>	MP 08_0064
<b>On land comprising:</b>	Lots 20, 21, 22 and 24 in DP787906, Part Lot 1 in DP1052780, and Part Lot 25 in DP773812 140 George Street, The Rocks
<b>Local Government Area</b>	City of Sydney
<b>For the carrying out of:</b>	<p>The removal of an existing café over the substation and the demolition of the 2 level south wing to the existing Police Building, and the partial reconstruction of the 'prisoner run' and van dock.</p> <p>Addition of a 6 storey building to the north of the existing MCA, for the following:</p> <ul style="list-style-type: none"> <li>• New foyer and entry areas et and West Circular Quay;</li> <li>• Additional gallery, educational and theatre spaces and a new café on Level 5; and</li> </ul> <p>Undercover loading dock and parking area.</p> <p>Alterations and addition to the existing MCA building, including:</p> <ul style="list-style-type: none"> <li>• Reorganisation and remodelling of internal public gallery and circulation spaces, and MCA and other office uses;</li> <li>• Extension to level 1 terraces for outdoor seating area to existing café;</li> <li>• Addition of rooftop venue space on Level 7; and</li> <li>• New retail tenancies along the George Street frontage.</li> </ul> <p>The redevelopment of the public domain around the existing and proposed building including the provision of archaeological interpretation for the former dockyards.</p>
<b>Estimated Cost of Works</b>	\$43,792,729
<b>Type of development:</b>	Major Project
<b>Determination made on:</b>	
<b>Date approval is liable to lapse:</b>	5 years from the date of determination unless specified action has been taken in accordance with section 75Y of the Act.

### PART B—NOTES RELATING TO THE DETERMINATION OF MP NO. 08-0064

#### ***Responsibility for other consents / agreements***

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

#### ***Appeals***

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

***Legal notices***

Any advice or notice to the approval authority shall be served on the Director General.

**PART C—DEFINITIONS**

In this approval,

***Advisory Notes*** means advisory information relating to the approved development but do not form a part of this approval.

***Council*** means City of Sydney Council.

***CPI*** means Consumer Price Index.

***Department*** means the Department of Planning or its successors.

***Director General*** means the Director General of the Department.

***Environmental Assessment*** means the Environmental Assessment prepared by GHD Pty Ltd December 2008.

***EP&A Act*** means the *Environmental Planning and Assessment Act, 1979*.

***Minister*** means the Minister for Planning.

***MP No. 08-0064*** means the Major Project application described in the Proponent's Environmental Assessment.

***Proponent*** means the Museum of Contemporary Art any party acting upon this approval.

***Regulation*** means the *Environmental Planning and Assessment Regulation, 2000*.

***RTA*** means the Roads and Traffic Authority

***Subject Site*** has the same meaning as the land identified in Part A of this schedule.

***SHFA*** means the Sydney Harbour Foreshore Authority

***SPC*** means Sydney Ports Corporation

## SCHEDULE 2

### RECOMMENDED CONDITIONS OF APPROVAL

#### MAJOR PROJECT NO. 08-0064

#### PART A—ADMINISTRATIVE CONDITIONS

##### **A1     *Development Description***

Except as amended by the conditions of this approval, approval is granted only to carrying out the development as described in Schedule 1, and development must be carried out consistently with the Statement of Commitments (attached as Schedule 3).

These conditions of approval do not relieve the Proponent of its obligations under the EP&A Act and any other Act.

##### **A2     *Development in Accordance with Plans***

The development will be undertaken in accordance with the Environmental Assessment dated 4 December 2008 and subsequent Preferred Project Report dated April 2009 prepared by GHD Pty Ltd including all Appendices and the following drawings prepared by Architect Marshall Pty Ltd:

<b>Architectural (or Design) Drawings prepared by Architect Marshall submitted with Preferred Project Report</b>			
<b>Drawing No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Date</b>
PA12	E	LEVEL 1 FLOOR PLAN PROPOSED	2.4.09
PA13	E	LEVEL 2 FLOOR PLAN PROPOSED	2.4.09
PA14	E	LEVEL 3 FLOOR PLAN PROPOSED	2.4.09
PA15	E	LEVEL 4 FLOOR PLAN PROPOSED	2.4.09
PA16	G	LEVEL 5 FLOOR PLAN PROPOSED	8.4.09
PA17	E	LEVEL 6 FLOOR PLAN PROPOSED	2.4.09
PA18	G	LEVEL 7 FLOOR PLAN PROPOSED	8.4.09
PA19	F	LEVELS 8 & 9 FLOOR PLANS PROPOSED	8.4.09
PA20	E	LANDSCAPE PLAN PROPOSED	2.4.09
PA25	E	SECTION AA & BB PROPOSED	2.4.09
PA26	E	SECTION CC & DD PROPOSED	2.4.09
PA27	E	EAST ELEVATION PROPOSED	2.4.09
PA28	E	WEST ELEVATION PROPOSED	2.4.09
PA29	E	NORTH ELEVATION PROPOSED	2.4.09
PA30	E	SOUTH ELEVATION PROPOSED	2.4.09

### **A3 Development in Accordance with Documents**

The development will be undertaken in accordance with the following documents:

- (1) *Environmental Assessment Report* prepared by GHD Pty Ltd on behalf of the MCA dated December 2008;
- (2) Built Form and Urban Design Statement prepared by Architect Marshall Pty Ltd dated 3 November 2008;
- (3) Arborist Report prepared by Australis Tree Management dated 25 November 2008;
- (4) Crime Prevention Through Environmental Design Assessment prepared by GHD Pty Ltd dated November 2008;
- (5) Accessibility Review prepared by Morris-Goding Accessibility Consulting dated 3 December 2008;
- (6) Traffic Impact Study prepared by Colston Budd Hunt & Kafes Pty Ltd dated November 2008;
- (7) Construction Impact Report prepared by Root Projects Australia Pty Ltd dated 27 October 2008;
- (8) ESD Project Application Report, Revision 02, prepared by Steensen Varming (Australia) Pty Ltd dated 28 October 2008;
- (9) Heritage Impacts Statement prepared by Tanner Architects dated October 2008;
- (10) Heritage Impact Statement (Archaeology) prepared by Casey and Lowe Pty Ltd dated October 2008;
- (11) Statement on Provision of Site Stormwater Drainage prepared by Warren Smith and Partners, dated 16 October 2008;
- (12) Preliminary Environmental Site Screening and Waste Classification Assessment prepared by Environmental Investigation Services dated 24 October 2008;
- (13) Substation Report prepared by Haron Robson Pty Ltd dated 3 November 2008;
- (14) BCA Compliance Overview Report prepared by BCA Logic Pty Ltd dated 21 October 2008;
- (15) MCA – External Finishes Board (3 February 2009); and
- (16) Preferred Project Report prepared by GHD Pty Ltd dated April 2009.

### **A4 Inconsistency Between Documents**

In the event of any inconsistency between conditions of this approval and the drawings/documents referred to above, the conditions of this approval prevail.

### **A5 Design Resolution**

- (1) Level 6 Plant
  - (a) The dimensions and height of the Level 6 plant area shall be reviewed to address potential view loss across the site from the Harbour Rocks Hotel.
  - (b) Any redesign of this plant is to be undertaken in consultation with the Sydney Harbour Foreshore Authority and the Harbour Rocks Hotel.
  - (c) Any redesign may relocate or reorientate this plant area, provided that any relocation is only to be forward (directly to the east) of the plant area and shall not consist of any increase in height or extend beyond the eastern edge of Terrace 6.4.
- (2) Level 7 addition
  - (a) The colours of the roof structure and awning detail to Level 7 above the existing MCA building are to be of light, recessive and non-reflective tones, such as silver, grey and white.
  - (b) The colour treatment to the roof and awning is to be consistent to both the northern and southern sections;

- (c) The materials to the western façade of the George Street elevation of Level 7 are to be clad in coloured backlit glass;
- (3) The thickness of awning edges to the Level 1 terraces fronting Circular Quay are to be reduced from approximately 470mm to 300mm; and
- (4) The final location, orientation and aesthetic treatment of the proposed fire boosters to George Street are to be determined with regard to minimising any physical obstruction or visual intrusion into the streetscape at pedestrian level, and these matters are to be developed in consultation with the SHFA and NSW Fire Brigade.

#### **A6 Additional Approvals Required**

No approval is granted or implied for any the following:

- (a) any signage including building identification signs and business identification signs which are either externally or internally fitted or applied;
- (b) installation of bollards, planters, any umbrellas, awnings or other shade structures or other form of weather protection, on the rooftop terrace or outdoor seating areas (other than those shown on the stamped approved plans); and
- (c) any satellite dish and/or antenna installations.

A separate application shall be submitted to the consent authority for consideration for any of the above-mentioned works and uses.

#### **A7 Prescribed Conditions**

The Proponent shall comply with all relevant prescribed conditions under clause 98 of the Regulation.

#### **A8 Additional Plans etc Required by this Approval**

With the approval of the Director General, the Proponent may submit any plan, program, study or other document required by this approval on a progressive basis.

### **PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

#### **B1 Construction Certificate**

The stamped drawings must be lodged with the Certifying Authority (Minister for Planning via the Department of Planning, City of Sydney Council, or a private accredited certifier) for a Construction Certificate. The Proponent must supply the Department of Planning with a copy of the Construction Certificate within two days from the date of its issue.

#### **B2 Structural Details**

Prior to the issue of a Construction Certificate for the relevant works, the Proponent shall submit to the satisfaction of the Certifying Authority, structural drawings prepared and signed by a suitably qualified practising Structural Engineer that complies with:

- (1) the relevant clauses of the BCA,
- (2) the relevant approval,
- (3) drawings and specifications comprising the Construction Certificate, and
- (4) the relevant Australian Standards listed in the BCA (Specification A1.3).

Prior to work commencing, structural details and a Structural Certificate for Design in accordance with Clause A2.2(a)(iii) of the Building Code of Australia must be submitted to the satisfaction of the Certifying Authority.

### **B3 Mechanical Ventilation**

All mechanical ventilation systems shall be designed in accordance with Part F4.5 of the Building Code of Australia and shall comply with Australian Standards AS1668.2 and AS3666 *Microbial Control of Air Handling and Water Systems of Building*, to ensure adequate levels of health and amenity to the occupants of the building and to ensure environment protection. Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the relevant works.

### **B4 Stormwater & Drainage**

Prior to the issue of a Construction Certificate for the relevant works, details of the proposed stormwater disposal and drainage from the development including on site stormwater detention (where relevant) is to be in accordance with the City of Sydney Council's standard requirements and details of the provision and maintenance of overland flow paths to the satisfaction of the City of Sydney Council. All approved details for the disposal of stormwater and drainage are to be implemented in the development.

### **B5 Sydney Water – Notice of Requirements**

An application shall be made to Sydney Water for a Certificate under Part 6, Division 9, section 73 of the *Water Board (Corporatisation) Act, 1994* (Compliance Certificate). Evidence that a Compliance Certificate has been applied for (i.e. Notice of Requirements) shall be produced to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate for the development.

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 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.

### **B6 Public Domain Plan**

A detailed public domain plan is to be prepared in consultation with SHFA and Council, and submitted to the Department for approval prior to the issue of the Construction Certificate for the new building. The Public Domain Plan is to address the following principles and/or incorporate the following features:

- New activity zones for public meeting and recreation, and provision of a quality, welcoming and inclusive environment for the public irrespective of whether they visit the MCA or not;
- Opportunities for active and passive recreation, including the potential use for public events and gathering;
- Provide opportunities for public education through both interpretation of the site's heritage and archaeological significance, and the role the site has had in The Rocks Precinct;
- Incorporate a mix of hard paving and grassed areas, regraded to achieve equitable access for all, and incorporate new seating zones, new appropriate planting and shading;

- Identify all existing trees and other planted areas to be removed and those surrounding the site to be retained, and detail that the new plantings will maintain an appropriate relationship to existing adjacent areas of public domain;
- Ecologically Sustainable Design principles, particularly with regard to plant selection, water use, lighting, and other materials; and
- Incorporation of public art and other features displays.

The extent of works is as defined on drawing PA20 in Appendix B of the Preferred Project Report. All works within this boundary identified in the approved Public Domain Plan are to be implemented as part of this approval.

### ***B7 Protection of Trees***

All street trees and planting on Circular Quay to be retained are to be protected at all times during excavation and construction. Details of the methods of protection must be submitted to and approved by SHFA prior to the issue of any Construction Certificate. All approved protection measures must be maintained for the duration of the works and any tree damaged or removed must be replaced as directed by SHFA.

### ***B8 Disabled Access***

- (1) Access and facilities for people with disabilities shall be provided in accordance with Part D3 of the BCA's Access Policy, and the City of Sydney Access Policy December 1992. Prior to the issue of the Construction Certificate for the new or existing building a certification of compliance with this condition from an appropriately qualified person shall be provided to the Certifying Authority.
- (2) One accessible parking space on the site should be available for staff.
- (3) An Access Management Plan is to be prepared and submitted to SHFA.

### ***B9 Heritage Management Plan***

Prior to the issue of any Construction Certificate for the development, a Heritage Management Plan is to be prepared in consultation with the Heritage Branch of the Department of Planning. This Plan shall include but not be limited to the following matters:

- (1) Details of all procedures to be implemented during the works in relation to heritage items and historical archaeology;
- (2) More detailed research and other investigations are to be undertaken for each of the identified areas with archaeological fabric or deposits of heritage significance from more detailed design development and to provide mitigation and management measures for those impacts;
- (3) All management measures necessary for any removal of the proposed piles inside and outside the docks, in order to avoid causing further damage to the archaeological remnants;
- (4) The appointment of a qualified and experienced specialist heritage consultant for the project to be approved by the Department. The consultant is to be the single point of contact for the redevelopment team in relation to heritage issues and consistency of approach including detailed design resolution of new works, conducting on-site heritage inductions, inspection of new works, design and installation of services and management of the implementation of the conditions of approval;
- (5) Details of a heritage induction program prepared by the nominated heritage specialist / consultant, which is to be conducted for all site contractors, subcontractors and personnel to ensure heritage issues are dealt with appropriately throughout the redevelopment project.

### **B10 Traffic and Parking Details**

Prior to the issue of a Construction Certificate for the new building addition, plans are to be submitted for the approval of the Certifying Authority identifying the following traffic and parking details:

- (1) All vehicles should enter and leave the site in a forward direction. In the event that site constraints do not permit heavy rigid vehicles to enter and leave the site in a forward direction then all reversing movements should be undertaken under the control of certified traffic controllers to ensure public safety when vehicles are reversing.
- (2) Car parking associated with the proposal (including queuing areas, grades, turn paths, sight distance requirements, aisle widths, and parking bays) should be in accordance with AS 2890.1-2004 and AS 2890.2-2002 for heavy vehicle usage.
- (3) Appropriate pedestrian advisory signs are to be provided at the egress from the car park and loading dock.
- (4) All works/regulatory signposting associated with the proposed developments shall be at no cost to the RTA.

### **B11 ESD**

ESD initiatives are to be in accordance with the ESD Project Application Report (Rev 02) prepared by Steensen Varming (Australia) Pty Ltd dated 28 October 2008. The final ESD Matrix will be submitted and approved prior to Construction Certificate and will be consistent with the intention to achieve energy efficiency and reduced greenhouse gas emissions and water use.

### **B12 Indoor Lighting**

The proposed internal lighting system must be designed to provide for the efficient use of energy including the use of energy efficient light fittings, zoned lighting and controls and sensors to ensure automatic switch off during non-working hours in appropriate areas of the building. Details are to be submitted with the application for a Construction Certificate.

### **B13 Water conservation**

Water saving devices shall be installed in all areas of the development to reduce water consumption and promote energy efficiency, and all new fixtures and fittings are to achieve the following WELS rating and performance:

- (a) hand wash basins rated to WELS 4 Star;
- (b) sink taps rated to WELS 4 Star;
- (c) showerheads rated to WELS 4 Star;
- (d) dual flush toilets rated to WELS 4 Star;
- (e) urinals should be waterless or sensor rated to WELS 5 Star; and
- (f) dishwashers rated to WELS 4 Star.

Details of the above are to be included in the specifications which are to form part of the Construction Certificate for the premises.

### **B14 Reflectivity**

The light reflectivity from all building materials used on the facades of the new building and additions shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A report demonstrating compliance with these requirements is to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

## **B15 Design of Food Premises**

The fitout of the food premises shall be carried out in accordance with AS 4674-2004: Construction and fit out of food premises and the relevant provisions of the BCA. Details of compliance with the relevant provisions shall be prepared by a suitably qualified person and submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

## **PART C—PRIOR TO COMMENCEMENT OF WORKS**

### **C1 Construction Management Plan**

Prior to the commencement of the new building works a Construction Management Plan shall be submitted to and approved by the Department. The Plan shall include, but not be limited to, the following matters which are to be addressed by suitably qualified person(s):

- (1) **Hours of work**, which must be in accordance with the conditions of this approval;
- (2) **Contact details** of the site manager and all principle contractors;
- (3) **Traffic management**, which is to be developed in consultation with SHFA, SPC and The Rocks Police, and is to include:
  - ingress and egress of vehicles to the site;
  - management of loading and unloading of materials;
  - number and frequency of vehicles accessing the site;
  - the times vehicles are likely to be accessing the site;
  - options/alternative access and loading arrangements at times when access via Argyle Street may not be available, i.e. during Ship Days; and
  - management of existing vehicular and pedestrian movements / routes around the site throughout the various stages of construction;
- (4) **Acid Sulphate Soil Management**, addressing the requirements of the document *Acid Sulphate Soil Assessment Guidelines* (by the Acid Sulphate Soil Management Advisory Committee 1998);
- (5) **Erosion and sediment control**, identifying appropriate measures to be installed during construction which shall be designed in accordance with in accordance with the document *Managing Urban Stormwater – Soils & Construction Volume 1 (2004)* by Landcom;
- (6) **Noise and vibration management**, identifying specific activities that will be carried out and associated noise sources, identify all potentially affected sensitive receivers, noise and vibration monitoring reporting and response procedures, description of specific mitigation treatments management measures and procedures to be implemented, and address any other relevant provisions of *The Sydney Code of Practice for Construction Hours/Noise 1992* and Australian Standard 2436-1981 *Guide to Noise Control on Construction, Maintenance and Demolition Sites*;
- (7) **Waste management**, identifying options for minimising waste in construction; reuse and recycling of materials; the storage, control and removal of construction waste; and any other relevant provisions of the City of Sydney Council's *Policy for Waste Development in New Developments 2005*;
- (8) **Dust control** measures to be implemented to prevent the movement of airborne particles from the site throughout the construction process, and the tracking of material from the site by trucks and other vehicles. This is to include the appropriate use of physically barriers and the dampening of exposed excavated surfaces. The storage and stockpiling areas for material is also to be detailed.

**Note:** The Proponent must consult with SPC for use of their land during the construction phase of the development, and in particular any potential impacts associated with major ship arrivals at the Overseas Passenger Terminal.

### **C2     *Footpath Damage Bank Guarantee***

Prior to commencement of the new building addition or works to the existing building the Proponent must provide a bank guarantee to SHFA for an amount determined by SHFA as security for rectification of any damage to the public way.

### **C3     *Barricade Permit***

Where construction/building works require the use of a public place including a road or footpath, approval for a Permit is to be obtained from SHFA prior to the commencement of work. Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of the SHFA.

### **C4     *Vehicle Cleansing***

Prior to the commencement of work, suitable measures are to be implemented to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site/associated with the construction of the development. It is an offence to allow, permit or cause materials to pollute or be placed in a position from which they may pollute waters.

### **C5     *Utility Services***

To ensure that utility authorities are advised of the development:

- (1) A survey is to be carried out of all utility services within and adjacent to the site including relevant information from utility authorities and excavation if necessary, to determine the position and level of services.
- (2) Prior to the commencement of work the Proponent is to negotiate with the utility authorities (e.g. Energy Australia, Sydney Water and Telecommunications Carriers) in connection with the relocation and/or adjustment of the services affected by the construction of the underground structure. Any costs in the relocation, adjustment or support of services are to be the responsibility of the developer.

### **C6     *Signage***

Adequate signage and other protective measures should be erected in the vicinity of the archaeological remnants and in the vicinity of the work site to alert contractors and subcontractors to the existence and fragile nature of these heritage items.

### **C7     *Heritage Induction***

All site contractors, subcontractors and personnel are to be inducted on site by the heritage consultant prior to commencing works to ensure they are aware of their obligations and requirements in relation to historical archaeological sites and 'relics' in accordance with guidelines issued by the Heritage Council of NSW.

### **C8     *Archival Recording***

Photographic and archival recording of areas of archaeological impact, as identified in the specialist heritage reports are to be undertaken as part of on-site works, before any impacts occur as well as during any on-site investigation and at the completion of site works. Copies

of these photographic recordings shall be submitted to the Department of Planning, City of Sydney and SHFA.

### **C9 Archaeological Excavation**

All affected historical archaeological 'relics' and/or deposits of local and State significance are to be subject to professional archaeological excavation and/or recording before construction works commence which will impact those 'relics'. A Research Design including an Archaeological Excavation Methodology must be prepared in accordance with Heritage Council guidelines and in consultation with the Heritage Branch of the Department of Planning and approved by the Department of Planning.

### **C10 Excavation Report**

After any archaeological works have been undertaken, a copy of the final excavation report(s) shall be prepared and lodged with the Heritage Council of NSW, the City of Sydney and SHFA. The proponent shall also be required to nominate a repository for the relics salvaged from any historical archaeological excavations. The information within the final excavation report shall be required to include the following:

- (a) An executive summary of the archaeological programme;
- (b) Due credit to the client paying for the excavation, on the title page;
- (c) An accurate site location and site plan (with scale and north arrow);
- (d) Historical research, references, and bibliography;
- (e) Detailed information on the excavation including the aim, the context for the excavation, procedures, treatment of artefacts (cleaning, conserving, sorting, cataloguing, labelling, scale photographs and/or drawings, location of repository) and analysis of the information retrieved;
- (f) Nominated repository for the items;
- (g) Detailed response to research questions (at minimum those stated in the Department of Planning approved research Design);
- (h) Conclusions from the archaeological programme. This information must include a reassessment of the site's heritage significance, statement(s) on how archaeological investigations at this site have contributed to the community's understanding of the site and other Comparative Site Types and recommendations for the future management of the site; and
- (i) Details of how this information about the excavations have been publicly disseminated (for example, include copies of press releases, public brochures and information signs produced to explain the archaeological significance of the sites).

### **C11 Contact Telephone Number**

Prior to the commencement of the works, the Proponent shall forward to the Department, SHFA, SPC, The Rocks Police and Council a 24 hour telephone number to be operated and continually attended by a person with authority over the works for the duration of the construction works.

## **PART D—DURING CONSTRUCTION**

### **D1 Approved Plans to be On-Site**

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

## **D2 Hours of Work**

- (2) All work, including demolition, excavation and road and building work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of:
  - between 7:00 am and 7.00 pm, Mondays to Fridays inclusive;
  - between 7:00 am and 3.00 pm, Saturdays;
  - no work must be carried out on Sundays and public holidays.
- (3) Building work which involves high noise outputs (such as jack hammering, grinding, repetitive manual hammering, electric planing, masonry drilling or circular sawing) shall not be undertaken in the hours of 12 noon – 2:00 pm.
- (4) Works may be undertaken outside these hours where:
  - (a) the delivery of materials is required outside these hours by the Police or other authorities; or
  - (b) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm; or
  - (c) the Department, SHFA, Council and any residents likely to be affected by the works are notified of the timing and duration of these works at least 48 hours prior to the commencement of the works.

## **D3 Noise Control**

- (1) All work, including demolition, excavation and building work must comply with The City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436-1981 Guide to Noise Control on Construction, Maintenance and Demolition Sites
- (2) Noise and vibration emissions from equipment and associated site works must not result in damage to nearby premises or result in an unreasonable loss of amenity to nearby residents or businesses and the relevant provisions of the Protection of the Environment Operations Act, 1997 must be satisfied at all times.

## **D4 Standards and Codes**

All building works shall be constructed in accordance with safe work practices and complying with the relevant Australian Standards, Codes of Practice and the Building Code of Australia.

## **D5 WorkCover Requirements**

To protect the safety of work personnel and the public, the work site shall be adequately secured to prevent access by unauthorised personnel, and work shall be conducted at all times in accordance with relevant WorkCover requirements.

## **D6 Hoarding Requirements**

- (1) To ensure an appropriate presentation of the site to the public domain during the construction period, temporary artwork shall be provided along any hoarding/fencing proposed to be erected around the subject site.
- (2) The temporary artworks shall inform the general public about the proposed works being undertaken by the Proponent, the site's history and heritage significance.
- (3) No third party advertising is permitted to be displayed on the subject hoarding/fencing.
- (4) The construction site manager shall be responsible for the removal of all graffiti from any construction hoardings or the like within the construction area within 48 hours of its application.

**D7 Loading and Unloading During Construction**

A Works Zone is required where loading and unloading is not possible on site and approval is required from SHFA as the relevant Roads Authority. An approval for a Works Zone may be given for a specific period and certain hours of the day to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.

**D8 Covering of Loads**

All vehicles involved in the excavation process and departing with spoil or loose matter, must have their loads fully covered before entering the public roadway.

**D9 Erosion and Sedimentation Control**

Sediment controls are to be in place for the duration of the works to ensure that no sediment, fines, and like material can enter the waterway or drainage system. The Proponent is to carry out works generally in accordance with the Construction Management Plan and controls are to be maintained at design level throughout the duration of the works and are to be inspected for this purpose at frequent intervals. Any deficiencies are to be immediately made good.

**D10 Dust Control Measures**

Dust control measures are to be in place or are to be undertaken for the duration of the works to prevent dust from affecting the amenity of the immediate area during construction. The Proponent is to carry out works generally in accordance with the Construction Management Plan, and controls are to be maintained at design level throughout the duration of the works and are to be inspected for this purpose at frequent intervals. Any deficiencies are to be immediately made good.

**D11 Vehicle Management**

- (1) All vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material.
- (2) All equipment wheels shall be washed before exiting the site.
- (3) Gates shall be closed between vehicle movements.
- (4) Cleaning of footpaths and roadways shall be carried out regularly.

**D12 Disposal of Seepage and Stormwater**

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

**D13 Stormwater Pits**

Any existing stormwater pits that do not comply with AS 3500 will be upgraded as part of the development.

**D14 Setting Out of Structures**

The new buildings shall be set out by a registered surveyor to verify the correct position of each structure in relation to property boundaries and the approved alignment levels.

**D15 Site Contamination**

Capping of the site is to be undertaken as per the recommendations made in the Preliminary Environmental Site Screening and Waste Classification Assessment prepared by Environmental Investigation Services dated 24 October 2008.

**D16 Protection of Street and On-site Trees**

All trees on the site, adjoining sites, and on the street that are not approved for removal are to be suitably protected by way of tree guards, barriers or other measures as necessary during construction in accordance with the recommendations of the Arborist Report prepared by Australia Tree Management dated 25 November 2008.

**D17 Heritage**

- (1) The proposed works are to be carried out in a manner that minimises demolition, alterations, and new penetrations/fixings to the significant fabric of the existing significant archaeological remnants and existing MCA building.
- (2) Significant archaeological heritage items and elements are to be adequately protected during the works from potential damage. Protection systems must be in accordance with the recommendations provided by the specialist reports included in the Environmental Assessment and must ensure that historic fabric is not damaged or unnecessarily removed.

**D18 Work on Site to Cease**

If any unidentified historical archaeological remains or deposits are exposed during the works excavation is to cease immediately in the affected areas and the archaeologist is to undertake an evaluation of the potential extent and significance of such relics. The Heritage Council is to be notified in accordance with Section 146 of the *NSW Heritage Act, 1977*.

**D19 No Obstruction of Public Way**

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by City of Sydney Council to stop all work on site.

**PART E—PRIOR TO OCCUPATION OR COMMENCEMENT OF USE**

**E1 Occupation Certificate to be Submitted**

An Occupation Certificate must be obtained from the Certifying Authority prior to commencement of occupation or use of the whole or part of the new building, an altered portion of, or an extension to an existing building. A copy of the certificate shall be submitted to the Department.

**E2 Site Consolidation and Subdivision**

- (1) The various allotments which comprise the MCA site are to be consolidated into a single allotment. A plan of consolidation prepared by a registered surveyor is to be submitted for registration at the Lands Property Information NSW (Department of Information and Land Management).
- (2) The consolidated allotment must include easements for all existing services through the site which are to be retained.

- (3) The consolidated allotment must provide appropriate easements for light and ventilation to the window openings to levels 3, 4 and 5 on the southern elevation of the adjoining building at 132 George Street.
- (4) The encroachment of building areas above the George Street footpath and above the Circular Quay public domain may be provided for as part lots in stratum attached to the consolidated lot.
- (5) Evidence of consolidation/subdivision from the Lands and Property Information NSW shall be submitted prior to the issue of an Occupation Certificate for the new building.

**Note:** The development consent (DA 045-03-08) for the boundary adjustment between the subject site and 132 George Street must also be undertaken and the subdivision registered. The lot boundaries in the approved subdivision do not adhere to the location of the proposed building addition, and a modification to that approval will be required prior to the site consolidation.

### ***E3 Mechanical Ventilation***

Following completion, installation and testing of any mechanical ventilation systems, the Proponent shall provide evidence to the satisfaction of the Certifying Authority, prior to the issue of any Occupation Certificate, that the installation and performance of the mechanical systems complies with:

- (1) the Building Code of Australia;
- (2) Australian Standard AS1668 and other relevant codes;
- (3) the development approval and any relevant modifications; and
- (4) any dispensation granted by the New South Wales Fire Brigade.

### ***E4 Structural Inspection Certificate***

A Structural Inspection Certificate or a Compliance Certificate for any structural work is to be submitted to the satisfaction of the Certifying Authority prior to issue of each Occupation Certificate.

### ***E5 Fire Safety Certificate***

A Fire Safety Certificate shall be furnished to the Certifying Authority for all the Essential Fire or Other Safety Measures forming part of this approval prior to issue of the final Occupation Certificate. A copy of the Fire Safety Certificate must be submitted to the relevant authority and Council.

### ***E6 Parking for People with Disabilities***

The Proponent is to consult with SHFA to reinstate disabled parking spaces or drop off areas along George Street to enable access to the MCA for people with disabilities, with minimal obstruction. Details are to be provided to the Department prior to occupation.

### ***E7 Accessibility***

Prior to issue of an Occupation Certificate a certificate of compliance is to be prepared by an appropriately qualified person and submitted to the Certifying Authority confirming that the development complies with the recommendations in the Report on Access and DDA Issues (Accessibility Review prepared by Morris-Goding Accessibility Consulting dated 3 December 2008).

### **E8 Traffic Management Plan**

Prior to commencement of operation an Operational Traffic Management Plan shall be submitted to the satisfaction of SPC to ensure the impacts on the Overseas Passenger Terminal are minimised, and should include, but not limited to, the following:

- (1) information on access to the site from Argyle Street;
- (2) number of vehicles accessing the site;
- (3) parking spaces for the MCA;
- (4) general traffic and pedestrian management arrangements;
- (5) management of truck deliveries to minimise impacts on Argyle Street access; and
- (6) interface management arrangements between the activities of the MCA and the Overseas Passenger Terminal.

### **E9 Public domain**

Prior to the issue of an Occupation Certificate for the new building addition, all public domain works identified on the Public Domain Plan as approved under Condition B6 of this approval, are to be completed to the satisfaction of the SHFA.

### **E10 Heritage**

Prior to the issue of an Occupation Certificate:

- (1) The heritage consultant is to prepare a report (including works photographs) which describes the work, any impacts/ damage and corrective works carried out and submit this report to the Department of Planning; and
- (2) The heritage consultant must sign off the completed project and certify that all works have been constructed in accordance with the approved documents.

### **E11 Heritage Interpretation Plan**

A Heritage Interpretation Plan is to be prepared for the northern part of the site containing significant archaeological remnants. The Plan is to be prepared in consultation with SHFA and the Heritage Branch of the Department of Planning and the final Plan is to be submitted to the Department for approval.

All works proposed in the Interpretation Plan are to be fully implemented prior to the issue of any Occupation Certificate.

### **E12 Conservation Management Plan**

A Conservation Management Plan shall be prepared for the site and shall be submitted to the Department of Planning and the Heritage Council of NSW prior to issue of an Occupation Certificate.

### **E13 Sydney Water**

A Compliance Certificate issued under Part 6, Division 9, Section 73 of the *Water Board (Corporatisation) Act, 1994* shall be submitted to the Certifying Authority prior to the issue of the Occupation Certificate for Stage 2.

### **E14 Security Management Details**

Full details of all security measures to be installed on the exterior of the existing and proposed building, are to developed in consultation with the SHFA and are to be provided for

the approval of the Department prior to the issue of an Occupation Certificate. Details are to include including external lighting, security cameras and sensors to both the George Street and full Circular Quay frontages.

### **E15 Outdoor Lighting**

All outdoor lighting shall comply with, where relevant, AS/NZ1158.3: 1999 Pedestrian Area (Category P) Lighting and AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting. Details demonstrating compliance with these requirements are to be submitted to the satisfaction of the Certifying Authority prior to the issue of an Occupation Certificate.

### **E16 Waste Management**

Prior to an Occupation Certificate being issued, the Certifying Authority must ensure that waste handling works have been completed in accordance with the Waste Management Plan; other relevant approval conditions; and the Council's *Policy for Waste Minimisation in New Developments 2005*.

### **E17 Food Premises**

The construction, fit out and finishes or any proposed commercial food premises shall comply with Standard 3.2.3 of the *Australian and New Zealand Standards Food Code* under the *Food Act 2003*. All food preparation areas are to be inspected and certified by Council's Environmental Health Officers prior to use.

### **E18 Road Damage**

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

## **PART F—POST OCCUPATION & ON GOING OPERATIONAL CONDITIONS**

### **F1 Noise Control – Operational**

The use of the premises shall not cause a nuisance, or an offensive noise as defined in the *Protection of the Environment Operations Act 1997*, to adjoining properties or the public.

### **F2 Noise Control – Plant and Machinery**

Noise associated with the operation of any plant, machinery or other equipment on the site, shall not give rise to any one or more of the following:

- (1) Transmission of "offensive noise" as defined in the *Protection of the Environment Operations Act 1997* to any place of different occupancy.
- (2) A sound pressure level at any affected residential property that exceeds the background (LA90, 15 minute) noise level by more than 5dB(A). The background noise level must be measured in the absence of noise emitted from the premises. The source noise level must be assessed as a LAeq, 15 minute.
- (3) Notwithstanding compliance with (1) and (2) above, the noise from mechanical plant associated with the premises must not be audible in any habitable room in any residential property between the hours of 12.00 midnight and 7.00am.

### ***F3 Loading***

All loading and unloading, including deliveries to and from the site in connection with the use must be carried out in a manner so as not to cause inconvenience to the public or detrimentally impact the amenity of the locality.

### ***F4 Annual Fire Safety Certification***

An annual Fire Safety Statement must be given to Council and the NSW Fire Brigade commencing within 12 months after the date on which the initial Interim/Final Fire Safety Certificate is issued. This must ensure that the essential services installed in the building for the purpose of fire safety have been inspected and at the time of inspection are capable of operating to the required minimum standard.

## **ADVISORY NOTES**

### ***AN1 Use of Mobile Cranes***

The Proponent shall obtain all necessary permits required for the use of mobile cranes on or surrounding the site, prior to the commencement of works. In particular, the Proponent shall ensure the following matters are complied with:

- (1) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on street use of mobile cranes, permits must be obtained from Council:
  - (a) at least 48 hours prior to the works for partial road closures which, in the opinion of Council will create minimal traffic disruptions, and
  - (b) at least 4 weeks prior to the works for full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.
- (2) The use of mobile cranes must comply with the approved hours of construction and shall not be delivered to the site prior to 7.30am without the prior approval of SHFA and Council.

### ***AN2 Movement of Trucks Transporting Waste Material***

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

### ***AN3 Disability Discrimination Act***

This application is to comply with the *Disability Discrimination Act 1992*. The Proponent/owner is responsible to ensure compliance with this and other anti-discrimination legislation. The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS 1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the *Disability Discrimination Act 1992* currently available in Australia.

**SCHEDULE 3**

**MP 08\_0064**

**THE MUSEUM OF CONTEMPORAY ART**

**140 GEORGE STREET, THE ROCKS**

**PROPONENT'S STATEMENT OF COMMITMENTS**

**Table 1 Final Statement of Commitments**

Issue	Commitments
General	The development will be undertaken generally in accordance with the Environmental Assessment dated November 2008 and Preferred Project Report dated March 2009, as prepared by GHD Pty Ltd, and the accompanying architectural plans prepared by Architect Marshall Pty Ltd in association with the Government Architects Office.
Ecologically sustainable development	<p>The MCA is committed to the principles of sustainability as defined in the Environmental Planning and Assessment Act 1979.</p> <p>A range of ESD initiatives will be incorporated into the proposed redevelopment to minimise the impact of the development on the environment. These initiatives are detailed in the Steensen Varming report dated 28 October 2008.</p> <p>The MCA also commits to developing an environmental policy for both the project and general MCA operations, including establishing an environmental management system to implement it.</p>
Requirements of legislation	All necessary approvals, licences, certificates and authorisations will be obtained prior to the commencement of construction, and as appropriate during the construction period.
Building Code of Australia	All building works will be carried out in accordance with the Building Code of Australia as relevant at the time of lodgement of the Construction Certificate.
Construction management	<p>Prior to the issue of a Construction Certificate, a Construction Management Plan will be submitted to and approved by the Certifying Authority. The Plan will address the following, including making recommendations regarding procedures to be adopted to minimise the impacts of construction activities:</p> <ul style="list-style-type: none"> <li>▶ Construction staging;</li> <li>▶ Traffic and parking management;</li> <li>▶ Pedestrian management;</li> <li>▶ Noise and vibration management;</li> <li>▶ Tree protection;</li> <li>▶ Dust control;</li> <li>▶ Erosion and sediment control;</li> <li>▶ Waste generation and management;</li> <li>▶ Hazardous materials management.</li> </ul>
Landscaping	Prior to the issue of a Construction Certificate, the proponent will submit a final detailed landscaping plan prepared by a suitably qualified landscape architect. The landscaping plan will be prepared in consultation with SHFA and the City of Sydney, and will be consistent with the public domain principles outlined in the Preferred Project Report.
Construction hours	<p>Hours of construction will be limited to 7am to 6pm Monday to Friday and 7am to 4pm on Saturdays, with no work on Sundays or public holidays.</p> <p>Work may be undertaken outside these hours following consultation with SHFA and City of Sydney Council, and for emergency measures.</p>
Contamination	The recommendations of the Preliminary Environmental Site Screening and Waste Classification Assessment (EIS, 2008) will be implemented for capping of the site to provide an effective barrier between the contamination and the site occupants.
Access	The MCA commits to developing an operational plan in conjunction with SHFA to manage access arrangements through the southern doors of the Foundation Hall located on the northern edge of First Fleet Park.
Archaeology	Prior to the issue of a Construction Certificate, the MCA will submit an Interpretation Strategy. This Strategy will be prepared in consultation with SHFA and the City of Sydney, and will incorporate an artistic project/s for the interpretation of the site, and the development and history of the place.