

Attachment E – Response to Submissions

Submission	Response
City of Sydney submission (date 12 May 2022) The application seeks to amend Condition C4, to enable certain works outside of standard construction hours. The City has reviewed the submitted documentation and does not raise any objections to the proposed amendments. Based on the assessment of noise and vibration during the proposed extended hours period, the internal and limited external construction works will be acoustically acceptable and comply with the relevant EPA and City of Sydney Council requirements pending implementation of all recommendations as outlined within the submitted Construction Noise and Vibration Management Plan prepared by Pulse White Noise Acoustics and dated 22 March 2022. It is requested that a condition of consent be imposed that specifically references the CNVMP submitted as part of this modification.	No objection is raised to the imposition of a condition of consent that specifically references the CNVMP accompanying this Modification. It should be noted that Section 2.4 in Modification 9 Planning Report proposes to modify C4 to specifically reference the CNVMP, thereby ensuring works are undertaken in accordance with the CNVMP. This CNVMP is also cross-referenced in Condition C24 which requires that the requirement of the plan is implemented during works. Therefore, this matter has been adequately safeguarded by the proposed conditions.
Royal Botanical Gardens and Domain Trust (RBGDT) submission (dated 11 May 2022) In the coming months, the Trust welcomes and hosts iconic open-air events in the Domain such as the Lifestyle Event and the Sydney Morning Herald Half Marathon, and private functions in our restaurants. These events and functions require clear access and uninterrupted operations to achieve a successful event and visitor engagement. Thus, the trust is particularly concerned regarding the potential disruptions the extended construction hours may impose on any event and function operations. As the seasons change the functions and activities at the restaurants increase and activities such as early morning breakfasts and weddings, parties and other functions increasing take place over the latter half of the week including weekends. The Domain also becomes increasingly active as the Trust enters its major event season from September through to April and greater movement takes place in this space. Noting that the Modification is for extended construction hours ending at 12 midnight seven days per week it is essential that the nature of the works is integrated within the limitations of the space. To that end the following constraints are requested to be applied.	RBGDT appear to be concerned with potential disruptions on any event and function hosted by “vendors and restaurant” operators on their premises. Consequently, the RBGDT request that the listed constraints are imposed by DPE as conditions on any consent, thereby safeguarding the amenity of any users. However, given further consideration, it is considered that these constraints may be unreasonably burdensome, potentially undermining the ability of works to be undertaken out of hours. Concern is raised in relation to the first two constraints. These constraints seem to suggest that the Art Gallery of NSW (AGNSW) may need to reschedule works to a time that does not affect “vendors and restaurant” operators. Whilst the AGNSW appreciates the concern raised and is committed to working with RBGDT to ensure a beneficial outcome for all parties, it is considered that such a condition is inappropriate in the context of existing conditions of consent that already regulate construction noise. It should be noted that Condition C7 requires the AGNSW to comply with the construction noise management levels detailed in the <i>Interim Construction Noise Guideline (The Guideline)</i>. The noise management levels provide clearly defined limits

- Internal works are not anticipated to create any noise issues, but all noisy works must be managed to avoid spill outside the confines of the building shell.
- Any works where the risk of noise spill is likely to occur and affect the Trust's vendors and restaurant operators must be notified to the Trust a minimum of five days prior to the planned works and those works may need to be rescheduled in consultation with the Trust.
- Road restrictions, including lane closures and construction traffic are to be managed in coordination with the Trust as the road owners.
- Any works requiring traffic management are to be coordinated so that access to the restaurants and spaces are not compromised
- No road works on Art Gallery Road are to be undertaken at night without the prior approval of the Trust.

The Trust is aware that the Modification is set to apply until 20 June, but the Trust also notes that the official opening of the project is set for 3 December 2022. Therefore, any works or extension of this Modification past the nominated date are requested to have the same conditions applied as identified above.

To address the above matters, we ask that any consent for the proposal is conditioned to require the applicant to comply with Council's Development Control Plan guidelines, and consideration is given to the points raised in determining the application.

that allows both parties to objectively measure noise impacts. The condition adds that any activities that could exceed the management levels must implement all feasible and reasonable noise mitigation measures.

However, where all feasible and reasonable practices have been applied and noise is above the noise affected level, Section 4 of the *Guideline* contains additional safeguards which ensures that the AGNSW negotiates with the community. In this case, a Precinct Working Group (PWG) has been established between the AGNSW, RBGDT and Transport for NSW (TfNSW). Therefore, it is considered that the PWG provides a suitable forum to address potential noise impacts if they do arise.

Furthermore, regarding the last constraint, it appears that RBGDT are concerned with those works which have potential to disrupt traffic and pedestrian flow. This does not seem like an unreasonable request, but we request that the condition is modified so that road works are coordinated with the RBGDT rather than for their approval. As mentioned above, the PWG should ensure these matters are effectively coordinated between all the parties.

No objection is raised in relation to the imposition of other constraints as conditions on the development consent.

RBGDT also made comments which suggests that the Modification is only set to apply until 20 June 2022. This is only an instructed completion date. The Modification seeks to allow for works outlined in the Out of Hours Management Plan prepared by RCC, in accordance with the CNVMP, until completion.

Notwithstanding this, if DPE is inclined to impose a timing restriction for the proposed Modification, it is requested that this is extended beyond the instructed date to account for any unforeseen circumstances. It is requested that this is extended up to December 2022.