

25 May 2022

Department of Planning & Environment
4 Parramatta Square,
12 Darcy Street
Parramatta NSW 2150

Email: Lara.Fusco@dpie.nsw.gov.au

To: Cameron Sargent
Team Leader – Key Sites Assessments

Sydney Modern Project – SSD-6471-MOD-8
Modification 8 – Response to Draft Conditions of Consent

Dear Cameron,

Thank you for your letter dated 24 May 2022 requesting comments on draft conditions in relation to Modification 8 to State Significant Development Application (SSD-6471) for the Art Gallery of NSW Expansion - Sydney Modern Project. This letter forms a response to the draft conditions on behalf of Art Gallery NSW (AGNSW).

Comment on draft conditions

Following a review of the draft conditions, we request that the Department of Planning and Environment (DPE) reconsiders its drafting of Conditions C4 and C24 of consent for Modification 8. We provide the following comments for your consideration of this request.

Construction Hours (Condition C4)

Condition C4 has been varied to enable works described in the Out-Of-Hours Management Plan prepared by RCC. This condition requires the works to be undertaken in accordance with the *Construction Noise and Vibration Management Plan* at **Attachment B** and the *Traffic Management Plan* at **Attachment C** of our *Response to Submissions and Amendment Report* for Modification 8. However, it is also noted that the condition only allows for out-of-hours works to be undertaken until 20 June 2022.

As per **Attachment E** of the *Response to Submissions and Amendment Report* for Modification 8, 20 June 2022 was an instructed completion date for contract works, prior to our lodgment of Modification 8. However, the critical date for the Project is 3 December 2022 when Art Gallery will be officially opened, as announced by the Premier. As it stands, the proposed drafting of the condition presents a significant risk of preventing AGNSW from meeting this critical milestone.

Accordingly, we are requesting that this condition is amended to allow for out-of-hours works up to **17 December 2022**. This change will account for any further delays which may arise during the construction program that are beyond our control. This is especially pertinent when you consider the previous circumstances which serve as the rationale for the Modification and now more relevantly, the conditions that have been imposed by DPE to alleviate the concerns of Royal Botanic Gardens and Domain Trust (RBGDT).

AGNSW appreciates that these constraints have been requested to protect the amenity and operation of vendors and restaurant operators in RBGD. However, in alleviating the concerns of RBGDT, these constraints may also potentially undermine the ability of AGNSW to undertake out-of-hours works in certain circumstances. Although AGNSW is committed to working with RBGDT to ensure a beneficial outcome, it should be noted that these constraints may impact the overall program. An amended date therefore provides much needed flexibility.

Critically, we note that changing the date to **17 December 2022** does not change the impacts of the proposal that were originally considered in the Modification Report. Irrespective of the date, works will be carried out in accordance with supporting Management Plans, thereby ensuring the protection of surrounding amenity during out-of-hours works. Also, regarding the submissions received, RBGDT does not raise any objection to a possible extension if the constraints are adhered to. The same can be said for the City of Sydney.

Given the above, it is considered that this request is reasonable and necessary in the circumstances of the case. We request that the condition is modified as requested, thereby ensuring the effective delivery of the Sydney Modern Project in line with community expectations.

Implementation of Management Plans (Condition C24)

Condition 24 requires that the applicant implement the management plans required by Part B of this consent during construction. However, the way in which this condition is drafted appears to suggest that some of those plans required by Part B will be superseded by the management plans supporting Modification 8. Note, the supporting Management Plans for Modification 8 are to operate in conjunction to these management plans. We have provided wording to this effect in Section 2.4 of our *Response to Submissions and Amendment Report*.

In summary, we trust that this information is sufficient to assist DPE's consideration of our Response to the Conditions.

If you wish to discuss further, please contact Boris Santana, Senior Planner or Jane Fielding, Senior Associate, Planning on 8252 8400 or jane.fielding@architectus.com.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Jane Fielding', with a stylized, cursive script.

Jane Fielding
Senior Associate, Planning
Architectus Australia Pty Ltd