

Development Consent – Key Sites

Section 4.38 of the Environmental Planning and Assessment Act 1979

As Minister for Planning, I:

- (a) approve the Development Application referred to in Schedule 1, subject to the conditions specified in Schedule 2.
- (b) pursuant to Section 4.37 of the *Environmental Planning and Assessment Act 1979*, determine that any subsequent stage of the development with a capital investment value of less than \$30 million is to be determined by the relevant consent authority and that stage of the development ceases to be State significant development.

These conditions are required to:

- prevent, minimise, or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development



The Hon. Anthony Roberts MP
NSW Minister for Planning

Sydney

21/2/

2023

SCHEDULE 1

Application Number:

SSD-32927319

Applicant:

Infrastructure NSW

Consent Authority:

Minister for Planning

Site:

500 Harris Street, Ultimo

Lot 1 DP 631345, Lot 1 DP 781732, Lot 3 DP 631345, Lot 37 DP 822345 and Lot 1 DP 770031

Development:

Powerhouse Ultimo Concept Proposal including:

- a maximum building envelope for any new buildings and alterations or additions to existing buildings retained on the site:
 - Switch House: RL 27.88 AHD
 - Zones 1 and 2 – 30.8 m above existing ground level
 - Zone 3: RL 13.08 AHD
- Up to 40,000 m² of gross floor area (GFA), including existing GFA
- use of the site as an 'information and education facility' including museum, exhibition and learning spaces and ancillary uses including office, retail and temporary accommodation.

DEFINITIONS

Applicant	Infrastructure NSW, or any person carrying out any development to which this consent applies
Conditions of this consent	Conditions contained in Schedule 2 of this document
Construction	The demolition and removal of buildings or works, the carrying out of works for the purpose of the development, including bulk earthworks, and erection of buildings and other infrastructure permitted by this consent.
Council	City of Sydney Council
Department	NSW Department of Planning and Environment
Development	The development described in the EIS and Response to Submissions comprising the Powerhouse Ultimo Renewal, as modified by the conditions of this consent.
EIS	The Environmental Impact Statement titled Powerhouse Ultimo Renewal, prepared by Ethos Urban dated 26 May 2022, submitted with the application for consent for the development, including any additional information provided by the Applicant in support of the application
Environment	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2021</i>
Minister	NSW Minister for Planning (or delegate)
PA	Means a planning agreement within the meaning of the term in section 7.4 of the EP&A Act.
Planning Secretary	Planning Secretary under the EP&A Act, or nominee
Response to submissions	The Applicant's response to issues raised in submissions received in relation to the application for consent for the development under the EP&A Act.
Response to Request for Additional Information	The Applicant's responses to requests for additional information report, dated 16 November 2022, 21 November 2022, 12 December 2022, 24 January 2023 and 31 January 2023.
SLEP	Sydney Local Environmental Plan 2012
TfNSW	Transport for New South Wales
Certifier	A person who is authorised by or under section 6.17 of the EP&A Act to issue Part 6 certificates.
GANSW	Government Architect New South Wales
GFA	Gross Floor Area
DIP	Design integrity Panel
CPTED	Crime Prevention Through Environmental Design
SIA	Social Impact Assessment
CDB	Competitive Design Brief

SCHEDULE 2
PART A ADMINISTRATIVE CONDITIONS

DEVELOPMENT DESCRIPTION

- A1. Consent is granted to the 'Development' as described in Schedule 1 and the EIS, as amended by the RtS and supplementary information and the conditions of this development consent.

TERMS OF CONSENT

- A2. The development must only be carried out:
- (a) in compliance with the conditions of this consent
 - (b) in accordance with all written directions of the Planning Secretary
 - (c) in accordance with the EIS, Response to Submissions and supplementary information
 - (d) in accordance with the approved plans and information in the table:

Building envelope plans, prepared by John Wardle Architects			
Drawing No.	Revision	Name of Drawing	Date
AR0400	8	Building Envelope, Existing Site Plan	17.05.22
AR0500	10	Building Envelope Plan	19.09.22
AR0700	10	Building Envelope, NE & NW Elevation	19.09.22
AR0701	10	Existing Conditions SE & SW Elevation	19.09.22
AR0800	11	Building Envelope, 3D Views	19.09.22

- A3. Consistent with the requirements in this consent, the Planning Secretary may make written directions to the Applicant in relation to:
- (a) the content of any strategy, study, system, plan, program, review, audit, notification, report or correspondence submitted under or otherwise made in relation to this consent, including those that are required to be, and have been, approved by the Planning Secretary; and
 - (b) the implementation of any actions or measures contained in any such document referred to in **Condition A3(a)**.
- A4. The conditions of this consent and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and a document listed in **Condition A2(c), A2(d), or A2(e)**. In the event of an inconsistency, ambiguity or conflict between any of the documents listed in **Condition A2(c), A2(d) or A2(e)**, the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

DETERMINATION OF FUTURE DEVELOPMENT APPLICATIONS

- A5. In accordance with section 4.22 of the EP&A Act, all physical works and subsequent stages of the development are to be subject to future development applications.
- A6. In accordance with section 4.24 of the EP&A Act, the determination of future development applications cannot be inconsistent with the terms of this development consent (**SSD 32927319**) as described in **Schedule 1** and subject to the conditions in **Schedule 2**.

LAPSING OF APPROVAL

- A7. This consent will lapse five years from the date the consent is published on the NSW planning portal unless an application is submitted to carry out a stage of development for which concept approval has been given.

LIMITS OF CONSENT

- A8. This consent does not allow any components of the concept development application to be carried out without further approval or prior consent granted.
- A9. This consent does not endorse the Conservation Management Plan prepared by Curio Projects dated September 2022.

LEGAL NOTICES

- A10. Any advice or notice to the consent authority shall be served on the Planning Secretary.

PLANNING SECRETARY AS MODERATOR

A11. In the event of a dispute between the Applicant and a public authority in relation to an application requirement in this approval or a relevant matter relating to the development, either party may refer the matter to the Planning Secretary for resolution. The Planning Secretary's resolution of the matter shall be binding on the parties.

EVIDENCE OF CONSULTATION

- A12. Where conditions of this consent require consultation with an identified party, the Applicant must:
- (a) consult with the relevant party prior to submitting the subject document to the Planning Secretary for approval; and
 - (b) provide details of the consultation undertaken including:
 - (i) the outcome of that consultation, matters resolved and unresolved; and
 - (ii) details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.

GROSS FLOOR AREA CONTROL

A13. The maximum achievable gross floor area (GFA) for the development is 40,000m² comprising all existing and new GFA on the site.

The maximum GFA will only be achieved subject to demonstration of:

- (a) being wholly contained within the approved building envelopes
- (b) compliance with the conditions of this concept approval
- (c) demonstration of design excellence.

BUILDING ENVELOPE CONTROL

A14. The maximum building envelope for the development must not exceed the building envelope shown on the concept proposal envelope drawings listed in **Condition A2**.

BUILDING HEIGHT CONTROL

- A15. The maximum building heights for the development must not exceed the building envelope shown on the concept proposal envelope drawings listed in **Condition A2**.
- A16. The maximum height of any buildings within Zones 1 and 2 may exceed the maximum building height of 28 m by up to 10% (30.8 m) above existing ground level subject to future application(s) demonstrating design excellence in accordance with Clause 6.21D(3)(a) of Sydney Local Environmental Plan 2012.

PART B CONDITIONS TO BE SATISFIED PRIOR TO LODGEMENT OF FUTURE DETAILED DEVELOPMENT APPLICATIONS

DESIGN EXCELLENCE AND INTEGRITY

- B1. Prior to the lodgement of any future development application(s), the detailed design of the development must be subject to a Design Excellence Competition carried out in accordance with the Design Excellence Strategy prepared by Ethos Urban dated September 2022 (Ref 2210545).
- B2. A Design Integrity Panel (DIP) must be established by the Applicant prior to the lodgement of any future development application(s). The DIP membership must be in accordance with the approved Design Excellence Strategy.
- B3. The detailed design must be presented to the DIP prior to the lodgement of a future development application(s) and evidence of this presentation and any feedback shall be included in the relevant future development application.

PART C CONDITIONS TO BE SATISFIED IN FUTURE DETAILED DEVELOPMENT APPLICATIONS

DESIGN INTEGRITY REPORT

- C1. Future development application(s) shall include a Design Integrity Report that demonstrates how design excellence and design integrity has been achieved in accordance with:
- (a) the design objectives of the concept approval
 - (b) the approved Urban Design Guidelines
 - (c) the approved Design Excellence Strategy
 - (d) any advice from the DIP and Applicant's response to this advice
 - (e) the conditions of this consent.
- C2. The Design Integrity Report shall include how the process will be implemented through to completion of the approved development.

BUILDING FORM AND URBAN DESIGN

- C3. Future development application(s) must demonstrate that the buildings are wholly contained within the building envelopes consistent with the plans listed in **Condition A2**.
- C4. Future development application(s) shall address compliance with the Urban Design Guidelines prepared by John Wardle Architects & ASPECT, Rev 04 dated 19 September 2022.

HERITAGE

- C5. Future development applications must include a Statement of Heritage Impact prepared in accordance with the relevant guidelines which assesses any impacts and outlines measures to ensure they are minimised and mitigated.
- C6. Future development applications must include a Heritage Interpretation Strategy that outlines how the significance layering of the history and cultural significance of the site will be interpreted within the future proposed design for the site.
- C7. Future development application(s) must demonstrate that any new building elements are designed to reveal and enhance views of external heritage facades of heritage items on the site through Zones 1, 2 and 3 from Harris Street, the Goods Line and other vantage points surrounding the site.

HERITAGE CORE

- C8. Any alterations or additions to fabric of any building within the Heritage Core (as defined within the Heritage Impact Statement) must retain, protect and enable visibility of significant heritage fabric, key architectural features and in-situ heritage elements.
- C9. Any extension above the Switch House must be recessive and represent a clear articulation or transition between the historic core and any contemporary intervention.

ZONE 1

- C10. Any new building element/s in Zone 1 are only permitted if it contributes to creating an entry from the Powerhouse from the Goods Line and the enhance the public domain.
- C11. Any new building elements in Zone 1 are limited in height and scale, sited and designed to retain and improve upon existing visibility and readability of the external facades of the heritage items.
- C12. Future application(s) must provide a civic space within Zone 1 consistent with the Pyrmont Peninsula – Consolidated Sub-Precinct Master Plan

ZONE 2

- C13. Any new building within Zone 2 must improve the visibility and readability of the external facades of the Ultimo Powerhouse, the Post Office Building, and their relationship with one another and the broader precinct, including The Goods Line.
- C14. Future development application(s) must provide for an active and fine grain street frontage to the entire length of Harris Street, maximising openness and visual connections to the interior.
- C15. Future development application(s) must demonstrate that any unactive spaces and uses such as presentation space, utilities and servicing are located away from Harris Street. Where it is demonstrated that it is unavoidable, areas of solid facades should be incorporated into the design, to prevent blanked out glazing.

ZONE 3

- C16. Any future building element in Zone 3:
- (a) is only permitted to allow a new entry to the Powerhouse from Pier Street

- (b) must have a maximum height at or below the height of the existing Pier Street road level at this location
- (c) must include the retention of existing Pump House fabric including remaining facades, chimney and roof truss
- (d) must identify opportunities for interpretation of the former Pump House.

PUBLIC DOMAIN AND LANDSCAPING

- C17. Future development application(s) must demonstrate that a minimum of 2,200 m² of open to the sky public open space is delivered on the site (excluding existing public domain within Zone 4). This must include at least one space with a minimum area of 1,800 m² that is connected at grade to an adjacent public space or pathway to allow gathering for events and programming.
- C18. Future development application(s) must demonstrate that public domain areas are located and designed to enhance existing views and promote interaction with the historic character of the building complex and its surrounds.
- C19. Future development application(s) must confirm mechanism(s) to ensure open space is publicly accessible 24 hours-a-day 7 days-a-week.
- C20. Future development application(s) must demonstrate that a minimum of 5% of the site is provided as unimpeded deep soil planting.
- C21. Future development application(s) must demonstrate that tree canopy coverage is maximised in line with the Premier's priority Greening our City and Greening Sydney Strategy 2021, including appropriate species selection for shade trees within deep soil zones and additional planting on structure, green roofs and other methods to increase greenery for shade and cooling.

ARBORICULTURAL ASSESSMENT

- C22. Future development application(s) must include a detailed Arboricultural Assessment which considers the impact of the proposal and retention value of existing trees on and surrounding the site. All trees identified as having moderate (or above) retention value should be considered for retention and incorporation into the landscape design for the proposal.

PEDESTRIAN CONNECTIONS

- C23. Future development applications shall be accompanied by analysis of pedestrian connections to and from the site. The analysis shall explore opportunities to improve community access to the museum and connectivity to public transport, facilities and open spaces be investigated, consistent with the Ultimo Sub-Precinct Master Plan.

OFF-SITE PEDESTRIAN CONNECTIONS – EXHIBITION CENTRE LIGHT RAIL STOP

- C24. Future development application(s) must investigate the creation of a pedestrian link between the Powerhouse and the Exhibition Centre Light Rail Stop, in consultation with Council and TfNSW. The investigation must explore the feasibility, design and safety requirements of providing a connection and outline design process/es, responsibilities and funding mechanism/s for on and off-site works. Owners consent is required for any offsite works.

ACCESS REPORT

- C25. Future development application(s) must include an Access Report demonstrating that the development achieves an appropriate degree of accessibility in accordance with the relevant provisions of the Building Code of Australia and the Disability (Access to Premises – Buildings) Standards 2010.

CONTAMINATION AND REMEDIATION

- C26. Future development application(s) must include a Detailed Environment Site Investigation (DSI) and, as necessary, a Remedial Action Plan(RAP).

The DSI and RAP must be

- (a) prepared or reviewed and approved by consultants certified under either the Environment Institute of Australia and New Zealand's Certified Environmental Practitioner (Site Contamination) scheme (CEnvP(SC)) or the Soil Science Australia Certified Professional Soil Scientist Contaminated Site Assessment and Management scheme (CPSS CSAM); and
- (b) prepared in accordance with Consultants Reporting on Contaminated Land: Contaminated Land Guidelines (EPA, 2020) and relevant guidelines made or approved by the EPA under section 105 of the Contaminated Land Management Act 1997.

ENVIRONMENTAL PERFORMANCE

- C27. Future detailed development applications must demonstrate how the principles of ecologically sustainable development (ESD) have been incorporated into the design, construction and ongoing operation of the proposal.

C28. The ESD credentials of future detailed development applications shall be in accordance with, or improve upon, the targets established within the Ecologically Sustainable Development Report, dated 23 May 2022 and prepared by Steensen Varming.

FLOODING AND STORMWATER

C29. Future development application(s) must include a Flood Impact Assessment which considers potential flooding, stormwater, climate change/sea level rise and water quality impacts and management. The assessment must also demonstrate:

- (i) the provision of appropriate stormwater and drainage infrastructure to manage localised flooding/overland flow
- (ii) that floor levels of the development comply with the flood planning level requirements of City of Sydney's Interim Floodplain Management Policy
- (iii) that the development does not give rise to detrimental increases in the potential flood affectation of neighbouring land
- (iv) any building elements within Zone 1 and Zone 3, including any potential entrances to the museum and connection to the light rail stop, do not result in any adverse impacts to floodplain storage and conveyance or flood hazard.

NON-ABORIGINAL ARCHAEOLOGY

C30. Future development application(s) must include a Historical Archaeological Assessment which assesses impacts to potential historical archaeology and maritime archaeological resources that may exist at the site. The Historical archaeological investigation must outline opportunities to avoid and conserve archaeology in situ.

C31. Future development application(s) must include an Archaeological Research Design and Excavation Methodology to guide the approach and methodology for the proposed archaeological investigation.

ABORIGINAL CULTURAL HERITAGE

C32. Future development application(s) must include a Stage 2 Aboriginal Cultural Heritage Assessment Report prepared in accordance with the Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage Consultation Requirements for Proponents (DECCW, 2010), identifying, describing and assessing any impacts on Aboriginal cultural heritage values on the land. The ACHAR must include:

- (a) details on how the detailed design enables the avoidance and conservation of significant Aboriginal cultural heritage values, where identified through the assessment.
- (b) measures to manage and mitigate harm to any Aboriginal cultural heritage values, including procedures to be followed in the event Aboriginal burials or skeletal material are uncovered
- (c) the proposed research design and excavation methodology for test excavations, including a methodology that has been developed specifically for the site conditions and enables comparison of the results with those from other excavations in the area.

NOISE AND VIBRATION

C33. Future development applications shall be accompanied by a Noise and Vibration Impact Assessment that demonstrates the following requirements are met:

- (a) vibration from construction activities does not exceed the vibration limits established in British Standard *BS7385-2:1993 Excavation and measurement for vibration in buildings. A guide to damage levels from groundbourne vibration*.
- (b) construction noise is managed and mitigated in accordance with the Interim Construction Noise Guideline (DECC, 2009)
- (c) provide a quantitative assessment of the main noise generating sources and activities during operation. Details are to be included outlining any mitigating measures necessary to ensure the amenity of future sensitive land uses on the site and neighbouring sites is protected during the operation of the development.

PROTECTION OF INNER WEST LIGHT RAIL INFRASTRUCTURE AND OPERATION

C34. Future development applications shall include documentation, which:

- (a) identifies the existing Light Rail infrastructure adjacent to the site
- (b) identifies possible impacts and mitigation measures relating to:
 - (i) the construction and operation of the development on this infrastructure; and
 - (ii) the operation of the Light Rail on the proposed development.

CONNECTING WITH COUNTRY

C35. Future development application(s) must demonstrate consideration of the Government Architect NSW's Connecting with Country Framework and Designing with Country Framework.

C36. Future development application(s) must demonstrate how opportunities to connect with Country in the design and planning of the development have been considered in consultation with Aboriginal people.

PUBLIC AND PRIVATE VIEWS

C37. Future development application(s) must include a Visual and View Loss Assessment, which assesses public and private view impacts and demonstrates how consideration has been given to minimising such impacts.

PUBLIC ART

C38. Future development application(s) must include a Public Art Strategy for the inclusion of public art within the development, prepared in consultation with Council. The Public Art Strategy shall identify locations for permanent public art opportunities, provide an estimated budget and/or program for the inclusion of artists.

SOLAR ACCESS

C39. Future development application(s) must include a Solar Access Impact Assessment including shadow studies and diagrams showing the likely overshadowing impact of the development on the public domain, surrounding existing open spaces and neighbouring developments.

This assessment must include the cumulative impacts of all existing and approved development surrounding the site on the Goods Line which is nominated as protected open space under the Pyrmont Peninsula Place Strategy.

CONSTRUCTION IMPACT ASSESSMENT

C40. Future detailed development applications shall provide analysis and assessment of the impacts of construction and include:

- (a) Construction Pedestrian and Traffic Management Plan
- (b) Noise and Vibration Management Plan
- (c) Air Quality Management Plan
- (d) Construction Waste Management Plan
- (e) Community Consultation and Engagement Plans
- (f) Acid Sulfate Soils Management Plan

The plans referred to above may be prepared as part of a Construction Environmental Management Plan prepared and implemented under the conditions of any consent granted for future development applications.

TRAFFIC, ACCESS AND SERVICING

C41. Future development applications must be accompanied by detailed Traffic and Transport Impact Assessment. The Traffic and Transport Impact Assessment must also address:

- (a) charter bus parking demand and provision
- (b) how the forecast loading and servicing demand of the development will be accommodated and how potential traffic and safety impacts are managed and mitigated
- (c) pedestrian safety is prioritised around the site, including all servicing locations.

C42. Future development application(s) must demonstrate that no service vehicle access point is provided via Harris Street and any access point via Macarthur Street it at least 20 m from the intersection with Harris Street.

C43. Future development applications(s) shall include details of the design of any weather protection or bus shelters along Harris Street, prepared in consultation with Transport for NSW.

GREEN TRAVEL PLAN

C44. Future development application(s) shall be accompanied by a Green Travel Plan consistent with the framework and initiatives in Preliminary Green Travel Plan prepared by JMT Consulting and dated 4 May 2022.

BICYCLE PARKING AND FACILITIES

C45. Future development application(s) must include an assessment of the demand for and demonstrate adequate provision of bicycle parking for employees / visitors and end of trip facilities (toilets, change/locker rooms and showers). The assessment must have regard to the Sydney Development Control Plan 2012 bicycle parking rates and end of trip facilities design requirements.

C46. Future development applications(s) must include a Bicycle Strategy demonstrating:

- (a) how the safe and efficient movement of cyclists is managed around the site
- (b) the design and location of any proposed bicycle parking infrastructure.

UTILITIES

- C47. Future development application(s) must include a Utility Services Infrastructure Assessment which addresses the existing capacity and any augmentation requirements of the development for the provision of utilities, including staging of infrastructure. The Utility Services Infrastructure Assessment must be prepared in consultation with relevant agencies and service providers.

WASTE

- C48. Future development application(s) must include a Waste Management Plan to address storage, collection and management of waste and recycling within the development.

REFLECTIVITY ASSESSMENT

- C49. Future development application(s) for aboveground works shall include a Reflectivity Assessment demonstrating that external treatments, materials and finishes of the development do not cause adverse or excessive glare.

WIND IMPACT ASSESSMENT

- C50. Future development application(s) must include a Wind Impact Assessment, including wind tunnel testing, which assesses the existing and proposed wind environment, demonstrates spaces within and around the site are suitable for their intended purpose and includes mitigation measures to address adverse wind conditions, where necessary. Recommendations of the Wind Impact Assessment must be incorporated in the drawings lodged.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

- C51. Future development application(s) must include a Crime Prevention Through Environmental Design Report (CPTED) including method(s)/treatment(s) to ensure that all spaces and places within and around the development are safe and secure and the opportunity for crime has been minimised in accordance with CPTED principles. The CPTED report must demonstrate how the recommendations contained within the CPTED Report prepared by Ethos Urban and dated 2 September 2022 will be implemented.

TEMPORARY VISITOR ACCOMMODATION

- C52. Future development application(s) which involve temporary visitor accommodation must:
- (a) demonstrate that the accommodation is fully integrated into the design and operation of the museum
 - (b) detail the proposed location, internal layout, amenity and operation of temporary accommodation.

ADVISORY NOTES

1. The Applicant has the right to appeal to the Land and Environment Court in the matter set out in the EP&A Act and the EP&A Regulation (as amended).
2. The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.