



25 July 2018

The Hon Mr Anthony Roberts MP  
Minister for Planning  
GPO Box 5341  
SYDNEY NSW 2001

RE: Request to Waive Requirement for Development Contributions for SSD 6471 for the Art Gallery of NSW Expansion Project – Sydney Modern

Dear Minister,

The Art Gallery of NSW (AGNSW) is currently undertaking a major expansion, known as the Art Gallery of NSW Expansion Project - Sydney Modern, to transform the gallery into one of the world's great art museums which will further inspire both local and international audiences. This new building will enable the display of more of the State's art collection and the hosting of more blockbuster international exhibitions, generating wider economic benefits to the NSW economy of \$1 billion over the next 25 years.

The State Significant Development Application (SSDA) for the Sydney Modern Project (SSD 6471) is currently under assessment by the Department of Planning and Environment (DPE) and will be determined by you as consent authority given AGNSW is a public authority.

Following discussions with DPE officers, this letter is to formalise the request of AGNSW to waive the requirement for payment of any development contributions on the basis of the significant public benefits that will be delivered by the Sydney Modern Project. For completeness, previous correspondence that I sent to the Lord Mayor of the City of Sydney (Council), Clover Moore, on this matter dated 21 June 2018 is at Attachment A.

#### **1. Legislative context**

Section 61 of the City of Sydney Act 1988 (CoS Act) enables Council to impose a condition of consent requiring payment of a levy to Council, equivalent to 1% of the total cost of the development. Such a condition is equivalent to, however is imposed in lieu of, a condition under Section 7.11 of the Environmental Planning and Assessment Act (EP&A Act). Based on a Capital Investment Value (CIV) of \$275,387,633, the required contribution payment for the Sydney Modern Development is \$2,753,876.33.

This levy under Section 61 of the CoS Act is supported by the Central Sydney Development Contributions Plan 2013 (CSDCP) which specifies the purpose for which any monies generated by the levy are to be used. Section 2.5 of the CSDCP 2013 however provides 'Alternatives to the Levy', including the ability for Council to waive the requirement for payment of the levy where the development offers material public benefit.

## **2. Justification for Request for Waiver**

Having regard to Section 2.5 of the CSDCP 2013, this letter is to request that you as the consent authority for SSD 6471, waive the requirement for payment of any development contributions levy, on the basis of the significant public benefits that will be delivered by the Sydney Modern Project, including the provision of public art, improved access arrangements, adaptive reuse of existing heritage items as well as significant Ecologically Sustainable Development (ESD) measures incorporated into the new building:

- A significant part of the Sydney Modern Expansion is a public Art Garden that will connect the existing and proposed gallery buildings and will include a major indigenous art commission. This Art Garden, including landscaping and public art installations, represents a minimum expenditure by the Gallery on public art of approximately \$3.5 million. This is well in excess of the value of the applicable levy fee and is consistent with Section 2.5 of the CSDCP 2013. It should be noted that if AGNSW is required to pay the levy then it will not have the funds to carry out this public art commitment which is a critical component of the new Gallery.
- The Sydney Modern Project includes the adaptive re-use of the former naval Fuel into public gallery space. The use of this disused naval Fuel Bunker as gallery space is a key aspect of the proposed development, as it will provide for the sensitive adaptive reuse of this important heritage item. There are significant public benefits in the adaptive use of this valuable heritage space, which will be free to access for all visitors to the gallery. The proposed use of this Fuel Bunker as gallery space is an optimal respectful outcome which will preserve this significant asset for the enjoyment of the people of Sydney and NSW into perpetuity and is consistent with Section 2.2 of the CSDCP 2013.
- Associated with the proposed Art Garden and broader public domain works, the Sydney Modern Project will also significantly enhance the existing east-west through-site link between Woolloomooloo and the Sydney CBD through the site. This will be achieved through the construction of new pathways, landscaping as well as the provision of a new hillside public lift located to the south east of the proposed building that will enhance the public domain and overall user experience of the site and is consistent with Section 2.2 and Section 2.5 of the CSDCP 2013.
- The principles of ESD are integral to the development of the Sydney Modern Project. The new Sydney Modern Building will be the first 5-star Green Star rated public art museum in Australia. ESD initiatives within the building include rooftop photovoltaic panels, roof gardens and a seawater heat exchange system. Specifically, the proposed seawater heat exchange system will minimise the overall environmental impact resulting from day to day operation of the new building by conserving energy and water and reducing emissions. The Sydney Modern Project also includes over 1,700sqm of rooftop gardens and artworks that are free to all Gallery visitors during gallery opening hours. This is consistent with Section 2.2 of the CSDCP 2013.

## **3. Conclusion**

Pursuant to Clause 7.11(5)(b) of the Environmental Planning and Assessment Act 1979, AGNSW formally request that the Minister, as the consent authority for SSD 6471, waive the requirement for payment of any development contributions under the Central Sydney Development Contributions Plan 2013 for the Sydney Modern Project on the basis of the significant 'material public benefit' that will be delivered by the proposed in-kind works.

As noted above, if AGNSW is required to pay the levy then it will not have the funds to carry out its \$3.5 million public art commitment which is a critical component of the new Gallery.

Given the role of AGNSW as custodians of the State's art collection, there is no organisation better placed to bring significant art commissions into the public domain in such an inspiring way. We trust that the Minister, as the consent authority for SSD 6371, will look favourably upon this request for exemption.

I would welcome the opportunity to discuss this matter further with you.

Best wishes

A handwritten signature in black ink, appearing to read 'Michael Brand', written in a cursive style.

**Dr Michael Brand**  
Director

Attachment A: Letter to Lord Mayor of the City of Sydney, 21 June 2018

Cc: Andy Nixey, Principal Planner, Key Sites Assessments, Department of Planning & Environment  
Cameron Sargent, Acting Director, Key Sites Assessments, Department of Planning & Environment

21 June 2018



DIRECTOR MICHAEL BRAND

Councillor Clover Moore  
Lord Mayor  
City of Sydney  
GPO Box 1591  
Sydney NSW 2001

Dear Lord Mayor,

I would like to thank you for the comments provided by the City of Sydney as part of the Response to Submissions for the State Significant Development Application for our expansion, the Sydney Modern Project. Along with our Trustees, I greatly appreciate the City's ongoing support of the project.

As you may be aware, as part of our planning application the Gallery is seeking exemption from the *Central Sydney Developments Contributions Plan 2013* and the proposed levy fee of approximately \$2.7million.

As the state's premier visual arts institution, the Gallery makes a very significant contribution to the arts landscape of our city and our new building will significantly increase the amount of space available to display the state's art collection (valued at \$1.3 billion).

A significant part of the Sydney Modern expansion is a public Art Garden that will connect our two buildings and will include a major Indigenous art commission. This work combined with other initiatives will represent a minimum expenditure by the Gallery on public art of \$3.5 million. This is well in excess of the value of the levy fee. Through this investment we are making a significant "works in kind" contribution to the city. Any requirement by the City, as part of the planning process, to pay the levy will put at risk our capacity to undertake the proposed public art commissioning program as we work towards the goal of raising \$100 million from private resources towards the cost of the Sydney Modern Project.

Based on the value of the works and the extent and quality of the proposed public art, the Gallery firmly believes that exemption from the *Central Sydney Developments Contributions Plan 2013* is justifiable under 2.5 *Alternatives to the Levy*.

In addition, adaptive re-use of a disused WW2 oil tank into public gallery space and significant enhancement of the through-site link from Woolloomooloo to the CBD are also part of the expansion. Our new building will be the first five-star Green Star rated public art museum in Australia and as part of our ongoing commitment to sustainability we are delighted to be a signatory to the City's new Sustainable Destination Partnership. Our expansion also includes over 1700sqm of rooftop gardens and artworks that are free to all Gallery visitors.

In our role as custodians of the state's art collection there is no one better placed to bring significant art commissions into the public domain in such an inspiring way. I trust the City will look favourably on the Gallery's request for exemption.

I would welcome the opportunity to discuss this matter further with you.

Best wishes,

A handwritten signature in black ink, appearing to read "Michael Brand".

**Michael Brand**  
Director

Cc: Monica Barone, Chief Executive Officer  
Graham Jahn AM, Director of City Planning, Development and Transport  
David Gonski AC, President, AGNSW Board of Trustees

ART GALLERY OF NEW SOUTH WALES

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