

# CONSOLIDATED CONSENT

## SUMMARY OF MODIFICATIONS

Application Number	Determination Date	Decider	Modification Description
SSD-8665-MOD 1	17 August 2023	Team Leader	Internal and external design development changes including inserting new Conditions B9A and B12A, and deleting Conditions C8 to C12
SSD-8665-MOD 2	2 August 2024	Team Leader	Design development to improve fire protection and accessibility. Design amendments to improve privacy, acoustics, ventilation, circulation and general amenity.

The Department has prepared a consolidated version of the consent which is intended to include all modifications to the original determination instrument.

The consolidated version of the consent has been prepared by the Department with all due care. This consolidated version is intended to aid the consent holder by combining all consents relating to the original determination instrument but it does not relieve a consent holder of its obligation to be aware of and fully comply with all consent obligations as they are set out in the legal instruments, including the original determination instrument and all subsequent modification instruments.

# Development Consent

## Section 4.38 of the Environmental Planning and Assessment Act 1979

As delegate of the Minister for Planning and Public Spaces under delegation executed on 11 October 2017, I approve the Development Application referred to in Schedule 1, subject to the conditions specified in Schedule 2.

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

Anthea Sargeant  
**Executive Director**  
**Compliance, Industry and Key Sites**

Sydney

2019

File: EF19/4743

### SCHEDULE 1

<b>Application Number:</b>	SSD 8665
<b>Applicant:</b>	HBMS NSW Pty Ltd
<b>Consent Authority:</b>	Minister for Planning and Public Spaces
<b>Site:</b>	25-27 George Street, The Rocks (Lot 10 DP 258607)
<b>Development:</b>	<p>Refurbishment of the Mercantile Hotel, including:</p> <ul style="list-style-type: none"> <li>• new rooftop bar and restaurant with capacity for 150 patrons, including associated roof structures and new external lift, including increase in restaurant/bar GFA by <del>51.8</del> <u>52.9</u> m<sup>2</sup> from 253.8 m<sup>2</sup> to <del>305.6</del> <u>306.7</u> m<sup>2</sup> and increase in total rooftop GFA by <del>91.6</del> <u>93.6</u> m<sup>2</sup> from 26.5 m<sup>2</sup> to <del>118.4</del> <u>120.4</u> <u>124.4</u> m<sup>2</sup></li> <li>• demolition of non-original ground floor structures and construction of a new ground floor amenities building and new ground floor courtyard space in the south-western corner of the site with capacity for 16 people</li> <li>• internal fitout, including upgrades to accommodation, bars, fire egress and services, including reduction in hotel accommodation GFA by 157.2 m<sup>2</sup> from 394.7 m<sup>2</sup> to 237.5 m<sup>2</sup></li> <li>• increase in back-of-house/office/kitchen/amenities and circulation space by <del>168.4</del> <u>174.1</u> m<sup>2</sup> GFA from 184.4 m<sup>2</sup> to <del>352.5</del> <u>358.5</u> m<sup>2</sup></li> </ul>

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## DEFINITIONS

<b>Applicant</b>	HBMS NSW Pty Ltd, or any person carrying out any development to which this consent applies
<b>BCA</b>	Building Code of Australia
<b>BC Act</b>	<i>Biodiversity Conservation Act 2016</i>
<b>CEMP</b>	Construction Environmental Management Plan
<b>Certifying Authority</b>	A person who is authorised by or under section 6.17 of the EP&A Act to issue Part 6 certificates
<b>CNVMP</b>	Construction Noise and Vibration Management Plan
<b>Conditions of this consent</b>	Conditions contained in Schedule 2 of this document
<b>Construction</b>	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
<b>Council</b>	City of Sydney Council
<b>CPTMP</b>	Construction Pedestrian and Traffic Management Plan
<b>Day</b>	The period from 7 am to 6 pm on Monday to Saturday, and 8 am to 6 pm on Sundays and Public Holidays
<b>Demolition</b>	The deconstruction and removal of buildings, sheds and other structures on the site
<b>Department</b>	NSW Department of Planning, Industry and Environment
<b>Development</b>	The development described in the EIS and Response to Submissions and subsequent documentation, including the works and activities comprising the refurbishment of the Mercantile Hotel and new rooftop bar and restaurant, as modified by the conditions of this consent
<b>EESG</b>	Environment, Energy and Science Group of the Department of Planning, Industry and Environment (former NSW Office of Environment and Heritage)
<b>EIS</b>	The Environmental Impact Statement titled ' <i>The Mercantile Hotel Environmental Impact Statement</i> ', prepared by Urbis Pty Ltd dated 5 June 2018, and accompanying appendices submitted with the application for consent for the development, including any additional information provided by the Applicant in support of the application
<b>Environment</b>	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings
<b>EPA</b>	NSW Environment Protection Authority
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i>
<b>EP&amp;A Regulation</b>	<i>Environmental Planning and Assessment Regulation 2000</i>
<b>Feasible</b>	Means what is possible and practical in the circumstances
<b>Heritage Division</b>	Heritage Division of the Department of Premier and Cabinet (former Heritage Division of the Office of Environment and Heritage)
<b>Incident</b>	An occurrence or set of circumstances that causes or threatens to cause material harm and which may or may not be or cause a non-compliance Note: "material harm" is defined in this consent
<b>Indoor area (for the purposes of operating hours)</b>	The enclosable area of the rooftop
<b>Land</b>	Has the same meaning as the definition of the term in section 1.4 of the EP&A Act
<b>Material harm</b>	Is harm that: <ul style="list-style-type: none"> <li>involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial, or</li> <li>results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)</li> </ul>

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<b>Minister</b>	NSW Minister for Planning and Public Spaces (or delegate)
<b>Non-compliance</b>	An occurrence, set of circumstances or development that is a breach of this consent
<b>Outdoor area (for the purposes of operating hours)</b>	The open terrace area of the rooftop and ground floor courtyard to the rear of the building
<b>PA</b>	Means a planning agreement within the meaning of the term in section 7.4 of the EP&A Act.
<b>Place Management NSW</b>	Place Management Division of the Department of Planning, Industry and Environment (formerly Property NSW)
<b>Operation</b>	The carrying out of the approved purpose of the development upon completion of construction
<b>Planning Secretary</b>	Planning Secretary under the EP&A Act, or nominee
<b>POEO Act</b>	<i>Protection of the Environment Operations Act 1997</i>
<b>Reasonable</b>	Means applying judgement in arriving at a decision, taking into account: mitigation benefits, costs of mitigation versus benefits provided, community views, and the nature and extent of potential improvements
<b>Response to submissions</b>	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
<b>Response to Submissions (RtS)</b>	Response to Submissions titled ' <i>SSD 17_8665 the Mercantile Hotel Response to Submissions</i> ', prepared by Urbis Pty Ltd dated 2 April 2019, and accompanying appendices
<b>Revised Response to Submissions (RRtS)</b>	Revised Response to Submissions titled ' <i>SSD 8665 Mercantile Hotel – RTS</i> ', prepared by Urbis Pty Ltd dated 8 July 2019, and accompanying appendices, and Revised Response to Submissions titled ' <i>SSD 8665 Mercantile Hotel – RTS</i> ', prepared by Urbis Pty Ltd dated 17 July 2019, and accompanying appendices
<b>SSD</b>	State Significant Development
<b>Subject Site</b>	Land referred to in Schedule 1
<b>TfNSW</b>	Transport for NSW
<b>TfNSW (RMS)</b>	Transport for NSW (Roads and Maritime Services)

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## SCHEDULE 2

### PART A ADMINISTRATIVE CONDITIONS

#### OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

- A0. In addition to meeting the specific performance measures and criteria in this consent, all reasonable and feasible measures must be implemented to prevent, and if prevention is not reasonable and feasible, minimise, any material harm to the environment that may result from the construction and operation of the development, and any rehabilitation required under this consent.

#### TERMS OF CONSENT

- A1. The development may 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 and Response to Submissions;
  - (d) in accordance with the Modification Report entitled 'Section 4.55 (1a) Modification to SSD-8665 - The Mercantile Hotel' prepared by Urbis dated 4 May 2023 and the accompanying appendices
  - (e) in accordance with the Modification Report entitled 'Section 4.55 (1A) Modification to SSD-8665 - The Mercantile Hotel' prepared by Urbis dated 28 March 2024, 'the response to request for information' dated 1 July 2024 and all accompanying appendices.
  - (f) in accordance with the management and mitigation measures; and
  - (g) in accordance with the approved plans in the table below.

Architectural Drawings prepared by Welsh & Major			
Drawing No.	Revision	Name of Plan	Date
-	-	Finishes Schedule	<del>March 2019</del> <u>April 2023</u>
SSDA.101	<del>G</del> <u>H</u>	Proposed Site Plan	<del>02/05/23</del> <u>12/03/24</u>
SSDA.102	<del>H</del> <u>I</u>	Proposed Ground Floor Plan	<del>18/07/23</del> <u>12/03/24</u>
SSDA.103	<del>H</del> <u>I</u>	Proposed First Floor Plan	<del>18/07/23</del> <u>12/03/24</u>
SSDA.104	<del>I</del> <u>J</u>	Proposed Second Floor Plan	<del>18/07/23</del> <u>12/03/24</u>
SSDA.105	<del>H</del> <u>I</u>	Proposed Roof Terrace Plan	<del>18/07/23</del> <u>12/03/24</u>
SSDA.106	<del>G</del> <u>H</u>	Proposed Roof Plan	<del>02/05/23</del> <u>12/03/24</u>
SSDA.107	<del>H</del> <u>I</u>	Proposed Ground Floor RCP	<del>18/07/23</del> <u>12/03/24</u>
SSDA.108	<del>H</del> <u>I</u>	Proposed First Floor RCP	<del>18/07/23</del> <u>12/03/24</u>
SSDA.109	<del>I</del> <u>J</u>	Proposed Second Floor RCP	<del>18/07/23</del> <u>12/03/24</u>
SSDA.110	<del>H</del> <u>I</u>	Proposed Roof Terrace RCP	<del>18/07/23</del> <u>12/03/24</u>
SSDA.201	<del>H</del> <u>I</u>	Proposed Section A	<del>02/05/23</del> <u>12/03/24</u>
SSDA.202	<del>H</del> <u>I</u>	Proposed Section B	<del>18/07/23</del> <u>12/03/24</u>
SSDA.203	<del>G</del> <u>H</u>	Proposed Section C	<del>02/05/23</del> <u>12/03/24</u>
SSDA.204	<del>H</del> <u>I</u>	Proposed Section D	<del>18/07/23</del> <u>12/03/24</u>

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SSDA.301	H I	Proposed East Elevation – George Street	<del>18/07/23</del> <u>12/03/24</u>
SSDA 302	H I	Proposed North Elevation	<del>18/07/23</del> <u>12/03/24</u>
SSDA.303	H I	Proposed West Elevation – Gloucester Walk	<del>18/07/23</del> <u>12/03/24</u>
SSDA 304	H I	<u>Proposed</u> South Elevation	<del>18/07/23</del> <u>12/03/24</u>
SSDA.401	F	Typical Ensuite Details	<del>04/02/2019</del> <u>02/05/23</u>
SSDA.402	D	Ground Floor Amenities Section Details	07/05/2018
SSDA 417	B C	Typical Kitchen Details	<del>18/07/23</del> <u>12/03/24</u>
<u>SSDA 417.2</u>	A	Typical Kitchen Details	<del>02/05/23</del> <u>12/03/24</u>
SSDA 418	A B	Typical Roof Details	<del>02/05/23</del> <u>12/03/24</u>
SSDA 419	-	Propose Signage	11/01/2019
SSDA 501	B C	Proposed Ground Floor Services Plan	<del>18/07/23</del> <u>12/03/24</u>
SSDA 502	B C	Proposed First Floor Services Plan	<del>18/07/23</del> <u>12/03/24</u>
SSDA 503	B C	Proposed Second Floor Services Plan	<del>18/07/23</del> <u>12/03/24</u>
SSDA 504	B C	Proposed Roof Bar <u>Terrace</u> Services Plan	<del>18/07/23</del> <u>12/03/24</u>
SSDA 601	A	GFA Plans <u>Ground + First Floor</u>	<del>11/01/2019</del> <u>18/07/23</u>
SSDA 602	A B	GFA Plans <u>Second Floor + Roof Terrace</u>	<del>18/07/23</del> <u>12/03/24</u>

- A2. 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 A2(a)**.
- A3. 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 A1(c)**. In the event of an inconsistency, ambiguity or conflict between any of the documents listed in **condition A1(c)**, the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

### LAPSING OF APPROVAL

- A4. This consent will lapse five years from the date of the consent unless the works associated with the development have physically commenced.

### LIMITS ON CONSENT

- A5. This consent does not approve:
- ~~(a) fit out of the proposed kitchen (as also indicated on the approved drawings)~~
  - (b) external signage (as also indicated on the approved drawings)

- (c) umbrellas and shade structures on the rooftop
- (d) any increase in the maximum capacity of the premises currently limited to 431 persons.

## **PRESCRIBED CONDITIONS**

- A6. The Applicant must comply with all relevant prescribed conditions of development consent under Part 6, Division 8A of the EP&A Regulation.

## **LONG SERVICE LEVY**

- A7. For work costing \$25,000 or more, a Long Service Levy must be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 1441.

## **LEGAL NOTICES**

- A8. Any advice or notice to the consent authority must be served on the Planning Secretary.

## **EVIDENCE OF CONSULTATION**

- A9. 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.

## **STRUCTURAL ADEQUACY**

- A10. All new buildings and structures, and any alterations or additions to existing buildings and structures, that are part of the development, must be constructed in accordance with the relevant requirements of the BCA.

### **Notes:**

- Under Part 6 of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for the proposed building works.
- Part 8 of the EP&A Regulation sets out the requirements for the certification of the development.

## **OPERATION OF PLANT AND EQUIPMENT**

- A11. All plant and equipment used on site, or to monitor the performance of the development must be:
- (a) maintained in a proper and efficient condition; and
  - (b) operated in a proper and efficient manner.

## **APPLICABILITY OF GUIDELINES**

- A12. References in the conditions of this consent to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, Standards or policies in the form they are in as at the date of this consent.
- A13. However, consistent with the conditions of this consent and without altering any limits or criteria in this consent, the Planning Secretary may, when issuing directions under this consent in respect of ongoing monitoring and management obligations, require compliance with an updated or revised version of such a guideline, protocol, Standard or policy, or a replacement of them.

## **MONITORING AND ENVIRONMENTAL AUDITS**

- A14. Any condition of this consent that requires the carrying out of monitoring or an environmental audit, whether directly or by way of a plan, strategy or program, is taken to be a condition requiring monitoring or an environmental audit under Division 9.4 of Part 9 of the EP&A Act. This includes conditions in respect of incident notification, reporting and response, non-compliance notification and independent environmental auditing.

**Note:** For the purposes of this condition, as set out in the EP&A Act, "monitoring" is monitoring of the development to provide data on compliance with the consent or on the environmental impact of the development, and an "environmental audit" is a periodic or particular documented evaluation of the development to provide information on compliance with the consent or the environmental management or impact of the development.

## **INCIDENT NOTIFICATION, REPORTING AND RESPONSE**

- A15. The Department must be notified in writing to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) immediately after the Applicant becomes aware of an incident. The notification must identify the development (including the development application number and the name of the development if it has one), and set out the location and nature of the incident.
- A16. Subsequent notification must be given and reports submitted in accordance with the requirements set out in Appendix 1.

## NON-COMPLIANCE NOTIFICATION

- A17. The Department must be notified in writing to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) within seven days after the Applicant becomes aware of any non-compliance. The Certifying Authority must also notify the Department in writing to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) within seven days after they identify any non-compliance.
- A18. The notification must identify the development and the application number for it, set out the condition of consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.
- A19. A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.

## REVISION OF STRATEGIES, PLANS AND PROGRAMS

- A20. Within three months of:
- (a) the submission of a compliance report under **condition C4** and **C6**;
  - (b) the submission of an incident report under **condition A15**;
  - (c) the submission of an Independent Audit under **condition C8**;
  - (d) the approval of any modification of the conditions of this consent; or
  - (e) the issue of a direction of the Planning Secretary under **condition A3** which requires a review,
- A21. the strategies, plans and programs required under this consent must be reviewed, and the Department must be notified in writing that a review is being carried out.
- A22. If necessary to either improve the environmental performance of the development, cater for a modification or comply with a direction, the strategies, plans and programs required under this consent must be revised, to the satisfaction of the Planning Secretary. Where revisions are required, the revised document must be submitted to the Planning Secretary for approval within six weeks of the review.

**Note:** *This is to ensure strategies, plans and programs are updated on a regular basis and to incorporate any recommended measures to improve the environmental performance of the development.*



## PART B PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

### NO WORKS PRIOR TO CONSTRUCTION CERTIFICATE

- B1. Work must not commence until a Construction Certificate in respect of the work has been issued.

### EXTERNAL WALLS AND CLADDING

- B2. The external walls of all buildings including additions to existing buildings must comply with the relevant requirements of the BCA **except for identified existing heritage elements as outlined in the Fire Engineering Letter prepared by RED Fire Engineers Pty Ltd dated 19 March 2024.**
- B3. Before the issue of a Construction Certificate and an Occupation Certificate, the Applicant must provide the Certifying Authority with documented evidence that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the requirements of the BCA.
- B4. The Applicant must provide a copy of the documentation given to the Certifying Authority to the Planning Secretary within seven days after the Certifying Authority accepts it.

### BUILDING CODE OF AUSTRALIA (BCA) COMPLIANCE

- B5. The proposed works must comply with the applicable performance requirements of the BCA to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the ongoing benefit of the community. Compliance with the performance requirements can only be achieved by:
- (a) complying with the deemed to satisfy provisions; or
  - (b) formulating an alternative solution which:
    - (i) complies with the performance requirements; or
    - (ii) is shown to be at least equivalent to the deemed to satisfy provision; or
    - (iii) **fire safety upgrade works as specified within Fire Engineering Letter prepared by RED Fire Engineers Pty Ltd dated 19 March 2024; or**
    - (iv) a combination of (a) and (b).

### GROSS FLOOR AREA (GFA) CERTIFICATION

- B6. The GFA of the building must not exceed ~~895.6~~ ~~902.7~~ **907** m<sup>2</sup> **and including** the GFA of the rooftop area ~~that~~ must not exceed ~~118.1~~ ~~120.1~~ **124.4** m<sup>2</sup>. Details confirming compliance must be submitted to the Certifying Authority prior to the issue of any Construction Certificate

### MAXIMUM HEIGHT

- B7. The maximum height of the approved building must not exceed RL 29.55 m AHD, including plant and lift overruns, but excluding mechanical equipment such as kitchen exhaust/ducting, communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like. Details confirming compliance must be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

### STRUCTURAL DETAILS

- B8. Prior to the issue of the relevant Construction Certificate, the Applicant must submit to the Certifying Authority and Place Management NSW heritage officers, the relevant structural drawings prepared and signed by a suitably qualified practising Structural Engineer that demonstrates compliance with:
- (a) the relevant clauses of the BCA; and
  - (b) the development consent.

### SERVICES DETAILS

- B9. Documentation of services and fire protection measures are to be established in consultation with Place Management NSW heritage officers. Prior to the issue of the relevant Construction Certificate, full services details are to be provided to Place Management NSW heritage officers and the Certifying Authority.

### DESIGN DEVELOPMENT

- B9A. Prior to the issue of the relevant Construction Certificate, construction documentation is to be submitted to Place Management and the detailed design resolved with Place Management NSW heritage officers for the following:**

- (a) **the freezer room location within the food preparation room on Level 1**
- (b) **new opening cut edge treatments including to hotel lobby opening and external store**
- (c) **interaction between new and existing rooftop structures, in particular at the roof level**
- (d) **resolution of service risers in bar area**

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- (e) treatment of walls and floors in new sprinkler pump room, as well as methodology for reticulation of new pipework to room
- (f) repair and retention of original flooring including the:
  - (i) floorboards to be repaired and protected with a new carpeted overlay
  - (ii) floorboards to be repaired and used in-situ
  - (iii) floorboards to be repaired and protected with a new timber overlay

A copy of the final design details including Place Management NSW's endorsement are to be submitted to the Certifier and the Planning Secretary prior to the issue of the relevant Construction Certificate.

## CONSERVATION WORKS SCHEDULE AND MAINTENANCE PLAN

- B10. Prior to the issue of the relevant Construction Certificate a Conservation Works Schedule and Maintenance Plan is to be provided for approval by Place Management NSW heritage officers and implemented throughout the project. The conservation works must be overseen by the nominated heritage consultant.

## SCHEDULE OF MATERIALS

- B11. Prior to the issue of the relevant Construction Certificate a list of the final schedule of materials shall be submitted to the Planning Secretary. The Applicant shall also submit a copy of the schedule of materials to the Certifying Authority with the application for the relevant Construction Certificate. This must include a minimum surface mass for the roof enclosure of 14 kg/m<sup>2</sup>, in order to prevent noise breakout.

## HERITAGE INTERPRETATION PLAN

- B12. A Heritage Interpretation Plan is to be prepared in consultation with Place Management NSW and the Heritage Division and submitted to and approved by the Planning Secretary prior to the issue of a Construction Certificate. The recommendations of this Heritage Interpretation Plan, once approved, must be implemented as part of this project.

B12A. The Heritage Interpretation Plan must provide options to retain and reuse on-site any significant fabric that has been removed, including (but not limited to) existing doors.

## REFLECTIVITY

- B13. The building materials used on the facades of the building shall have a maximum normal specular reflectivity of visible light of 20 per cent and shall be designed to minimise glare. A report/statement demonstrating compliance with these requirements is to be submitted to the Certifying Authority prior to issue of the relevant Construction Certificate.

## MECHANICAL VENTILATION

- B14. All mechanical ventilation systems shall be installed in accordance with the BCA 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, and are to include electro static filtration and ozone odour treatment. Details shall be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate.

## MECHANICAL PLANT NOISE MITIGATION

- B15. Details of noise mitigation measures for all mechanical plant are to be detailed on the Construction Certificate drawings. Certification from an appropriately qualified acoustic engineer that the proposed measures will achieve compliance with the requirements of the NSW Noise Policy for Industry is required to be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate.

## ACCESS FOR PEOPLE WITH DISABILITIES

- B16. Access and facilities for people with disabilities must be designed in accordance with the BCA. Prior to the issue of the relevant Construction Certificate, a certificate certifying compliance with this condition from an appropriately qualified person must be provided to the Certifying Authority.

## SANITARY FACILITIES FOR DISABLED PERSONS

- B17. The Applicant shall ensure that the provision of sanitary facilities for disabled persons complies with Section F2.4 of the BCA. Prior to the issue of the relevant Construction Certificate, a certificate certifying compliance with this condition from an appropriately qualified person must be provided to the Certifying Authority.

## OUTDOOR LIGHTING

- B18. All outdoor lighting within the site 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 Certifying Authority prior to the issue of the relevant Construction Certificate.

## ECOLOGICALLY SUSTAINABLE DEVELOPMENT (ESD)

- B19. The building must incorporate all design, operation and construction measures as identified in the Sustainability Report - ESD Report Revision 3 (Reference: SY172323-SER01), prepared by Northrop, dated 18 December 2018. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate.

## INSTALLATION OF WATER EFFICIENT FIXTURES AND FITTINGS

- B20. All new toilets must be of water efficient dual-flush capacity with at least 4-star rating under the Water Efficiency and Labelling Scheme (WELS). The details must be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate.
- B21. All new taps and shower heads must be water efficient with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS), where available. The details must be submitted to the Certifying Authority prior to issue of the relevant Construction Certificate.
- B22. New urinal suites, urinals and urinal flushing control mechanisms must demonstrate that products have been selected with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS). Details are to be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate.
- B23. Systems must include 'smart controls' to reduce unnecessary flushing. Continuous flushing systems are not approved. Details are to be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate.

## FOOTPATH DAMAGE BANK GUARANTEE

- B24. If not already obtained, a Footpath Damage Bank Guarantee to cover the site frontage and areas of the public domain which may be damaged must be lodged with the relevant road authority. A suitable bank guarantee must be submitted in favour of the relevant road authority as security for repairing any damage to the public domain in the vicinity of the site.
- B25. The guarantee must be lodged with the relevant road authority prior to issue of the relevant Construction Certificate.

## REQUIREMENTS OF PUBLIC AUTHORITIES

- B26. The Applicant must comply with the requirements of any public authorities (e.g. Ausgrid, Sydney Water, Telstra Australia) in regard to the connection to, relocation and/or adjustment of the services affected by the construction of the proposed structure. Any costs in the relocation, adjustment or support of services are the responsibility of the Applicant. Details of compliance with the requirements of any relevant public authorities must be submitted to the satisfaction of the certifying authority prior to the issue of the relevant Construction Certificate.

## PART C PRIOR TO COMMENCEMENT OF WORKS

### NOTIFICATION OF COMMENCEMENT

- C1. The Department must be notified in writing of the dates of commencement of physical work and operation at least 48 hours before those dates.
- C2. If the construction or operation of the development is to be staged, the Department must be notified in writing at least 48 hours before the commencement of each stage, of the date of commencement and the development to be carried out in that stage.

### ACCESS TO INFORMATION

- C3. At least 48 hours before the commencement of construction until the completion of all works under this consent, or such other time as agreed by the Planning Secretary, the Applicant must:
- (a) make the following information and documents (as they are obtained or approved) publicly available on its website:
    - (i) the documents referred to in **condition A1** of this consent;
    - (ii) all current statutory approvals for the development;
    - (iii) all approved strategies, plans and programs required under the conditions of this consent;
    - (iv) regular reporting on the environmental performance of the development in accordance with the reporting arrangements in any plans or programs approved under the conditions of this consent;
    - (v) a comprehensive summary of the monitoring results of the development, reported in accordance with the specifications in any conditions of this consent, or any approved plans and programs;
    - (vi) a summary of the current stage and progress of the development;
    - (vii) contact details to enquire about the development or to make a complaint;
    - (viii) a complaints register, updated monthly;
    - (ix) audit reports prepared as part of any independent environmental audit of the development and the Applicant's response to the recommendations in any audit report;
    - (x) any other matter required by the Planning Secretary; and
  - (b) keep such information up to date, to the satisfaction of the Planning Secretary.

### COMPLIANCE REPORTING

- C4. A Pre-Construction Compliance Report must be prepared for the development, and submitted to the Certifying Authority for approval before the commencement of construction. A copy of the endorsed compliance report must be provided to the Department at [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) before the commencement of construction.
- C5. The Pre-Construction Compliance Report must include:
- (a) details of how the terms of this consent that must be addressed before the commencement of construction have been complied with; and
  - (b) the expected commencement date for construction.
- C6. Construction Compliance Reports must be submitted to the Department at [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) for information every six months from the date of the commencement of construction, for the duration of construction. The Construction Compliance Reports must provide details on the compliance performance of the development for the preceding six months and must be submitted within one month following the end of each six-month period for the duration of construction of the development, or such other timeframe as required by the Planning Secretary.
- C7. The Construction Compliance Reports must include:
- (a) a results summary and analysis of environmental monitoring;
  - (b) the number of any complaints received, including a summary of main areas of complaint, action taken, response given and proposed strategies for reducing the recurrence of such complaints;
  - (c) details of any review of the **CEMP** and the Environmental Management Strategy and associated sub-plans as a result of construction carried out during the reporting period;
  - (d) a register of any modifications undertaken and their status;
  - (e) results of any independent environmental audits and details of any actions taken in response to the recommendations of an audit;
  - (f) a summary of all incidents notified in accordance with this consent; and
  - (g) any other matter relating to compliance with the terms of this consent or requested by the Planning Secretary.

## INDEPENDENT ENVIRONMENTAL AUDIT

- ~~C8. No later than one month before the commencement of construction or within another timeframe agreed with the Planning Secretary, a program of independent environmental audits must be prepared for the development in accordance with AS/NZS ISO 19011:2014: Guidelines for Auditing Management Systems (Standards Australia, 2014) and submitted to the Planning Secretary for information.~~
- ~~C9. The scope of each audit must be defined in the program. The program must ensure that environmental performance of the development in relation to each compliance requirement that forms the audit scope is assessed at least once in each audit cycle.~~
- ~~C10. The environmental audit program prepared and submitted to the Planning Secretary in accordance with conditions C8 and C9 above must be implemented and complied with for the duration of the development.~~
- ~~C11. All independent environmental audits of the development must be conducted by a suitably qualified, experienced and independent team of experts and be documented in an audit report which:~~
- ~~(a) assesses the environmental performance of the development, and its effects on the surrounding environment including the community;~~
  - ~~(b) assesses whether the development is complying with the terms of this consent;~~
  - ~~(c) reviews the adequacy of any document required under this consent; and~~
  - ~~(d) recommends measures or actions to improve the environmental performance of the development, and improvements to any document required under this consent.~~
- ~~C12. Within three months of commencing an Independent Environmental Audit, or within another timeframe agreed by the Planning Secretary, a copy of the audit report must be submitted to the Planning Secretary, and any other NSW agency that requests it, together with a response to any recommendations contained in the audit report, and a timetable for the implementation of the recommendations. The recommendations must be implemented to the satisfaction of the Planning Secretary.~~

~~**Note:** The audit team must be led by a suitably qualified auditor and include experts in any fields specified by the Planning Secretary.~~

## COMPLIANCE

- C13. The Applicant must ensure that all of its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities they carry out in respect of the development.

## COMPLAINTS AND ENQUIRIES PROCEDURE

- C14. Prior to the commencement of construction works, or as otherwise agreed by the Planning Secretary, the following must be made available for community enquiries and complaints for the duration of construction:
- (a) a toll-free 24-hour telephone number(s) on which complaints and enquiries about the carrying out of any works may be registered;
  - (b) a postal address to which written complaints and enquiries may be sent; and
  - (c) an email address to which electronic complaints and enquiries may be transmitted.

## CERTIFIED PLANS

- C15. Plans certified in accordance with section 6.16 of the EP&A Act are to be submitted to the Certifying Authority and the Department prior to commencement of each stage of the works and shall include details as required by any of the following conditions.

## CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

- C16. Prior to the commencement of works, the Applicant shall prepare and implement a **Construction Environmental Management Plan (CEMP)** for the development and be submitted to the Certifying Authority. The **CEMP** must:
- (a) describe the relevant stages and phases of construction including work program outlining relevant timeframes for each stage/phase;
  - (b) describe all activities to be undertaken on the site during site establishment and construction of the development;
  - (c) clearly outline the stages/phases of construction that require ongoing environmental management monitoring and reporting;
  - (d) detail statutory and other obligations that the Applicant is required to fulfil during site establishment and construction, including approvals, consultations and agreements required from authorities and other stakeholders, and key legislation and policies;



- (e) be prepared in consultation with the Council, EPA, TfNSW, TfNSW (RMS) and Place Management NSW and include specific consideration of measures to address any requirements of these agencies during site establishment and construction;
- (f) describe the roles and responsibilities for all relevant employees involved in the site establishment and construction of the works;
- (g) detail how the environmental performance of the site preparation and construction works will be monitored, and what actions will be taken to address identified potential environmental impacts, including but not limited to noise, traffic and air impacts;
- (h) document and incorporate all relevant environmental management plans, control plans, studies and monitoring programs required under this part of the consent;
- (i) include arrangements for community consultation and complaints handling procedures during construction;
- (j) address air quality management, which includes the monitoring and management of air quality and dust to protect the amenity of the neighbourhood;
- (k) address the management of erosion and sediment control; and
- (l) address the management of construction waste.

In the event of any inconsistency between the consent and the **CEMP**, the consent shall prevail.

Prior to the commencement of works, a copy of the **CEMP** must be submitted to Council and the Planning Secretary.

## CONSTRUCTION PEDESTRIAN AND TRAFFIC MANAGEMENT SUB-PLAN

- C17. Prior to the commencement of works, a **Construction Pedestrian and Traffic Management Sub-Plan (CPTMP)** prepared by a suitably qualified person shall be submitted to the Certifying Authority. The **CPTMP** should be prepared in consultation with Place Management NSW, the CBD Coordination Office, TfNSW, TfNSW (RMS) and Council.

The Sub-Plan must include a Green Travel Plan for workers and detailed measures that would be implemented to minimise the impact of the development on the safety and capacity of the surrounding road network, minimise truck movements to and from the site as far as practicable during the peak periods of this consent. In addition, the **CPTMP** shall address, but not be limited to, the following matters:

- (a) location of the proposed work zone(s);
- (b) location of any crane(s);
- (c) haulage routes;
- (d) construction vehicle access arrangements;
- (e) proposed construction hours;
- (f) estimated number of construction vehicle movements and detail of vehicle types, noting vehicle movements are to be minimised during peak periods;
- (g) details of construction activities and timing of these activities;
- (h) consultation strategy for liaison with surrounding stakeholders;
- (i) any potential impacts to general traffic, cyclists, pedestrians and bus services within the vicinity of the site from construction vehicles during the construction works;
- (j) cumulative construction impacts of projects including Sydney Light Rail Project, Sydney Metro City and Southwest and surrounding developments. Existing CPTMPs for developments within or around the development site should be referenced in the **CPTMP** to ensure coordination of work activities are managed to minimise impacts on the road network; and
- (k) should any impacts be identified, the duration of the impacts and measures proposed to mitigate any associated general traffic, public transport, pedestrian and cyclist impacts must be clearly identified and included in the **CPTMP**.

The Applicant shall provide the builder's direct contact number to small businesses adjoining or impacted by the construction work and the Transport Management Centre and Sydney Coordination Office within TfNSW to resolve issues relating to traffic, freight, servicing and pedestrian access during construction in real time. The Applicant is responsible for ensuring the builder's direct contact number is current during any stage of construction.

A copy of the final **CPTMP**, to be endorsed by Place Management NSW, the CBD Coordination Office, TfNSW, TfNSW (RMS) and Council prior to the commencement of works, is to be provided to the Planning Secretary.

## CONSTRUCTION NOISE AND VIBRATION MANAGEMENT PLAN

- C18. Prior to the commencement of work, a **Construction Noise and Vibration Management Plan (CNVMP)** prepared by a suitably qualified person shall be submitted to the Certifying Authority. The **CNVMP** shall address (but not be limited to):
- (a) the EPA's *Interim Construction Noise Guideline*;
  - (b) identify nearby sensitive receivers and land uses;
  - (c) identify the noise management levels for the project;
  - (d) identify the construction methodology and equipment to be used and the key sources of noise and vibration;
  - (e) details of all reasonable and feasible management and mitigation measures to be implemented to minimise construction noise and vibration;
  - (f) be consistent with and incorporate all relevant recommendations and noise and vibration mitigation measures outlined in the Construction Noise & Vibration Management Plan Rev 4 (Reference: 4142R001.JC.190118), prepared by Acoustic Dynamics, dated 22 January 2019;
  - (g) ensure all potentially impacted sensitive receivers are informed by letterbox drops prior to the commencement of construction of the nature of works to be carried out, the expected noise levels and duration, as well as contact details for a construction community liaison officer; and
  - (h) include a suitable proactive construction noise and vibration monitoring program which aims to ensure the construction noise and vibration criteria in this consent are not exceeded.

Prior to the commencement of works, a copy of the **CNVMP** must be submitted to Council and the Planning Secretary.

## ARCHAEOLOGICAL METHODOLOGY REPORT

- C19. Prior to the commencement of any works, an **Archaeological Methodology Report (AMR)** shall be prepared by a suitably qualified and experienced expert and submitted to the Certifying Authority, Planning Secretary, Heritage Division and Place Management NSW. The **AMR** must be based on the finalisation of in-ground impacts of the development. Depending on the nature of in-ground impacts, further archaeological investigation may be required in order to determine the presence or absence of archaeological remains, and refine the assessment of significance. Appropriate archaeological management must be included in the **AMR**, and may include a combination of the following strategies:
- (a) test excavation;
  - (b) salvage excavation;
  - (c) inspection by a qualified archaeologist of the ground surface underlying the existing slab/bitumen upon removal for the proposed development to confirm the historical disturbance within the areas of proposed works;
  - (d) heritage interpretation;
  - (e) unexpected finds procedures; and
  - (f) heritage inductions.

## CONTAMINATION

- C20. Prior to the commencement of any works, a hazardous material survey must be undertaken. The survey must provide an **Unexpected Contamination Finds Protocol (UFP)**, prepared by a suitably qualified and experienced expert, shall be submitted to the satisfaction of the Certifying Authority.

The **UFP** must be developed considering the findings of the Preliminary Site Investigation Report Revision R01 (dated 13 December 2017) prepared by Coffey.

The **UFP** must be implemented for the duration of construction works.

## HERITAGE

- C21. A suitably qualified and experienced heritage consultant must be nominated for this project. The nominated heritage consultant must provide input into the detailed design, provide heritage information to be imparted to all tradespeople during site inductions, and oversee the works to minimise impacts to heritage values. The nominated heritage consultant must be involved in the selection of appropriate tradespersons, and must be satisfied that all work has been carried out in accordance with the conditions of this consent.

## DEMOLITION WORKS

- C22. Demolition work must comply with the provisions of *Australian Standard AS2601:2001 The Demolition of Structures (Standards Australia, 2001)*. The work plans by AS2601:2001 must be accompanied by a written statement from a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the

Standard. The work plans and the statement of compliance shall be submitted to the Certifying Authority prior to the commencement of works.

## CONTACT TELEPHONE NUMBER

- C23. Prior to the commencement of the works, the Applicant shall forward to Council and the Department a 24-hour telephone number to be operated for the duration of the construction works.

## HOARDINGS

- C24. A separate application under section 138 of the *Roads Act 1993* is to be made to the relevant road authority to erect a hoarding and/or scaffolding in a public road and such application is to include:

- (a) architectural, construction and structural details of the design as well as proposed artwork; and
- (b) structural certification prepared and signed by an appropriately qualified practising structural engineer.

Evidence of the issue of a Structural Works Inspection Certificate and structural certification will be required prior to the commencement of construction works on site.

## BARRICADE PERMIT

- C25. Where construction/building works require the use of a public place including a road or footpath, approval under section 138 of the *Roads Act 1993* for a Barricade Permit is to be obtained 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 relevant road authority.

## TRAFFIC WORKS

- C26. Any proposals for alterations to the public road, involving traffic and parking arrangements, must be designed in accordance with TfNSW (RMS) Technical Directives and must be referred to and agreed to by the Local Pedestrian, Cycling and Traffic Calming Committee prior to any work commencing on site.

## ROAD OCCUPANCY LICENCE

- C27. A Road Occupancy Licence (ROL) must be obtained from the relevant road authority under section 138 of the *Roads Act 1993* for any activity that may impact on the operation of the road network. The ROL allows the Applicant to use a specified road space at approved times, provided certain conditions are met. The Applicant must allow a minimum of 10 working days for processing ROL applications. Traffic Control Plans are to accompany each ROL application(s) for any such activities.

## TREE PROTECTION ZONE

- C28. Prior to the commencement of works, a Tree Protection Zone(s) (TPZ) must be established around all trees. Tree protection must be installed and maintained in accordance with the *Australian Standard 4970: Protection of Trees on Development Sites*.

- C29. Each TPZ must be:

- (a) enclosed with a 1.8m high fully supported chainmesh protective fencing. The fencing must be secure and fastened to prevent movement. The fencing must have a lockable opening for access. Woody roots must not be damaged or destroyed during the establishment or maintenance of the fencing;
- (b) kept free of weed and grass for the duration of works;
- (c) have two signs identifying the name and contact details of the site Arborist attached facing outwards in a visible position. All signs must remain in place throughout all work on site; and
- (d) Tree Protection Fencing must not be relocated unless approved by the Private Certifying Authority.

- C30. The following works must be excluded from within any TPZs:

- (a) soil cut or fill including excavation and trenching;
- (b) soil cultivation, disturbance or compaction;
- (c) stockpiling, storage or mixing of materials;
- (d) the parking, storing, washing and repairing of tools, equipment and machinery;
- (e) the disposal of liquids and refuelling;
- (f) the disposal of building materials;
- (g) the siting of offices or sheds; and
- (h) any action leading to the impact on tree health or structure.



## PART D DURING CONSTRUCTION

### DEMOLITION

- D1. Demolition work must comply with *Australian Standard AS 2601-2001* The demolition of structures (Standards Australia, 2001). The work plans required by AS 2601-2001 must be accompanied by a written statement from a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the statement of compliance must be submitted to the Certifying Authority before the commencement of works.

### HOURS OF CONSTRUCTION

- D2. Construction, including the delivery of materials to and from the site, may only be carried out between the following hours:
- (a) between 7 am and 6 pm, Mondays to Fridays inclusive; and
  - (b) between 8 am and 1 pm, Saturdays.
- D3. No work may be carried out on Sundays or public holidays.
- D4. Activities may be undertaken outside of these hours if required:
- (a) by the Police or a public authority for the delivery of vehicles, plant or materials; or
  - (b) in an emergency to avoid the loss of life, damage to property or to prevent environmental harm.
- D5. Notification of such activities must be given to affected residents before undertaking the activities or as soon as is practical afterwards.
- D6. Rock breaking, rock hammering, sheet piling, pile driving and similar activities may only be carried out between the following hours:
- (a) 9.00 am to 12.00 pm Monday to Friday;
  - (b) 2.00 pm to 5.00 pm Monday to Friday; and
  - (c) 9.00 am to 12.00 pm Saturday.

### IMPLEMENTATION OF MANAGEMENT PLANS

- D7. The Applicant shall ensure that the requirements of all environmental management sub-plans required by Part C of this consent are implemented during construction.

### CONSTRUCTION NOISE AND VIBRATION MANAGEMENT

- D8. The development must be constructed with the aim of achieving the construction noise management levels detailed in the *Interim Construction Noise Guideline* (Department of Environment and Climate Change, 2009). All feasible and reasonable noise mitigation measures shall be implemented and any activities that could exceed the construction noise management levels shall be identified and managed in accordance with the **CEMP** and **CNVMP**.
- D9. If the noise from a construction activity is substantially tonal or impulsive in nature (as described in the NSW Noise Policy for Industry), 5 dB(A) must be added to the measured construction noise level when comparing the measured noise with the construction noise management levels.
- D10. The Applicant must schedule intra-day 'respite periods' for construction activities predicted to result in noise levels in excess of the "highly noise affected" levels, including the addition of 5 dB to the predicted levels for those activities identified in the *Interim Construction Noise Guideline* as being particularly annoying to noise sensitive receivers.
- D11. Any noise generated during the construction of the development must not be offensive noise within the meaning of the *Protection of the Environment Operations Act 1997* or exceed approved noise limits for the Subject Site.
- D12. 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'*.
- D13. Vibration caused by construction at any residence or structure outside the subject site must be limited to:
- (a) for structural damage vibration to buildings (excluding heritage buildings), *British Standard BS 7385 Part 2-1993 Evaluation and Measurement for Vibration in Buildings*;
  - (b) for structural damage vibration to heritage buildings, *German Standard DIN 4150 Part 3 Structural Vibration in Buildings Effects on Structure*;
  - (c) for human exposure to vibration, the evaluation criteria presented in *British Standard BS 6472- Guide to Evaluate Human Exposure to Vibration in Buildings* (1Hz to 80 Hz) for low probability of adverse comment; and
  - (d) these limits apply unless otherwise outlined in the **CNVMP**.

## APPROVED PLANS TO BE ON-SITE

- D14. A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the Site at all times and shall be readily available to any officer of the Department, Council or the Certifying Authority.

## SITE NOTICE

- D15. A site notice(s) shall be prominently displayed at the boundaries of the Site for the purposes of informing the public of project details including, but not limited to the details of the Builder, Certifying Authority and Structural Engineer. The notice(s) is to satisfy all but not be limited to, the following requirements:
- (a) the notice is to be able to be read by the general public;
  - (b) the notice is to be rigid, durable and weatherproof and is to be displayed throughout the works period;
  - (c) the approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24-hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice; and
  - (d) the notice(s) is to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the Site is not permitted.

## NO OBSTRUCTION OF THE PUBLIC WAY

- D16. 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 the Planning Secretary to stop all work on site.

## DAMAGE TO THE PUBLIC WAY

- D17. Any damage to the public way, including trees, footpaths, kerbs, gutters, road carriageway and the like, must immediately be made safe and functional by the Applicant.

## PROTECTION OF STREET TREES

- D18. All existing street trees to be retained are to be protected during construction.

## CONTACT TELEPHONE NUMBER

- D19. The Applicant shall ensure that the 24-hour contact telephone number is continually attended by a person with authority over the works for the duration of the development.

## HOARDING/FENCING REQUIREMENTS

- D20. The following hoarding requirements must be complied with:
- (a) no third-party advertising is permitted to be displayed on the subject hoarding/fencing; and
  - (b) the removal of all graffiti from any construction hoarding/fencing or the like within the construction area within 48 hours of its application.

## OPERATION OF PLANT AND EQUIPMENT

- D21. All plant and equipment used on site, or to monitor the performance of the development must be:
- (a) maintained in a proper and efficient condition; and
  - (b) operated in a proper and efficient manner.

## LOADING AND UNLOADING DURING CONSTRUCTION

- D22. The following requirements apply:
- (a) all loading and unloading associated with construction must be accommodated on-site;
  - (b) a Works Zone is required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to the relevant road authority at least 8 weeks prior to commencement of works on the site. Consent for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The consent will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.

## SAFework NSW REQUIREMENTS

- D23. To protect the safety of work personnel and the public, the work site must be adequately secured to prevent access by unauthorised personnel, and work must be conducted at all times in accordance with relevant SafeWork NSW requirements.

## EROSION AND SEDIMENT CONTROL

- D24. All erosion and sediment control measures are to be effectively implemented and maintained at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.

## HAZARDOUS WASTE REMOVAL

- D25. All materials requiring removal from the site must be classified in accordance with Waste Classification Guidelines (NSW EPA, 2014). The Applicant must ensure that demolition works are undertaken so that cross-contamination of the site does not occur.
- D26. Removal of any other hazardous building materials must be undertaken by a suitably licensed contractor.

## SITE CONTAMINATION ISSUES DURING CONSTRUCTION

- D27. Should any new information come to light during demolition or construction works which has the potential to alter previous conclusions about site contamination, the Department must be immediately notified and works must cease. Works must not recommence on site until the Department confirms works can recommence.

## HERITAGE MITIGATION

- D28. The proposed works are to be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to significant fabric of the Mercantile Hotel.
- D29. Significant built elements, including the existing plaster decoration and timber joinery and other heritage fabric to be retained by the proposal must be adequately covered and protected during site preparation, demolition and construction. The protection measures must ensure significant fabric, including landscape elements, is not damaged or removed and are to be specified in the **CEMP**.
- D30. The installation of new services shall be carried out in such a manner as to minimise damage to or removal of historic fabric and shall not obscure historic features. New services are to be surface mounted rather than chased-in to existing walls to minimise impact on heritage fabric. Any other penetrations through heritage fabric should be prevented. Where possible, existing service points shall be used.
- D31. All work to, or affecting, significant fabric shall be carried out by suitably qualified tradespersons with practical experience in construction, conservation, and restoration of similar heritage structures, materials and construction methods.
- D32. All conservation and adaptation works are to be in accordance with the Articles of the Australian ICOMOS Burra Charter 1999.
- D33. All new internal signage must be reversible.

## ARCHAEOLOGY

- D34. The archaeological works are to occur in accordance with the recommendations outlined in the Historical Archaeological Assessment prepared by Casey & Lowe, dated 11 December 2017 and the Aboriginal Archaeological Assessment prepared by Unearthed Archaeology & Heritage (Version B.2017.1004), dated 28 October 2017.
- D35. Excavations or other disturbance that reveal underlying areas and/or archaeological 'relics' to be monitored by a suitably qualified and experienced historical archaeologist who satisfies the criteria for the site of State significance for monitoring against the Heritage Council of NSW Excavation Director Criteria 2011. A report shall be prepared by the Excavation Director and provided to the Planning Secretary, Place Management NSW and to the Heritage Division within 12 months of the completion of the archaeological work.

## IMPACTS OF BELOW GROUND (SUB SURFACE) WORKS – NON-ABORIGINAL OBJECTS

- D36. If during the course of construction, the Applicant becomes aware of any previously unidentified heritage object(s), all work likely to affect the object(s) must cease immediately and the Heritage Division must be notified immediately and consulted with regard to the recommencement of works.

## IMPACTS OF BELOW GROUND (SUB SURFACE) WORKS – ABORIGINAL OBJECTS

- D37. If during the course of construction, the Applicant becomes aware of any previously unidentified Aboriginal object(s), all work likely to affect the object(s) must cease immediately and the EESG must be notified immediately in accordance with section 89A of the *National Parks and Wildlife Act 1974*. Relevant works must not recommence until written authorisation from EESG is received by the Applicant.

## SITE PROTECTION AND WORKS

- D38. All adjacent building elements are to be protected during the works from potential damage.

### COVERING OF LOADS

- D39. All vehicles involved in the excavation and / or demolition process and departing from the property with materials, spoil or loose matter must have their loads fully covered before entering the public roadway.

### VEHICLE CLEANSING

- D40. 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. It is an offence to allow, permit or cause materials to pollute or be placed in a position from which they may pollute waters.

### CONSTRUCTION WASTE

- D41. Construction waste should be managed generally in accordance with the EPA's brochure entitled "Know your responsibilities: managing waste from construction sites".
- D42. The Applicant must ensure that all waste generated by the development is classified in accordance with the EPA's Waste Classification Guidelines 2014 and disposed of at a facility that may lawfully accept that waste.

## PART E PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

### OCCUPATION CERTIFICATE

- E1. An Occupation Certificate must be obtained from the Certifying Authority prior to commencement of occupation or use of the whole or any part of the approved building, whichever occurs first.

### PROTECTION OF PUBLIC INFRASTRUCTURE

- E2. Unless the Applicant and the applicable authority agree otherwise, the Applicant must:
- (a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by carrying out the development; and
  - (b) relocate, or pay the full costs associated with relocating any infrastructure that needs to be relocated as a result of the development.

### GFA AND HEIGHT CERTIFICATION

- E3. A Registered Surveyor is to certify that the GFA of the building does not exceed ~~895.6~~ ~~902.7~~ **907** m<sup>2</sup> and including the GFA of the rooftop ~~that~~ does not exceed ~~118.1~~ ~~120.1~~ **124.4** m<sup>2</sup>, and the height of the building does not exceed RL 29.55 m AHD, including plant and lift overruns, but excluding mechanical equipment such as kitchen exhaust/ducting, communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like. Details shall be provided to the Certifying Authority demonstrating compliance with this condition prior to the issue of ~~any~~ the final Occupation Certificate.

### PLAN OF MANAGEMENT – ROOFTOP AND REAR COURTYARD

- E4. Prior to the occupation or commencement of use of each respective area, an **Operational Plan of Management (OPM)** for the rooftop and rear courtyard shall be submitted to and approved by the Planning Secretary. The **OPM** must be prepared in consultation with NSW Police. The **OPM** shall address (but not be limited to):
- (a) hours of operation as permitted in **condition F2**, as well as hours of operation when liquor is proposed to be supplied
  - (b) a detailed complaints procedure demonstrating the following:
    - (i) a complaints register showing details of complaints made;
    - (ii) a contact phone number and procedure for investigating complaints;
    - (iii) minimisation and mitigation strategies;
    - (iv) queuing of patrons as outlined in **condition F14**;
    - (v) collection of waste and recycling as permitted in **conditions F18 – 20**; and
    - (vi) compliance with the matters outlined in **condition E5**.

Where separate OPM's have been prepared for the staged occupation of the rooftop and rear courtyard, a final OPM addressing the operation of both the rooftop and rear courtyard in the one plan must be submitted to and approved by the Planning Secretary prior to the issue of the final Occupation Certificate.

### OPERATIONAL NOISE AND VIBRATION MANAGEMENT PLAN – ROOFTOP AND REAR COURTYARD

- E5. Prior to occupation or commencement of the use of each respective area, an **Operational Noise and Vibration Management Plan (ONVMP)** for the rooftop and rear courtyard prepared by a suitably qualified person shall be submitted to the Planning Secretary for approval. The **ONVMP** must be prepared in consultation with Council and the EPA. The **ONVMP** shall include (but not be limited to):
- (a) be prepared in accordance with the EPA's Noise Policy for Industry
  - (b) identify nearby sensitive receivers and land uses;
  - (c) identify the noise limits applying to the development;
  - (d) identify all key sources of operational noise and vibration;
  - (e) details of all reasonable and feasible management and mitigation measures to be implemented to minimise noise and vibration;
  - (f) be consistent with and incorporate all relevant recommendations and mitigation measures outlined in the Noise Assessment report (Reference: 610.17382-R02-v3.0) dated 7 February 2018, and Response to Submissions dated 17 December 2018 (Reference: 610.17382-L01-v0.2 20181217.docx), both prepared by SLR;
  - (g) include a suitable proactive noise and vibration monitoring program which aims to ensure the noise and vibration criteria in this approval are not exceeded.

Prior to the commencement of use, a copy of the approved **ONVMP** must be submitted to Council, Place Management NSW, the Planning Secretary and the EPA.

Where separate ONVMP's have been prepared for the staged occupation of the rooftop and rear courtyard, a final ONVMP addressing the operation of both the rooftop and rear courtyard in the one plan must be submitted to and approved by the Planning Secretary prior to the issue of the final Occupation Certificate.

## FIRE SAFETY CERTIFICATION

- E6. Prior to the occupation or commencement of use of the development, a **Fire Safety Certificate** shall be obtained for all the Essential Fire or Other Safety Measures forming part of this consent. A copy of the Fire Safety Certificate must be submitted to the relevant authority and be prominently displayed in the building.

## WASTE AND RECYCLING COLLECTION

- E7. Prior to the issue of any Occupation Certificate and/or commencement of the use, whichever is the earlier, the building owner must ensure that there is a contract with a licensed contractor for the removal of all trade waste. No garbage is to be placed on the public way e.g. the roadways, footpaths, plazas, and reserves at any time.

## STRUCTURAL INSPECTION CERTIFICATE

- E8. A **Structural Inspection Certificate** or a **Compliance Certificate** must be submitted to the satisfaction of the Certifying Authority prior to the issue of any Occupation Certificate and/or use of the premises. A copy of the Certificate with an electronic set of final drawings (contact approval authority for specific electronic format) shall be submitted to the approval authority and the Council after:
- (a) the site has been periodically inspected and the Certifier is satisfied that the Structural Works is deemed to comply with the final design drawings; and
  - (b) the drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

## SANITARY FACILITIES FOR DISABLED PERSONS

- E9. Prior to occupation and commencement of the use, details must be provided to the Certifying Authority demonstrating that the provision of sanitary facilities for disabled persons within the premises complies with Section F2.4 of the BCA and **condition B17**.

## ROAD DAMAGE

- E10. The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the Site as a result of construction works associated with the approved development, is to be met in full by the Applicant/developer prior to the commencement of use.

*Note: Should the cost of damage repair work not exceed the road maintenance bond, the bond will automatically be call up to recover the costs. Should the repair costs exceed the bond amount, a separate invoice will be issued.*

## WATER AUTHORITY COMPLIANCE

- E11. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation. The Section 73 Certificate must be submitted to the Certifying Authority prior to the commencement of use.

## UTILITY PROVIDERS

- E12. Prior to occupation or commencement of the use, written advice shall be obtained from the relevant water supply authority, wastewater disposal authority, electricity supply authority, an approved telecommunications carrier and an approved gas carrier (where relevant) stating that satisfactory arrangements have been made to ensure provision of adequate services.

## ACOUSTIC COMPLIANCE

- E13. Prior to the issue of the relevant Occupation Certificate, evidence shall be submitted to the Certifying Authority demonstrating compliance with all noise mitigation measures required under **condition B15** and to ensure the development achieves compliance with the requirements of the NSW Noise Policy for Industry and other guidelines applicable to the development.

## EXTERNAL WALLS AND CLADDING FLAMMABILITY

- E14. Prior to the issue of any Occupation Certificate, evidence shall be submitted to the Certifying Authority demonstrating all external walls of the building, including cladding, comply with the relevant requirements of the BCA, consistent with the requirements of **condition B2**.

## ENVIRONMENTAL PERFORMANCE

- E15. All non-residential environmental commitments referred to in **conditions B20 to B23** for the development must be fulfilled prior to the issue of the relevant Occupation Certificate.



## MECHANICAL VENTILATION

- E16. Following completion, installation and testing of all the mechanical ventilation systems, the Applicant 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:
- (a) the BCA;
  - (b) *Australian Standard AS1668* and other relevant codes;
  - (c) the development consent and any relevant modifications; and,
  - (d) any dispensation granted by the New South Wales Fire Brigade.

## FOOD PREMISES – HEALTH REGISTRATION DATABASE

- E17. Prior to the commencement of food handling operations, the proprietor of the food premises must notify and register the food premises with Council's Health and Building Unit and the NSW Health Department at [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au) prior to the opening of the premises.

Prior to the commencement of food handling operations, the proprietor of the food premises must notify the NSW Health Department of the following information:

- (a) contact details of the food business including the name of the food business and the name and address of the proprietor;
- (b) the nature of the food business; and
- (c) the location of all food premises of the food business within the jurisdiction of NSW Health.

## SIGNAGE TO BE DISPLAYED

- E18. Prior to the issue of any Occupation Certificate signage (in lettering not less than 15 mm in height on a contrasting background) must be erected in a prominent position near the main principle entry to the premises. The signage must state: 'Approved patron capacity is limited to 431' and 'Upon leaving please respect local residents by minimising noise'. Signage must also be erected on the rooftop area stating the maximum capacity of the rooftop area is 100 persons (indoor), 70 persons (outdoor) and 150 persons (when both are in operation).

## COMPLIANCE REPORT

- E19. Prior to the issue of any Occupation Certificate, the Applicant, or any party acting upon this approval, shall submit to the Certifying Authority a report addressing compliance with all relevant conditions of this Part.

## PART F POST OCCUPATION – DURING OPERATION

### OPERATIONAL PLAN OF MANAGEMENT

- F1. The **OPM** (see **condition E4**) and **ONVMP** (see **condition E5**) and all relevant plans must be fully implemented during use of the premises.

### HOURS OF OPERATION

- F2. The hours of operation are restricted as follows:

#### Indoor Areas (Rooftop)

- (a) 10 am to 12 midnight Monday to Sunday (inclusive).

#### Outdoor Areas (Rooftop and rear courtyard)

- (b) 10 am to 8 pm Monday to Sunday (inclusive).

- F3. Notwithstanding **condition F2** above, the following hours apply for a trial period of three years commencing from the date of the issue of any Occupation Certificate. The Planning Secretary must be informed in writing of the date of commencement of the trial hours.

#### Indoor Areas (Rooftop)

- (a) 10 pm New Year's Eve to 2 am New Year's Day (inclusive).

The indoor area of the rooftop is to be enclosed from 10 pm onwards Monday to Sunday (inclusive), and from 1.30 am New Year's Day.

#### Outdoor Areas (Rooftop and rear courtyard)

- (b) 8 pm to 10 pm Monday to Sunday (inclusive)

- (c) 10 pm New Year's Eve to 1.30 am New Year's Day (inclusive).

- F4. If a modification or development application is lodged to continue any trial period specified in **condition F3** then the use the subject of the application for extension may continue until the application is determined.

### MAXIMUM PATRON CAPACITY

- F5. The maximum number of persons (including staff, patrons and performers) permitted in the premises at any one time is 431 persons and includes:

- (a) 100 persons in the indoor area of the rooftop
- (b) 70 persons in the outdoor area of the rooftop
- (c) 150 persons in the rooftop area in total
- (d) 16 persons in the new ground floor rear courtyard space.

Management is responsible for ensuring the number of patrons in the premises does not exceed the approved capacity.

### EXTERNAL LIGHTING

- F6. External Lighting shall comply with *AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting*. Upon installation of lighting, but before it is finally commissioned, the Applicant shall submit evidence from an independent qualified practitioner, to the consent authority, demonstrating compliance in accordance with this condition.

### ANNUAL FIRE SAFETY CERTIFICATE

- F7. The owner of the building shall certify to Council or the relevant authority every year that the essential services installed in the building for the purposes of fire safety have been inspected and at the time of inspection are capable of operating to the required minimum standard. This purpose of this condition is to ensure that there is adequate safety of persons in the building in the event of fire and for the prevention of fire, the suppression of fire and the prevention of spread of fire.

### NOISE CONTROL – PLANT AND MACHINERY

- F8. 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:
- (a) transmission of "offensive noise" as defined in the *Protection of the Environment Operations Act 1997* to any place of different occupancy;
  - (b) exhibit tonal, impulsive or other annoying characteristics;
  - (c) 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.



## NOISE CONTROL – USE

- F9. Noise emanating from the premises must not give rise to any one or more of the following:
- (a) transmission of “offensive noise” as defined in the *Protection of the Environment Operations Act 1997* to any place of different occupancy;
  - (b) the LA10 noise level must not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz-8kHz inclusive) by more than 5dB between 7 am and 12 midnight at the boundary of any affected residence;
  - (c) the LA10 noise level emitted must not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz-8kHz inclusive) between 12 midnight and 7 am at the boundary of any affected residence; and
  - (d) notwithstanding compliance with (a), (b) and (c) above, all noise associated with the rooftop and rear courtyard must not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7 am.
- F10. Amplified music is prohibited in the outdoor area of the rooftop at all times.

## NOISE MONITORING

- F11. If directed by the Planning Secretary, the Proponent shall undertake noise monitoring to confirm compliance with the noise limits in **conditions F8 and F9** of this consent. In the event that compliance with the noise limits is not achieved, suitable attenuation measures must be implemented to achieve compliance and the **ONVMP** required under **condition E5** be updated to include such measures.

## ODOUR REQUIREMENTS

- F12. The use of the premises must not give rise to the emission of gases, vapours, dusts or other impurities which are a nuisance, injurious or prejudicial to health.
- F13. Gaseous emissions from the development must comply with the requirements of the *Protection of the Environment Operations Act, 1997* and Regulation. Uses that produce airborne particulate matter must incorporate a dust collection system.

## QUEUING OF PATRONS

- F14. An adequate queuing system for patrons must be implemented at the entrance(s) of the premises to ensure any queue:
- (a) does not disturb or create conflict with members of the public in the vicinity of the queue;
  - (b) does not create a hazard of obstruction;
  - (c) does not disturb the quiet enjoyment and amenity of the neighbourhood;
  - (d) enables persons to exit the premises;
  - (e) enables NSW Police, Department or Council and other regulatory authorities and emergency services unimpeded access to the premises.

## NEIGHBOURHOOD AMENITY

- F15. The management of the premises must ensure:
- (a) patrons do not crowd or loiter in the vicinity of the premises in such manner that pedestrian movement is obstructed or hindered.
  - (b) that the manner in which the business of the premises is conducted and/or the behaviour of persons entering and leaving the premises does not cause undue disturbance to the amenity of the neighbourhood. In this regard, the management must be responsible for the control of noise and litter generated by persons and/or premises operations. If so directed by the Planning Secretary or Council or the NSW Police, the Management is to employ private security staff to ensure that this condition is complied with.

## WASTE MANAGEMENT

- F16. Waste Management shall be undertaken in accordance with the Waste Management Plan Revision C, prepared by Elephants Foot and dated 15 December 2017, and **condition E7**.

## NO OBSTRUCTION OF THE PUBLIC WAY

- F17. The public way must not be obstructed by any materials, vehicles, refuse, skips or the like under any circumstances.

## OUTDOOR FURNITURE

- F18. Lightweight furniture is not permitted within the rooftop and rear courtyard areas unless securely attached to the floor slab. Use of loose glass-tops and lightweight sheets or covers is not permitted.

## CCTV FOOTAGE ON PREMISES

F19. The Licensee must maintain a CCTV system which meets the following minimum requirements:

- (a) A camera must be located at the main entrance to the venue and rooftop and positioned to record any person entering through this entrance. The CCTV recordings of these cameras must be sufficient to enable an individual to be identified, beyond reasonable doubt, when:
  - (i) the person represents not less than 100% of screen height, and
  - (ii) there is an unobstructed view of the person's face.
- (b) In addition, CCTV cameras must be maintained throughout the premises with camera coverage to specifically record images of the following areas:
  - (i) all other public entrances and exits, whether or not in use at the time,
  - (ii) staircases,
  - (iii) all portions of the floor area accessible to the public where entertainment is provided,
  - (iv) toilet external entrances,
  - (v) all publicly accessible areas within the premise excluding toilets and accommodation rooms,
  - (vi) the footpath area directly adjacent to the premises, and
  - (vii) courtyard and smoking areas.
- (c) The CCTV recordings of the cameras referred to in sub-condition (b) must be sufficient to enable the recognition of a person. A viewer must be able to say with a high degree of certainty whether or not an individual shown is the same as someone they have seen before, when:
  - (i) the person represents not less than 50% of screen height, and
  - (ii) there is an unobstructed view of the person's face.
- (d) Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.
- (e) Camera recordings must meet the standards set in sub-condition (a) and (c) at all times, either by way of camera positioning, camera shades or other environmental factors.
- (f) Recordings must:
  - (i) be in digital format,
  - (ii) record at a minimum of 10 frames per second, and
  - (iii) commence one hour prior to opening, and operate continuously until at least one hour after closure.
- (g) The correct time, date and camera identification must be automatically embedded on all recordings and be able to be read when the image is played back on a different system without interfering with the view of the target area.
- (h) Recordings should be retained for a period of 30 days before being reused or destroyed. The licensee must ensure that no person is able to delete or alter any recordings within the 30-day period.
- (i) When the venue is open and trading, at least one person must be at the venue that is capable of accessing the CCTV system and is able to immediately review recordings and produce copies.
- (j) Immediate access to the CCTV system and the ability to review recordings on the system is to be granted to NSW Police, Liquor & Gaming NSW Inspectors or other regulatory officers upon request.
- (k) The CCTV system must be able to reproduce a copy of the recordings on Compact Disc, DVD or USB memory stick and must, upon request, be provided within one working day to NSW Police, Liquor & Gaming NSW Inspectors or other regulatory officers.
- (l) Prior to the commencement of trade each day, the CCTV system must be checked to ensure the equipment is in full operating order. If, during the daily check or at any other time, it is discovered that the equipment is not in full operating order, the licensee is to notify the Local Area Commander or delegate within two hours. All reasonable steps must be undertaken to repair the system as soon as practicable. The Licensee must record this daily checking activity in the incident register book that meets the standards required by the Licensing Police and Council.

## COMPLAINTS REGISTER – DISTURBANCE COMPLAINTS AND INCIDENTS

F20. The management of the premises must adhere to the following:

- (a) Must record in a Complaints Register full details of any disturbance complaint/s made by a person to management or staff in respect to the manner in which the business of the premises is conducted and/or the behaviour of persons entering or leaving the premises. Such recording will include time, date, nature of the complaint/s and any complainant details if provided.

## CONSOLIDATED CONSENT

- (b) Must respond to any disturbance complaint/s in a timely and effective manner. All actions undertaken by management / staff to resolve such complaint/s must be recorded in the Register.
- (c) Must take all reasonable steps to stop or reduce disturbances to prevent future occurrences to the satisfaction of the Planning Secretary or the NSW Police.
- (d) In the event of an Incident of a serious nature, the manager must contact the Applicant immediately and the Incident must be reported to the NSW Police. For the avoidance of doubt an Incident is of a serious nature if it involves violence causing injury or requires the intervention of the NSW Police or any emergency service.
- (e) The Complaints Register must have printed page numbers to ensure it is an accurate record of Disturbances and/or Incidents at the Subject Site. The Complaints Register must be kept in a secure place on the Subject Site and a photocopy or electronic backup must be made at the end of each calendar month and the backup must be retained for at least three years.
- (f) If an Incident constitutes a valid complaint, the manager must rectify the situation immediately and take all reasonable steps to stop or reduce the source of the Incident to prevent future occurrences to the satisfaction of the Planning Secretary or the NSW Police.

### COMPLIANCE REPORT

- F21. The Applicant, or any party acting upon this approval, shall submit to the Department a report addressing compliance with all relevant conditions of this approval.

### WESTERN ROOFTOP PLANTERS

- F22. The planter boxes on the western edge of the rooftop must be installed and maintained in a proper and efficient manner at all times to prevent overlooking of neighbouring properties.

## ADVISORY NOTES

### APPEALS

AN1. The Applicant has the right to appeal to the Land and Environment Court in the manner set out in the EP&A Act and the EP&A Regulation.

### OTHER APPROVALS AND PERMITS

AN2. The Applicant shall apply to Council or the relevant authority for all necessary permits including temporary structures, crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits and/or any other approvals under Section 68 (Approvals) of the *Local Government Act 1993* or Section 138 of the *Roads Act, 1993*.

### RESPONSIBILITY FOR OTHER CONSENTS / AGREEMENTS

AN3. The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

### REQUIREMENTS OF PUBLIC AUTHORITIES

AN4. Public authorities (e.g. Ausgrid, Sydney Water, Telstra Australia, AGL, etc.) may have requirements in regard to the connection to, relocation or adjustment of services affected by the construction of the development.

### TEMPORARY STRUCTURES

AN5. An approval under State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007 must be obtained from the Authority for the erection of the temporary structures. The application must be supported by a report detailing compliance with the provisions of the BCA.

AN6. Structural certification from an appropriately qualified practicing structural engineer must be submitted to the Authority with the application under State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007 to certify the structural adequacy of the design of the temporary structures.

### DISABILITY DISCRIMINATION ACT

AN7. This application has been assessed in accordance with the EP&A Act. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*. The Applicant/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 BCA 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.

### FURTHER APPROVALS

AN8. The following shall be subject of separate development applications to Council under Part 4 of the Act (except where exempt and complying development applies):

- (a) External signage - the Applicant shall seek development consent prior to occupation and use of the works approved in this consent.
- (b) Fit-out and use of the kitchen - the Applicant shall seek development consent prior to occupation and use of the works approved in this consent. Development applications shall comply with the requirements of AS 4674 *Design, Construction and Fit-out of Food Premises*, *The Food Act 2003* and *Food Safety Standards*.
- (c) The Applicant shall obtain a certificate from a suitably qualified tradesperson, certifying that the kitchen, food storage and food preparation areas have been fitted in accordance with the *National Code for the Construction and Fit-out of Food Premises*. The Applicant shall provide evidence of receipt of the certificate to the satisfaction of the Certifying Authority prior to the occupation of the building(s) or commencement of the use.

### USE OF MOBILE CRANES

AN9. The Applicant 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 following matters shall be complied with to the satisfaction of the Certifying Authority:

- (a) (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:
  - (i) at least 48 hours prior to the works for partial road closures which, in the opinion of Council will create minimal traffic disruptions; and
  - (ii) 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.

- (b) The use of mobile cranes must comply with the approved hours of construction and shall not be delivered to the site prior to 7 am without the prior approval of the relevant authority.

## **ROADS ACT 1993**

AN10. A separate approval under Section 138 of the *Roads Act 1993* is required to undertake any of the following:

- (a) erect a structure or carry out a work in, on or over a public road;
- (b) dig up or disturb the surface of a public road;
- (c) remove or interfere with a structure, work or tree on a public road;
- (d) pump water into a public road from any land adjoining the road; or
- (e) connect a road (whether public or private) to a classified road.

## **COMMONWEALTH ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999**

AN11. The Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter; or Commonwealth land, without an approval from the Commonwealth Environment Minister.

AN12. This application has been assessed in accordance with the EP&A Act. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation. It is the Applicant's responsibility to consult the Department of the Environment and Energy to determine the need or otherwise for Commonwealth approval and you should not construe this grant of approval as notification to you that the EPBC Act does not have application. The EPBC Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

## **BUILDING PLAN APPROVAL**

AN13. You must have your building plans stamped and approved before any construction is commenced. Approval is needed because construction/building works may affect Sydney Water's assets (e.g. water, sewer and stormwater mains).

For further assistance please telephone 13 20 92 or refer to the Building over or next to assets page on the Sydney Water website (see plumbing, building and developing then building over or next to assets).

## **WORKS AND SIGNPOSTING**

AN14. All costs associated with signposting for any kerbside parking restrictions and traffic management measures associated with the development shall be borne by the developer.

## **END OF ADVISORY NOTES**

## APPENDIX 1 INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS

### WRITTEN INCIDENT NOTIFICATION REQUIREMENTS

1. A written incident notification addressing the requirements set out below must be emailed to the Department at the following address: [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) within seven days after the Applicant becomes aware of an incident. Notification is required to be given under this condition even if the Applicant fails to give the notification required under **condition A17** or, having given such notification, subsequently forms the view that an incident has not occurred.
2. Written notification of an incident must:
  - a. identify the development and application number;
  - b. provide details of the incident (date, time, location, a brief description of what occurred and why it is classified as an incident);
  - c. identify how the incident was detected;
  - d. identify when the applicant became aware of the incident;
  - e. identify any actual or potential non-compliance with conditions of consent;
  - f. describe what immediate steps were taken in relation to the incident;
  - g. identify further action(s) that will be taken in relation to the incident; and
  - h. identify a project contact for further communication regarding the incident.
3. Within 30 days of the date on which the incident occurred or as otherwise agreed to by the Planning Secretary, the Applicant must provide the Planning Secretary and any relevant public authorities (as determined by the Planning Secretary) with a detailed report on the incident addressing all requirements below, and such further reports as may be requested.
4. The Incident Report must include:
  - a. a summary of the incident;
  - b. outcomes of an incident investigation, including identification of the cause of the incident;
  - c. details of the corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence; and
  - d. details of any communication with other stakeholders regarding the incident.