

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 9 March 2020, 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
Regions, Industry and Key Sites

Sydney

8 May 2020

File: EF 18/48493 & EF19/4750

SCHEDULE 1

Application Number:	SSD 9794
Applicant:	Sydney Opera House Trust
Consent Authority:	Minister for Planning and Public Spaces
Site:	2 Circular Quay East, Bennelong Point, Sydney (Lot 5 in DP 775888 and Lot 4 in DP 787933)
Development:	Minor works and uses at the lower concourse of the Sydney Opera House, including: • extension and re-alignment of the glazing line of the Opera Bar • replacement of shade structures • refurbishment of back-of-house areas • consolidation of all lower concourse uses, including the restaurant and bar areas trading as Opera Bar, Opera Kitchen and the Visitor Information and Interpretation Centre.

DEFINITIONS

Accredited Certifier	The holder of a certificate of accreditation as an accredited certifier under the <i>Building Professionals Act 2005</i> acting in relation to matters to which the accreditation applies
Applicant	Sydney Opera House Trust
BCA	Building Code of Australia
CEMP	Construction Environmental Management Plan
Certifier	Means a council or an accredited certifier
Conditions of this consent	Conditions contained in Schedule 2 of this document
Construction	The demolition and removal of buildings or works, the carrying out of works for the purpose of the development, including bulk earthworks, and erection of buildings and other infrastructure permitted by this consent
Council	City of Sydney Council
Day	The period from 7 am to 6 pm on Monday to Saturday, and 8 am to 6 pm on Sundays and Public Holidays
Demolition	The deconstruction and removal of buildings, sheds and other structures on the site
Department	NSW Department of Planning, Industry and Environment
Development	The development described in the EIS and Response to Submissions, including the works and activities comprising the minor works and uses at the lower concourse of the Sydney Opera House, as modified by the conditions of this consent
EESG	Environment, Energy and Science Group of the Department of Planning, Industry and Environment
EIS	The Environmental Impact Statement titled ' <i>Sydney Opera House Lower Concourse Shade Covers, Minor Works and Uses Environmental Impact Statement</i> ', prepared by Keylan Consulting Pty Ltd dated October 2019, 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
Environment	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings
EPA	NSW Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
Evening	The period from 6 pm to 10 pm
Feasible	Means what is possible and practical in the circumstances
Heritage NSW	Heritage NSW, Department of Premier and Cabinet
Incident	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
Land	Has the same meaning as the definition of the term in section 1.4 of the EP&A Act
Material harm	Is harm that: - involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial, or - 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)
Minister	NSW Minister for Planning and Public Spaces (or delegate)
Night	The period from 10pm to 7am on Monday to Saturday, and 10pm to 8am on Sundays and Public Holidays
Noise Policy for Industry	The document entitled "Noise Policy for Industry" published by the NSW

	Environment Protection Authority in October 2017.
Non-compliance	An occurrence, set of circumstances or development that is a breach of this consent
PA	Means a planning agreement within the meaning of the term in section 7.4 of the EP&A Act.
Operation	The carrying out of the approved purpose of the development upon completion of construction
Planning Secretary	Planning Secretary under the EP&A Act, or nominee
POEO Act	<i>Protection of the Environment Operations Act 1997</i>
RMS (Roads)	Roads and Maritime Services (Roads), TfNSW
Reasonable	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
Response to submissions	The Applicant's response to issues raised in submissions received in relation to the application for consent for the development under the EP&A Act
Response to Submissions (RtS)	Response to Submissions titled ' <i>Lower Concourse Minor Works and Uses (SSD 9794) – Response to Submissions</i> ', prepared by the Sydney Opera House Trust dated 12 February 2020, and accompanying appendices
Sensitive receivers	A location where people are likely to work, occupy or reside, including a dwelling, school, hospital, office or public recreational area.
SSD	State Significant Development
Subject Site	Land referred to in Schedule 1
TfNSW	Transport for NSW

SCHEDULE 2

PART A ADMINISTRATIVE CONDITIONS

OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

- A1. 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

- A2. 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 management and mitigation measures; and
 - (e) in accordance with the approved plans in the table below.

Architectural Drawings prepared by Humphrey & Edwards Architects			
Drawing No.	Revision	Name of Plan	Date
49HE001-0001	F	Title Sheet and Drawing List	13/08/2019
49HE001-0503	A	Site Plan - Proposed	14/08/2019
49HE001-1100	E	General Arrangement Plan – Lower Concourse – Existing & Demo	13/08/2019
49HE001-1101	G	General Arrangement Plan – Lower Concourse – Proposed	05/05/2020
49HE001-1103	E	General Arrangement Plan – Upper Concourse – Proposed	30/07/2019
49HE001-3100	E	General Arrangement Elevation	30/07/2019
49HE001-3200	D	Detail Plan – Opera Bar Glazing Line – Existing & Demo	26/06/2019
49HE001-3202	D	Detail Plan – Opera Bar Glazing Line – Proposed	26/06/2019
49HE001-3205	D	Detail Elevation – Opera Bar Glazing	26/06/2019
49HE001-3220	E	Detail Plan - Shade Structure	30/07/2019
49HE001-3221	E	Shade Structure – Reflected Ceiling Plan	30/07/2019
49HE001-3225	D	Detail Section – Shade Structure	26/06/2019
49HE001-3230	C	Detail Elevation – Shade Structure	26/06/2019
49HE001-3231	C	Detail Section– Shade Structure Services	26/06/2019

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

LAPSING OF APPROVAL

- A5. 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

- A6. This consent does not approve logos and/or signage on the shade structures.

PRESCRIBED CONDITIONS

- A7. 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

- A8. 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

- A9. Any advice or notice to the consent authority must be served on the Planning Secretary.

EVIDENCE OF CONSULTATION

- A10. 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.

DEVELOPMENT EXPENSES

- A11. It is the responsibility of the Applicant to meet all expenses incurred in undertaking the development, including expenses incurred in complying with conditions imposed under this approval.

STRUCTURAL ADEQUACY

- A12. 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 have the proposed building works certified.
- Part 8 of the EP&A Regulation sets out the requirements for the certification of the development.

OPERATION OF PLANT AND EQUIPMENT

- A13. 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

- A14. 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.
- A15. 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

- A16. 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

- A17. The Department must be notified in writing to 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.
- A18. Subsequent notification must be given and reports submitted in accordance with the requirements set out in Appendix 1.

NON-COMPLIANCE NOTIFICATION

- A19. The Department must be notified in writing to compliance@planning.nsw.gov.au within seven days after the Applicant becomes aware of any non-compliance. The Certifier must also notify the Department in writing to compliance@planning.nsw.gov.au within seven days after they identify any non-compliance.
- A20. 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.
- A21. 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

- A22. Within three months of:
- (a) the submission of a compliance report under **Condition B8** and **B10**;
 - (b) the submission of an incident report under **Condition A17**;
 - (c) the approval of any modification of the conditions of this consent; or
 - (d) the issue of a direction of the Planning Secretary under **Condition A3** which requires a review,
- 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.
- A23. 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 THE COMMENCEMENT OF WORKS

CROWN BUILDING WORK

- B1. Crown building work cannot be commenced unless the Crown Building work is certified by or on behalf of the Crown to comply with the technical provisions of the State's building laws in force as at:
- (a) the date of the invitation for tenders to carry out Crown building work; or
 - (b) in the absence of tenders, the date on which the Crown building work commences.

NOTIFICATION OF COMMENCEMENT

- B2. The Department must be notified in writing of the dates of commencement of physical work and operation at least 48 hours before those dates.
- B3. 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.

EXTERNAL WALLS AND CLADDING

- B4. The external walls of all buildings including additions to existing buildings must comply with the relevant requirements of the BCA.
- B5. Before the commencement of works and prior to occupation or commencement of the use, the Applicant must provide the Certifier 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.
- B6. The Applicant must provide a copy of the documentation given to the Certifier to the Planning Secretary within seven days after the Certifier accepts it.

ACCESS TO INFORMATION

- B7. 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 A2** 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; and
 - (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

- B8. A Pre-Construction Compliance Report must be prepared for the development, and submitted to the Certifier 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 before the commencement of construction.
- B9. 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.
- B10. Construction Compliance Reports must be submitted to the Department at 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.

B11. 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.

REQUIREMENTS FOR SECTION 60 APPROVAL UNDER HERITAGE ACT 1977

B12. Prior to the commencement of any works, an application under section 60 of the *Heritage Act 1977* must be submitted to and approved by the Heritage Council of NSW or its delegate.

B13. As part of the Section 60 application under the *Heritage Act 1977*, the Applicant is to further resolve the design of the following:

- (a) testing of the opacity of the translucent infill sections between the shade structures, to ensure they allow adequate light and vision to pass through;
- (b) further details of the freestanding pull-up shade screens proposed behind the outdoor bar to be provided during detailed design development;
- (c) lighting of the concrete column that is proposed to be enclosed by the realigned glazing wall, which must be consistent with that of other columns along this alignment;
- (d) demonstration that the recommended conditions within the Heritage Impact Statement prepared by Design 5 Architects dated 29 January 2020 will be adhered to; and
- (e) the colour of the fabric of the shade structures, including provision of a sample.

B14. A copy of the Heritage Council's approval and additional information required above must be submitted to the Planning Secretary and Council for information.

BUILDING CODE OF AUSTRALIA (BCA) COMPLIANCE

B15. 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) a combination of (a) and (b).

STRUCTURAL DETAILS

B16. Prior to the commencement of works, the Applicant must submit to the Certifier 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.

COMPLIANCE

B17. 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

B18. 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 1300 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.

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

HERITAGE

- B19. Prior to the commencement of works, a suitably qualified and experienced heritage consultant must be nominated for this project. The nominated heritage consultant must inspect the demolition and removal of material to ensure there is no unapproved removal of significant fabric or elements, 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 satisfied that all work has been carried out in accordance with the conditions of this consent.
- B20. Evidence and details of the engagement of a nominated heritage consultant in accordance with **Condition B19** shall be submitted to the Planning Secretary and Council, prior to the certification of Crown Building Works.
- B21. The new granite wall and paving panels are to match the existing in form, material, colour and quality.

CONTAMINATION

- B22. Prior to the commencement of any works (including demolition), 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 Certifier.
- B23. The Applicant shall prepare and implement appropriate project specific procedures for identifying and dealing with unexpected finds of site contamination (including asbestos and lead-based paint materials). This shall include any notification requirements to SafeWork NSW concerning the handling and removal of any asbestos.
- B24. Prior to the commencement of any work, the Applicant is required to satisfy the requirements of the *Protection of the Environment Operations (Waste) Regulation 2014* with particular reference to Part 7 'asbestos wastes'.

ARCHIVAL RECORDING

- B25. Prior to the certification of Crown Building Works, a photographic archival record of all areas undergoing works, , and identification of any significant pieces for interpretation, must be prepared in accordance with the document *How to Prepare Archival Records* by the Heritage Council of NSW, and submitted to the Heritage Council and the Department.

ECOLOGICALLY SUSTAINABLE DEVELOPMENT (ESD)

- B26. The building must incorporate all design, operation and construction measures as identified in the EIS, prepared by Keylan Consulting Pty Ltd dated October 2019, and accompanying appendices, and '*Lower Concourse Minor Works and Uses (SSD 9794) – Response to Submissions*', prepared by the Sydney Opera House Trust dated 12 February 2020, and accompanying appendices.
- B27. Details demonstrating compliance are to be submitted to the Certifier prior to the commencement of works.

CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

- B28. 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 Certifier. The **CEMP** must:
- describe the relevant stages and phases of construction including work program outlining relevant timeframes for each stage/phase;
 - describe all activities to be undertaken on the site during site establishment and construction of the development;
 - clearly outline the stages/phases of construction that require ongoing environmental management monitoring and reporting;
 - 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;
 - be prepared in consultation with Council, EPA, and TfNSW and include specific consideration of measures to address any requirements of these agencies during site establishment and construction;
 - describe the roles and responsibilities for all relevant employees involved in the site establishment and construction of the works;
 - 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;
 - 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 (including dust emissions on the site and dust emissions from the site) to protect the amenity of the neighbourhood;
- (k) address the management of water quality, including, where relevant, mitigation measures such as 'wet-vacuuming';
- (l) address construction pedestrians and traffic management, with these management measures to be endorsed by the Coordinator General, Transport Coordination in the CBD Coordination Office within TfNSW prior to the commencement of works;
- (m) address the management of noise and vibration, in accordance with the EPA's *Interim Construction Noise Guideline* and the relevant recommendations and noise and vibration mitigation measures outlined in the 'Operational and Construction Noise Impact Assessment' Rev 5, prepared by Arup, dated 21 January 2020;
- (n) address the management of erosion and sediment control to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the Subject Site; and
- (o) address the management of construction waste, including compliance with the relevant legislation, the SOH Asbestos Risk Management Plan and the SOH Hazardous Materials Action Plan, particularly with regard to the removal of asbestos and hazardous 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, the EPA, TfNSW and the Planning Secretary.

MECHANICAL VENTILATION

- B29. The premises must be ventilated in accordance with the BCA and AS1668.1 and AS1668.2.
- B30. Details of any mechanical ventilation and/or air conditioning system complying with AS1668.1, AS1668.2, the BCA and relevant Australian Standards must be prepared by a suitably qualified person certified and certified in accordance with Clause A2.2(a)(iii) of the BCA, to the Certifier prior to the commencement of the relevant works.

MECHANICAL PLANT NOISE MITIGATION

- B31. Details of noise mitigation measures for all mechanical plant are to be provided to the Certifier prior to the commencement of works. 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 Certifier prior to the commencement of works.

ACCESS FOR PEOPLE WITH DISABILITIES

- B32. Access and facilities for people with disabilities must be designed in accordance with the BCA. Prior to the commencement of works, a certificate certifying compliance with this condition from an appropriately qualified person must be provided to the Certifier.

SANITARY FACILITIES FOR DISABLED PERSONS

- B33. The Applicant shall ensure that the provision of sanitary facilities for disabled persons complies with Section F2.4 of the BCA. Prior to the commencement of works, a certificate certifying compliance with this condition from an appropriately qualified person must be provided to the Certifier.

LIGHT SPILL

- B34. Prior to the commencement of works, a **Lighting and Light Spill Report (LLSR)**, including drawings and computer-generated imagery, shall be prepared by a suitably qualified practicing lighting engineer, and submitted to and approved by Council. The **LLSR** shall analyse the impact of proposed lighting and include recommendations and mitigation measures (where necessary) to minimise light spill impacts. A copy shall be submitted to the Planning Secretary and the Certifier.

OUTDOOR LIGHTING

- B35. Light spill from upward directed umbrella lighting must be fully captured by umbrella fabric, and 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 Certifier prior to the commencement of works.

CONSTRUCTION AND FIT OUT OF FOOD PREMISES

- B36. The construction, fit-out and finishes of food premises must comply with Standard 3.2.3 of the *Australian and New Zealand Food Standards Code* under the *Food Act 2003*, all relevant Australian Standards including AS 4674 – 2004: *Design, Construction and Fit-out of Food Premises*, and the provisions of the BCA. Details of compliance

with the relevant provisions shall be prepared by a suitably qualified person and submitted to the Certifier and Council prior to the construction and fit-out of any food premises.

COOL ROOMS

- B37. Any cool room(s), refrigerated chambers or strong-rooms must be constructed in accordance with G 1.2 of the BCA.

GREASE TRAPS

- B38. A grease trap (if required by Sydney Water) must not be installed in any kitchen, food preparation or food storage area. Installation of the grease trap must comply with the requirements of Sydney Water.

Note: Sydney Water Authority also have requirements for grease arrestors that you need to comply with.

REQUIREMENTS OF PUBLIC AUTHORITIES

- B39. 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 proposal. 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 Certifier prior to the commencement of works.

DEVELOPER CONTRIBUTIONS

- B40. In accordance with Section 61 of the *City of Sydney Act 1988*, the Applicant must pay developer contributions in accordance with *Central Sydney Development Contributions Plan 2013*. The contributions are to be paid by the Applicant prior to the certification of Crown Building Works.

PART C DURING CONSTRUCTION

DEMOLITION

- C1. 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 Certifier before the commencement of works.

HOURS OF CONSTRUCTION

- C2. Construction, including the delivery of materials to and from the site, may only be carried out between the following hours:
- (a) between 7.00 am and 7.00 pm, Mondays to Fridays inclusive; and
 - (b) between 7.30 am and 5.00 pm, Saturdays.
- C3. No work may be carried out on Sundays or public holidays.
- C4. Activities may be undertaken outside of these hours if required:
- (a) the works are internal and undertaken within the wholly enclosed building; or
 - (b) the delivery and removal of vehicles, plant or materials is via the underground loading dock within the Subject Site (in which case it may be undertaken on a 24-hours-a-day, 7-days-a-week basis during the construction of the development); or
 - (c) the delivery and removal of vehicles, plant or materials (not via the underground loading dock under **condition C4(b)**) is required outside these hours by the Police or other public authorities, or it is determined that it would be hazardous to the general public (i.e. tourists, patrons or events in the forecourt/boardwalks), provided it is undertaken outside scheduled performance times at the Sydney Opera House (including not within 30 minutes before or after scheduled performances); or
 - (d) required in an emergency to avoid the loss of life, damage to property or to prevent environmental harm.
- C5. Notification of such activities must be given to affected residents before undertaking the activities or as soon as is practical afterwards.
- C6. 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

- C7. The Applicant shall ensure that the requirements of the **CEMP** required by Part B of this consent are implemented during construction.

CONSTRUCTION NOISE AND VIBRATION MANAGEMENT

- C8. 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**.
- C9. 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.
- C10. 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.
- C11. 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.
- C12. Heavy vehicles and oversized vehicles must not queue or idle on Macquarie Street awaiting access to the Subject Site.
- C13. 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 **CEMP**.

APPROVED PLANS TO BE ON-SITE

- C14. 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 Certifier.

SITE PROTECTION AND WORKS

- C15. Significant building fabric and building elements are to be protected during the works from potential damage. Protection systems must ensure historic fabric is not damaged or removed.
- C16. The installation of any new services shall be carried out in such a manner as to minimise damage to, or removal of, significant fabric.

SALVAGE OF SIGNIFICANT BUILDING FABRIC

- C17. Significant building fabric and elements approved to be removed are to be carefully removed, catalogued, safely stored and able to be readily reinstated, including the louvred disc light.

HAZARDOUS WASTE REMOVAL

- C18. 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.
- C19. Removal of any other hazardous building materials must be undertaken by a suitably licensed contractor.

SITE CONTAMINATION ISSUES DURING CONSTRUCTION

- C20. 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.

SAFework NSW REQUIREMENTS

- C21. 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.

HOARDING/FENCING REQUIREMENTS

- C22. 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.

COVERING OF LOADS

- C23. 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

- C24. 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.

SITE NOTICE

- C25. 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, Certifier 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.

CONTACT TELEPHONE NUMBER

C26. 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.

WASTE MANAGEMENT

C27. The Applicant must ensure that:

- (a) construction waste should be managed generally in accordance with the EPA's brochure entitled "Know your responsibilities: managing waste from construction sites" and the EPA's *Waste Classification Guidelines Part 1*;
- (b) all waste generated by the development is treated and/or disposed of at a facility that has sufficient capacity to and may lawfully accept that waste;
- (c) waste (including litter, debris or other matter) is not caused or permitted to enter the waters of Sydney Harbour;
- (d) any vehicle used to transport waste or excavation spoil from the site is covered before leaving the premises;
- (e) the wheels of any vehicle, trailer or mobilised plant leaving the site and cleaned of debris prior to leaving the premises; and
- (f) concrete waste and rinse water are not disposed of on the site and are not caused or permitted to enter the waters of Sydney Harbour.

DUST CONTROL MEASURES

C28. Adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood during construction. In particular, the following measures should be adopted:

- (a) physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust emissions;
- (b) earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed;
- (c) all materials shall be stored or stockpiled at suitable locations and stockpiles shall be maintained at manageable sizes which allow them to be covered, if necessary, to control emissions of dust and/or VOCs/odour;
- (d) the surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs;
- (e) all vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material;
- (f) all equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays;
- (g) gates shall be closed between vehicle movements and shall be fitted with shade cloth; and
- (h) cleaning of footpaths and roadways shall be carried out regularly.

NO OBSTRUCTION OF THE PUBLIC WAY

C29. 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

C30. 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.

WATER QUALITY

C31. All works should be undertaken in a manner that ensures the protection of the water quality objectives and environmental values for Sydney Harbour estuarine waters in accordance with the following guideline documents:

- (a) NSW Water Quality Objectives; and

- (b) The Australian and New Zealand Guidelines for Fresh and Marine Water Quality (2000) for the environmental values under the ANZECC guidelines.

BUNDING

- C32. The Applicant shall store all chemicals, fuels and oils used on-site in appropriately banded areas in accordance with the requirements of all relevant Australian Standards, EPL requirements (if active) and/or EPA's *Storing and Handling Liquids: Environmental Protection – Participants Handbook*.

SELECTION OF APPROPRIATE TRADESPEOPLE

- C33. 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.

NOMINATED HERITAGE CONSULTANT

- C34. The Nominated Heritage Consultant is to regularly inspect the site and provide ongoing advice to the contractor representative undertaking the works for the duration of construction to ensure that there is no unapproved removal of elements, significant fabric is not damaged and that all work is being carried out in accordance with the conditions of this consent.

OPERATION OF PLANT AND EQUIPMENT

- C35. 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

- C36. The following requirements apply:
- (a) all loading and unloading associated with construction must be accommodated on-site; and
 - (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.

EROSION AND SEDIMENT CONTROL

- C37. 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.

HERITAGE MITIGATION

- C38. The proposed works are to be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to significant fabric of the Sydney Opera House.
- C39. All conservation and adaptation works are to be in accordance with the Articles of the Australian ICOMOS Burra Charter 1999.

CONSTRUCTION WASTE

- C40. Construction waste should be managed generally in accordance with the EPA's brochure entitled "Know your responsibilities: managing waste from construction sites".
- C41. 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 D PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

PROTECTION OF PUBLIC INFRASTRUCTURE

- D1. 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.

PLAN OF MANAGEMENT

- D2. Within three months of the date of this consent, an **Operational Plan of Management (OPM)** 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 E2**, 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 E10**;
 - (v) collection of waste and recycling as permitted in **Condition D7**; and
 - (vi) compliance with the matters outlined in **Condition D3**.
 - (c) a detailed Operational Noise and Vibration Management Plan, as outlined in **Condition D3**.

A copy of the approved **OPM** must be submitted to Council.

OPERATIONAL NOISE AND VIBRATION MANAGEMENT PLAN

- D3. Within three months of the date of this consent, an **Operational Noise and Vibration Management Plan (ONVMP)** prepared by a suitably qualified person shall be submitted to and approved by the Planning Secretary. 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 'Operational and Construction Noise Impact Assessment' Rev 5, prepared by Arup, dated 21 January 2020;
 - (g) include a requirement for all amplified music equipment (including the proposed diffuse speaker array system to be erected with the new shade sails) to be designed, constructed and operated to satisfy the normal requirements of Liquor and Gaming NSW, in consultation with Liquor and Gaming NSW, and substantially in accordance with the design objectives and operational performance level outlined in the 'Operational and Construction Noise Impact Assessment' Rev 5, prepared by Arup, dated 21 January 2020;
 - (h) include a suitable proactive noise and vibration monitoring program which aims to ensure the noise and vibration criteria in this approval are not exceeded.

A copy of the approved **ONVMP** must be submitted to Council and the EPA.

FIRE SAFETY CERTIFICATION

- D4. Prior to occupation or commencement of the use, 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.

NOMINATED HERITAGE CONSULTANT

- D5. At the completion of the works, the Applicant shall provide a report to the Planning Secretary and the Heritage Council prepared by the Nominated Heritage Consultant certifying all heritage works have been carried out in accordance with the relevant terms of this consent outlined in **Condition A2**.

ECOLOGICALLY SUSTAINABLE DEVELOPMENT

- D6. At the completion of the works, evidence shall be submitted to the Certifier demonstrating compliance with the recommendations and principles highlighted within the EIS (see **Condition B26**).

WASTE AND RECYCLING COLLECTION

- D7. Prior to the occupation or commencement of the use, 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

- D8. A **Structural Inspection Certificate** or a **Compliance Certificate** must be submitted to the Certifier and the Planning Secretary at completion of works. 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.

ROAD DAMAGE

- D9. 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 at the completion of works.

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

- D10. If required, 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 Certifier prior to the commencement of use.

UTILITY PROVIDERS

- D11. If required, 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

- D12. At the completion of works, evidence shall be submitted to the Certifier demonstrating compliance with all noise mitigation measures required under **Condition B31** and to ensure the development achieves compliance with the requirements of the NSW Noise Policy for Industry and other guidelines applicable to the development.

MECHANICAL VENTILATION

- D13. At the completion of works, installation and testing of all the mechanical ventilation systems, the Applicant shall provide evidence to the Certifier, at the completion of works, 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.

COMPLIANCE WITH FOOD CODE

- D14. Prior to commencement of food handling operations, the Applicant is to obtain a certificate from a suitably qualified person, certifying any food premises have been fitted in accordance with AS 4674 – 2004: Design, Construction and Fit-out of Food Premises and satisfy Food Safety Standards 3.2.2 (Food Safety Practices and General Requirements) and 3.2.3 (Food Premises and Equipment). The Applicant shall provide evidence of receipt of the certificate to the Certifier prior to the commencement of use.
- D15. Prior to commencement of food handling operations, food premises are to be registered with Council.

FOOD PREMISES – HEALTH REGISTRATION DATABASE

- D16. 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 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

- D17. Prior to occupation or commencement of the use, signage (in lettering not less than 15 mm in height on a contrasting background) must be erected in a prominent position near the principle entry to the premises. The signage must state: 'Approved patron capacity of the area of the lower concourse subject to a liquor licence(s) is limited to 2370' and 'Upon leaving please respect local residents by minimising noise'.

SURRENDER OF CONSENT

- D18. Within three months of the date of this consent, the Applicant must surrender development consent SSD 6353, for the Visitor Information and Interpretation Centre.

COMPLIANCE REPORT

- D19. At the completion of works, the Applicant, or any party acting upon this approval, shall submit to the Certifier a report addressing compliance with all relevant conditions of this Part.

PART E POST OCCUPATION OR DURING USE

OPERATIONAL PLAN OF MANAGEMENT

- E1. The **OPM** and **ONVMP** must be fully implemented following their approval in accordance with **Conditions D2 and D3**, and all other relevant plans must be fully implemented within three months of the date of this consent.

HOURS OF OPERATION

- E2. The hours of operation are restricted as follows:

Bar and restaurant areas

- (a) 7.30 am to 12 midnight Sunday to Thursday (inclusive);
- (b) 7.30 am to 1.30 am Friday to Saturday (inclusive);
- (c) 7.30 am New Year's Eve to 2.30 am New Year's Day (for the area currently trading as Opera Bar); and
- (d) 7.30 am New Year's Eve to 2.00 am New Year's Day (for the area currently trading as Opera Kitchen).

Visitor Information and Interpretation Centre

- (e) 7 am to 11 pm Monday to Sunday (inclusive).

MAXIMUM PATRON CAPACITY

- E3. The maximum number of persons (including staff, patrons and performers) permitted on the lower concourse at any one time is 2700 persons and includes:
- (a) 1800 persons in the area currently trading as Opera Bar – referred to as venue 1 on Drawing 49HE001-1101 Rev G dated 05/05/20 in **Condition A2** (including a maximum of 400 persons in the internal area and 1400 persons in the remaining area);
 - (b) 570 persons in the area currently trading as Opera Kitchen – referred to as venue 2 on Drawing 49HE001-1101 Rev G dated 05/05/20 in **Condition A2**; and
 - (c) 330 for other areas, including the Visitor Information and Interpretation Centre.

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

EXTERNAL LIGHTING

- E4. External Lighting shall comply with the **LLSR, AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting** and shall be mounted, screened and directed in such a manner that it does not create nuisance to surrounding properties or the public road network. Upon installation of lighting, but before it is finally commissioned, the Applicant shall submit evidence from an independent qualified practitioner, to Certifier, demonstrating compliance in accordance with this condition.

ANNUAL FIRE SAFETY CERTIFICATE

- E5. 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 – USE

- E6. 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 premises must not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7 am, except for between midnight and 02:00AM on 1 January of each year, when the prescribed LA10 noise controls for the hours of 07:00 AM and 12:00 midnight shall continue to apply.

Live music in the area currently trading as Opera Bar area must cease by 10 pm, seven-days-per-week.

No live music is permitted in the areas currently trading as Opera Kitchen or the Visitor Information and Interpretation Centre.

After 10.00 pm all amplified music must be played through a limiter, in conjunction with a system that ensures compliance with the liquor licensing conditions and the noise limits in this condition.

No amplified music is to be played in the area currently trading as the Visitor Information and Interpretation Centre at any time.

NOISE MONITORING

- E7. During the first year following the date of this consent, the Applicant is to undertake periodic noise monitoring to confirm compliance with the noise limits in **Condition E6** of this consent. This should be undertaken a minimum of two times, on a Friday or Saturday night between December and February (inclusive) for a duration of one hour at both 8.00 pm and 11.00 pm.

A noise compliance assessment report must be submitted to the Planning Secretary and the EPA within two weeks of the completion of monitoring required under this condition. The assessment must be prepared by a suitably qualified and experienced acoustical consultant and include:

- (a) the dates and times the monitoring occurred;
- (b) the activities that were occurring on land administered by the Applicant during the monitoring;
- (c) an assessment of compliance with noise limits presented in **Condition E6**; and
- (d) an outline of any management actions taken within the monitoring period to address any exceedances of the limits contained in **Condition E6**.

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 D3** be updated to include such measures.

If directed by the Planning Secretary at any other time, the Applicant shall undertake noise monitoring to confirm compliance with the noise limits in **Condition E6** of this consent.

ODOUR REQUIREMENTS

- E8. 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.
- E9. 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

- E10. 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, including obstructing or impeding pedestrian flow;
 - (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; and
 - (e) enables NSW Police, the Department or Council and other regulatory authorities and emergency services unimpeded access to the premises.

PUBLIC WALKWAYS

- E11. The Applicant must conduct a review of the operational areas (including loose furniture and other infrastructure), including along the sea wall and main restaurant/bar areas, and revise this to minimise encroachments onto public walkways and improve access through the lower concourse. A report shall be produced, and a copy submitted to the Certifier, Planning Secretary, Council and Heritage NSW within six months of the date of this consent.

NEIGHBOURHOOD AMENITY

- E12. 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, including along the lower concourse walkway and walkway adjacent to the sea wall; and
 - (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.

CCTV FOOTAGE ON PREMISES

E13. 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 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

E14. 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.

- (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.

SANITARY FACILITIES FOR DISABLED PERSONS

- E15. Within one month of the date of this consent, details must be provided to the Certifier demonstrating that the provision of sanitary facilities for disabled persons within the premises complies with Section F2.4 of the BCA and **Condition B33**.

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.

USE OF MOBILE CRANES

AN8. 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 and the Certifier advised:

- (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

AN9. 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

AN10. 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.

AN11. 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 Agriculture, Water and the Environment 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

AN12. 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

AN13. All costs associated with signposting for any kerbside parking restrictions and traffic management measures associated with the development shall be borne by the developer.

ASBESTOS REMOVAL

AN14. All excavation works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a current SafeWork NSW Asbestos or "Demolition Licence" and a current SafeWork "Class 2 (Restricted) Asbestos Licence and removal must be carried out in accordance with NOHSC: "Code of Practice for the Safe Removal of Asbestos".

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 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 A19** 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.