

# CONSOLIDATED CONSENT

## Development Consent – Key Sites

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

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.

Anthony Roberts  
**Minister for Planning**

Sydney

2018

### SCHEDULE 1

**Application No.:** SSD 6471

**Applicant:** Art Gallery NSW Trust

**Consent Authority:** Minister for Planning

**Site:** Lot 102 DP 854472, Lot 103 DP 1199151, Lot 34 DP 39586, Lots 107, 108 and 109 DP 1105308, Lot 4 DP 259027, Lot 51 DP 47732, Lot 35 DP 39586, Lot 9 DP 1007656 (Woolloomooloo Bay), Lot 113 DP 1105308; Lot 1013 DP 1199151, and Lots 107, 108 and 115 DP 1105308 (Art Gallery Road), Mrs Macquaries Road, The Domain; and Lincoln Crescent and Cowper Wharf Road, Woolloomooloo

**Development:** Sydney Modern Expansion Project:

- demolition, earthworks and excavation works
- construction of new art gallery building

- remediation and conversion of former fuel bunker to gallery use
- construction of new entry plaza and associated canopy
- new loading dock with access from Lincoln Crescent
- installation of seawater heat exchange system
- public domain and landscaping works, including new footpaths, public lifts and tree planting
- subdivision.

FOR INFORMATION

## DEFINITIONS

<b>Advisory Notes</b>	Advisory information relating to the consent but do not form a part of this consent
<b>Applicant</b>	Art Gallery of NSW Trust, or any person carrying out any development to which this consent relates
<b>Application</b>	The development application and the accompanying drawings plans and documentation described in Condition A2
<b>BC Act</b>	<i>Biodiversity Conservation Act 2016</i>
<b>BCA</b>	Building Code of Australia
<b>CEMP</b>	Construction Environmental Management Plan
<b>Conditions of this consent</b>	Conditions contained in Schedule 2 of this document
<b>Construction</b>	All physical work to enable operation
<b>Council</b>	City of Sydney Council
<b>Crown Building Works Certificate</b>	Certification of Crown building works under section 6.28 of the EP&A Act
<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>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 and Environment
<b>Development</b>	The development described in the EIS and RTS, including the works and activities comprising the Sydney Modern Expansion Project, as modified by the conditions of this consent.
<b>DPI</b>	NSW Department of Primary Industries
<b>Evening</b>	The period from 6 pm to 10 pm
<b>EIS</b>	The Environmental Impact Statement titled 'Art Gallery of NSW Expansion Project – Sydney Modern', prepared by Architectus, dated November 2017, 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>EPL</b>	Environment Protection Licence under the POEO Act
<b>Feasible</b>	Means what is possible and practicable in the circumstances
<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>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>(a) involves actual or potential harm to the health or safety of human beings or to ecosystems that is not trivial, or</li> <li>(b) results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000, (such</li> </ul>

	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).
<b>Minister</b>	NSW Minister for Planning (or delegate)
<b>Night</b>	The period from 10 pm to 7 am on Monday to Saturday, and 10 pm to 8 am on Sundays and Public Holidays
<b>Non-compliance</b>	An occurrence, set of circumstances or development that is a breach of this consent.
<b>OEH</b>	NSW Office of Environment and Heritage
<b>Operation</b>	The carrying out of the approved purpose of the development upon completion of construction
<b>PCA</b>	Means a principal certifying authority appointed under section 6.5 of the EP&A Act, or in the case of Crown development, a person qualified to conduct a Certification of Crown Building Work
<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>Rehabilitation</b>	The restoration of land disturbed by the development to a good condition, to ensure it is safe, stable and non-polluting
<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>RTSAR</b>	The Applicant's response to submissions addendum reports
<b>RMS</b>	NSW Roads and Maritime Services
<b>Sensitive receiver</b>	Residence, education institution (e.g. school, university, TAFE college), health care facility (e.g. nursing home, hospital), religious facility (e.g. church) and children's day care facility
<b>SSD</b>	State Significant Development
<b>Subject Site</b>	Land referred to in Schedule 1
<b>TfNSW</b>	Transport for NSW

## Summary of Modifications

<b>SSD 6471</b>	Approved by the Minister for Planning on 20 November 2018, for: Demolition, construction of new art gallery building, remediation and conversion of former fuel bunker to art gallery use, construction of new entry plaza and canopy, new loading dock, installation of seawater heat exchange system, public domain and landscaping works, and subdivision.
<b>SSD 6471 MOD 1</b>	Approved by the Director, Key Sites Assessments, on 17 September 2019, to: Delete the seawater heat exchange system and amend condition A2 to modify drawing number references. Delete conditions B28, D2 and E22 which pertain to the design and operation of the seawater heat exchange system.
<b>SSD 6471 MOD 2</b>	Approved by the Director, Key Sites Assessments, on 13 December 2019, to: Amend references in conditions.
<b>SSD 6471 MOD 3</b>	Approved by the Director, Key Sites Assessments, on 18 November 2020, for: Various minor design amendments and to amend Condition B37 (Bicycle parking) and Condition E2 (hours of operation).
<b>SSD 6471 MOD 4</b>	Approved by the Director, Key Sites Assessments, on 24 May 2021, for: Landscape design amendments, including the forecourt plaza, entry plaza and land bridge.
<b>SSD 6471 MOD 5</b>	Approved by the Team Leader, Key Sites Assessments, on 22 October 2021, for: Architectural and landscape design amendments
<b>SSD 6471 MOD 6</b>	Approved by the Team Leader, Key Sites Assessments, on 16 December 2021, for: Design amendments
<b>SSD 6471 MOD 7</b>	Approved by the Team Leader, Key Sites Assessments, on 24 December 2021, for: Landscaping design amendments
<b>SSD 6471 MOD 8</b>	Approved by the Team Leader, Key Sites Assessments, on 1 June 2022, for: External design and landscaping changes and extended construction hours

## 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.

#### 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 RTS; and
- d) in accordance with the approved plans in the table below:
- e) As amended by the Section 4.55(1A) Modification prepared by Architectus Australia Pty Ltd dated 20 June 2019 and Response to Submissions prepared by Architectus Australia Pty Ltd dated 23 August 2019;
- f) As amended by the Section 4.55(1) Modification prepared by Art Gallery NSW Trust dated 21 November 2019;
- g) As amended by the Section 4.55(1A) Modification prepared by Architectus Australia Pty Ltd dated 19 August 2020 and Response to Submissions prepared by Architectus Australia Pty Ltd dated 30 October 2020;
- h) As amended by the Section 4.55(2) Modification prepared by Architectus Australia Pty Ltd dated 6 November 2020, Response to Submissions prepared by Architectus Australia Pty Ltd dated 10 March 2021 and Response to Further Submissions dated 12 April 2021;
- i) As amended by the Section 4.55(1A) Modification prepared by Architectus Australia Pty Ltd dated 25 August 2021 and Response to Submissions prepared by Architectus Australia Pty Ltd dated 12 October 2021;
- j) As amended by the Section 4.55(1A) Modification prepared by Architectus Australia Pty Ltd dated 11 November 2021;
- k) As amended by the Section 4.55(1A) Modification prepared by Architectus Australia Pty Ltd dated 10 December 2021
- l) as amended by the Section 4.55(1A) Modification prepared by Architectus Australia Pty Ltd dated 3 March 2022 and Response to Submissions and Amendment Report prepared by Architectus Australia dated 18 May 2022.

Architectural Drawings prepared by SANNA and Architectus Architects			
Drawing No.	Revision	Name of Plan	Date
DA_0054	J	Site Demolition Plan	06/08/18
DA_0055	K L O P Q	Ancillary Works Plan	14/08/18 25/05/19 23/07/20 03/11/20

			<a href="#">11/06/21</a>
DA_0056	I	Sea Water Heat Exchange System Plan	06/08/18
DA_0057	E-G J-K	Site and Building Areas	06/08/18 06/07/20 03/11/20 <a href="#">11/06/21</a>
DA_0058	G-H J-L-M-N	Open Space/External Publicly Accessible Areas	29/10/18 24/05/19 23/07/20 03/11/20 11/06/21 <a href="#">03/03/22</a>
DA_0059	F-G H-K-L	Land Subject to Landscape Embellishments	29/10/18 24/05/19 06/07/20 03/11/20 <a href="#">11/06/21</a>
DA_0070	D	Sea Water Heat Exchange Upper Room Plan	06/08/18
DA_0100	M-N Q-S-T-U-V	Proposed Site Plan	06/08/18 24/05/19 23/07/20 03/11/20 11/06/21 30/09/21 <a href="#">03/03/22</a>
DA_1000	M-N P-R-S-U-U	Roof Plan	06/08/18 24/05/19 23/07/20 03/11/20 11/06/21 30/09/21 <a href="#">03/03/22</a>
DA_1001	M-N P-R-S-T	Entry Level Plan	06/08/18 24/05/19 23/07/20 03/11/20 11/06/21 <a href="#">03/03/22</a>
DA_1002	L-M O-Q-R	Lower Level 1 Plan	06/08/18 24/05/19 23/07/20 11/06/21 <a href="#">03/03/22</a>
DA_1003	L-M P-R-S	Lower Level 2 Plan	06/08/18 24/05/19 23/07/20 11/06/21 <a href="#">03/03/22</a>
DA_1003.5	B	Lower Level 3 Mezzanine	22/08/19

DA_1004	J	Lower Level 3 Plan – Demolition Plan	06/08/18
DA_1005.0	<del>J</del> K	Lower Level 3 Plan – Proposed Plan (confidential)	<del>06/08/18</del> 24/05/19 <u>06/07/20</u>
DA_1005	<del>H</del> <del>L</del> IL	Lower Level 3 Plan – Proposed Plan	<del>06/08/18</del> <u>09/09/20</u> <u>06/07/20</u> <u>11/06/21</u>
DA_1006	J	Lower Level 4 Plan – Demolition Plan	06/08/18
DA_1007.0	<del>J</del> K	Lower Level 4 Plan – Proposed Plan (confidential)	<del>06/08/18</del> <u>01/07/20</u>
DA_1007	<del>H</del> <del>J</del>	Lower Level 4 Plan – Proposed Plan	<del>06/08/18</del> <u>01/07/20</u> <u>11/06/21</u>
DA_2000	K	Sections AA & BB	06/08/18
DA_2001	<del>K</del> <del>N</del> <del>Q</del> <del>O</del>	Sections CC & DD	<del>06/08/18</del> <del>11/06/21</del> 30/09/21 <u>03/03/22</u>
DA_2002	F	Perspective Section Sheet 1	06/08/18
DA_2003	F	Perspective Section Sheet 2	06/08/18
DA_2004	<del>F</del> G	Perspective Section Sheet 3	<del>06/08/18</del> <u>01/07/20</u>
SMP-C-1300 X01	<del>3</del> C	Bulk Earthworks Plan	<del>20/07/18</del> <u>30/04/20</u>
DA_2006	D	Proposed Excavation Sections	06/08/18
<u>DA_2009</u>	<u>A</u>	<u>Perspective Section Sheet 4</u>	<u>01/07/20</u>
<u>DA_2051</u>	<u>AC</u>	<u>Section 1 and 2 – Zone B</u>	<u>22/08/19</u> <u>11/06/21</u>
<u>DA_2052</u>	<u>A</u> <u>BC</u>	<u>Section 3 and 4 – Zone B</u>	<u>22/08/19</u> <u>23/07/20</u> <u>11/06/21</u>
<u>DA_2053</u>	<u>AB</u>	<u>Section 1 and 2 – Zone M</u>	<u>01/07/20</u> <u>11/06/21</u>
<u>DA_2054</u>	<u>AB</u>	<u>Section 3 and 4 – Zone M</u>	<u>01/07/20</u> <u>11/06/21</u>
<u>DA_2055</u>	<u>AB</u>	<u>Section 1 and 2 – Plant room</u>	<u>01/07/20</u> <u>11/06/21</u>
DA_3000	J	North and South Elevations	06/08/18
DA_3001	<del>J</del> <del>M</del> <del>P</del> <del>R</del>	East and West Elevations	<del>06/08/18</del> <del>11/06/21</del> 27/10/21 <u>03/03/22</u>
DA_3002	F	Overall West Elevation	06/08/18
DA_3010	E	North Part Elevation A	06/08/18
DA_3011	E	North Part Elevation B	06/08/18



DA_3012	E	South Elevation	06/08/18
DA_3013	<del>E</del> <del>F</del> <u>G</u>	East Part Elevation A	<del>06/08/18</del> <del>30/11/21</del> <u>03/03/22</u>
DA_3014	E	East Part Elevation B	06/08/18
DA_3015	E	West Part Elevations	06/08/18
DA_5000	<del>J</del> <u>JK</u>	Gross Floor Area Calculation	<del>06/08/18</del> <u>06/07/20</u> <u>11/06/21</u>
DA_5001	<del>J</del> <u>KL</u>	Gross Floor Area Diagrams	<del>06/08/18</del> <u>06/07/20</u> <u>11/06/21</u>
DA_6001	A	External Materials	21/09/18
<b>Subdivision Drawings prepared by Ysco Geomatics</b>			
0714/12C Sheet 1 of 2	-	Proposed subdivision of Lot 34 in DP 39586	18/10/18
0714/12C Sheet 2 of 2	-	Proposed subdivision of Lot 34 in DP 39586	18/10/18
0741/14C Sheet 1 of 3	-	Proposed subdivision of part of Eastern Distributor, being Lot 108 in DP 1105308, Lot 4 in DP 259027 and Lot 52 in DP 1105375	22/10/18
0741/14C Sheet 2 of 3	-	Proposed subdivision of part of Eastern Distributor, being Lot 108 in DP 1105308, Lot 4 in DP 259027 and Lot 52 in DP 1105375	22/10/18
0741/14C Sheet 3 of 3	-	Proposed subdivision of part of Eastern Distributor, being Lot 108 in DP 1105308, Lot 4 in DP 259027 and Lot 52 in DP 1105375	22/10/18
0741/13C	-	Proposed subdivision of land bridge over Eastern Distributor, being Lot 3001 in Subdivision of Lot 108 in DP 1105308, Lot 4 in DP 259027 and Lot 52 in DP 1105375	23/10/18
<b>Landscape Drawings prepared by McGregor Coxall</b>			
Drawing No.	Revision	Name of Plan	Date
DA_00-01	<del>U</del> <del>W</del> <del>X</del> <u>ZAA</u> <u>AB</u>	Landscape Masterplan – Roof	<del>14/08/18</del> <del>28/05/19</del> <del>03/07/20</del> <del>19/02/21</del> <del>2/08/21</del> <u>02/03/22</u>
DA_00-02	<del>U</del> <del>W</del> <del>X</del> <u>ZAA</u> <u>AB</u>	Landscape Masterplan – GF Level	<del>14/08/18</del> <del>28/05/19</del> <del>03/07/20</del> <del>19/02/21</del> <del>2/08/21</del> <u>02/03/22</u>
DA_10-01	<del>G</del> <u>I</u> <u>J</u>	Vernon Curtilage	<del>14/08/18</del> <del>19/02/21</del> <del>2/08/21</del> <u>24/02/22</u>

DA_10-02	G <u>H</u> <u>K</u>	Entry Plaza	14/08/18 <u>19/02/21</u> <u>2/08/21</u> <u>24/02/22</u>
DA_10-03	G <u>I</u> <u>J</u> <u>L</u> <u>M</u> <u>N</u>	Fuel Bunker Garden	14/08/18 28/05/19 03/07/20 <u>19/02/21</u> <u>2/08/21</u> <u>02/03/22</u>
DA_10-04	G H <u>J</u> <u>K</u> <u>L</u>	Sandstone Woodland	14/08/18 03/07/20 <u>19/02/21</u> <u>2/08/21</u> <u>02/03/22</u>
DA_10-05	G <u>H</u> <u>J</u> <u>K</u>	Art Garden	14/08/18 <u>03/07/20</u> <u>19/02/21</u> <u>02/03/22</u>
DA_00-15	<u>T</u> <u>V</u>	Tree Significance	07/08/18 <u>19/02/21</u>
DA_00-17	<u>D</u> <u>H</u> <u>I</u> <u>J</u>	<u>T1118 Cooling Tower Corner</u> <u>T1118</u>	13/08/18 19/07/19 03/07/20 <u>24/02/22</u>
DA_00-18	<u>H</u> <u>J</u>	Tree Significance – High	14/08/18 <u>19/02/21</u>
DA_00-19	G <u>I</u>	Tree Significance – Medium	07/08/18 <u>19/02/21</u>
DA_00-20	G <u>I</u>	Tree Significance – Low	07/08/18 <u>19/02/21</u>
DA_20-01	F <u>H</u> <u>I</u>	Sections	14/08/18 <u>19/02/21</u> <u>24/02/22</u>
DA_20-02	E <u>G</u> <u>H</u>	Sections	01/08/18 <u>19/02/21</u> <u>01/02/22</u>
DA_20-03	G <u>I</u> <u>J</u>	Sections	14/08/18 <u>19/02/21</u> <u>03/02/22</u>
DA_20-04	<u>B</u> <u>C</u>	Sections	19/02/21 <u>24/02/22</u>
DA_20-05	<u>B</u> <u>C</u>	Sections	19/02/21 <u>24/02/22</u>
DA_30-01	<u>H</u> <u>J</u>	Plant Palette	01/08/18 <u>19/02/21</u>
DA_30-02	<u>H</u> <u>J</u>	Plant Palette	01/08/18 <u>19/02/21</u>

DA_30-03	JL	Plant Palette	07/08/18 19/02/21
DA_30-04	S	Existing Tree Plan	01/08/18
DA_30-05	U W X Z AA	Trees Proposed	14/08/18 28/05/19 03/07/20 19/02/21 02/03/22
DA_50-01	H U	Cooling Tower Sections	19/07/19 03/07/20 03/02/22
DA_90-20	C	Sea Water Heat Exchange Upper Room — Plan	12/03/18
SK_90-21	B	Sea Water Heat Exchange Upper Room — Render	05/03/18
SK_90-22	C	Sea Water Heat Exchange Upper Room — ISO/Section	15/03/18
<b>Artwork Commission Plan prepared by DCG Design</b>			
<b>Drawing No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Date</b>
<u>L101</u>	<u>02</u>	<u>Art Commission Area – Arrangement Plan</u>	<u>23/10/21</u>

- A3 Consistent with the requirements in this consent, the Planning Secretary may make written directions to the Applicant in relation to:
- 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
  - the implementation of any actions or measures contained in any such document referred to in Condition A3(a) above.

- 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.

*Note: For the purposes of this condition, there will be an inconsistency between documents if it is not possible to comply with both documents, or in the case of a condition of consent or direction of the Planning Secretary, and a document, if it is not possible to comply with both the condition or direction, and the document.*

### Limits on Consent

- A5 This consent will lapse five years from the date of the consent unless the works associated with the development have physically commenced.

### 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.

## Revision of Strategies, Plans and Programs

A9 Within three months of:

- a) the submission of a Compliance Report under condition B9;
- b) the submission of an incident report under condition A12;
- c) the submission of an Independent Audit under condition B13;
- 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 A2 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.

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.*

## 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. a description of how matters raised by those consulted have been resolved to the satisfaction of both the Applicant and the party consulted; 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

A11 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 4A of the EP&A Act, the Applicant is required to obtain construction certificates for the proposed building works.
- Part 8 of the EP&A Regulation sets out the requirements for the certification of the development.

## Incident Notification, Reporting and Response

A12 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.

Subsequent notification must be given and reports submitted in accordance with the requirements set out in Appendix 1.

### **Non-Compliance Notification**

- A13 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 PCA 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.
- A14 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.
- A15 A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.

### **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.*

### **Applicability of Guidelines**

- A17 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.
- A18 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.

### **Operation of Plant and Equipment**

- A19 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.

### **Alternate Engineering Plans**

- A20 Any structure located partly or wholly over the land bridge, must be designed and constructed so they are capable of being vertically supported by alternate means if the land bridge is removed or altered.

If significant works to, or removal of, the land bridge is proposed in the future, and if directed by the Planning Secretary, the Applicant must prepare and submit to the Planning Secretary's satisfaction, updated engineering plans demonstrating any structure located partly or wholly over the land bridge can be vertically supported by alternate means.

A separation application shall be lodged with the relevant consent authority for the updated engineering plans and associated works.

#### **Art Commission Area**

**A21 In the event of any inconsistency, ambiguity or conflict between Drawing No.L101, Revision 2, Artwork Commission Plan – Arrangement Plan dated 23 October 2021 prepared by DCG Design, and any of the plans listed in Condition A2, Drawing No.L101, Revision 2, Artwork Commission Plan – Arrangement Plan dated 23 October 2021 prepared by DCG Design prevails to the extent of the inconsistency, ambiguity or conflict.**

#### **Landscape Works**

**A22 The Applicant shall provide to the satisfaction of the Royal Botanic Garden and Domain Trust details demonstrating compliance with the following:**

- **Provision of adequate drainage through drainage cells and Geotech layers**
- **All plants or soil must undertake testing for pathogens, including Phytophthora, through the Royal Botanic Garden and Domain Trust's Disease Diagnostic Service and laboratories.**
- **Any soil installed must be free draining with low phosphorus content customised by a reputable soil laboratory.**
- **A professionally designed and automated irrigation system must be installed.**

**END OF PART A**

## **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.

### **Design Excellence and Design Integrity**

- B2 The approved development shall be subject to a Design Integrity process throughout the design development and construction documentation period in consultation with the Government Architect NSW (GANSW), and through the State Design Review Panel (SDRP) Pilot Program. The SDRP is to be augmented by a member of the design competition jury, to be nominated by the Art Gallery of NSW and endorsed by GANSW. For presentations to the SDRP, the project team shall include the following members as a minimum:
- i) a representative from the competition winning international architectural practice;
  - ii) a representative from the local architect of record.

The Applicant is to submit evidence that the above Design Integrity process has been established, including confirmation of support for the process from the GANSW, within 3 months of the date of consent.

Prior to the issue of any Crown Building Works Certificate, the Applicant is to submit a Design Integrity Report (DIR), to the satisfaction of the Planning Secretary, that demonstrates how design excellence and design integrity will be achieved in accordance with:

- the design objectives of the original competition winning scheme;
- the approved design upon development approval; and
- the conditions of consent.

The DIR shall include a summary of feedback provided by SDRP and responses by the project team to this advice. The DIR shall also include how the process will be implemented through to completion of the approved development.

### **Entry Plaza Canopy**

- B3 No approval is granted for the design of the entry plaza canopy. Prior to the issue of the relevant Crown Building Works Certificate, the Applicant shall prepare a revised entry plaza canopy design for review that:
- further improves sightlines between the existing gallery building and the Woolloomooloo Gate of the Royal Botanic Gardens; and
  - further improves and enhances the built form interface with its landscape setting.

The revised design shall demonstrate a response to the following:

- a) modification to the overall extent of the canopy structure;
- b) increased street setbacks and landscaped area in and around the canopy structure;

- c) modification of the street alignment and orientation of the canopy structure between the existing sandstone gallery wing, proposed extension and sightlines to the Woolloomooloo Gate;
- d) architectural and structural detailing to achieve a light-weight built form character that is secondary in visual appearance to its landscape setting.

The revised design shall be prepared in consultation with the Government Architect NSW (GANSW), OEH and the Royal Botanic Gardens and Domain Trust, and submitted to the satisfaction of the Planning Secretary.

### **Provision of Green Roof to Gallery 1**

- B4 Prior to the commencement of relevant construction work, the plans/elevations and documentation shall be amended to provide a green roof to gallery 1 and submitted to the satisfaction of the Planning Secretary.

### **Notification of Commencement**

- B5 The Department must be notified in writing of the dates of commencement of physical work at least 48 hours before those dates.

If the construction 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.

### **Community Communication Strategy**

- B6 A Community Communication Strategy must be prepared to provide mechanisms to facilitate communication between the Applicant, City of Sydney Council and the community (including adjoining affected landowners and businesses, and others directly impacted by the development), during the design and construction of the development and for a minimum of 12 months following completion of construction:

The Community Communication Strategy must:

- a) identify people to be consulted during the design and construction phases;
- b) set out procedures and mechanisms for the regular distribution of accessible information about or relevant to the development;
- c) provide for the formation of community-based forums, if required, that focus on key environmental management issues for the development;
- d) set out procedures and mechanisms:
  - (i) through which the community can discuss or provide feedback to the Applicant;
  - (ii) through which the Applicant will respond to enquiries or feedback from the community; and
  - (iii) to resolve any issues and mediate any disputes that may arise in relation to construction and operation of the development, including disputes regarding rectification or compensation.

The Community Communication Strategy must be submitted to the Planning Secretary for approval no later than one month before the commencement of any work.

Work for the purposes of the development must not commence until the Community Communications Strategy has been approved by the Secretary, or within another timeframe agreed with the Planning Secretary.



The Community Communication Strategy, as approved by the Planning Secretary, must be implemented for a minimum of 12 months following the completion of construction.

### **Compliance**

- B7 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.

### **Compliance Reporting**

- B8 No later than 6 weeks before the date notified for the commencement of construction, a Compliance Monitoring and Reporting Program prepared in accordance with the Compliance Reporting Post Approval Requirements (Department 2018) must be submitted to the Department.
- B9 Compliance Reports of the project must be carried out in accordance with the Compliance Reporting Post Approval Requirements (Department 2018).
- B10 The Applicant must make each Compliance Report publicly available no later than 60 days after submitting it to the Department and notify the Department in writing at least 7 days before this is done.

### **Complaints and Enquiries Procedure**

- B11 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.

### **Access to Information**

- B12 At least 48 hours before the commencement of construction and 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 prepared, obtained or approved) publicly available on a website:
    - i. the documents referred to in condition A2 of this consent, excluding confidential plans;
    - 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 comprehensive summary of the current stage and progress of the development;

- vii. the contact details identified in condition ~~B9~~ **B11** 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.

### **Independent Audit**

- B13 No later than one week before the date notified for the commencement of construction, an Independent Audit Program prepared in accordance with the Independent Audit Post Approval Requirements (Department 2018) must be submitted to the Department.
- B14 Independent Audits of the development must be carried out in accordance with:
- (a) the Independent Audit Program submitted to the Department under condition ~~B11~~ **B13** of this consent; and
  - (b) the requirements for an Independent Audit Methodology and Independent Audit Report in the Independent Audit Post Approval Requirements (Department 2018).
- B15 In accordance with the specific requirements in the Independent Audit Post Approval Requirements (Department 2018), the Applicant must:
- (a) review and respond to each Independent Audit Report prepared under condition ~~B12~~ **B14** of this consent;
  - (b) submit the response to the Department; and
  - (c) make each Independent Audit Report and response to it publicly available no later than 60 days after submission to the Department and notify the Department in writing at least 7 days before this is done.

### **Geotechnical Design, Certification and Monitoring Plan**

- B16 The proposed development involves the construction of subsurface structures and excavation that has potential to adversely impact neighbouring property if undertaken in an inappropriate manner. To ensure there are no adverse impacts arising from such works, the Applicant must engage a suitably qualified and practicing Engineer having experience in the geotechnical and hydrogeological fields, to design, certify and, where appropriate, oversee the construction of all subsurface structures associated with the development.

This Engineer is to prepare, or obtain from relevant members of the engineering team, the following documentation:

- a) Certification that the civil and structural details of all subsurface structures are designed to:
  - provide appropriate support and retention to neighbouring property;
  - ensure there will be no ground settlement or movement during excavation or after construction (whether by the act of excavation or dewatering of the excavation) sufficient to cause an adverse impact to adjoining property or public infrastructure; and
  - ensure that the treatment and drainage of groundwater will be undertaken in a manner which maintains the pre-developed groundwater regime, so as to avoid

constant or ongoing seepage to the public drainage network and structural impacts that may arise from alteration of the pre-developed groundwater table.

- b) A **Geotechnical Monitoring Plan (GMP)** to be implemented during construction that:
- is based on a geotechnical investigation of the site and subsurface conditions, including groundwater;
  - details the location and type of monitoring systems to be utilised, including those that will detect the deflection of all shoring structures, settlement and excavation induced ground vibrations to the relevant Australian Standard;
  - details recommended hold points and trigger levels of any monitoring systems, to allow for the inspection and certification of geotechnical and hydro-geological measures by the professional engineer; and
  - details an action plan and contingency for the principal building contractor in the event these trigger levels are exceeded.

The certification and the GMP is to be submitted for the approval of the Certifying Authority prior to the commencement of any works.

### **External Walls and Cladding**

B17 The external walls of all buildings must comply with the relevant requirements of the BCA.

Before the commencement of the relevant works, 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.

The Applicant must provide a copy of the documentation to the Certifying Authority and to the Planning Secretary within seven days after the Certifying Authority accepts it.

### **Structural Details**

B18 Prior to the commencement of the relevant works, the Applicant shall submit to the satisfaction of the Certifying Authority 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.

### **1920s Carriageway Walls Interpretation**

B19 The footprint of the 1920s low carriageway walls is to be interpreted in the new paving. The sandstone from the low wall is to be salvaged, reused and interpreted within the proposed development. Design details are to be submitted to the OEH Heritage Division for review and endorsement.

Details demonstrating compliance with this condition must be submitted to the Planning Secretary and the Certifying Authority prior to the commencement of the relevant works.

### **New Steps, Ramp and Pedestrian Control Structures and Hostile Vehicle Management Measures**

B20 Design details for the new steps and ramp at the end of the Domain path adjacent to the Art Gallery Road pedestrian crossing opposite the existing gallery building entry, and any pedestrian control structures at the western edge of Art Gallery Road, and hostile vehicle management control measures are to be submitted to the OEH Heritage Division for review and endorsement.

The form, materiality and spacing of bollards must also be finalised in consultation with City of Sydney Council.

Any pedestrian control structures must be visually recessive and lightweight and must not impede pedestrian access to the existing gallery building entry.

Details demonstrating compliance with this condition must be submitted to the Planning Secretary and the Certifying Authority prior to the commencement of the relevant works.

### **Works to the Former Naval Fuel Bunker**

B21 The design of new structures in the southern former naval fuel bunker must not cause substantial damage, must be sympathetic to the retained existing concrete structure, and be lightweight and complement the character of the bunker. Localised changes and fixings are reasonable.

Design details of the following work are to be submitted to the OEH Heritage Division for review and endorsement:

- a) structural supports and strengthening of the bunker itself and the new structures above;
- b) new stairs, ramps, wall openings, any floor systems and coverings;
- c) new services i.e. electrical, communication/data/ hydraulic, mechanical and fire services;
- d) any waterproofing or moisture management methods;
- e) conservation and repair methods for significant concrete structure, ceilings, walls, floor and columns;
- f) any upgrade to comply with the NCC and Disability (Access to Premises - Buildings) Standards 2010.

Details demonstrating compliance with this condition must be submitted to the Planning Secretary and the Certifying Authority prior to the commencement of the relevant works.

### **External Materials**

B22 High reflective surfaces, large areas of unshaded glass and bright white finishes are to be avoided. External colours are to be subdued and be compatible with the Sydney sandstone character of the locality.

Samples of proposed external materials for walls, roofs, eaves and soffits, columns, glazing and its assemblies, rainwater goods, paving and retaining walls are to be submitted to the OEH Heritage Division for review and endorsement.

Details demonstrating compliance with this condition must be submitted to the Department and the Certifying Authority prior to the commencement of works.

### **Nominated Historical Archaeologist**

B23 Prior to the commencement of works, a suitably qualified historical archaeologist shall be engaged who must satisfy the Excavation Director Criteria of the Heritage Council of NSW for the proposed activity and significance level.

### **Public Domain Plan**

B24 The Applicant shall ensure the following:

- a) A detailed **Public Domain Plan** for the Lincoln Crescent and Cowper Wharf Road frontages must be lodged with Council's Public Domain Section and approved by Council prior to the relevant works. The Public Domain Plan is to be submitted with a completed Public Domain Plan checklist (available in the City of Sydney's *Public Domain Manual*); and
- b) The **Public Domain Plan** documents all works required to ensure that the public domain complies with the Council's *Public Domain Manual*, *Sydney Streets Design Code* and *Sydney Streets Technical Specification*, including requirements for footway pavement, kerb and gutter, drainage, vehicle crossovers, pedestrian ramps and other relevant public

domain elements. The Public Domain Plan submission is to incorporate the approved Alignment Levels (refer to condition **B23 B25**). If the proposed detailed design of the public domain requires changes to any previously approved Alignment Levels, an amended Alignment Levels submission must be submitted to and approved by Council to reflect these changes prior to the commencement of the relevant works.

#### **Public Domain Works – Lincoln Crescent and Cowper Wharf Road Frontages - Alignment Levels**

B25 The Applicant shall ensure the following:

- a) Alignment levels for the buildings and site frontages of those buildings are submitted to and approved by Council prior to the commencement of the relevant works. The submission must be prepared by a Registered Surveyor or suitably qualified engineer and must be submitted with a completed Alignment Levels checklist (available in the *Public Domain Manual*) and Footpath Levels and Gradients Approval Application form (available on Council's website);
- b) If the proposed detailed design of the public domain (refer to condition **B22 B24**) requires changes to any previously approved Alignment Levels, an amended Alignment Levels submission must be submitted to and approved by Council to reflect these changes prior to the commencement of the relevant works;
- c) The works to the public domain are completed in accordance with the approved Public Domain Plan and Alignment Levels plans and the *Public Domain Manual* before the use of the development commences, whichever is earlier;
- d) If required by Council, a Public Domain Works Deposit is paid to Council for the public domain works, in accordance with the Council's adopted fees and charges and the *Public Domain Manual*. The Public Domain Works Deposit must be submitted as an unconditional bank guarantee in favour of Council as security for completion of the obligations under this consent.

Council's Public Domain section is contacted to determine the guarantee amount prior to lodgement of the guarantee. The guarantee must be lodged with Council prior to the commencement of the relevant works.

The Bank Guarantee will be retained in full until all Public Domain works are completed and the required certifications, warranties and works-as-executed documentation are submitted and approved by Council in writing. On satisfying the above requirements, 90% of the total securities will be released. The remaining 10% will be retained for the duration of the specified Defects Liability Period.

#### **Public Domain Works – Lincoln Crescent and Cowper Wharf Road Frontages – Hold Points and Handover**

B26 The Applicant shall ensure the following:

Prior to a Crown Building Works Certificate being issued for public domain work, including civil, drainage and subsurface works, a set of hold points for approved public domain, civil and drainage work is determined with and approved by Council's Public Domain section in accordance with the Council's Public Domain Manual and *Sydney Streets Technical Specification*; and

#### **Public Domain Damage Deposit – Lincoln Crescent and Cowper Wharf Road Frontages**

B27 A Public Domain Damage Deposit calculated on the basis of 4 lineal metres of asphaltic concrete site frontage must be lodged with Council in accordance with the Council's of Sydney's adopted Schedule of Fees and Charges. The Public Domain Damage Deposit must be submitted as an unconditional bank guarantee in favour of Council as security for repairing any damage to the public domain in the vicinity of the site.

The guarantee must be lodged with Council prior to the commencement of the relevant works.

The Bank Guarantee will be retained in full until the use of the development commences and any rectification works to the footway and Public Domain are completed to Council's satisfaction. On satisfying the above requirements 90% of the total securities will be released, with the remaining 10% to be retained for the duration of the 12 months Defect Liability Period.

### **Seawater Heat Exchange System**

~~B28 The detailed design of the seawater heat exchange system must comply with the preliminary design details outlined in the Seawater Heat Exchange Report (dated 16 March 2018) in Appendix H of the RTS. Details demonstrating compliance with this condition must be submitted to the satisfaction of the Certifying Authority prior to the commencement of the relevant works.~~

### **Wayfinding and Signage**

B29 Prior to the commencement of the relevant works, **a Wayfinding and Signage Strategy** prepared by suitably qualified persons shall be submitted to the satisfaction of the Certifying Authority. The Strategy shall, in relation to the components of the Strategy which are external to the building, be prepared in consultation with the OEH Heritage Division, Council, TNSW and the Royal Botanic Gardens and Domain Trust. The Strategy must:

- a) detail the final location, type, design and fixing methods (dimensions, materials, finish, illumination etc) of all wayfinding and signage (building identification, business identification, wayfinding, security signage etc) to be provided in the precinct;
- b) ensure wayfinding and signage is designed in a visually consistent, cohesive and uniform manner and to respect the character and heritage values of the precinct;
- c) ensure any illuminated signage would not cause adverse amenity impacts;
- d) have regard to the recommendations of the CPTED Report, dated 16 February 2018, (Appendix O in the RTS);
- e) detail how the strategy would improve wayfinding and dissemination of customer information to make it easier for people to get to and from the site, locate major transport hubs and increase mode share of public transport, walking and cycling.
- f) include a travel access guide increase mode share of public transport and active transport. This shall include signage to transport nodes;
- g) ensure wayfinding and signage is designed to integrate into Council's existing system/s consistent with the *Legible Sydney Wayfinding Strategy 2012*, the *Legible Sydney Design Manual 2012*, the *Harbour Domain North Public Domain Strategy 2012* and TNSW's *Sydney City Centre Access Strategy 2013*.

The Strategy shall also be used to guide future applications for signage.

Prior to the commencement of use, a copy of the final Signage Strategy must be submitted to Council, the Royal Botanic Gardens and Domain Trust, TfNSW and the Planning Secretary.

### **External Works Visual Impact Mitigation**

B30 The Applicant must ensure:

- a) the external lifts are designed to minimise visual impacts and view blocking effects;
- b) internal framing and structure of the external lifts minimised to increase transparency in views and reduce the visual presence of the lifts in views; and
- c) external lifts are encased in non-reflective glass to increase the transparency of the lift glazing to views.

Details demonstrating compliance with this condition must be submitted to the Certifying Authority prior to commencement of the relevant works.

### **Environmental Sustainability**

B31 The Applicant shall ensure the detailed design of the development incorporates the environmental sustainability objectives, measures and initiatives outlined in the Environmentally Sustainable Development Report (dated 1 November 2017) in Appendix AB of the EIS, taking into consideration amendments required by condition B4. Details demonstrating compliance with this condition must be submitted to the Certifying Authority prior to the commencement of the relevant works.

### **Reflectivity**

B32 The visible light reflectivity from building materials used on the facades of any buildings or structures shall not exceed 20 per cent and shall be designed so as to minimise glare. In particular, the north-eastern glazed wall of the multi-purpose room should be revised as recommended in the supplemental Reflectivity Report dated 13 April 2018 (Appendix Q of the RTS).

A report/documentation demonstrating compliance with these requirements is to be submitted to the Certifying Authority prior to the commencement of the relevant works.

### **Installation of Water Efficient Fixtures and Fittings**

B33 All toilets installed within the development 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 commencement of the relevant works.

B34 All taps and shower heads installed within the development must be water efficient with at least a 3-star rating under the Water Efficiency and Labelling Scheme (WELS), where available. The details must be submitted to the Certifying Authority prior to the commencement of the relevant works.

B35 New urinal suites, urinals and urinal flushing control mechanisms installed within the development must demonstrate that products have been selected with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS). The details must be submitted to the Certifying Authority prior to the commencement of the relevant works.

B36 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 commencement of the relevant works.

### **Bicycle Parking**

B37 A minimum of 12 bicycle parking spaces are to be provided for staff within the approved loading dock and a minimum of 33 publicly accessible bicycle rails (66 bicycle parking spaces) are to be provided for visitors adjacent to Art Gallery Road.



The layout, design and security of all bicycle facilities must comply with the minimum requirements of AS 2890.3 – 1993 Parking Facilities Part 3: Bicycle Parking Facilities with the following exception:

- the recommended 5% maximum grade for the bicycle parking area located adjacent to Mrs Macquaries Road, connected to fire stair 13.

Staff bicycle parking should be provided according to the security level B as specified AS 2890.3:2015.

Documentation demonstrating compliance with this condition shall be submitted to the Certifying Authority prior to the commencement of the relevant works.

### **Outdoor Lighting**

B38 All outdoor lighting (including tree uplighting and any signage illumination) shall comply with the recommendations of the Exterior Lighting Report dated 5 October 2017 (Appendix AG of the EIS) and, where relevant, AS 1158.3.1-2005 *Pedestrian Area (Category P) Lighting* and AS 4282: 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 commencement of the relevant works.

### **Access for People with Disabilities**

B39 Access and facilities for people with disabilities must be designed in accordance with the BCA. Prior to the commencement of the relevant works, a certificate certifying compliance with this condition from an appropriately qualified person must be provided to the Certifying Authority.

### **Construction and Fit-out of Food Premises**

B40 The construction, fit-out and finishes of any 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 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 Certifying Authority prior to the construction and fit-out of any food premises.

### **Cool Rooms**

B41 Any cool room(s), refrigerated chambers or strong-rooms must be constructed in accordance with G 1.2 of the BCA.

### **Grease Traps**

B42 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.

### **Mechanical Ventilation**

B43 The premises must be ventilated in accordance with the BCA and AS1668.1 and AS1668.2.



- B44 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 Certifying Authority prior to the commencement of the relevant works.

#### **Interlocks – Mechanical Ventilation**

- B45 Interlocks shall be installed to the kitchen mechanical ventilation system to ensure that the system is not operated unless the filters are correctly installed and enhanced filtration and odour systems are fully functional and operational.

#### **Sanitary Facilities – Food Premises**

- B46 The sanitary facilities must be separated from all food handling areas via an airlock, self-closing door or mechanical ventilation in accordance with the provisions of the BCA, Part F 3.1, 4.8 and 4.9.

#### **Sanitary Facilities for Disabled Persons**

- B47 The Applicant shall ensure that the provision of sanitary facilities for disabled persons complies with Section F2.4 of the BCA. Plans demonstrating compliance with this condition shall be submitted to the Certifying Authority prior to the commencement of the relevant works.

#### **Sydney Water Assets**

- B48 Building plans must be stamped and approved by Sydney Water prior to the issue of a Crown Building Works Certificate, due to the proximity of works to Sydney Water assets.

For further assistance, please visit [www.sydneywater.com.au](http://www.sydneywater.com.au) or telephone 13 20 92.

#### **Pre-Construction Dilapidation Report**

- B49 The Applicant is to engage a suitably qualified professional(s) to prepare a Pre-Construction Dilapidation Report detailing the current structural condition of all retained existing and adjoining buildings, infrastructure and roads within the 'zone of influence'. The report must be submitted to the Certifying Authority prior to issue of the Construction Certificate or any works commencing whichever is earlier. A copy of the report must be forwarded to the affected landowners.

The Pre-Construction Dilapidation Report must also include a photographic recording of the public domain site frontages and must be prepared to the satisfaction of the PCA. The recording must include clear images of the footpath, nature strip, kerb and gutter, driveway crossovers and laybacks, kerb ramps, road carriageway, street trees and plantings, parking restriction and traffic signs, and all other existing infrastructure along the street. The form of the recording is to be as follows:-

- a) a PDF format report containing all images at a scale that clearly demonstrates the existing site conditions;
- b) each image is to be labelled to identify the elements depicted, the direction that the image is viewed towards, and include the name of the relevant street frontage;
- c) each image is to be numbered and cross referenced to a site location plan;
- d) a summary report, prepared by a suitable qualified professional, must be submitted in conjunction with the images detailing the project description, identifying any apparent existing defects, detailing the date and authorship of the photographic record, the method of documentation and limitations of the photographic record.

## **Lincoln Crescent Zone Substation**

B50 Further details demonstrating the proposed exhaust system ~~and the proposed seawater heat exchange system pipelines~~ will not adversely impact the operation of the Lincoln Crescent zone substation are to be submitted for the endorsement of Ausgrid. Details of compliance must be submitted to the satisfaction of the Certifying Authority prior to the commencement of the relevant works.

## **Requirements of Public Authorities**

B51 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 commencement of the relevant works.

## **Demolition Works**

B52 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.

## **Hoarding**

B53 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 (if required) 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**

B54 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.

## **Interface Access Agreement**

B55 An Interface Access Agreement, between the Applicant and Roads and Maritime Services (RMS), must be prepared. A copy of the final agreement, endorsed by RMS, is to be provided to the Planning Secretary prior to the commencement of works.

## Road Occupancy Licence

B56 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 Lincoln Crescent and Cowper Wharf Road. 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.

## Parking Restrictions

B57 The Applicant shall ensure is has obtained approval from Council's Pedestrian Cycling and Traffic Calming Committee for any changes required to on-street parking restrictions for construction, prior to the commencement of the relevant works.

## Maritime Exclusion Zone

~~B58 The Applicant shall contact RMS at least four weeks prior to the establishment of any maritime exclusion zone and provide details of the start and end dates for the maritime exclusion zone and associated construction activities. Details should be sent to [maritimeplanning@rmsw.nsw.gov.au](mailto:maritimeplanning@rmsw.nsw.gov.au).~~

## Construction Licence

B59 If required, the Applicant shall ensure is has obtained a Construction License from RMS in respect to any required occupation of RMS land during construction, prior to the commencement of works.

## Heritage Dilapidation Survey

B60 Prior to the commencement of works, a heritage specific dilapidation survey and report for significant elements, materials and finishes in the existing gallery building and site (including the forecourt sculptures) must be prepared and a copy provided to the Certifying Authority.

## Construction Environmental Management Plan

B61 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, DPI, RMS, TNSW, and the OEH Heritage Division 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) include measures to ensure adequate groundwater entitlement is sourced in order to account for groundwater flows into the construction excavations, unless any exemption applies;
- i) management of groundwater during construction;
- j) ~~commits to relocating intertidal and subtidal boulders, moved for installation of the sea water heat exchange system pipes, back to their original position or otherwise within the appropriate intertidal or subtidal zone in the vicinity;~~
- k) ~~designs erosion and sediment controls to be used during construction to reduce the potential for turbidity related impacts to Woolloomooloo Bay;~~
- l) document and incorporate all relevant sub environmental management plans (Sub-Plans), control plans, studies and monitoring programs required under this part of the consent; and
- m) include arrangements for community consultation and complaints handling procedures during construction.

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 Traffic Management Plan**

B62 Prior to the commencement of works, a **Construction Pedestrian Traffic Management Plan** (CPTMP) prepared by a suitably qualified person shall be endorsed by TNSW (Sydney Coordination and Metro Delivery Offices) and submitted to the Certifying Authority. The CPTMP must be prepared in consultation with Council, TNSW (Sydney Coordination and Metro Delivery Offices), and RMS. The CPTMP shall address (but not be limited to):

- a) location of the proposed work zone;
- b) haulage routes;
- c) construction vehicle access and traffic control arrangements;
- d) proposed construction hours;
- e) estimated number of construction vehicle movements;
- f) any changes required to on-street parking;
- g) restriction on vehicles over 6 m in length turning right from Lincoln Crescent into Cowper Wharf Road;
- h) construction program;
- i) any potential impacts to general traffic, cyclists, pedestrians and bus services within the vicinity of the site from construction vehicles during the construction;
- j) cumulative construction impacts of projects including Sydney Light Rail Project and Sydney Metro City and South West considering any traffic and pedestrian management plans prepare for these projects to ensure that work activities are coordinated and managed to minimise impacts on the road network;

- k) measures to ensure construction vehicles do not arrive at the site or surrounding areas outside approved hours;
- l) measures proposed to mitigate any associated general traffic, public transport, pedestrian access and cyclist impacts/conflicts; and
- m) measures to encourage public transport use and other non-car travel options by construction workers.

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

### **Construction Noise and Vibration Management Plan**

B63 Prior to the issue the commencement of the relevant Crown Building Works Certificate, a **Construction Noise and Vibration Management Plan** (CNVMP) prepared by a suitably qualified person shall be submitted to the Certifying Authority. The CNVMP must be prepared in consultation with, and address the relevant requirements of, Council and the EPA. The CNVMP shall address (but not be limited to):

- a) be prepared in accordance with 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 Acoustic Report (dated 28 February 2018) in Appendix P of the RTS
- 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.

### **Air Quality and Odour Management Plan**

B64 Prior to the issue of the relevant Crown Building Works Certificate, an **Air Quality and Odour Management Plan** (AQOMP) must be prepared and submitted to the Certifying Authority. The AQOMP must recommend measures to minimise and manage any odours arising from excavation, stockpiling and removal of contaminated and acid sulfate soils including, but not limited to:

- a) staged excavation to limit the surface area of exposed odorous material;
- b) application of odour suppressants;
- c) effective covering of stockpiles and truckloads of excavation spoil; and
- d) expedited removal of odorous material from the development to a facility legally able to accept those wastes.

The AQOMP should include consideration of measures referenced in the Air Quality Assessment dated November 2017 (Appendix AJ in the EIS) and must include proactive and reactive management strategies, key performance indicators, monitoring measures, record keeping, response mechanisms, contingency and compliance reporting measures.

### **Waste Management Plan**

B65 Prior to the commencement any construction (including demolition), a **Waste Management Plan** (WMP) must be prepared and submitted to the Certifying Authority. The WMP must:

- a) demonstrate that an appropriate area will be provided for the storage of garbage bins and recycling containers and all waste and recyclable material generated by the works;
- b) provide details demonstrating compliance with the relevant legislation, particularly with regard to the removal of asbestos and hazardous waste, the method of containment and control of emission of fibres to the air;
- c) require that all waste generated during the project is assessed, classified and managed in accordance with the EPA's "Waste Classification Guidelines Part 1: Classifying Waste";
- d) require that the body of any vehicle or trailer used to transport waste or excavation spoil from the Subject Site, is covered before leaving the Subject Site to prevent any spill, or escape of any dust, waste, or spoil from the vehicle or trailer;
- e) require that mud, splatter, dust and other material likely to fall from or be cast off the wheels, underside or body of any vehicle, trailer or motorised plant leaving the Subject Site, is removed before the vehicle, trailer or motorised plant leaves the Subject Site;
- f) require that concrete waste and rinse water are not disposed on the site and are prevented from entering Sydney Harbour; and

The design and management of waste must comply with the requirements of *City of Sydney Development Control Plan 2012*.

### **Water and Stormwater Management Plan**

B66 Prior to the commencement of the relevant works, a detailed **Water and Stormwater Management Plan**, prepared by a suitably qualified person and endorsed by City of Sydney Council, shall be submitted to the satisfaction of the Certifying Authority.

### **Crime Prevention Through Environmental Design (CPTED)**

B67 To minimise the opportunity for crime in accordance with CPTED principles, the relevant recommendations provided in the CPTED Report dated 16 February 2018 (Appendix O of the RTS) **dated 30 November 2021 (Appendix B of Section 4.55 Modification 7)**, shall be demonstrated on the architectural plans (in consistency with condition **D42 D11**) prior to the commencement of the relevant works.

### **Acid Sulfate Soils Management Plan**

~~B68 Prior to the commencement of works, an **Acid Sulfate Soils Management Plan**, prepared by a suitably qualified person, shall be submitted to the Certifying Authority.~~

### **Hazardous Materials Management Plan**

B69 Prior to the commencement of works, a **Hazardous Materials Management Plan** (HMMP) prepared by a suitably qualified person, shall be submitted to the Certifying Authority. The HMMP must be prepared in consultation with the EPA and SafeWork NSW. The HMMP must:

- a) ensure the development complies with the *NSW Occupational Health and Safety Regulation 2001* and Part 7 of the *Protection of the Environment Operations (Waste) Regulation 2014*;
- b) be consistent with Safe Work Australia's codes of practice *How to Safely Remove Asbestos 2011* and *How to Manage and Control Asbestos in the Workplace 2011*;
- c) identify any known or potential areas of concern on site for hazardous and asbestos containing materials;
- d) outline the procedures for identification, handling and disposal of hazardous materials;
- e) include an Asbestos Management Plan;
- f) ensure that all hazardous materials would be handled and disposed of by suitably qualified and licensed experts in accordance with the relevant guidelines and legislation;
- g) ensure an induction process is in place for site workers and visitors regarding the identification of hazardous and asbestos containing materials and the formal procedures to be followed if such materials are identified on site;
- h) include a suitable airborne asbestos fibre monitoring program for all asbestos removal works areas; and
- i) outline the procedures for validation and inspection following the completion of asbestos removal works and issuing of asbestos clearance certificates.

Prior to the commencement of works, a copy of the HMMP must be submitted to the EPA, SafeWork NSW and the Department.

- B70 The Applicant shall comply with any notification requirements to SafeWork NSW concerning the handling and removal of any asbestos.
- B71 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'.

### **Contamination**

- B72 Prior to the commencement of any works, an Unexpected Contamination Finds Protocol (UFP) prepared by a suitably qualified and experienced expert shall be submitted to the satisfaction of the EPA and the Certifying Authority.

The UFP must be developed considering the findings of the Stage 1 Preliminary Environmental Study (dated 25 September 2017) in Appendix T of the EIS, the Remedial Action Plan (dated 25 September 2017) in Appendix Y of the EIS, and the Site Audit Report (dated 2 December 2016) in Appendix Z of the EIS.

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

**END OF PART B**



## 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 PCA before the commencement of works.

### Construction Hours

- C2 Construction, including the delivery of materials to and from the site, may only be carried out between the following hours:
- between 7.00 am and 6.00 pm, Mondays to Fridays inclusive;
  - between 8.00 am and 3.30 pm, Saturdays.
- C3 No construction work may be carried out on Sundays or public holidays
- C4 Activities may be undertaken outside of these hours if required:
- by the Police or a public authority for the delivery of vehicles, plant or materials; or
  - in an emergency to avoid the loss of life, damage to property or to prevent environmental harm.
  - are undertaken from the date of the modification of consent (MOD 8) until 20 June 2022, which allow for low impact internal and external works as described in the Out-Of-Hours Management Plan prepared by Richard Crookes Constructions, dated 10 March 2022 between the following hours:
    - 6pm – 12am Monday to Friday;
    - 3:30pm – 12am on Saturday; and
    - 7am to 12am on Sunday.and in accordance with the following requirements:
    - the requirements and community engagement procedures outlined in the Extended Working Hours Construction Noise and Vibration Management Plan prepared by Pulse White Noise, Revision 3, dated 22 March 2022;
    - written notification is to be provided to RBGDT a minimum of five days prior to any works with the potential to result in noise spill to the vendors and restaurant operators;
    - management measures outlined in the Out-of-Hours Works Management Plan prepared by Transport and Traffic Planning Associates, Ref 142/2019 dated 31 March 2021;
    - no access is permitted via the Lincoln Crescent Gates, which must be locked after the standard construction hours;
    - a 24-hour complaints phone number must be established and displayed on the project website;
    - road restrictions, including land closures and construction traffic are to be managed in coordination with the RBGDT;
    - any works requiring traffic management are to be coordinated with the RBGDT so that access to restaurants and spaces are not compromised; and
    - no road works on Art Gallery Road are to be undertaken without the prior approval of the RBGDT.



Should noise complaints be received and the complaint(s) be substantiated by the Department's Compliance Team, the construction work occurring during the extended hours must cease until attenuation works are carried out. Extended construction hours must not commence until compliance with the relevant noise conditions has been established. The Planning Secretary may suspend the works within the extended hours in Condition C4 c) above if substantiated complaints are received.

Resumption of extended construction hours shall not be permitted until it can be satisfactory demonstrated to the Planning Secretary that appropriate ameliorative measures as recommended by the acoustic consultant, have been fully implemented and that the complaint(s) are satisfactorily resolved.

#### **C4A Extended Construction Hours**

Notwithstanding Condition C4 c), works described in the Out-Of-Hours Management Plan prepared by Richard Crookes Constructions dated 10 March 2022 may continue after 20 June 2022 provided that:

- a) they are limited to the extended hours specified in Condition C4 c) i), Condition C4 c) ii and Condition C4c) iii; and
- b) they are done in accordance with all the requirements specified in Condition C4 c) i) through to Condition C4 c) viii); and
- c) a 24-hour complaints phone number must be established and displayed on the project website; and
- d) all extended construction hours cease on 3 December 2022.

Should noise complaints be received and the complaint(s) be substantiated by the Department's Compliance Team, the construction work occurring during the extended hours must cease until attenuation works are carried out. Extended construction hours must not commence until compliance with the relevant noise conditions has been established. The Planning Secretary may suspend the works within the extended hours in Condition C4 c) above if substantiated complaints are received.

Resumption of extended construction hours shall not be permitted until it can be satisfactory demonstrated to the Planning Secretary that appropriate ameliorative measures as recommended by the acoustic consultant, have been fully implemented and that the complaint(s) are satisfactorily resolved.

- 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.

#### **Noise and Vibration Management**

- C7 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 must be implemented and any activities that could exceed the construction noise

management levels must be identified and managed in accordance with the **Construction Environmental Management Plan and the Out-Of-Hours Management Plan (prepared by Richard Crookes Constructions, dated 10 March 2022)**

- C8 Heavy vehicles and oversized vehicles must not queue or idle on Art Gallery Road, Mrs Macquaries Road or Lincoln Crescent outside of construction zones awaiting access to the Subject Site.
- C9 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.
- C10 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*; and
  - 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.

#### **Site Protection and Works**

- C11 All 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.
- C12 The installation of new services must be carried out in such a manner as to minimise damage to, or removal of, significant fabric.

#### **Disposal of Seepage and Stormwater**

- C13 Any seepage or rainwater collected on-site during construction shall be either re-used or disposed of, so as not to cause pollution. Seepage or rainwater shall not be pumped to the street stormwater system unless separate prior approval is given in writing by Council

#### **Approved plans to be onsite**

- C14 A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification must be kept on the Subject Site at all times and must be readily available for perusal by any officer of the Department, Council or the PCA.

#### **Site Notice**

- C15 A site notice(s) must be prominently displayed at the boundaries of the Subject 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) minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
  - b) the notice is to be 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.

### **Archaeology**

- C16 The Historical Archaeologist nominated under condition ~~B24~~ **B23** must be on-site to monitor all sub-surface works associated with excavation within areas of ~~low to moderate~~ archaeological potential.

### **Impacts of Below Ground (Sub Surface) Works – Non-Aboriginal Objects**

- C17 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 OEH Heritage Division must be notified immediately and consulted with regard to the recommencement of works. This protocol must be included in the induction for all construction workers on the site.

### **Impacts of Below Ground (Sub Surface) Works – Aboriginal Objects**

- C18 The management and mitigation measures contained in the Aboriginal Cultural Heritage Assessment Report prepared by GML Heritage, dated August 2018, must be implemented. 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 OEH informed in accordance with section 89A of the *National Parks and Wildlife Act 1974*. Relevant works must not recommence until written authorisation from the OEH Heritage Division is received by the Applicant. This protocol must be included in the induction for all construction workers on the site.

### **Maritime Archaeology**

- ~~C19 If any relics are found during trenching, work must cease in that area and advice sought from a maritime archaeologist. If any maritime relics of State significance are uncovered, all work shall immediately cease in that area and a written assessment of the nature and significance of the resource, together with the treatment of the remains shall be submitted to the Planning Secretary and delegate of the Heritage Council of NSW for approval.~~

~~The Applicant must facilitate appropriate materials conservation, archival documentation and conservation and storage of any items recovered during any trenching works.~~

~~A site-specific induction for all personnel engaged in maritime works, which includes the above requirements, must be undertaken by a maritime archaeologist.~~

### **Contamination**

- 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.
- C21 Groundwater discharged from the site must not be contaminated by hydrocarbons or other chemicals associated with previous use of the site for naval fuel storage or iron from local bedrock.

### **SafeWork NSW Requirements**

- C22 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**

C23 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.

### **Implementation of Management Plans**

C24 The Applicant must ensure the requirements of the **Construction Environmental Management Plan, Construction Noise and Vibration Management Plan, Construction Pedestrian Traffic Management Plan as modified by MOD 8, Construction Waste Management Plan, Geotechnical Design, Certification and Monitoring Plan, Tree Protection Plan, Air Quality and Odour Management Plan and Acid Sulfate Soils Management Plan** required by **Part B** of this consent are implemented during construction.

### **Waste Management**

C25 Notwithstanding the **Waste Management Plan** referred to in condition ~~B63~~ **B65**, the Applicant must ensure that:

- a) all waste generated by the development is classified and managed in accordance with the EPA's *Waste Classification Guidelines Part 1: Classifying Waste 2009*;
- 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.

### **Asbestos and Hazardous Waste Removal**

C26 Any existing filling on the site must be assessed for the presence of asbestos materials during construction. All materials requiring removal from the site must be classified in accordance with Waste Classification Guidelines (NSW EPA, 2014). The Applicant must satisfy the requirements of the *Protection of the Environment Operations (Waste) Regulation 2014* and ensure that demolition works are undertaken so that cross-contamination of the site does not occur.

C27 Removal of asbestos and other hazardous building materials must be undertaken by a suitably licensed contractor and an asbestos clearance certificate must be provided before waste classification, disposal or site validation is undertaken.

### **Covering of Loads**

C28 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**

C29 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.

### **Stockpile Management**

C30 The Applicant must ensure:

- a) stockpiles of excavated material do not exceed 4 metres in height;
- b) stockpiles of excavated material are constructed and maintained to prevent cross contamination; and
- c) suitable erosion and sediment controls are in place for stockpiles.

### **Erosion and Sediment Control**

C31 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.

### **Dust Control Measures**

C32 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 Public Way**

C33 The public way must not be obstructed other than as specified in the **Construction Pedestrian Traffic Management Plan** and Section 138 permit, 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.

### **Contact Telephone Number**

C34 The Applicant must 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.

### **Acid Sulfate Soils**

~~C35 The Applicant must ensure that any acid sulfate soils (ASS) and potential acid sulfate soils (PASS) excavated or otherwise disturbed during construction is managed in accordance with:~~

- ~~a) the Acid Sulfate Soil Management Plan for the site (condition B66);~~
- ~~b) the Acid Sulfate Soils Manual 1988 (NSW Acid Sulfate Soil Management Advisory Committee); and~~
- ~~c) the EPA's Waste Classification Guidelines 2014 (Part 4: Acid Sulfate Soils).~~

## **Bunding**

- C36 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 and/or EPA's *Storing and Handling Liquids: Environmental Protection – Participants Handbook*.

## **Pollution of Waters**

- C37 No approval is granted to pollute waters. All water discharge from the site must meet all requirements of the *Protection of the Environment Operations Act 1997*.

## **Protection of Trees**

- C38 No trees are to be removed or transplanted unless specifically identified for removal or transplantation in the approved landscape plans (condition ~~A3~~ **A2**) or removal is required in an emergency to avoid the loss of life or damage to property.
- C39 Within and adjacent to the site, tree removal, protection of retained trees, pruning of trees and transplanting of trees shall be conducted in accordance with the recommendations of the *Arboricultural Impact Assessment Report*, dated November 2017 (Appendix AH in the EIS).
- C40 A Project Arborist with minimum AQF level 5 qualifications is to be engaged to ensure adequate tree protection measures are put in place for all trees to be retained on the subject site and neighbouring allotments and that recommendations contained within the *Arboricultural Impact Assessment Report*, dated November 2017 (Appendix AH in the EIS) are carried out.
- C41 All trees are to be monitored by the Project Arborist to ensure adequate health throughout the construction period is maintained. Additionally, all work within the Tree Protection Zones is to be supervised throughout construction. All tree works must be carried out in accordance with all relevant Australian Standards.

## **Selection of Appropriate Tradespeople**

- C42 All heritage work must be carried out by suitably qualified tradespeople with practical experience in conservation and restoration of similar structures, materials and methods.

## **Nominated Historical Archaeologist**

- C43 The Nominated Historical Archaeologist (refer to condition B23) 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.

**END OF PART C**



## **PART D PRIOR TO OCCUPATION OR COMMENCEMENT OF USE**

### **Nominated Historical Archaeologist**

- D1 Prior to occupation or commencement of use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist certifying all heritage works have been carried out in accordance with the terms of this consent outlined in condition A2.

### **Seawater Heat Exchange System**

- ~~D2 Prior to occupation or commencement of the use, the Applicant is to provide documentation to the PCA demonstrating the design of the seawater heat exchange system complies with the preliminary design details outlined in the Seawater Heat Exchange Report (dated 16 March 2018) in Appendix H of the RTS.~~

### **Environmental Sustainability**

- D3 Prior to occupation or commencement of the use, the Applicant is to provide documentation to the PCA demonstrating the development has incorporated, and would operate in accordance with, the environmental sustainability objectives, measures and initiatives outlined in the Sustainable Development Report (dated 1 November 2017) in Appendix AB of the EIS, taking into consideration amendments required by condition B4.

### **Public Domain and Landscaping Works**

- D4 All public domain and landscape works are to be completed prior to occupation or commencement of use, with the exception of the forecourt plaza which must be completed within 6 months of the occupation or commencement of use.

### **Operational Plan of Management**

- D5 Prior to occupation or commencement of the use, a new/updated **Operational Plan of Management** (OPM) prepared by a suitably qualified person shall be submitted to and approved by the Planning Secretary. The OPM must be prepared in consultation with Council and the Royal Botanic Gardens and Domain Trust. The OPM shall address (but not be limited to):
- a) operational strategies for the expanded Art Gallery of NSW (AGNSW);
  - b) roles and responsibilities of key employees involved in overseeing the management and operation of the expanded AGNSW;
  - c) hours of operation;
  - d) event management, loading and unloading, sustainable travel, traffic, transport access and parking, pedestrian access, noise and vibration, heritage and conservation management, security and staff management, emergency management/evacuation and incident response protocols, alcohol and food management, occupational health and safety, infrastructure and services management, patron safety, waste management, water management, wayfinding and signage and lighting; and
  - e) community consultation and complaints management procedures.

Prior to occupation or commencement of the use, a copy of the OPM must be submitted to the Council and the Certifying Authority.

## **Green Travel Plan**

- D6 Prior to occupation or commencement of the use, a **Green Travel Plan** (GTP) prepared by a suitably qualified person shall be endorsed by TNSW (Sydney Coordination Office) and submitted to the Certifying Authority. The GTP must be prepared in consultation with Council, RMS and TNSW (Sydney Coordination Office). The GTP shall outline all measures proposed to increase the mode share of walking and cycling to the site and expanded AGNSW.

The GTP shall include a monitoring requirement in relation to the future demand for the expansion of staff and visitor bicycle parking spaces and staff end-of-trip facilities and provision of visitor end-of-trip facilities. The Applicant shall deliver on any recommendations for expansion or provision of facilities from the results of the monitoring.

## **Loading Dock and Vehicle Management Plan**

- D7 Prior to occupation or commencement of the use, a **Loading Dock and Vehicle Management Plan** (LDVMP), prepared by a suitably qualified person, shall be endorsed by TfNSW (Sydney Coordination and Metro Delivery Offices), RMS and Council and submitted to the Certifying Authority. The LDVMP must outline all measures to be implemented to ensure the safe and efficient operation of the loading dock and to minimise disruption to neighbouring properties, Lincoln Crescent and the adjacent road network. The LDVMP shall address (but not be limited to):

- a) loading dock management details including service vehicle movements during peak periods, the maximum size and number of vehicles per day, and staggering of delivery times throughout the loading dock operating period;
- b) restriction on the use of vehicle reversing alarms between 9 pm and 7 am;
- c) closure of the loading dock door during loading dock activities;
- d) no collection of glass waste (i.e. bottles) between 6 pm and 7 am Monday to Saturday and 6 pm and 8 am Sundays and public holidays;
- e) ensure timing of HRVs is managed to minimise internal loading dock conflict;
- f) consider pre-booking of deliveries to manage timing of loading dock access;
- g) management of incidents at the access to the loading dock entry from Lincoln Crescent;
- h) confirm that the vehicle access and circulation areas are designed in accordance with the relevant Australian Standards, including for loading dock areas;
- i) management of conflicts between vehicles accessing the loading dock and staff car and bicycle parking;
- j) management of conflicts between vehicles accessing the site and pedestrian movements adjacent to the site;
- k) with the exception of smaller vehicles utilising the loading area on Art Gallery Road, ensure all service and loading vehicles associated with the use of the premises are accommodated on site at all times.

A copy of the LDVMP must be provided to the Planning Secretary.

## **Waste Management Plan**

- D8 Prior to the commencement of use, an updated **Waste Management Plan** (WMP) prepared by a suitably qualified person shall be submitted to the Certifying Authority. The WMP must be prepared in consultation with Council and the EPA.



The WMP must outline all measures that would be implemented to ensure the effective management of operational waste associated with the development. The WMP must outline how waste would be minimised, handled, stored and disposed of in accordance with the relevant guidelines and legislation.

Prior to the commencement of use, a copy of the WMP must be submitted to Council, the EPA and the Planning Secretary.

### **Operational Noise and Vibration Management Plan**

- D9 Prior to occupation or commencement of the use, an **Operational Noise and Vibration Management Plan** (ONVMP) 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 Industrial Noise Policy*
  - 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, including from patrons departing the venue by midnight;
  - e) details of all reasonable and feasible management and mitigation measures to be implemented to minimise noise and vibration including for the proposed café and associated outdoor terrace and from patrons departing the venue by midnight;
  - f) be consistent with and incorporate all relevant recommendations and mitigation measures outlined in the Acoustic Report (dated 28 February 2018) in Appendix P of the RTS and the supplementary Acoustic Report (dated 4 July 2018) in Appendix G of the RTSAR (dated 8 August 2018);
  - g) include a suitable proactive noise and vibration monitoring program which aims to ensure the noise and vibration criteria in this consent are not exceeded.

Prior to the commencement of use, a copy of the approved ONVMP must be submitted to Council, the Certifying Authority and the EPA.

### **Mechanical Ventilation**

- D10 Following completion of the works, installation and testing of all the mechanical ventilation systems, the Applicant shall provide evidence to the satisfaction of the PCA, prior to the use of the development, that the installation and performance of the mechanical systems complies with:
- a) the Building Code of Australia;
  - b) Australian Standard AS1668 and other relevant codes;
  - c) the development consent and any relevant modifications; and
  - d) any dispensation granted by the Fire and Rescue NSW.

### **Crime Prevention Through Environmental Design**

- D11 Prior to the commencement of use, evidence shall be submitted to the Certifying Authority demonstrating the recommendations of the CPTED Report—~~16 February 2018 (Appendix O of~~

~~the RTS) 9 October 2020 (Appendix J of Mod 4)~~ dated 30 November 2021 (Appendix B of Section 4.55 Modification 7) (condition ~~B65~~ **B67**) have been fulfilled.

#### **Internal Air Quality**

- D12 Prior to the commencement of use, evidence shall be submitted to the Certifying Authority demonstrating consultation with NSW Health regarding appropriate internal air quality criteria for the use of the former naval fuel bunker and an agreed monitoring program to ensure the ongoing suitability of use of the bunker.

#### **Road Damage**

- D13 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 prior to the occupation or commencement of the use.

#### **Restriction on Vehicles Turning Right from Lincoln Crescent**

- D14 Prior to the commencement of use, signage must be erected at the intersection of Lincoln Crescent and Cowper Wharf Road restricting any right turn movements of vehicles over 6 m in length exiting Lincoln Crescent. The signage must be retained in perpetuity.

#### **Parking Restrictions**

- D15 The Applicant shall ensure it has obtained approval from Council's Pedestrian Cycling and Traffic Calming Committee in relation to the requirements of condition D14 and for any changes required to on-street parking restrictions for the on-going operation of the development, prior to occupation or commencement of the use.

#### **Sydney Water Compliance**

- D16 A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the "Your Business" section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then follow the "e-Developer" icon or telephone 13 20 92 for assistance.

The Section 73 Certificate must be submitted to the PCA prior to the use of the development.

#### **Utility Providers**

- D17 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.

#### **Fire Safety Certification**

- D18 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.

#### **Structural Inspection Certificate**

- D19 A **Structural Inspection Certificate** or a **Compliance Certificate** must be submitted to the satisfaction of the PCA prior to the use of the development 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 Department and 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.

### **Post- Construction Dilapidation Report**

D20 Prior to occupation or commencement of the use:

- a) the Applicant must engage a suitably qualified person to prepare a post-construction dilapidation report at the completion of the construction works. This report to ascertain whether the construction works created any structural damage to adjoining buildings, infrastructure and roads.
- b) the report is to be submitted to the Certifying Authority. In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads, the Certifying Authority must:
- c) compare the post-construction dilapidation report with the pre-construction dilapidation report required by these conditions;
- d) have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure and roads; and
- e) a copy of this report is to be forwarded to the Council and the Planning Secretary and each of the affected property owners.

### **Waste and Recycling Collection**

D21 Prior to the occupation 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.

### **Food Premises – Health Registration Database**

D22 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.

D23 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.

### **Sanitary Facilities for Disabled Persons**

D24 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 **B45 B47**.

### **Protection of Public Infrastructure**

D25 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.

### **Public Domain Works – Hold Points and Handover**

D26 Prior to a Certificate of Completion being issued for public domain works to the Lincoln Crescent and Cowper Wharf Road frontages and before the use of the development commences, whichever is earlier, electronic works-as-executed (as-built) plans and documentation, certified by a suitably qualified, independent professional are submitted to and accepted by Council for all public domain works. Completion and handover of the constructed public domain works must be undertaken in accordance with the Council's *Public Domain Manual* and *Sydney Streets Technical Specification*, including requirements for as-built documentation, certification, warranties and the defects liability period.

### **Fuel Bunker Wall Greening Plan and Implementation**

D27 Prior to the occupation or commencement of use, a landscape plan, endorsed by OEH Heritage Division, illustrating the proposed greening of the east facing fuel bunker wall, shall be prepared for review and approved by the Planning Secretary. The approved plan must be implemented prior to the occupation or commencement of use.

### **Interpretation Strategy**

D28 An **Interpretation Strategy** for the development must be prepared by a suitably qualified heritage interpretation practitioner and submitted to the OEH Heritage Division for review and endorsement.

The strategy must make decisive recommendations on how a range of interpretation media should be included in the project to enhance an understanding of the heritage significance of the Art Gallery of NSW, the Royal Botanic Gardens and the Domain, and the former naval fuel bunker.

The strategy is to include:

- a) interpretation objectives and principles for the site and the proposal;
- b) a targeted analysis of the significance of the place and the primary and secondary interpretation themes and messages for the site;
- c) identify the most effective options for delivery of interpretive programs (e.g. signage, artwork, interpretation as part of the new building, events, activities, guided tours, publications, internet etc.); and
- d) methods for monitoring and evaluating the implementation of the strategy.

The strategy must recommend that an **Interpretation Plan** be prepared that confirms actual media, any event, activities, any construction work, installations and communication devices to be included in the development, the locations, artwork, content and a program for implantation.

The **Interpretation Strategy** and **Interpretation Plan** shall be prepared as an integral component of the final detailed design of the development and must be submitted to the Planning Secretary and Certifying Authority prior to the occupation or commencement of use.

### **Contamination**

D29 The recommendations of the Remedial Action Plan are to be implemented, including provision of a Section A Site Audit Statement to the Certifying Authority at the completion of remediation and validation works, certifying suitability of that part of the site requiring remediation as identified in the Remedial Action Plan for the proposed development. A notice of completion of remediation work must be provided within 30 days of the completion of the work. Groundwater is not to be abstracted from the site for beneficial use.

#### Land bridge artwork commission area

D30 Prior to occupation or commencement of use, a final landscape plan, incorporating a minimum of 26 ~~40~~ native trees, final tree locations and species and any artwork structures, together with a final grading plan, DDA compliance report prepared by a suitably qualified disability access consultant, and structural plan/report prepared by a suitably qualified structural engineer demonstrating compliance with the BCA, are to be developed in consultation with the Council, NSW Heritage, TfNSW and Transurban, and submitted to the Planning Secretary for approval.

The final landscape plan must confirm the trees will be planted with a minimum depth of 1000 mm where feasible and will be grown to AS 2303:2015. The trees must be planted by an arborist with a minimum AQF level 2 qualification.

~~The final landscape plan must also nominate the approximate location and maximum height/size of future artworks within the artwork commission area (Condition E26).~~

END OF PART D

## PART E POST OCCUPATION OR DURING USE

### Operational Management

E1 The **Operational Plan of Management** (refer to condition D5) and all relevant plans must be fully implemented during use of the premises.

### Hours of Operation

E2 The hours of operation shall be as specified in the table below.

Land Use / Activities	Maximum Hours of Operation
Offices, general administration and duties, security	24 hours
Public access to Gallery spaces	7 am to 12 midnight
Multi-purpose room	7 am to <del>10 pm</del> <b>12 midnight</b> (indoor areas only) No use of outdoor areas
Café	7 am to 12 midnight
External terraces (including café terrace)	7 am to 10 pm
Loading dock	24 hours
Lifts	Minimum Hours of Operation
Lincoln Crescent public lift	7 am to 6 pm Thursday to Tuesday 7 am to 10 pm Wednesdays * Notwithstanding the above minimum hours of operation, the lift must be operational at least 30 minutes after the end of any functions or events within the AGNSW
Land bridge public lift	24 hours

### Operational Restrictions

E3 Operational restrictions shall apply as specified in the table below.

Aspect	Restriction
Multi-purpose room	Maximum capacity of 510 persons
Café	Maximum capacity of 150 persons
Café terrace	Maximum capacity of 500 persons
Playing of amplified music outdoors	No amplified music shall be played outdoors, including the public domain and outdoor areas associated with the premises.
Playing of amplified music indoors	Internal speakers must not be placed to direct the playing of music towards the

	public domain or outdoor areas associated with the premises.
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### **Noise Control – Plant and Machinery**

- E4 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) 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; or
  - b) exhibit tonal, impulsive or other annoying characteristics.

### **Noise Monitoring**

- E5 During commissioning of any plant, machinery or other equipment operated on site and during general operations, the Applicant shall undertake noise monitoring to confirm compliance with the noise limits in condition E4 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 D9 be updated to include such measures.

### **Noise Control**

- E6 The doors and windows of the café and the multi-purpose room must be closed after 10 pm.

### **Unobstructed Driveways and Parking Areas**

- E7 At all times the service vehicle docks, car parking spaces and access driveways must be kept clear of goods and must not be used for storage purposes, including garbage storage.

### **Review of Traffic and Transport Management Plans**

- E8 Within 12 months of the commencement of use, the Applicant must review each of the following plans in consultation TNSW (Sydney Coordination Office), Roads and Maritime Services and City of Sydney Council:

- a) the Green Travel Plan (condition D6);
- b) the Loading Dock and Vehicle Management Plan (condition D7).

The review is to consider whether any amendments are required to the plans to ensure the efficient and safe management of the development to mitigate any adverse impacts to traffic (including buses) or pedestrian safety, or if any additional measures are required. The findings of each review and any amendments to the plans shall be submitted to the Coordinator General, Transport Coordination, within TNSW for endorsement, within three months following the above periods.

### **Loading/Unloading**

- E9 All vehicles using the loading dock shall enter and exit the site in a forward motion.
- E10 All loading and unloading operations associated with the site must be carried out:
- a) in accordance with the LDVMP (condition D7);
  - b) within the confines of the site, at all times and must not obstruct other properties/units or the public way; and

- c) out in a manner so as not to cause inconvenience to the public or detrimentally impact the amenity of the locality.

### **Annual Fire Safety Certificate**

- E11 An annual Fire Safety Statement must be given to Council and the Fire & Rescue NSW commencing within 12 months after the date on which the initial Interim/Final Fire Safety Certificate is issued. This must ensure that the essential services installed in the building for the purpose of fire safety have been inspected and at the time of inspection are capable of operating to the required minimum standard.

### **Fire Safety Certification**

- E12 The development shall operate in accordance with the Fire Safety Certificate obtained in accordance with condition D18 of this consent.

### **Storage and Handling of Waste**

- E13 All waste collection services utilising Lincoln Crescent must not be undertaken outside the hours of 7.30 am to 6 pm Monday to Friday.

- E14 No waste must be placed for collection in a public place e.g. footpaths, roadways and reserves under any circumstances.

### **Wastewater Disposal**

- E15 All domestic wastewater must be disposed of to the sewer in accordance with a current agreement with the relevant wastewater disposal authority.

### **No Pollution of Waters**

- E16 The Applicant must ensure that any water quality, temperature and quantity discharge off-site complies with the requirements of the *Protection of the Environment Operations Act 1997* and must not otherwise pollute water.

### **Bunding**

- E17 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 and/or EPA's *Storing and Handling Liquids: Environmental Protection – Participants Handbook*.

### **Temporary Event Structures**

- E18 Temporary event structures, including artworks and marquees associated with the use of the building, may be constructed within the site and where so constructed, must comply with the relevant provisions of the applicable Australian Standards, including the *Australian Building Codes Board Temporary Structures Standard 2015* and the BCA.

### **Tree Planting, Landscape and Public Domain Works**

- E19 All tree planting, landscaping and public domain works approved by condition A2, including planting a minimum of ~~273~~ ~~298~~ **312** trees, are to be completed prior to the commencement of use. All 14 potted trees located beneath the entry canopy are to be retained in this location.



#### Public Access

- E20 The Applicant must ensure that public access to, and around, the site is maintained at all times and is not unduly obstructed.

#### Operation of Plant and Equipment

- E21 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.

#### Seawater Heat Exchange System Operation

- ~~E22 The operation of the seawater heat exchange system must comply with the following at all times:~~
- ~~a) any anti-foulant product used is registered at the time of use by the Australian Pesticides and Veterinary Medicines Authority for the purpose of a marine growth anti-foulant;~~
  - ~~b) waste water discharged must contain less than the concentration of anti-foulant product specified on the pesticides label for that product;~~
  - ~~c) the intake pipework is pigged not less than twice per year;~~
  - ~~d) an appropriate system is installed for the integrated collection and storage of all waste generated from pigging the intake pipework; and~~
  - ~~e) all pigging waste from the intake pipework is disposed of to sewer, or where such disposal is not approved by Sydney Water Corporation, is disposed of a facility legally able to accept the waste for treatment and proper disposal.~~

#### Public Domain Works – Defects Liability Period

- E23 All works to the Council's public domain, including rectification of identified defects, are subject to a 12-month defects liability period from the date of final completion. The date of final completion will be nominated by Council on the Certificate of Completion for public domain works.

#### Interpretation Plan

- E24 The **Interpretation Plan** (condition D28) must be fully implemented within 12 months of the completion of the works.

#### Entry Canopy

- E25 All sides of the **Entry Canopy** must remain fully accessible and open. The Entry Canopy must not be enclosed by any device, design feature (drop-down blinds, glass walls etc) or structure at any time.

#### Future artworks within the artwork commission area

- E26 The Applicant may install art works permanently or from time to time within the 'Art Commission Area' shown on the approved Landscape drawing 'Art Garden' (DA 10-05, Revision J dated 19 February 2021), provided that it is consistent with the approved final landscape plan (Condition D30) and the approved minimum 26 native trees are retained in the Art Commission Area.

**END OF PART E**

FOR INFORMATION

## **PART F**

## **PRIOR TO THE ISSUE OF SUBDIVISION CERTIFICATE/S**

### **Subdivision Certificate**

- F1 A Subdivision Certificate shall be obtained prior to the registration of a final subdivision plan with the Registrar-General at the NSW Land and Property Information.

### **Creation of Easements**

- F2 Easements for services, drainage, support and shelter, use of plant, equipment, loading areas and service rooms, repairs, maintenance or any other encumbrances and indemnities required for joint or reciprocal use of part or all of the proposed lots as a consequence of the subdivision, must be created over the appropriate lots in the subdivision pursuant to Section 88B of the *Conveyancing Act 1919*.

### **Registration of Easements**

- F3 Prior to the issue of the final Subdivision Certificate, the Applicant shall provide to the Certifying Authority evidence that all matters required to be registered on title, including easements noted on the draft subdivision plans listed in Part A, approvals and other consents have been lodged for registration or registered at the NSW Land and Property Information.

### **Encroaching and/or Shared Services**

- F4 Any pipes, service lines or the like servicing each lot shall be contained within their respective lots or, if service lines encroach upon adjoining lots within the subdivision, or are shared by more than one lot, appropriate easements must be created, pursuant to Section 88B of the *Conveyancing Act 1919*, over the service lines where any such encroachment occurs.

## 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 the relevant authority for all necessary permits including 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.

### TEMPORARY STRUCTURES

AN4.

- a) 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.
- b) 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

AN5. 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.

### COMMONWEALTH ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999

AN6.

- a) 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.
- b) 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 Sustainability, Environment, Water, Population and Communities 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**

AN7. 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 ON WATERFRONT LAND**

AN8. Any works on waterfront land should be carried out in accordance with the Guidelines for Controlled Activities on Waterfront Lands (2012).

**END OF ADVISORY NOTE**

## **APPENDIX 1 WRITTEN INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS**

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 A12 and A13 or, having given such notification, subsequently forms the view that an incident has not occurred.

### **WRITTEN INCIDENT NOTIFICATION REQUIREMENTS**

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.

### **INCIDENT REPORT REQUIREMENTS**

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.

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.

