

Development Consent

Section 4.38 of the Environmental Planning and Assessment Act 1979

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

These conditions are required to:

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

Anthea Sargeant
Executive Director
Compliance, Industry and Key Sites

Sydney

4 October;

2019

File: SSD 9334

SCHEDULE 1

Application Number:	SSD 9334
Applicant:	Jimmy's on the Mall Pty Ltd
Consent Authority:	Minister for Planning and Public Spaces
Site:	Overseas Passenger Terminal (Tenancy 5), Circular Quay, The Rocks (Lots 1-3 DP 876516)
Development:	Construction of four retractable shade structures to the outdoor dining area of Tenancy 5 of the Overseas Passenger Terminal

DEFINITIONS

Advisory Notes	Advisory information relating to the consent but do not form part of this consent
Applicant	Jimmy's On The Mall Pty Ltd, or any person carrying out any development to which this consent applies
BCA	Building Code of Australia
BC Act	<i>Biodiversity Conservation Act 2016</i>
Certifying Authority	A person who is authorised by or under section 6.17 of the EP&A Act to issue Part 6 certificates
Conditions of this consent	Conditions contained in Schedule 2 of this document
Construction	The demolition and removal of buildings or works, the carrying out of works for the purpose of the development, including bulk earthworks, and erection of buildings and other infrastructure permitted by this consent.
Council	City of Sydney Council
CPTMP	Construction Pedestrian and Traffic Management Plan
Day	The period from 7 am to 6 pm on Monday to Saturday, and 8 am to 6 pm on Sundays and Public Holidays
Department	NSW Department of Planning, Industry and Environment
Development	The development described in the EIS and Response to Submissions and subsequent documentation, including the works and activities comprising of the construction of four retractable shade structures to the outdoor dining area of Tenancy 5 of the Overseas Passenger Terminal, as modified by the conditions of this consent
EIS	The Environmental Impact Statement titled ' <i>Environmental Impact Statement, Overseas Passenger Terminal, Circular Quay Shade Structures for Tenancy 5 – The Squire's Landing</i> ', prepared by Keylan Consulting Pty Ltd dated March 2019, and accompanying appendices submitted with the application for consent for the development, including any additional information provided by the Applicant in support of the application
Environment	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings
EPA	NSW Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
ESD	Ecologically Sustainable Development
Feasible	Means what is possible and practical in the circumstances
Incident	An occurrence or set of circumstances that causes, or threatens to cause material harm and which may or may not be or cause a non-compliance Note: "material harm" is defined in this consent
Land	Has the same meaning as the definition of the term in section 1.4 of the EP&A Act
Material harm	Is harm that: <ul style="list-style-type: none"> a) involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial, or b) results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)
Night	The period from 10 pm to 7 am on Monday to Saturday, and 10 pm to 8 am on Sundays and Public Holidays
Non-compliance	An occurrence, set of circumstances or development that is a breach of this consent
Operation	The carrying out of the approved purpose of the development upon completion of construction

OPM	Operational Plan of Management
PCA	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
Planning Secretary	Planning Secretary under the EP&A Act, or nominee
POEO Act	<i>Protection of the Environment Operations Act 1997</i>
Place Management NSW	Place Management Division of the Department of Planning, Industry and Environment (former Property NSW)
Reasonable	Means applying judgement in arriving at a decision, taking into account: mitigation benefits, costs of mitigation versus benefits provided, community views, and the nature and extent of potential improvements
Rehabilitation	The restoration of land disturbed by the development to a good condition, to ensure it is safe, stable and non-polluting
Response to submissions	The Applicant's response to issues raised in submissions received in relation to the application for consent for the development under the EP&A Act
Response to Submissions (RtS)	Response to Submissions titled ' <i>Response to Submissions</i> ', prepared by Keylan Consulting Pty Ltd, dated 1 August 2019, and accompanying appendices
SSD	State Significant Development
Subject Site	Land referred to in Schedule 1

SCHEDULE 2

PART A ADMINISTRATIVE CONDITIONS

OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

- A1. In addition to meeting the specific performance measures and criteria in this consent, all reasonable and feasible measures must be implemented to prevent, and if prevention is not reasonable and feasible, minimise, any material harm to the environment that may result from the construction and operation of the development, and any rehabilitation required under this consent.

TERMS OF CONSENT

- A2. The development may only be carried out:
- (a) in compliance with the conditions of this consent;
 - (b) in accordance with all written directions of the Planning Secretary;
 - (c) in accordance with the EIS and Response to Submissions;
 - (d) in accordance with the management and mitigation measures; and
 - (e) in accordance with the approved plans in the table below:

Architectural Drawings prepared by Green Light Design			
Drawing No.	Revision	Name of Plan	Date
TSL DD-100-SK01	C	General Arrangement – Level 01	18/07/2019
TSL DD-100-SK02	C	General Arrangement – Level 02	18/07/2019
TSL DD-100-SK03	A	General Arrangement – Level 03	27/07/2018
TSL DD-100-SK04	B	Elevations	18/07/2019
TSL DD-100-SK07	B	View 1 - Proposed	18/07/2019
TSL DD-100-SK09	B	View 2 – Proposed (Extended)	18/07/2019
TSL DD-100-SK010	B	View 2 – Proposed (Retracted)	18/07/2019
TSL DD-100-SK012	A	View 3 – Proposed (Extended)	27/07/2018
TSL DD-100-SK013	A	View 3 – Proposed (Retracted)	27/07/2018
TSL DD-100-SK014	A	Awning A4 – Proposed (Extended)	27/07/2018
TSL DD-100-SK015	A	Awning A4 – Proposed (Retracted)	27/07/2018

- A3. Consistent with the requirements in this consent, the Planning Secretary may make written directions to the Applicant in relation to:
- (a) the content of any strategy, study, system, plan, program, review, audit, notification, report or correspondence submitted under or otherwise made in relation to this consent, including those that are required to be, and have been, approved by the Planning Secretary; and
 - (b) the implementation of any actions or measures contained in any such document referred to in **Condition A3(a)** 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.

LAPSING OF APPROVAL

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

PRESCRIBED CONDITIONS

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

LONG SERVICE LEVY

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

LEGAL NOTICES

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

EVIDENCE OF CONSULTATION

- A9. Where conditions of this consent require consultation with an identified party, the Applicant must:
- (a) consult with the relevant party prior to submitting the subject document to the Planning Secretary for approval; and
 - (b) provide details of the consultation undertaken including:
 - (i) the outcome of that consultation, matters resolved and unresolved; and
 - (ii) details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.

STRUCTURAL ADEQUACY

- A10. All new structures, must be constructed in accordance with the relevant requirements of the BCA.

Notes:

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

APPLICABILITY OF GUIDELINES

- A11. 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.
- A12. However, consistent with the conditions of this consent and without altering any limits or criteria in this consent, the Planning Secretary may, when issuing directions under this consent in respect of ongoing monitoring and management obligations, require compliance with an updated or revised version of such a guideline, protocol, Standard or policy, or a replacement of them.

MONITORING AND ENVIRONMENTAL AUDITS

- A13. 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 auditing.

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

INCIDENT NOTIFICATION, REPORTING AND RESPONSE

- A14. The Department must be notified in writing to compliance@planning.nsw.gov.au immediately after the Applicant becomes aware of an incident. The notification must identify the development (including the development application number and the name of the development if it has one), and set out the location and nature of the incident.
- A15. Subsequent notification must be given and reports submitted in accordance with the requirements set out in Appendix 1.

NON-COMPLIANCE NOTIFICATION

- A16. The Department must be notified in writing to compliance@planning.nsw.gov.au within seven days after the Applicant becomes aware of any non-compliance. The PCA must also notify the Department in writing to compliance@planning.nsw.gov.au within seven days after they identify any non-compliance.
- A17. 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.
- A18. A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.

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.

PART B PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

NO WORKS PRIOR TO CONSTRUCTION CERTIFICATE

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

BUILDING CODE OF AUSTRALIA (BCA) COMPLIANCE

- B2. The proposed works must comply with the applicable performance requirements of the BCA to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the ongoing benefit of the community. Compliance with the performance requirements can only be achieved by:
- (a) complying with the deemed to satisfy provisions; or
 - (b) formulating an alternative solution which:
 - i) complies with the performance requirements; or
 - ii) is shown to be at least equivalent to the deemed to satisfy provision; or
 - iii) a combination of (a) and (b).

FOOTPATH DAMAGE BANK GUARANTEE

- B3. If not already obtained, a Footpath Damage Bank Guarantee to cover the site frontage and areas of the public domain which may be damaged must be lodged with the relevant road authority. A suitable bank guarantee must be submitted in favour of the relevant road authority as security for repairing any damage to the public domain in the vicinity of the site.
- B4. The guarantee must be lodged with the relevant road authority prior to issue of the relevant Construction Certificate.

PRE-CONSTRUCTION DILAPIDATION REPORT

- B5. The Applicant is to engage a qualified structural engineer 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 shall be submitted to the Certifying Authority prior to issue of the relevant Construction Certificate or any works commencing whichever is earlier. A copy of the report must be forwarded to Port Authority NSW and Place Management NSW.

STRUCTURAL DETAILS

- B6. Prior to the issue of the relevant Construction Certificate, the Applicant must submit to the Certifying Authority and Port Authority NSW, the relevant structural drawings prepared and signed by a suitably qualified practising Structural Engineer that demonstrates compliance with:
- (a) the relevant clauses of the BCA; and
 - (b) the development consent.

SCHEDULE OF COLOURS

- B7. Prior to the issue of the relevant Construction Certificate a list of the final schedule of colours shall be submitted to the Port Authority NSW and the Planning Secretary. The structure of the shade structures shall match the structure of the Overseas Passenger Terminal in colour. The Applicant shall also submit a copy of the schedule of colours to the Certifying Authority with the application for the relevant Construction Certificate.

PART C PRIOR TO COMMENCEMENT OF WORKS

NOTIFICATION OF COMMENCEMENT

- C1. The Department must be notified in writing of the dates of commencement of physical work and operation at least 48 hours before those dates.
- C2. If the construction or operation of the development is to be staged, the Department must be notified in writing at least 48 hours before the commencement of each stage, of the date of commencement and the development to be carried out in that stage.
- C3. Approval to commence construction works shall be obtained from Port Authority's Property Department, prior to works commencing.

COMPLIANCE

- C4. The Applicant must ensure that all of its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities they carry out in respect of the development.

COMPLAINTS AND ENQUIRIES PROCEDURE

- C5. Prior to the commencement of construction works, or as otherwise agreed by the Planning Secretary, the following must be made available for community enquiries and complaints for the duration of construction:
 - (a) a 1300 24-hour telephone number(s) on which complaints and enquiries about the carrying out of any works may be registered;
 - (b) a postal address to which written complaints and enquiries may be sent; and
 - (c) an email address to which electronic complaints and enquiries may be transmitted.

CERTIFIED PLANS

- C6. Plans certified in accordance with section 6.16 of the EP&A Act are to be submitted to the PCA and the Department prior to commencement of each stage of the works and shall include details as required by any of the following conditions.

CONSTRUCTION PEDESTRIAN AND TRAFFIC MANAGEMENT

- C7. Prior to the commencement of works, a **Construction Pedestrian and Traffic Management (CPTMP)** prepared by a suitably qualified person shall be submitted to the PCA. The **CPTMP** should be prepared in consultation with, the Transport for NSW CBD Coordination Office and Port Authority NSW.

The CPTMP shall address, but not be limited to, the following matters:

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

A copy of the final **CPTMP**, is to be endorsed by the Port Authority NSW prior to the commencement of works.

CONTACT TELEPHONE NUMBER

- C8. Prior to the commencement of the works, the Applicant shall forward to Council and the Department a 24-hour telephone number to be operated for the duration of the construction works.

BARRICADE PERMIT

- C9. 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.

PART D DURING CONSTRUCTION

CONSTRUCTION HOURS

- D1. Construction, including the delivery of materials to and from the site, may only be carried out between the following hours:
- (a) between 7.00 am and 7.00 pm, Mondays to Fridays inclusive; and
 - (b) between 7.00 am and 5.00 pm, Saturdays.
- D2. No work may be carried out on Sundays or public holidays.
- D3. Activities may be undertaken outside of these hours if required:
- (a) by the Police or a public authority for the delivery of vehicles, plant or materials; or
 - (b) in an emergency to avoid the loss of life, damage to property or to prevent environmental harm.
- D4. Notification of such activities must be given to affected residents before undertaking the activities or as soon as is practical afterwards.
- D5. Noisy or disruptive works that cause excessive noise, dust or vibration impacts shall be carried out between the following hours:
- (a) 9.00 am to 11.30 am, Monday to Friday;
 - (b) 2.00 pm to 5.00 pm Monday to Friday; and
 - (c) 9.00 am to 11.30 am, Saturday

IMPLEMENTATION OF MANAGEMENT PLANS

- D6. The CPTMP approved under **Condition C8** shall be implemented during construction except where modified below:
- (a) under the current legislation the use of lengthy vehicles in the CBD is prohibited within certain time frames. All lengthy vehicles must comply with this regulation as stipulated in the NSW Road Rules. A map indicating the prohibited area and definitions of lengthy vehicles are included in the Road Rules;
 - (b) truck movements should be staged and coordinated to prevent trucks circling CBD streets whilst awaiting access to the site. There should be holding areas outside the CBD on the fringes or sufficient space within the site to store trucks and heavy vehicles;
 - (c) truck movements to and from the site associated with the development must be minimised as far as practicable during the PM peak period;
 - (d) all trucks associated with the development must have their loads covered or secured to ensure trucks do not track material onto the public road network.

CONSTRUCTION NOISE AND VIBRATION MANAGEMENT

- D7. The development must be constructed with the aim of achieving the construction noise management levels detailed in the *Interim Construction Noise Guideline* (Department of Environment and Climate Change, 2009). All feasible and reasonable noise mitigation measures shall be implemented.
- D8. If the noise from a construction activity is substantially tonal or impulsive in nature (as described in the NSW Noise Policy for Industry), 5 dB(A) must be added to the measured construction noise level when comparing the measured noise with the construction noise management levels
- D9. 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.
- D10. Vibration caused by construction at any residence or structure outside the subject site must be limited to:
- (a) for structural damage vibration to buildings (excluding heritage buildings), *British Standard BS 7385 Part 2-1993 Evaluation and Measurement for Vibration in Buildings*;
 - (b) for structural damage vibration to heritage buildings, *German Standard DIN 4150 Part 3 Structural Vibration in Buildings Effects on Structure*;
 - (c) for human exposure to vibration, the evaluation criteria presented in *British Standard BS 6472- Guide to Evaluate Human Exposure to Vibration in Buildings* (1Hz to 80 Hz) for low probability of adverse comment.

APPROVED PLANS TO BE ON-SITE

- D11. A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the Site at all times and shall be readily available to any officer of the Department, Council or the PCA.

SITE NOTICE

- D12. A site notice(s) shall be prominently displayed at the boundaries of the Site for the purposes of informing the public of project details including, but not limited to the details of the Builder, Certifying Authority and Structural Engineer. The notice(s) is to satisfy all but not be limited to, the following requirements:
- (a) the notice is to be able to be read by the general public;
 - (b) the notice is to be rigid, durable and weatherproof and is to be displayed throughout the works period;
 - (c) the approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24-hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice; and
 - (d) the notice(s) is to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the Site is not permitted.

COVERING OF LOADS

- D13. 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

- D14. 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.

WASTE MANAGEMENT

- D15. The Applicant must ensure that:
- (a) construction waste is managed generally in accordance with the EPA's brochure entitled "Know your responsibilities: managing waste from construction sites" and the EPA's *Waste Classification Guidelines Part 1: Classifying Waste 2009* as well as the relevant waste management conditions attached to Environmental Protection Licence No. 13336 (if active);
 - (b) all waste generated by the development is treated and/or disposed of at a facility that has sufficient capacity to and may lawfully accept that waste;
 - (c) waste (including litter, debris or other matter) is not caused or permitted to enter the waters of Sydney Harbour;
 - (d) any vehicle used to transport waste or excavation spoil from the site is covered before leaving the premises;
 - (e) the wheels of any vehicle, trailer or mobilised plant leaving the site and cleaned of debris prior to leaving the premises; and
 - (f) concrete waste and rinse water are not disposed of on the site and are not caused or permitted to enter the waters of Sydney Harbour.

DUST CONTROL MEASURES

- D16. 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) 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;
 - (c) the surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs;
 - (d) 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;
 - (e) gates shall be closed between vehicle movements and shall be fitted with shade cloth; and
 - (f) cleaning of footpaths and roadways shall be carried out regularly.

DAMAGE TO THE PUBLIC WAY

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

PROTECTION OF STREET TREES

- D18. All existing trees on the Subject Site are to be retained and are to be protected during construction.

EROSION AND SEDIMENT CONTROL

- D19. 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.

SETTING OUT OF STRUCTURES

- D20. The building shall be set out by a registered surveyor to verify the correct position of the structure in relation to property boundaries and the approved alignment levels. The registered surveyor shall submit a plan to the PCA certifying that structural works are in accordance with the approved development application.

CONTACT TELEPHONE NUMBER

- D21. The Applicant shall ensure that the 24-hour contact telephone number is continually attended by a person with authority over the works for the duration of the development.

WATER QUALITY

- D22. All works should be undertaken in a manner that ensures the protection of the water quality objectives and environmental values for Sydney Harbour estuarine waters in accordance with the following guideline documents:
- (a) NSW Water Quality Objectives; and
 - (b) The Australian and New Zealand Guidelines for Fresh and Marine Water Quality (2000) for the environmental values under the ANZECC guidelines.

ROAD OCCUPANCY LICENCE

- D23. A Road Occupancy Licence (ROL) must be obtained from the relevant road authority under section 138 of the *Roads Act 1993* for any activity that may impact on the operation of the road network. The ROL allows the Applicant to use a specified road space at approved times, provided certain conditions are met. The Applicant must allow a minimum of 10 working days for processing ROL applications. Traffic Control Plans are to accompany each ROL application(s) for any such activities.
- D24. Any noise generated during the construction of the development must not be offensive noise within the meaning of the *Protection of the Environment Operations Act, 1997* or exceed approved noise limits for the Subject Site.
- D25. All work, including demolition, excavation and building work must comply with the City of Sydney Code of Practice for Construction Hours/Noise 1992 and *Australian Standard 2436-1981 'Guide to Noise Control on Construction, Maintenance and Demolition Sites'*.

SAFework NSW REQUIREMENTS

- D26. 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.

FENCING REQUIREMENTS

- D27. 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.

LOADING AND UNLOADING DURING CONSTRUCTION

- D28. The following requirements apply:
- (a) all loading and unloading associated with construction must be accommodated on-site;
 - (b) a Works Zone is required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to the relevant road authority at least 8 weeks prior to commencement of works on the site. Consent for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The consent will be reviewed periodically for any adjustment necessitated by the progress of the construction activities; and

- (c) the structural design of the building must permit the basement and/or the ground floor to be used as a loading and unloading area for the construction of the remainder of the development.

ARCHAEOLOGY

- D29. The Applicant must ensure that if unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

OPERATION OF PLANT AND EQUIPMENT

- D30. 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.

PART E PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

OCCUPATION CERTIFICATE

- E1. An Occupation Certificate must be obtained from the PCA prior to commencement of occupation or use of the whole or any part of the approved building. A copy must be provided to the Planning Secretary.
- E2. Work as executed drawings in CAD format and certification documents shall be forwarded to Port Authority NSW.

ROAD DAMAGE

- E3. The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the Site as a result of construction works associated with the approved development, is to be met in full by the Applicant/developer prior to the commencement of use.

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

POST-CONSTRUCTION DILAPIDATION REPORT

- E4. Prior to the issue of the final Occupation Certificate:
- (a) the Applicant shall 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 PCA. In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads, the PCA must:
 - i) compare the post-construction dilapidation report with the pre-construction dilapidation report required by these conditions; and
 - ii) have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure and roads.
 - (c) A copy of this report is to be forwarded to Port Authority NSW and Planning Secretary.

STRUCTURAL INSPECTION CERTIFICATE

- E5. A **Structural Inspection Certificate** or a **Compliance Certificate** must be submitted to the satisfaction of the PCA prior to the issue of any Occupation Certificate and/or use of the premises. A copy of the Certificate with an electronic set of final drawings (contact approval authority for specific electronic format) shall be submitted to the approval authority and the Council after:
- (a) the site has been periodically inspected and the Certifier is satisfied that the Structural Works is deemed to comply with the final design drawings; and
 - (b) the drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

PROTECTION OF PUBLIC INFRASTRUCTURE

- E6. 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.

COMPLIANCE REPORT

- E7. Prior to the issue of any Occupation Certificate, the Applicant, or any party acting upon this approval, shall submit to the PCA a report addressing compliance with all relevant conditions of this Part.

PART F POST OCCUPATION – DURING OPERATION

- F1. No pull-down blinds, signage, lighting, heaters or the like shall be attached to the Development at any time.
- F2. The Development shall be left in a fully retracted position outside the approved hours of operation associated with the Subject Site.
- F3. The Development shall not contain any logos, text or advertisements.
- F4. Regular cleaning and maintenance of the fabric of the Development shall be undertaken.

ADVISORY NOTES

APPEALS

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

OTHER APPROVALS AND PERMITS

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

RESPONSIBILITY FOR OTHER CONSENTS / AGREEMENTS

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

REQUIREMENTS OF PUBLIC AUTHORITIES

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

TEMPORARY STRUCTURES

- AN5. An approval under State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007 must be obtained from the Authority for the erection of the temporary structures. The application must be supported by a report detailing compliance with the provisions of the BCA.
- AN6. Structural certification from an appropriately qualified practicing structural engineer must be submitted to the Authority with the application under State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007 to certify the structural adequacy of the design of the temporary structures.

DISABILITY DISCRIMINATION ACT

- AN7. This application has been assessed in accordance with the EP&A Act. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*. The Applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation. The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the BCA which references *AS 1428.1 - Design for Access and Mobility*. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the *Disability Discrimination Act 1992* currently available in Australia.

USE OF MOBILE CRANES

- AN8. The Applicant shall obtain all necessary permits required for the use of mobile cranes on or surrounding the site, prior to the commencement of works. In particular, the following matters shall be complied with to the satisfaction of the PCA:
- (a) (For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on-site tower cranes which warrant the on-street use of mobile cranes, permits must be obtained from Council:
 - (i) at least 48 hours prior to the works for partial road closures which, in the opinion of the relevant road authority will create minimal traffic disruptions; and
 - (ii) at least 4 weeks prior to the works for full road closures and partial road closures which, in the opinion of the relevant road authority, will create significant traffic disruptions.
 - (b) The use of mobile cranes must comply with the approved hours of construction and shall not be delivered to the site prior to 7 am without the prior approval of the relevant authority.

ROADS ACT 1993

- AN9. A separate approval under Section 138 of the *Roads Act 1993* is required to undertake any of the following:
- (c) erect a structure or carry out a work in, on or over a public road;
 - (d) dig up or disturb the surface of a public road;
 - (e) remove or interfere with a structure, work or tree on a public road;
 - (f) pump water into a public road from any land adjoining the road; or
 - (g) connect a road (whether public or private) to a classified road.

COMMONWEALTH ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999

AN10. The Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter; or Commonwealth land, without an approval from the Commonwealth Environment Minister.

AN11. This application has been assessed in accordance with the EP&A Act. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation. It is the Applicant's responsibility to consult the Department of the Environment and Energy to determine the need or otherwise for Commonwealth approval and you should not construe this grant of approval as notification to you that the EPBC Act does not have application. The EPBC Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

BUILDING PLAN APPROVAL

AN12. You must have your building plans stamped and approved before any construction is commenced. Approval is needed because construction/building works may affect Sydney Water's assets (e.g. water, sewer and stormwater mains).

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

END OF ADVISORY NOTES

APPENDIX 1 INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS

WRITTEN INCIDENT NOTIFICATION REQUIREMENTS

1. A written incident notification addressing the requirements set out below must be emailed to the Department at the following address: compliance@planning.nsw.gov.au within seven days after the Applicant becomes aware of an incident. Notification is required to be given under this condition even if the Applicant fails to give the notification required under condition A14 or, having given such notification, subsequently forms the view that an incident has not occurred.
2. Written notification of an incident must:
 - a. identify the development and application number;
 - b. provide details of the incident (date, time, location, a brief description of what occurred and why it is classified as an incident);
 - c. identify how the incident was detected;
 - d. identify when the applicant became aware of the incident;
 - e. identify any actual or potential non-compliance with conditions of consent;
 - f. describe what immediate steps were taken in relation to the incident;
 - g. identify further action(s) that will be taken in relation to the incident; and
 - h. identify a project contact for further communication regarding the incident.
3. Within 30 days of the date on which the incident occurred or as otherwise agreed to by the Planning Secretary, the Applicant must provide the Planning Secretary and any relevant public authorities (as determined by the Planning Secretary) with a detailed report on the incident addressing all requirements below, and such further reports as may be requested.
4. The Incident Report must include:
 - a. a summary of the incident;
 - b. outcomes of an incident investigation, including identification of the cause of the incident;
 - c. details of the corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence; and
 - d. details of any communication with other stakeholders regarding the incident.