

Ms KIM McKAY AO
Director & CEO

kim.mckay@austmus.gov.au
australianmuseum.net.au



28 May 2019

Ms Monica Barone
Chief Executive Officer
City of Sydney
GPO Box 1591
SYDNEY NSW 2001

Dear Ms Barone

**Alterations and Additions to the Australian Museum
State Significant Development Consent No. SSD 9452
Request for exemption from Development Contributions**

We refer to Condition B15 of SSD 9452 requiring the Australian Museum to pay the development contributions levy in accordance with Section 61 of the *City of Sydney Act 1988* and the *Central Sydney Development Contributions Plan 2013*.

The Australian Museum Trust is a registered not-for-profit organisation that has only charitable purposes that are for community benefit. As a result, the Proposed Development being undertaken by the Australian Museum Trust in line with its charitable purposes is a not-for-profit development. This is confirmed in the enclosed legal advice provided by Allens Linklaters.

Accordingly, we request Council's agreement to an exemption from payment of the levy under the Contributions Plan for the Proposed Development on the basis that it is a not-for-profit development. Should you require any further information or clarification, please do not hesitate to contact me.

Yours sincerely



Kim McKay AO
Director & CEO

Encl.

AUSTRALIAN MUSEUM

1 William Street Sydney NSW 2010 Australia T 61 2 9320 6000 D 61 2 9320 6110
ABN 85 407 224 698

Printed on Australian made, 100% recycled paper.

Allens

Deutsche Bank Place
Corner Hunter and Phillip Streets
Sydney NSW 2000 Australia

T +61 2 9230 4000

F +61 2 9230 5333

www.allens.com.au

GPO Box 50
Sydney NSW 2001 Australia

ABN 47 702 595 758

Allens > < Linklaters

27 May 2019

Ms Kim McKay AO
Director & CEO
Australian Museum
1 William Street
Sydney NSW 2010

Dear Ms McKay

**Alterations and Additions to the Australian Museum
State Significant Development Consent No. SSD 9452
Advice in relation to Development Contributions**

We refer to our recent communications in relation to the Australian Museum Trust's (*Museum Trust's*) proposed development comprising alterations and additions to the Australian Museum site located at 1 William Street, Sydney, NSW (*Proposed Development*).

1 Background and instructions

- 1.1 The Proposed Development comprises alterations and additions to the Australian Museum to improve the functionality and layout and repurpose existing storage space to provide for a large and flexible exhibition space capable of accommodating larger cultural exhibitions, including the upcoming Tutankhamun exhibition.
- 1.2 On 28 February 2019, development consent was granted by a delegate of the Minister for Planning to State Significant Development Application No. SSD 9452 which authorises the Proposed Development (*Consent*).
- 1.3 Relevantly, Condition B15 of the Consent requires the Museum Trust to pay a cash development contribution comprising 1% of the total cost of the development to the City of Sydney (*Council*) pursuant to s61 of the *City of Sydney Act 1988* and the *Central Sydney Development Contributions Plan 2013* (*Contributions Plan*).
- 1.4 You have asked us to consider whether the Proposed Development is eligible for an exemption from the obligation to pay the development contribution levy on the basis that it is a not-for-profit development.

2 Advice

- 2.1 The Contributions Plan provides that the Council may exempt not-for-profit development upon written application from the Applicant.

Our Ref FXRS:120840286

TXTM 504869851v6 120840286 27.5.2019

- 2.2 The Contributions Plan relevantly defines 'not-for-profit development' as '*development undertaken on a...not-for-profit basis that provides a distinct community benefit...*', and provides a non-exhaustive list of examples of such developments.
- 2.3 We consider that the Proposed Development clearly falls within this definition for the following reasons:
- (a) The Museum Trust is a registered charity with the Australian Charities and Not-for-profits Commission, which is the national regulator of charities. Under the *Charities Act 2013* (Cth), in order to be a registered charity, an organisation must be not-for-profit and have only charitable purposes that are for the public benefit. As a result, the Proposed Development being undertaken by the Museum Trust in line with its charitable purposes will be a not-for-profit development; and
 - (b) We consider that it is beyond doubt that the Proposed Development provides a distinct community benefit by virtue of the Museum Trust's status as a not-for-profit charity, and the inherently public nature of the Museum and its exhibitions. The Museum is an irreplaceable source of information, resources and research. It plays a crucial role in promoting and preserving over 18 million cultural items to provide important educational, cultural and economic benefits to the community.
- 2.4 Accordingly, we consider that Proposed Development is eligible for an exemption from the obligation to pay the development contribution levy under the Contributions Plan on the basis that it is a not-for-profit development

Please let us know if you have any questions or would like to discuss any aspect of the above.

Yours sincerely



Felicity Rourke
Partner
Allens
Felicity.Rourke@allens.com.au
T +61 2 9230 4366