

# **Attachment A**

**Recommended Conditions of Consent**

**SCHEDULE 1 - DEFERRED COMMENCEMENT CONDITIONS (CONDITIONS TO BE SATISFIED PRIOR TO CONSENT OPERATING)**

The following deferred commencement conditions must be satisfied prior to the consent becoming operative:

(A) PART A - DEFERRED COMMENCEMENT CONDITIONS

**(CONDITIONS TO BE SATISFIED PRIOR TO CONSENT OPERATING)**

The consent is not to operate until the following condition is satisfied, within **24 months** of the date of this determination:

**(1) PLANNING AGREEMENT**

- (a) The Planning Agreement between the COUNCIL OF THE CITY OF SYDNEY and GEORGE HAY PTY LTD and OARE NO.3 PTY LTD which was placed on public exhibition between 5 March 2019 and 2 April 2019 shall be executed and submitted to Council; and
- (b) The Planning Agreement, as executed, must be registered on the title of the land.

## SCHEDULE 1A

### APPROVED DEVELOPMENT/DESIGN MODIFICATIONS/COVENANTS AND CONTRIBUTIONS/USE AND OPERATION

**Note:** Some conditions in Schedule 1A are to be satisfied prior to issue of any interim for final Construction Certificate and some are to be satisfied prior to issue of any Occupation Certificate, where indicated.

#### (1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2018/73 dated 2 February 2018 and the following drawings:

Drawing Number	Architect	Date
A.1 Issue 3	Arcadis	16.05.2018

and as amended by the conditions of this consent.

- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the drawings will prevail.

#### (2) SURRENDER OF EXISTING CONSENT

Development consent No.0209/12/94 (the consent for the existing static billboard sign) must be surrendered prior to the issue of any Occupation Certificate for the approved digital LED sign.

#### (3) SIGNAGE – TIME LIMITED CONSENT

The sign and any associated structure must be removed and the site reinstated, within a period of 15 years from the date of consent. The use must cease after that time and the building made good accordingly. If the sign is to be retained after this period, a new development application must be lodged with Council before the expiration of the consent for Council's consideration of the continuation of the use.

#### (4) PLANNING AGREEMENT

The Planning Agreement in accordance with section 7.4 of the Environmental Planning and Assessment Act 1979 between the City of Sydney Council and GEORGE HAY PTY LTD and OARE NO.3 PTY LTD entered into in compliance with deferred commencement condition (1) must be complied with.

#### (5) POSITIVE COVENANT AND ADVERTISING DEED

Prior to any Occupation Certificate being issued, a positive covenant, in the form specified in the Planning Agreement, is to be registered on the title of the land to which this consent relates requiring all operators of the third party advertising sign to enter into an Advertising Deed with the Council. The covenant is to be created at no cost to Council.

**(6) LOCATION OF CERTAIN NAMES AND LOGOS**

- (a) The name or logo of the person who owns or leases an advertisement or advertising structure may appear only within the advertising display area.
- (b) If the advertising display area has no border or surrounds, any such name or logo is to be located:
  - (i) Within the advertisement, or
  - (ii) Within a strip below the advertisement that extends for the full width of the advertisement.
- (c) The area of any such name or logo must not be greater than 0.25 square metres.
- (d) The area of any such strip is to be included in calculating the size of the advertising display area, defined in Condition (7) of this development consent.

**(7) SIGN HEIGHT AND DIMENSIONS**

Prior to the issue of any Construction Certificate architectural plans shall be submitted detailing the following design amendments:

- (a) The height of the sign must not exceed RL52250 to the top of the sign which is 250mm below the existing parapet height of the building being RL52500.
- (b) The sign shall have a maximum length of 5.11m and a maximum height of 7.32m resulting in a total area of 37.4sqm.

Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification that the height of the building accords with (a) above, to the satisfaction of the Principal Certifier.

**(8) SIGNAGE GENERAL REQUIREMENTS**

The design of the approved signage must comply with the following:-

- (a) Each advertisement must be displayed statically, for a minimum of 10 seconds during daytime hours where the posted speed limit is less than 80 km/h;
- (b) Each advertisement must be displayed statically, for a minimum of 30 seconds during night-time hours where the posted speed limit is less than 80 km/h;
- (c) The signage is not to contain reflective materials, colours and finishes.
- (d) The signage is not to incorporate sound, vibration, odour and other emissions.
- (e) The transition time between advertisements must not be less than 0.1 seconds during daytime hours;

- (f) The transition time between advertisements must not be less than 1 second or greater than 2 seconds during night-time hours;
- (g) In the event of the advertising sign display malfunctioning, freezing or having no content being transmitted, the display should revert to a default black screen automatically.
- (h) A Management Plan is to be provided that identifies the operational, content management, maintenance and complaints handling arrangement for the advertising structure.
- (i) An electronic log of activity shall be maintained by the operator for the duration of the development consent and be available to the consent authority or Roads and Maritime Services to monitor compliance with any conditions.
- (j) The sign must be switched to a fixed display during school zone hours.
- (k) The display must be completely static from its first appearance to the commencement of a change to another display.
- (l) No advertisement displayed must be dominated by red, yellow, white, green or any shape or pattern, so as to result in it being readily mistaken for a rail or traffic or road sign or signal.

**(9) TRANSITION FROM DAY-TIME TO NIGHT-TIME**

- (a) The approved advertising structure shall have a multi-directional light sensor (to at least three areas with different ambient light conditions) that automatically adjust to brightness of the advertising display area to prevailing light conditions as required by Section 3.16.7.2 (4) of the Sydney Development Control Plan 2012.
- (b) The change in maximum luminance between day time hours, twilight hours and night time hours is to be programmed automatically to make a gradual transition starting at 45 minutes prior to sunset and reaching night-time mode at 45 minutes after sunset.
- (c) A timing device is to be fitted to the approved advertising structure to ensure compliance with the requirements stipulated in Conditions (a) and (b) above.

**(10) ROADS AND MARITIME SERVICES CONCURRENCE**

- (a) The proposed sign must not contain/ use:
  - (i) Flashing lights
  - (ii) Electronically changeable messages
  - (iii) Animated display, moving parts or simulated movement
  - (iv) Complex displays that hold a drivers attention beyond “glance appreciation”
  - (v) Displays resembling traffic signs or signals, or giving instruction to traffic by using words such as ‘halt’ or ‘stop’

- (vi) A method of illumination that distracts or dazzles.
- (b) Construction and maintenance activities shall be undertaken wholly within the private property of the site. Where this is not possible a Road Occupancy Licence (ROL) will be required. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>
- (c) All works associated with the proposed sign, including maintenance activities, shall be at no cost to Roads and Maritime.

#### **(11) SIGN ILLUMINATION**

- (a) At no time is the intensity, period of intermittency and hours of illumination of the sign to cause objectionable glare or injury to the amenity of the neighbourhood and as such must be designed, installed and used in accordance with AS4282-1997 Control of Obtrusive Effects of Outdoor Lighting.
- (b) The sign(s) must not flash. Signs with flashing, chasing, pulsating or flickering lights are not permitted.
- (c) The maximum night time luminance of any sign is not to exceed 200 cd/sqm.
- (d) The maximum horizontal viewing angle of 160 degrees (+80 degrees and -80 degrees) and a maximum vertical viewing angle of 70 degrees (+25 degrees and -45 degrees), as shown in Section 3.16.7.2 (4) of the Sydney Development Control Plan 2012.

#### **(12) CONTROL OF LIGHT INTO THE ENVIRONMENT**

- (a) Lighting installed in the open and/or public spaces must comply with AS1158 series-lighting for roads and public spaces. The design and placement must be so that lighting does not create a nuisance or negatively affect the amenity of the surrounding neighbourhood, for that purpose lighting must comply with AS4282-1997 Control of Obtrusive Effects of Outdoor Lighting.
- (b) Before it is put on display on the approved sign, each image must be certified at no cost to Council by a Chartered Professional Engineer with expertise in lighting that the image, when displayed on the approved sign will comply with AS4282-1997 and Condition 11 of this consent. Every such certificate must be kept in a register for 12 months and be produced for Council's inspection on request.

#### **(13) ILLUMINATED BILLBOARD SIGNS**

- (a) The proposed illuminated billboard sign must be powered by a renewable energy source, either through:
  - (i) The provision of infrastructure to generate renewable energy (subject to development consent); or
  - (ii) The purchase of a renewable energy product offered by an electricity supplier equivalent to the estimated amount of electricity used for the period of consent of ten years.

- (b) Prior to a Construction Certificate being issued, proof of the purchase of a renewable energy production the form of a contract or payment receipt is to be supplied to the Certifying Authority and included in the Construction Certificate documentation referred to Council. The applicant is to retain proof of the continuation of the renewable energy contract for the duration of the period during which the sign is in place.

**(14) SAFETY AUDIT AND RISK ANALYSIS ON THE FIRST ANNIVERSARY**

- (a) The applicant shall have a Safety Audit and Risk Analysis undertaken by an independent RMS accredited road safety auditor and professional lighting engineer within 12 months of operation and submitted to the consent authority to confirm the operational effect, with recommendations for necessary action to be taken where unacceptable glare, negative safety outcomes for road users or loss of amenity for accommodation land uses are identified.

## **SCHEDULE 1B**

### **PRIOR TO CONSTRUCTION CERTIFICATE/COMMENCEMENT OF WORK/HEALTH AND BUILDING**

#### **(15) WASTE AND RECYCLING MANAGEMENT - MINOR**

The proposal must comply with the relevant provisions of Council's *Policy for Waste Minimisation in New Developments 2005* which requires facilities to minimise and manage waste and recycling generated by the proposal.

#### **(16) STRUCTURAL CERTIFICATION FOR DESIGN – BCA (ALL BUILDING CLASSES)**

Prior to the issue of a Construction Certificate, structural details and a Structural Certificate for Design by a qualified practising structural engineer and in accordance with Clause A2.2(a)(iii) of the Building Code of Australia (applicable to Class 2-9 buildings) and Clause 1.2.2(iii) of Volume 2 of the BCA (applicable to Class 1 and 10 buildings) must be submitted to the satisfaction of Council (where Council is the Principal Certifier).

#### **(17) STRUCTURAL CERTIFICATION FOR EXISTING BUILDING – ALTERATIONS AND ADDITIONS**

A qualified practising certified structural engineer must provide structural certification to Council (where Council is the Principal Certifier) verifying that the existing structure can adequately support the proposed new loads and the structural design complies with the Structural Provisions of Part B1 (Vol 1) and Part 2.1 (Vol 2) of the *Building Code of Australia* prior to a Construction Certificate being issued. The proposed additional loads and/or alterations must not cause a decrease in the existing structural performance of the building including its performance under earthquake actions (AS1170.4).

#### **(18) WORKS REQUIRING USE OF A PUBLIC PLACE**

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* is to be obtained from Council prior to the commencement of work. Details of any barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.

#### **(19) PHOTOGRAPHIC RECORD / DILAPIDATION REPORT - PUBLIC DOMAIN**

Prior to an approval for demolition being granted or a Construction Certificate being issued, whichever is earlier, a photographic recording of the public domain site frontages is to be prepared and submitted to Council's satisfaction.

The recording must include clear images of the building facade adjoining the footpath, 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;
- (e) Include written confirmation, issued with the authority of both the applicant and the photographer that the City of Sydney is granted a perpetual non-exclusive license to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of both the applicant and the photographer must be included.

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. Damage must be fully rectified by the applicant in accordance with the City's standards prior to a Certificate of Completion being issued for Public Domain Works or before an Occupation Certificate is issued for the development, whichever is earlier.

**SCHEDULE 1C  
DURING CONSTRUCTION/PRIOR TO OCCUPATION/COMPLETION**

**(20) HOURS OF WORK AND NOISE – OUTSIDE CBD**

The hours of construction and work on the development must be as follows:

- (a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg. loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.30am and 5.30pm on Mondays to Fridays, inclusive, and 7.30am and 3.30pm on Saturdays, with safety inspections being permitted at 7.00am on work days, and no work must be carried out on Sundays or public holidays.
- (b) 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 - 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites.
- (c) Notwithstanding the above, the use of a crane 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 outside of above hours can occur, subject to a permit being issued by Council under Section 68 of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993.

Note: Works may be undertaken outside of hours, where it is required to avoid the loss of life, damage to property, to prevent environmental harm and/or to avoid structural damage to the building. Written approval must be given by the Construction Regulation Unit, prior to works proceeding

The *City of Sydney Code of Practice for Construction Hours/Noise 1992* allows extended working hours subject to the approval of an application in accordance with the Code and under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

**(21) SITE NOTICE OF PROJECTS DETAILS AND APPROVALS**

A site notice is to be prominently displayed at the boundary to each frontage of the site for the purposes of informing the public of appropriate project details and relevant approvals. The notice(s) is to satisfy all of 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 construction period;
- (c) A copy of the first page of the development approval, building approval (including any modifications to those approvals) and any civic works approvals is to be posted alongside the notice in weatherproof casing;

- (d) The approved hours of work, the Principal Certifier including contact address and certification details, the name of the site manager, the responsible managing company, its address and 24 hour contact phone number for any enquiries, including construction/noise complaint, and the estimated date of completion of the project are to be displayed on the site notice;
- (e) The notice(s) is to be mounted at eye level on the perimeter hoardings and is also to state that unauthorised entry to the site is not permitted.
- (f) All notices and signs must be displayed in locations as specified in the City's Guidelines for Hoardings and Scaffolding.

**(22) ENCROACHMENTS – NEIGHBOURING PROPERTIES**

No portion of the proposed structure shall encroach onto the adjoining properties.

**(23) ENCROACHMENTS – PUBLIC WAY**

No portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach upon Council's footpath area.

**(24) OCCUPATION CERTIFICATE TO BE SUBMITTED**

An Occupation Certificate must be obtained from the Principal Certifier and a copy submitted to Council prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.

**(25) NO OBSTRUCTION OF PUBLIC WAY**

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by Council to stop all work on site.

**(26) USE OF MOBILE CRANES**

The following requirements apply:

- (a) Mobile cranes operating from the road must not be used as a method of demolishing or constructing a building.
- (b) 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 for the use of a mobile crane. The permits must be obtained 48 hours beforehand for partial road closures which, in the opinion of Council will create minimal traffic disruptions and 4 weeks beforehand in the case of full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.

- (c) The use of a crane 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 outside of approved hours of construction can occur, subject to a permit being issued by Council under Section 68 of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993.

**(27) SURVEY CERTIFICATE AT COMPLETION**

A Survey Certificate prepared by a Registered Surveyor must be submitted at the completion of the building work certifying the location of the building in relation to the boundaries of the allotment.

**(28) LOADING AND UNLOADING DURING CONSTRUCTION**

The following requirements apply:

- (a) All loading and unloading associated with construction activity must be accommodated on site, where possible.
- (b) If, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.
- (c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval 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 approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.
- (d) Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate approval under Section 68 of the Local Government Act 1993 must be obtained.

## SCHEDULE 2

### PRESCRIBED CONDITIONS

**The prescribed conditions in accordance with Division 8A of the *Environmental Planning and Assessment Regulation 2000* apply:**

Clause 98 Compliance with *Building Code of Australia* and insurance requirements under the *Home Building Act 1989*

Clause 98A Erection of signs

Clause 98B Notification of *Home Building Act 1989* requirements

Clause 98C Conditions relating to entertainment venues

Clause 98D Conditions relating to maximum capacity signage

Clause 98E Conditions relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 8A of the *Environmental Planning and Assessment Regulation 2000*. This can be accessed at: <http://www.legislation.nsw.gov.au>