

Attachment B

**Amended Recommended Conditions of
Consent**

CONDITIONS OF CONSENT

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 a Construction Certificate and some are to be satisfied prior to issue of Occupation Certificate, where indicated.

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2019/60 dated 25 January 2019 and the following drawings prepared by GrayPuksand:

Drawing Number	Drawing Name	Date
DA01	Site Location	26 April 2019
DA02	Site Plan	26 April 2019
DA20	Proposed Plan – Ground	26 April 2019
DA21	Proposed Plan – Basement 1	26 April 2019
DA22	Proposed Plan – Basement 2	26 April 2019
DA30	Podium Roof Plan	26 April 2019
DA40	Elevations	26 April 2019
DA41	Elevations	26 April 2019
DA42	Elevations	26 April 2019
DA50	Sections	26 April 2019
DA51	Sections	26 April 2019
DA60	Materials and Finishes	26 April 2019
DA90	Planter Box Details	26 April 2019
DA91	Planter Box Details	26 April 2019

Drawing Number	Drawing Name	Date
DA100	Planter Box Lighting	26 April 2019
SMILWMIS003	Living Wall Module (Prepared by SMI National)	7 December 2017

and as amended by the conditions of this consent.

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

(2) SECTION 61 CONTRIBUTIONS PAYABLE - REGISTERED QUANTITY SURVEYOR'S DETAILED COST REPORT - SUBMITTED AND VERIFIED PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

A cash contribution comprising 1% of the total cost of the development is payable to the City of Sydney pursuant to section 61 of the *City of Sydney Act 1988* and the *Central Sydney Development Contributions Plan 2013* in accordance with the following:

- (a) Prior to a Construction Certificate being issued, evidence must be provided of Council's written verification of the amount of the contribution as required in (b) below, and then that the levy has been paid to the Council in accordance with this condition. Payment may be by EFTPOS (debit card only), CASH or a BANK CHEQUE made payable to the City of Sydney. Direct debit, personal or company cheques will not be accepted.
- (b) The contribution must not be paid to the City of Sydney until it is accompanied by separate written verification by the City of Sydney of the specific amount payable. In order to obtain such verification, the "City of Sydney Registered Quantity Surveyor's Detailed Cost Report" indicating the itemised cost of the development must be completed and submitted to Council by the Principal Certifier, together with copies of the plans the subject of the application for the Construction Certificate. A copy of the required format for the "City of Sydney Registered Quantity Surveyor's Detailed Cost Report" may be obtained from the City of Sydney One Stop Shop, any of the Neighbourhood Service Centres and the City of Sydney's website (www.cityofsydney.nsw.gov.au).
- (c) The Council will consider the documentation submitted under subclause (b) and determine the cost of the proposed development having regard to the information submitted and to such other matters as it considers appropriate and will notify the Principal Certifier accordingly.

- (d) The items to be included in the calculation of the cost of development are demolition works, site remediation including decontamination, excavation and site preparation, construction costs, fit out, professional fees as part of the design (including design competitions) documentation and implementation process, fixed building machinery, equipment and appliances, kitchens and bar areas, car parking, air conditioning plant and equipment, services (fire, mechanical ventilation, electrical, hydraulic), ceilings, fire protection devices, installation of services (power, water, sewer, telephone), lifts and other essential machinery, floor coverings, *Building Code of Australia* compliance works, replacement of existing materials, fixtures and fittings, construction related insurance, assessment and construction related fees, charges and GST and any other matter not expressly excluded in (e) below. Any item for which an exemption has been granted is still to be included in the total cost of development, together with an itemised value to enable the City to calculate the value of the exemption.
- (e) The items to be excluded in the calculation of the cost of development are the cost of land, marketing expenses (excluding display suites etc), finance and interest, building insurance after practical completion, drapery, commercial stock inventory, loose furniture, loose equipment, loose electrical appliances, minor maintenance of existing retained fixtures (patching, repainting) and stamp duty.

Please contact Council's Planning Administration staff at Planningsystemsadmin@cityofsydney.nsw.gov.au to confirm the amount payable, prior to payment.

(3) USE - SEPARATE DA REQUIRED

No consent is granted or implied for the fitout or use of the café or the restaurant/bar on the ground floor.

A development consent or Complying Development Certificate (as appropriate) is required to be obtained for the fitout or use of the café or the restaurant/bar on the ground floor.

(4) MATERIALS AND SAMPLES SCHEDULE – MINOR DEVELOPMENT

A detailed materials, colours and finishes schedule (including visible rainwater goods and services) keyed to each building elevation must be submitted to and approved by Council's Area Planning Manager prior to a Construction Certificate being issued. The materials and samples schedule/board must not include generic material or colour descriptions, or use terminology such as 'or similar'.

(5) SIGNS/GOODS IN THE PUBLIC WAY

No signs or goods are to be placed on the footway or roadway adjacent to the property.

(6) SIGNS - SEPARATE DA REQUIRED

A separate development application for any proposed signs additional to those approved as part of this consent (other than exempt or complying signs must be submitted to and approved by Council prior to the erection or display of any such signs.

(7) LANDSCAPING OF THE SITE

- (a) A detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate for above ground building works. The plan must include:
 - (i) Location of existing and proposed structures on the site including, but not limited to, existing and proposed trees, paved areas, planted areas on slab, planted areas in natural ground, lighting and other features;
 - (ii) Details of earthworks and soil depths including mounding and retaining walls and planter boxes (if applicable). The minimum soil depths for planting on slab must be 1000mm for trees, 450mm for shrubs and 200mm for groundcovers and excludes drainage and mulch layers;
 - (iii) Details of all planter module types and the planter system, including how the planters will fixing to existing structures and ground;
 - (iv) Location, numbers, type and supply of plant species, with reference to Australian Standards (if applicable);
 - (v) Details of planting procedure and maintenance, including a landscape specification;
 - (vi) Demonstrate feature lighting to planters will mitigate glare issues in the public domain;
 - (vii) Details of drainage, waterproofing and watering systems, including hydraulic details.
- (b) Prior to the issue of a Construction Certificate, a maintenance plan is to be submitted to and approved by the Principal Certifier. The maintenance plan is to be complied with during occupation of the property.
- (c) All landscaping in the approved plan is to be completed prior to an Occupation Certificate being issued.

(8) LANDSCAPED (GREEN) WALLS

The design of the green wall must demonstrate the response to site conditions, including in particular light availability, sun and wind impacts.

- (a) Prior to the issue of a Construction Certificate, the following design details of the proposed green wall must be submitted to, and approved by Council's Area Planning Manager:
 - (i) Detailed drawings demonstrating how the green wall is constructed, including proposed materials, planter dimensions, and integration into the wall structure;

- (ii) Details of drainage proposed to the base of existing walls adjacent to footway, including connection to existing stormwater system and anti-slip grate. Demonstrate design compliance with AS1428, AS3996 and AS4586.
 - (iii) Details of the green wall at the fire exit door and evidence the design meets relevant safety regulations;
 - (iv) Details of the proposed growing medium, including soil depth and type;
 - (v) Location, numbers, type and size of plant species selected (with plants being selected on the basis of the site conditions);
 - (vi) Drainage, irrigation and waterproofing details; and
 - (vii) Details of any additional lighting (where applicable) for green walls under awnings.
- (b) Prior to the issuing of a Construction Certificate a maintenance plan is to be submitted to, and approved by Council. The maintenance plan is to include information on:
- (i) How access will be provided to the plants, soil and structural elements for installation and maintenance; and
 - (ii) Details outlining the intended strategy for decommissioning the planting works should plants fail. This strategy is to ensure that the finish to the wall is well maintained throughout its life.

(9) STREET TREE PRUNING

- (a) In the event that branches greater than 40mm diameter / greater than 5% canopy are required for pruning to facilitate the proposed awning at the front 55-67 Clarence Street, Sydney. The following information will be required:
- (b) A 'Pruning Specification Report' prepared by a qualified Consulting Arborist (minimum AQF Level 5) must be submitted to and approved by Council's Tree Management Team.
- (c) The report must:
 - (i) Include the number of branches, and the percentage of canopy to be pruned/removed.
 - (ii) Include the diameters and orientation of all branches to be pruned/removed.
 - (iii) Include photos with individual branches which are recommended for pruning/removal to be clearly marked. (Please note reports which include photos with a single vertical line as the area recommended for pruning will not be accepted).
- (d) Specify pruning work in accordance with the Australian Standard 'AS4373:2007 Pruning of Amenity Trees'.

- (e) The report must not:
 - (i) Specify the removal of >5% of the canopy.
 - (ii) Specify the removal of any branches >100mm in diameter.
 - (iii) Recommend tree removal.

(10) PLAN OF CONSOLIDATION

Prior to the issue of any Occupation Certificate, as defined at the end of this condition, a plan of consolidation shall be prepared by a registered surveyor, consolidating Lot 46 in DP 802895 and Lot 1 in DP 872377, and lodged with the office of NSW Land Registry Services. Proof of lodgement must be provided to the Principal Certifier prior to the issue of any Occupation Certificate. For the purposes of this development consent, Occupation Certificate has the same meaning as in the Act and includes an interim occupation certificate and any future form of occupation certificate that is not final.

(11) EASEMENT FOR PUBLIC ACCESS

An easement for public access in stratum shall be included in the above plan of consolidation, created under Section 88B of the Conveyancing Act, burdening the site of the existing right of footway created by DP 872377, and appurtenant to Council. The easement for public access shall be created in the following terms:

TERMS OF EASEMENT FOR PUBLIC ACCESS

- 1.1 Subject to clause 1.3, the authority benefited and any person authorised by the authority benefited and members of the public (“Authorised Users”) have full and free right to:
 - (a) go, pass and repass over the Easement for Public Access area:
 - (i) on foot; and/or
 - (ii) with wheelchairs or other disabled access aids; and/ and or
 - (iii) with or without animals; and/or
 - (iv) with bicycles, tricycles or other similar non-motorised machine other than motorised scooters or similar for mobility (being walked or ridden); and/or
 - (v) without vehicles, skateboards, rollerblades or the like.
- 1.2 The Easement for Public Access must be open for use by the authority benefited and any Authorised User at least between the hours of 7.00am and 7.00pm, 7 days a week.
- 1.3 In exercising the rights granted by this easement, the authority benefited and any Authorised User must:

- (a) cause as little inconvenience as is practicable to the owner of the lot burdened and any occupier of the lot burdened; and
- (b) cause no damage to the lot burdened and any improvements on it;
- (c) make good any collateral damage caused by the authority benefited and any Authorised User;
- (d) obey any reasonable requirements and directions of the owner of the lot burdened whilst in the Easement for Public Access area.

1.4 The owners and any future owners of the lot(s) burdened will be responsible for the maintenance, cleaning and upkeep of the Easement site.

(12) POSITIVE COVENANT

A positive covenant shall be created with the above plan of consolidation, created under Section 88B of the *Conveyancing Act*, and appurtenant to Council. The positive covenant shall be created in the following terms:

TERMS OF POSITIVE COVENANT

- 1.1 The owner(s) of the lot burdened must keep and maintain the Easement for Public Access in good repair and safe condition and adequately lit to the reasonable satisfaction of the authority benefited.
- 1.2 Without derogating from the obligations set out in clause 1.1, the authority benefited may at reasonable times and upon reasonable written notice to the owner of the lot burdened enter upon the lot burdened for the purposes of inspecting the condition and repair to the lot burdened.
- 1.3 The owner of the lot burdened releases and indemnifies and keeps indemnified the authority benefited against all damage, expense, loss or liability of any nature suffered or incurred by the authority benefited that is caused by or arises out of the use of the Easement for Public Access, including:
 - (i) loss or damage to the property of the authority benefited;
 - (ii) damage, expense, loss or liability in respect of loss or damage to any other property; and
 - (iii) damage, expense, loss or liability in respect of personal injury, disease, illness or death,
 - (iv) Except to the extent the loss, damage, expense or liability is caused or contributed to by the authority benefited or any Authorised User.

- 1.4 The owner of lot burdened must effect and maintain public liability insurance in respect of third party personal injury or damage to third party property in or about the Easement for Public Access where the injury arises out or is caused by the use of the Easement for Public Access. The policy must be in the amount of \$20,000,000 for any one occurrence, with an insurer acceptable to the authority benefited, such acceptance not to be unreasonably withheld. The authority benefited may request a copy of the policy at any time with reasonable notice.
- 1.5 Authority exclusively empowered to release, vary or modify the easement and covenant herein:

The Council of the City of Sydney

(13) FUTURE FOOD USE - MECHANICAL VENTILATION PROVISION

Prior to the issue of a Construction Certificate, the mechanical exhaust systems and/or shafts must be designed to allow for the discharge of effluent air above street height front on Kent Street utilising AOM's Electro Static Precipitators, ozone injections and activated carbon filters to accommodate the future food premises. Systems must be designed in accordance with *AS1668.2 – The Use of Ventilation and Air-conditioning in Buildings – Mechanical Ventilation in Buildings*, and *AS1668.1 – The Use of Mechanical Ventilation and Air-Conditioning in Buildings – Fire and Smoke Control in Multi-compartment Buildings*.

SCHEDULE 1B

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

(14) ACCESS AND FACILITIES FOR PERSONS WITH DISABILITIES

The building must be designed and constructed to provide access and facilities for people with a disability in accordance with the *Building Code of Australia*.

If, in complying with this condition, amendments to the development are required, the design changes must be submitted to and approved by Council prior to a Construction Certificate being issued.

(15) ASBESTOS REMOVAL WORKS

- (a) All works removing asbestos containing materials must be carried out by a suitably licensed asbestos removalist duly licensed with Safework NSW, holding either a Friable (Class A) or a Non- Friable (Class B) Asbestos Removal Licence which ever applies.

A copy of the relevant licence shall be made available to any authorised Council officer on request within 24 hours.

- (b) Five days prior to the commencement of licensed asbestos removal, Safework NSW must be formally notified of the works. All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification must identify the licensed asbestos removal contractor and include a contact person for the site together with telephone number and email address.
- (c) All work must be carried out in accordance with the *Work Health and Safety Regulation 2011* and the NSW Government and Work Cover document entitled *How to manage and control asbestos in the work place: Code of Practice (Safework NSW) December 2011* and the *City of Sydney Managing Asbestos Policy dated 21 October 2013 and associated guidelines*.
- (d) The asbestos removalist must use signs and barricades to clearly indicate the area where the asbestos removal work is being performed. Signs must be placed in positions so that people are aware of where the asbestos removal work area is and should remain in place until removal is completed and clearance to reoccupy has been granted. Responsibilities for the security and safety of the asbestos removal site and removal must be specified in the asbestos removal control plan (where required). This includes inaccessible areas that are likely to contain asbestos.

- (e) Warning signs must be placed so they inform all people nearby that asbestos removal work is taking place in the area. Signs must be placed at all of the main entry points to the asbestos removal work area where asbestos is present. These signs must be weatherproof, constructed of light-weight material and adequately secured so they remain in prominent locations. The signs must be in accordance with AS 1319 -1994 *Safety Signs for the Occupational Environment* for size, illumination, location and maintenance.
- (f) Asbestos waste must only be transported and disposed of at an EPA licensed waste facility.
- (g) No asbestos products are to be reused on the site (i.e. packing pieces, spacers, formwork or fill etc).
- (h) No asbestos laden skips or bins are to be left in any public place without the written approval of Council.
- (i) A site notice board must be located at the main entrance to the site in a prominent position and must have minimum dimensions of 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size.

The site notice board must include the following:

- (i) contact person for the site;
- (ii) telephone and facsimile numbers and email address; and
- (iii) site activities and time frames.

(16) ANNUAL FIRE SAFETY STATEMENT FORM

An annual Fire Safety Statement must be given to Council and the NSW Fire Brigade commencing within 12 months after the date on which the initial Interim/Final Fire Safety Certificate is issued or the use commencing, whichever is earlier.

(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) MECHANICAL VENTILATION

- (a) The premises must be ventilated in accordance with the *Building Code of Australia* and *AS1668.1 and 2 - 2012. The Use of Ventilation and Air-Conditioning in Buildings - Mechanical Ventilation in Buildings*.

- (b) Details of any mechanical ventilation and/or air conditioning system complying with *AS1668.1 and 2 – 2012 The Use of Ventilation and Air-Conditioning in Buildings - Mechanical Ventilation in Buildings*, the *Building Code of Australia* and relevant Australian Standards must be prepared by a suitably qualified person and certified in accordance with Clause A2.2(a)(iii) of the *Building Code of Australia*, to the satisfaction of the Principal Certifier prior to the issue of a Construction Certificate.
- (c) Prior to issue of an Occupation Certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A2.2(a)(iii) of the *Building Code of Australia*, must be submitted to the Principal Certifier.

(19) WASTE STORAGE AREA

- (a) To ensure the adequate storage and collection of waste from the food premises, all garbage and recyclable materials emanating from the premises must be stored in a designated waste storage area. The waste storage area must be designed and constructed in accordance with *AS 4674 – Design, Construction and Fit-out of Food Premises, Australia New Zealand Food Standards Code 3.2.3 – Food Premises and Equipment* and comply with the *Council Policy for Waste Minimisation in New Developments*, and must be:
 - (i) Provided with a hose tap connected to the water supply.
 - (ii) Paved with impervious floor materials.
 - (iii) Coved at the intersection of the floor and walls.
 - (iv) Graded and drained to a waste disposal system in accordance with the requirements of the relevant regulatory authority (SydneyWater).
 - (v) Adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour or air pollution as defined by the *Protection of the Environment Operations Act 1997* or a nuisance.
 - (vi) Fitted with appropriate interventions to meet fire safety standards in accordance with the *Building Code of Australia*.
 - (vii) Provided with the appropriate number and size of bins adequate for the storage of waste generated by the business, including recycling.
 - (viii) Appropriately managed so that it does not attract pests or create litter.
- (b) Detailed plans and specifications for the construction of the waste storage area must be submitted to and approved by the Principal Certifier prior to the issue of the Construction Certificate and must be constructed in accordance with such plans and specifications prior to the issuance of an Occupation Certificate.

(20) WASTE AND RECYCLING MANAGEMENT - MINOR

The proposal must comply with the relevant provisions of Council's *Guidelines for Waste Management in New Developments 2018* which requires facilities to minimise and manage waste and recycling generated by the proposal.

(21) SANITARY FACILITIES

Sanitary facilities must be adequate for the proposed use and be in accordance with Part F2 of the Building code of Australia.

(22) ALIGNMENT LEVELS – MINOR DEVELOPMENT

- (a) Where ground floor levels of existing buildings are being retained, alignment levels for the buildings and site frontages of those buildings must be submitted to and approved by Council prior to a Construction Certificate being issued for public domain works or above ground building works, whichever is earlier. The submission must be prepared by a Registered Surveyor or suitably qualified engineer and must be submitted with a completed Footpath Levels and Gradients Approval Application form (available on the City's website).
- (b) If a *Public Domain Plan* condition applies to the development consent the *Public Domain Plan* submission must incorporate the approved Alignment Levels. If the proposed detailed design of the public domain requires changes to any previously approved Alignment Levels, then an amended Alignment Levels submission must be submitted to and approved by Council to reflect these changes prior to a Construction Certificate being issued for public domain work.

(23) PAVING MATERIALS

The surface of any material used or proposed to be used for the paving of colonnades, thoroughfares, plazas, arcades and the like which are used by the public must comply with AS/NZS 4586:2004 (including amendments) "Slip resistance classification of new pedestrian surface materials".

(24) 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.

(25) PUBLIC DOMAIN PLAN

- (a) A detailed Public Domain Plan must be prepared by a suitably qualified architect, urban designer, landscape architect or engineer and must be lodged with Council's Public Domain Section and be approved by Council prior to a Construction Certificate being issued for public domain work or above ground building work, whichever is later.
- (b) ***The Public Domain Plan is to include the following works:***
 - (i) ***Removal of existing asphalt and clay paving and construction of granite paving to City of Sydney's technical specifications from back of kerb to the property boundary along Clarence Street, in line with the northern boundary of the site to the kerb on Margaret Street.***
 - (ii) ***Resurfacing the tree surrounds as per the City's Street Tree Masterplan Part D Technical Guidelines with porous paving along the Clarence Street frontage of the site.***
 - (iii) ***Removal of existing bin along the Clarence Street frontage of the site and replacement with new City of Sydney bin.***
- (c) The Public Domain Plan must document all works required to ensure that the public domain complies with the City of Sydney's *Public Domain Manual*, *Sydney Streets Code* and *Sydney Streets Technical Specification*, including requirements for road pavement, traffic measures, footway pavement, kerb and gutter, drainage, vehicle crossovers, pedestrian ramps, lighting, street trees and landscaping, signage and other public domain elements. If an Alignment Levels condition applies to the development, the Public Domain Plan submission must incorporate the approved Alignment Levels. If the proposed detailed design of the public domain requires changes to any previously approved Alignment Levels, then an amended Alignment Levels submission must be submitted to and approved by

Council to reflect these changes prior to a Construction Certificate being issued for public domain work.

- (d) The works to the public domain are to be completed in accordance with the approved Public Domain Plan and Alignment Levels plans and the *Public Domain Manual* before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.
- (e) A Public Domain Works Deposit will be required for the public domain works, in accordance with the City of Sydney'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.
- (f) Council's Public Domain section must be contacted to determine the guarantee amount prior to lodgement of the guarantee. The guarantee must be lodged with Council prior to a Construction Certificate being issued.
- (g) 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.

(26) PUBLIC DOMAIN WORKS - HOLD POINTS AND HANDOVER

- (a) Prior to a Construction 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 to be determined with and approved by the City's Public Domain section in accordance with the City of Sydney's *Public Domain Manual* and *Sydney Streets Technical Specification*.
- (b) Prior to a Certificate of Completion being issued for public domain works and before the issue of any Occupation Certificate for the development or before the use commences, whichever is earlier, electronic works-as-executed (as-built) plans and documentation, certified by a suitably qualified, independent professional must be 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 City of Sydney's *Public Domain Manual* and *Sydney Streets Technical Specification*, including requirements for as-built documentation, certification, warranties and the defects liability period.

(27) DEFECTS LIABILITY PERIOD – PUBLIC DOMAIN WORKS

All works to the City'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.

(28) DRAINAGE AND SERVICE PIT LIDS

Drainage and service pit lids throughout the public domain shall be heelguard and bicycle safe, finish flush with the adjacent pavement to avoid trip hazards and be clear of obstructions for easy opening and cleaning. Pit lids shall be in accordance with the *City of Sydney's Sydney Streets Design Code* and *Sydney Streets Technical Specification*. Details of drainage and service pit lids shall be submitted and approved by Council prior to a Construction Certificate being issued for the relevant stage of work.

(29) PROTECTION OF STONE KERBS

- (a) The existing stone kerbs on Clarence Street, Margaret Street and Kent Street frontages of the site are to be retained and properly protected during excavation and construction works.
- (b) To avoid damage to stone kerbs during excavation and construction works for the development, temporary removal and storage of the stone kerbs may be approved by Council. Removed, serviceable stone kerbs (i.e. those that are in good condition as agreed by Council officers) must be re-installed in accordance with the City of Sydney's standard details and specifications after the construction works have been completed. Note: A temporary concrete kerb will need to be constructed to retain the footpath until the stone kerbs can be reinstalled. The removed stone kerbs are to be reinstalled prior to the issue of an Occupation Certificate. Note: all costs associated with the works are to be at no cost to the Council.
- (c) Damaged kerbs are to be replaced to match existing to Council's satisfaction or as otherwise advised by Council officers.
- (d) Where new crossings or temporary crossings are to be constructed to access the property, the affected kerb stones should be salvaged and reused wherever possible.
- (e) All new driveway laybacks and kerbs are to be constructed with stone kerbs to match existing stones or as specified by City officers. All unused stone kerbs are to be salvaged and returned to the City's store.
- (f) Council approval is required before kerbs are removed.
- (g) Council approval is required prior to the cutting of existing stone kerbs for stormwater kerb outlets.

(30) PUBLIC DOMAIN DAMAGE DEPOSIT

A Public Domain Damage Deposit calculated on the basis of 2 lineal metres of clay paver site frontage in Clarence Street, 44 lineal metres of asphalt site frontage in Margaret Street and 28 lineal metres of asphalt site frontage in Kent Street must be lodged with Council in accordance with the City 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 an approval for demolition being granted or a Construction Certificate being issued, whichever is earlier.

The Bank Guarantee will be retained in full until the final Occupation Certificate has been issued 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.

~~(31) PUBLIC DOMAIN LIGHTING~~

- ~~(a) Prior to a Construction Certificate for public domain works or above ground building works being issued, whichever is later, a detailed Public Domain Lighting Plan for pedestrian and street lighting in the public domain must be prepared by a suitably qualified, practicing lighting engineer or lighting designer and must be submitted to and approved by Council. The Lighting Plan must be prepared in accordance with the City of Sydney's Sydney Lights Design Code, Sydney Streets Code, Sydney Streets Technical Specification and Public Domain Manual and must include the following:
 - ~~(i) Vertical and horizontal illuminance plots for the public domain lighting design to demonstrate compliance with all relevant Australian Standards and to meet the lighting categories and requirements specified by the City;~~
 - ~~(ii) The location, type and category of existing and proposed lights, including details of luminaire specifications, required to ensure compliance with City policies and Australian Standards;~~
 - ~~(iii) Footing locations and structural details;~~
 - ~~(iv) Location and details of underground electrical reticulation, connections and conduits;~~
 - ~~(v) Certification by a suitably qualified, practicing lighting engineer or lighting designer to certify that the design complies with City policies and all relevant Australian Standards including AS 1158, AS 3000 and AS4282;~~
 - ~~(vi) Structural certification for footing designs by a suitably qualified, practicing engineer to certify that the design complies with City of Sydney policies and Australian Standards.~~~~
- ~~(b) The public domain lighting works are to be completed in accordance with the approved plans and the City of Sydney's Public Domain Manual before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.~~

~~(32) CLARENCE STREET LIGHTING SPECIFICATIONS~~

- ~~(a) Lighting compliance of AS1158.1.1 Category V1 on the roadway and AS1158.3.1 Category P1 + 4lux min vertical illuminance on the footpaths (both sides) must be achieved.~~
- ~~(b) Provide Smartpoles Type S1B 9.6m complete with GE R250 Eco 200w LED luminaires off 3.0 light outreach arms and standard banner arm.~~
- ~~(c) Relocate existing traffic signals onto Smartpoles at NW Cnr of Margaret / Clarence St intersection. RMS approval must be obtained by submission of a TCS plan prepared by a traffic engineering consultant.~~
- ~~(d) Remove existing Ausgrid poles via ASP3 design approval process.~~

~~(33) LIGHTING DESIGN SUBMISSION~~

~~(a) Lighting designs certified by a suitably qualified practicing lighting engineer must be submitted for council review and approval must be obtained prior to a Construction Certificate being issued for public domain works.~~

~~(b) The following COS specifications are for reference by lighting designers:~~

~~(i) Sydney Streets Technical Specifications Part A5: Street Lighting Design~~

~~(ii) Smartpoles Civil Works.~~

(34) TACTILE GROUND SURFACE INDICATORS AND HANDRAILS

All tactile ground surface indicators, handrails and other elements required to provide access into the building / property must be located entirely within the private property boundary.

(35) STREET TREE PROTECTION

Street trees must be protected in accordance with the Australian Standard 4970 Protection of Trees on Development Sites. All street trees must be protected during the construction works as follows:

(a) Tree trunk and major limb protection must be undertaken prior to or during the installation of any hoarding or scaffoldings. The protection must be installed by a qualified Arborist (AFQ 2 or 3) and must include:

(i) An adequate clearance, minimum 250mm, must be provided between the structure and tree branches, limbs and trunk at all times;

(ii) Tree trunk/s and/or major branches, located within 500mm of any hoarding or scaffolding structure, must be protected by wrapped hessian or similar material to limit damage, and

(iii) Timber planks (50mm x 100mm or similar) must be placed around tree trunk/s. The timber planks must be spaced at 100mm intervals, and must be fixed against the trunk with tie wire, or strapping. The hessian and timber planks must not be fixed to the tree in any instance, or in any fashion,

(iv) Tree trunk and major branch protection is to remain in place for the duration of construction and development works, and must be removed at the completion of the project.

(b) All hoarding support columns are to be placed a minimum of 300mm from the edge of the existing tree pits/setts, so that no sinking or damage occurs to the existing tree setts. Supporting columns must not be placed on any tree roots that are exposed.

(c) Materials or goods, including site sheds, must not be stored or placed:

(i) around or under the tree canopy; or

(ii) within two (2) metres of tree trunks or branches of any street trees.

- (d) Protective fencing (1.8 metre chain wire mesh fencing) must be erected on top of the hoarding [Tree Management Team to insert location of hoarding and affected trees] to protect branches during the construction works.
- (e) Any damage sustained to street tree/s as a result of the erection of hoardings, scaffolding, or due to the loading/unloading of vehicles adjacent the site, must be immediately reported to the Council's Street Tree Contract Coordinator on 9265 9333, in order to determine the appropriate action for maintaining the health and structural integrity of any damaged street tree.

(36) TREES THAT MUST BE RETAINED

- (a) The existing trees detailed in Table 1 below must be retained and protected in accordance with the conditions of consent throughout the construction and development.

Table 1 – Tree Retention:

Tree No.	Botanical/Common Name	Tree Location
1	<i>Platanus x hybrida</i> (Plane Tree)	Clarence Street Tree
2	<i>Platanus x hybrida</i> (Plane Tree)	Clarence Street Tree
3	<i>Platanus x hybrida</i> (Plane Tree)	Clarence Street Tree
4	<i>Ficus microcarpa var. hillii</i> (Hills Fig)	Margaret Street Tree
5	<i>Ficus microcarpa var. hillii</i> (Hills Fig)	Margaret Street Tree
6	<i>Ficus microcarpa var. hillii</i> (Hills Fig)	Margaret Street Tree
7	<i>Ficus microcarpa var. hillii</i> (Hills Fig)	Margaret Street Tree
8	<i>Platanus x hybrida</i> (Plane Tree)	Kent Street Tree
9	<i>Platanus x hybrida</i> (Plane Tree)	Kent Street Tree
10	<i>Platanus x hybrida</i> (Plane Tree)	Kent Street Tree
11	<i>Platanus x hybrida</i> (Plane Tree)	Kent Street Tree

NOTE: Reference should be made to the *Arboricultural Impact Assessment Report* prepared by Naturally Trees dated 20 March 2019 for tree numbering and locations. Addition of trees 8-11 *Platanus x hybrida* (Plane Tree).

(37) TREE ROOT PROTECTION

(a) Structural Root Zone (SRZ) Schedule;

Tree No.	Botanic / Common Name	Tree Location	SRZ (m) from Trunk
1	<i>Platanus x hybrida</i> (Plane Tree)	Clarence Street Tree	3
2	<i>Platanus x hybrida</i> (Plane Tree)	Clarence Street Tree	2.5
3	<i>Platanus x hybrida</i> (Plane Tree)	Clarence Street Tree	3
4	<i>Ficus microcarpa</i> var. <i>hillii</i> (Hills Fig)	Margaret Street Tree	2.5
5	<i>Ficus microcarpa</i> var. <i>hillii</i> (Hills Fig)	Margaret Street Tree	2.5
6	<i>Ficus microcarpa</i> var. <i>hillii</i> (Hills Fig)	Margaret Street Tree	2.5
7	<i>Ficus microcarpa</i> var. <i>hillii</i> (Hills Fig)	Margaret Street Tree	2.5

- (b) Any excavations within the SRZ must be undertaken using non-destructive methods (such as by hand or with an Airspade) to ensure no tree roots greater than 40mm diameter are damaged, pruned or removed.
- (c) Footings shall be relocated / realigned if any tree root greater than 40mm in diameter is encounter during excavations. A minimum of 150mm clearance shall be provided between the tree root and footing.
- (d) All excavations located within the TPZ must be supervised by a qualified Consultant Arborist, who holds the Diploma in Horticulture (Arboriculture), Level 5 under the Australian Qualification Framework.
- (e) All root pruning must be undertaken by a qualified Arborist with a minimum AQF level 3.

(38) SITE SUPERVISION AND REPORTING

- (a) An Arborist with minimum qualifications in Arboriculture of Level 5 (under the Australian Qualification Framework) must oversee various stages of work within the Tree Protection Zone in accordance with Australian Standard 4970 Protection of Trees on Development Sites. The Arborist must certify compliance with each key milestone detailed below:

- (i) The Arborist must certify the installation of the tree protection measures to Council and the Principal Certifying Authority prior to the issuing of a construction certificate;
 - (ii) During the building demolition of 55 Clarence Street, including the upgrading the existing ground surfaces within close proximity to TPZs of the Plane Trees on Clarence Street.
 - (iii) During any excavation and trenching within the Tree Protection Zone of any street tree to be retained.
 - (iv) During any landscape works within three (2) metres of the trees trunk.
- (b) An Arboricultural Compliance Report which includes photographic evidence and details of the health and condition of trees, must be submitted to Council's Area Planning Manager at each hold-point listed below:
- (i) Certification tree protection measures have been installed in accordance with the conditions prior to the commencement of works;
 - (ii) Certification of compliance with each key milestone listed above within 48 hours of completion;
 - (iii) Details of any other works undertaken on any tree to be retained or within TPZ's;
 - (iv) A final compliance report shall be submitted prior to the issuing of the Occupation Certificate.

(39) SERVICES

- (a) Any trenching works for services / hydraulics / drainage etc. must not be undertaken within a Tree Protection Zone (TPZ), and be referred to the Site Arborist with regard to tree protection, prior to commencement of any works;
- (b) Alternative installation methods for services, such as directional boring/drilling, or redirection of services shall be employed where large woody roots greater than 40mm diameter are encountered during the installation of any services adjacent to the specified TPZ.

SCHEDULE 1C

DURING CONSTRUCTION/PRIOR TO OCCUPATION/COMPLETION

(40) 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.

(41) HOURS OF WORK AND NOISE – CBD

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

- (a) All work, including demolition, excavation and building 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 7.00am and 7.00pm on Mondays to Fridays, inclusive, and 7.00am and 5.00pm on Saturdays, 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*.

(42) 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.

(43) 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.

(44) COVERING OF LOADS

All vehicles involved in the excavation and/or demolition process and departing the property with demolition materials, spoil or loose matter must have their loads fully covered before entering the public roadway.

(45) 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.

(46) 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.

(47) 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.

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>