

Attachment A

Recommended Conditions of Consent

CONDITIONS OF CONSENT

SCHEDULE 1 - DEFERRED COMMENCEMENT CONDITIONS

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

(A) PART A - DEFERRED COMMENCEMENT CONDITIONS

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

(1) VOLUNTARY PLANNING AGREEMENT

- (a) The Voluntary Planning Agreement between the Council of the City of Sydney and Skylife Bourke Pty Limited (as Trustee for Skylife Bourke Property Trust), which was placed on public exhibition between 5 March 2020 and 2 April 2020 shall be executed and submitted to Council; and
- (b) The Voluntary Planning Agreement, as executed, must be registered on the title of the land.

- (2)** Evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement conditions, as indicated above, must be submitted to Council within 24 months of the date of determination of this deferred commencement consent failing which, this deferred development consent will lapse pursuant to section 4.53(6) of the Environmental Planning and Assessment Act 1979.
- (3)** The consent will not operate until such time that the Council notifies the Applicant in writing that deferred commencement consent conditions, as indicated above, have been satisfied.
- (4)** Upon Council giving written notification to the Applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of that written notification, subject to the conditions of consent, as detailed in Part B Conditions of Consent.

(B) PART B – CONDITIONS OF CONSENT

SCHEDULE 1A

(1) CONCEPT DEVELOPMENT APPLICATION

Pursuant to Division 4.4 of the *Environmental Planning and Assessment Regulation 2000*, and Clause 100 of the *Environmental Planning and Assessment Regulation 2000*, this Notice of Determination relates to a concept development application and a subsequent development application or applications (detailed design) are required for any work on the site.

(2) APPROVED DEVELOPMENT

- (a) Development consent is limited to a concept plan building envelope and indicative land uses including office premises, shops and ancillary car parking, in accordance with Development Application No. D/2019/817 dated 1 August 2019 and the following drawings prepared by Bates Smart:

Drawing Number	Drawing Name	Date
A02.001 Rev. B	DA Envelope Plan	17 January 2020
A02.002 Rev. B	DA Envelope Elevation South East / North West	17 January 2020
A02.003 Rev. B	DA Envelope Elevation North East / South West	17 January 2020

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.

(3) MATTERS NOT APPROVED

The following matters are not approved and do not form part of this concept development consent:

- (a) Any works, including demolition, excavation and/or construction;
- (b) The precise total quantum of floor space;
- (c) The proportion of land uses;
- (d) The indicative floor layouts of the building;
- (e) The precise location of vehicular access, the numbers, configuration and layout of car parking spaces, levels, bicycle spaces, car share spaces, service vehicle and truck loading spaces;
- (f) Physical tree removal;
- (g) The siting and location of a substation;

- (h) The number of storeys contained within the building envelope; and
- (i) A design excellence uplift in floor space ratio.

(4) DETAILED DESIGN

- (a) The detailed design development application must address the following requirements:
 - (i) A deep soil zone is to be provided in accordance with Section 5.8.2.5.1 of the Sydney DCP 2012, with a minimum of 15% of the total site area after dedication. Deep soil zones must be unencumbered by structures within, above or below the zone, and must be adequately remediated as necessary.
 - (ii) The elevations, particularly to Bourke Road, Bowden Street and the through-site link, should be designed with at least two distinct building components each with its own architectural character, having regard to Section 4.2.4 of the Sydney DCP 2012;
 - (iii) Any exposed blank walls should be provided with a visually interesting treatment of high quality design;
 - (iv) Floor level entries, including any openings to basement, lift wells and lobbies, must comply with the City's Interim Floodplain Management Policy for setting floor levels and the Stormwater Management Strategy prepared by ADG Engineers (Aust) Pty Ltd, dated 10 June 2019, being:
 - a. Ground floor: 8.4m AHD; and
 - b. Basement entry areas: 9.1m AHD.
 - (v) Any required substation is to be integrated into the fabric of the building and must not be a free standing kiosk substation. The substation should not compromise activation of the streetscape or the public domain.
 - (vi) All roof level services are to be concealed within an integrated parapet wall. Enclosures and screening of any plant areas and essential services are to be of high quality material equal in standard to the facade.
 - (vii) The floor to ceiling heights and floor to floor heights must comply with the minimum heights specified in Section 4.2.1.1 of the Sydney DCP 2012;
 - (viii) The provision of green wall/s should be explored in accordance with the provisions of Section 5.8.7.4 of the Sydney DCP 2012; and
 - (ix) External sun shading to any glazed elevations.
- (b) The competitive design process brief shall incorporate the above design requirements.

(5) BUILDING ENVELOPE

Subject to the other conditions of consent, the building envelope is only approved on the basis that the ultimate building design, including services, shading devices and the like will be entirely contained within the approved envelope and provide an appropriate relationship with neighbouring buildings.

(6) FLOOR SPACE RATIO

- (a) The Floor Space Ratio of the proposal must not exceed the maximum permitted under Clauses 4.4, 6.13 and 6.14 calculated in accordance with the Sydney LEP 2012.
- (b) Notwithstanding (a), the proposal may be eligible for up to 10% additional floor space pursuant to the provisions of Clause 6.21(7) of the Sydney LEP 2012 if the consent authority is satisfied that the resulting detailed design development application exhibits design excellence and is the result of a competitive design process.

(7) BUILDING HEIGHT

The maximum building height including all roof top plant and equipment must not exceed 18m as defined in Sydney LEP 2012.

(8) COMPLIANCE WITH VOLUNTARY PLANNING AGREEMENT

The terms of the planning agreement entered into in accordance with Deferred Commencement Condition 1 are to be complied with.

(9) COMPETITIVE DESIGN PROCESS

A competitive design process in accordance with the provisions of the Sydney Local Environmental Plan 2012 shall be:

- (a) conducted in accordance with 'Design Excellence Strategy for 23-27 Bourke Road and 41-43 Bowden Street, Alexandria dated March 2020 and prepared by City Plan Services (Council ref: 2020/); and
- (a) conducted prior to the lodgement of a detailed design (Stage 2) development application for the site.

The detailed design of the building must exhibit design excellence, in accordance with Clause 6.21 of Sydney LEP 2012.

(10) ECOLOGICALLY SUSTAINABLE DEVELOPMENT

Details are to be provided with the subsequent development application for the detailed design of the building to confirm that the building has adopted the following proposed ESD targets reflected in the Design Excellence Strategy referred to in Condition 9:

- (a) a NABERS Energy Commitment Agreement targeting 6 stars for the base building, including Green Power;
- (b) Inclusion of renewable energy generation services (photovoltaics and solar or heat pump domestic water);

- (c) Best practice back of house waste management and recycling facilities; and
- (d) Inclusion of rainwater harvesting and storage infrastructure for non-potable end uses.

The ESD targets are to be carried through the competition phase, design development, construction, and through to completion of the project.

(11) PUBLIC ART

- (a) The Public Art Strategy accompanying this Development Application has not been approved by this consent.
- (b) The Public Art Strategy must, among other things:
 - (i) set out the intended budget for public art;
 - (ii) identify how decisions will be made;
 - (iii) detail the proposed method for integrating the public art process with the competitive design process; and
 - (iv) detail the proposed method for integrating the public art process with the construction of all propose development on the site.
- (c) Neither street furniture nor interpretation strategy is to be considered as part of the public art component.
- (d) The Public Art Strategy must be approved by the Director City Planning Development & Transport prior to the competitive design process for the site. The approved strategy is to be lodged with the relevant future detailed design DA.

(12) LAND CONTAMINATION

- (a) No development works are to be undertaken on the site until such time as a detailed design (stage 2) development application has been submitted to and approved by the City.
- (b) The detailed design development application must include documentation that demonstrates the requirements of State Environmental Planning Policy No 55 are addressed. To address the requirements of SEPP No 55 the hierarchy of assessment may include but not be limited to the following:
 - (i) Preliminary Environmental Site Assessment (PESA) (Also known as Stage 1)
 - (ii) Detailed Environmental Site Assessment (DESA) (Also known as Stage 2)
 - (iii) Remediation Action Plan (RAP)
 - (iv) Review by NSW EPA Site Auditor
 - (v) Site Validation Report

(vi) Site Audit Statement (SAS)

(13) ACID SULPHATE SOILS

As part of any detailed development application, one of the following must be provided:

- (a) Evidence that an acid sulphate soils management plan is not required;
or
- (b) An acid sulphate soils management plan.

(14) TRANSPORT IMPACT STUDY

A transport impact study is required to be submitted as a part of the subsequent detailed development application to demonstrate that the traffic generation from the proposed development will not impact adversely to the adjacent road network. In estimating trip generation Sydney average value from the RMS technical direction TDT 2013/04a should not be used. Trip generation coefficient from comparable sites (such as Rockdale in the RMS document) or survey data from similar site should be used in the assessment.

(15) PARKING DESIGN

The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 Parking facilities Part 1: Off-street car parking, AS/NZS 2890.2 Parking facilities Part 2: Off-commercial vehicle facilities and AS/NZS 2890.6 Parking facilities Part 6: Off-street parking for people with disabilities. The design must be provided as part of the detailed design development application.

(16) BICYCLE PARKING AND END OF TRIP FACILITIES

- (a) Any subsequent development application for the detailed design of the building must include a Bicycle Parking Plan and End of Trip Facilities are to be provided in accordance with Section 3.11.3 of the SDCP 2012. .
- (b) The layout, design and security of bicycle facilities must comply with the minimum requirements of Australian Standard AS 2890.3:2015 Parking Facilities Part 3: Bicycle Parking Facilities and 'Austroads Bicycle Parking Facilities: Guidelines for Design and Installation' document.

(17) ON SITE LOADING AREAS AND OPERATION

The detailed design development application must ensure all loading and unloading operations associated with servicing the site, including garage collection, can be carried out within the confines of the site, at all times and must not obstruct other properties/units or the public way.

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

(18) SERVICE VEHICLE SIZE LIMIT

The detailed design development application must include swept paths for the largest vehicles to access the site in a forward in and forward out direction.

(19) SECURITY GATES

Where a car park is accessed by a security gate, that gate must be located at least 6 metres within the site from the street front property boundary.

(20) WASTE COLLECTION

The detailed design development application must demonstrate compliance with the City's Guidelines for Waste Management in New Developments. The design of the building must ensure that it can accommodate onsite waste collection, including meeting the requirements set out in Section 3.11.13 of the Sydney Development Control Plan 2012.

(21) SWEPT PATH ANALYSIS

A swept path analysis is to be undertaken to show how the largest vehicle can enter and exit the subject site. These will be used to determine the largest vehicle permitted to service the site and the width of the driveway crossing. The width of the driveway crossing is to be minimised as much as possible, in accordance with Section 3.11.11(7) of the Sydney Development Control Plan 2012.

The swept path diagrams are to be submitted as part of any detailed design development application for the site.

(22) VEHICLES ACCESS

All vehicles must enter and depart the site in a forward direction.

(23) LAND DEDICATION – NO LONG TERM ENVIRONMENTAL MANAGEMENT PLAN

Any land that is to be dedicated to the City as part of the associated Voluntary Planning Agreement must be remediated as required and not be encumbered by an Environmental Management Plan or Long Term Environmental Management Plan.

(24) STREET TREES AND STAGE 2 (DETAILED DESIGN APPLICATION)

- (a) All street trees except T2 (AIA report dated 11 July 2019) *Populus nigra* 'Italica' (Poplar Tree) are to be retained, and depicted as retained in any detailed design development application.
- (b) Any sediment fencing and pickets must be located outside of the TPZ of all trees to be retained.
- (c) An in-depth Arboricultural report is to be submitted with any detailed design development application that addresses the specific causes of encroachment into the TPZ of each tree in relation to tree species and recommendations, including any modifications to the design of the building.

- (d) The report should include discussion of the impact that the proposed levelling (soil level changes) of the existing site will have on all trees to be retained.
- (e) All sections of the existing footpath and kerb surrounding the site must remain in situ until the proposed footpath widening is approved. Further information such as a work method statement and plans of the proposed footpath widening must be approved by Tree Management prior to the works commencing.
- (f) The proposed location of the storm water piping and pits must be relocated outside of the TPZ of all trees to be retained.
- (g) All plans must show TPZ, SRZ and existing trees.

(25) ARBORICULTURAL IMPACT ASSESSMENT REPORT

- (a) An Arboricultural Impact Assessment report must be submitted to Council with any future detailed design development application.
- (b) The report must be prepared by a qualified Arborist with a minimum Australian Qualification Framework (AQF) of Level 5 in Arboriculture, written in accordance with the Australian Standard AS 4970-2009 Protection of Trees on Development Sites (AS4970) and must include the following details
 - (i) An assessment and discussion of the likely impacts the proposed development will have on the trees to be retained. This should include above and below ground constraints on trees (relevant to tree species) that should be retained.
 - (ii) If excavation is proposed within the setback zones of retained trees, exploratory root investigation will be required to determine the exact location of existing roots. This shall consist of an 'air knife', gently removing the soil to expose the existing tree roots where construction is likely to impact on the tree or require root pruning to achieve the proposed development design. An assessment of tree root size, number and condition must be provided (including photos). No roots over 30mm will be permitted for removal.
 - (iii) Recommendations of any design modifications, construction techniques and/or other protection methods required to minimise adverse impact on trees that should be retained during the demolition and construction works, and into the long term. Note: particular attention must be paid to the existing soil levels, required development levels to integrate to the existing building, and the required tree protection measures.
 - (iv) Details of the tree protection measures in accordance with AS4970-2009 Protection of trees on development site.
 - (v) Provide a Tree Protection Plan (drawing) showing the tree protection zones for trees being retained.
 - (vi) Details of pruning must be provided (including marked up photos).

- (vii) Plans showing the TPZ and SRZ of all trees.
- (viii) Information on the Arborist's involvement during the works is also required.
- (ix) Any other works that must be prohibited throughout construction and development on site.

(26) LANDSCAPING OF THE SITE

- (a) A detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted with any future detailed design development application. 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;
 - (iii) Location, numbers, type and supply of plant species, with reference to the relevant Australian Standard;
 - (iv) The design must provide a minimum 15% canopy cover across the site. This must be provided by 30% of the species having a mature height of 6-8 metres, 30% mature heights of 10-15 metres and 40% mature heights of 20-30 metres;
 - (v) New trees must be planted in natural ground with adequate soil volumes to allow maturity to be achieved. Planter boxes will not be accepted for tree planting;
 - (vi) New trees must be appropriately located away from existing buildings and structures to allow maturity to be achieved without restriction;
 - (vii) Details of planting procedure and maintenance;
 - (viii) Details of drainage, waterproofing and watering systems.

(27) STREET TREE PLANTING AND MAINTENANCE

- (a) A Public Domain Plan must be submitted with any future detailed design development application. The plan must include:
 - (i) Tree species shall be consistent with the City's Street Tree Master Plan (Refer to relevant precinct plans). Species substitutes will not be accepted;
 - (ii) Street trees must be located and planted in accordance with the City's Street Tree Master Plan (Technical Guidelines).
 - (iii) The design must include structural soils in accordance with the STMP (Technical Guidelines)

- (b) The trees must be a minimum container size of 100 litres, at the time of planting;
- (c) All new trees must be grown in accordance with the Australian Standard 2303:2015 'Tree stock for landscape use' at the time of planting.

(28) SIGNAGE STRATEGY

A detailed signage strategy developed in accordance with Section 3.16.1 of the Sydney DCP 2012 must be submitted with any detailed design development application or applications. The signage strategy must include information and scale drawings of the location, type, construction, materials and total number of signs proposed for the development.

(29) AUSGRID

- (a) Consultation is required with Ausgrid to ensure that technical and statutory requirements in regard to the safe and reliable operation and maintenance of Ausgrid's network are maintained.
- (b) Details of the consultation undertaken are to be provided with the future detailed design development application.

(30) SYDNEY WATER

- (a) Consultation is required with Sydney Water to ensure that technical and statutory requirements in regard to the safe and reliable operation and maintenance of Sydney Water's assets are maintained.
- (b) Details of the consultation undertaken are to be provided with the future detailed design development application.

**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>

SCHEDULE 3

TERMS OF APPROVAL

The Terms of Approval for Integrated Development in accordance with the *Water Management Act 2000*, as advised by Water NSW are as follows:

Dewatering

- (31) Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application.
- (32) An authorisation under the relevant water legislation, such as an Approval, is also required for the works involved in extracting the groundwater. For avoidance of doubt, these terms do not represent any authorisation for the construction or installation of such works.
- (33) The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.
- (34) Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:
 - a. any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
 - b. any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
 - c. where the habitable part of the structure (not being footings or foundations) is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
- (35) Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.
- (36) The Applicant is bound by the above terms and any other terms and conditions of the subsequent authorisation(s) required for the extraction of groundwater and the associated works under the relevant water legislation.
- (37) Measurement and monitoring arrangements to the satisfaction of WaterNSW are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.
- (38) Following cessation of the dewatering operations and prior to the surrender of any associated authorisation, the applicant shall submit to WaterNSW the completion report which shall include:
 - a. detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of

the relevant bores; and b. The location and construction of groundwater extraction works that are decommissioned c. a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and d. a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.

- (39)** The Department of Planning, Industry and Environment's Water has determined that an authorisation to account for the temporary and transient impacts on groundwater systems associated with the proposed development for up to twelve months is required (to be issued by WaterNSW).
- (40)** All required monitoring and reporting arrangements are to be designed to demonstrate the activity meets due diligence with respect to the Water Management Act 2000, the relevant water sharing plan(s) and the NSW Aquifer Interference Policy during construction and occupation phases of the building.
- (41)** At the time of application for a Construction Certificate, the developer must be able to demonstrate to the consent authority that an authorisation for the pumping of groundwater for temporary construction dewatering has been obtained for the relevant groundwater source from which water is being taken.
- (42)** At the time of application for an Occupation Certificate, the developer must be able to demonstrate to the consent authority that any unexpected groundwater pumping (resulting from poor construction methods, materials or inadequate waterproofing) has been authorised by a water access licence purchased for the relevant groundwater source from which water is being taken and must be able to demonstrate no impact on neighbouring sites or the integrity of the aquifer.
- (43)** A Site Hydrogeology Report prepared and certified by a qualified, experienced and practising hydrogeologist must be provided with the authorisation application that includes, but is not limited to, the following:
- (a) pre-development (existing) conditions in the form of a baseline monitoring record and comprehensive groundwater system description:
 - (i) site and neighbouring area stratigraphy, formation description, site groundwater levels, groundwater flow paths, site aquifer and aquitard (if relevant) hydraulic characterisation
 - (ii) groundwater quality and specific consideration of groundwater potentially affected by contamination from surrounding land uses or acid sulfate soils where they are found to exist
 - (iii) neighbouring users, groundwater dependent ecosystems, water bodies and other relevant features within a one kilometre radius of the subject site
 - (iv) the above site information must not date more than six months prior to the date of lodgement of the development application to account for climate trends and maintain the currency of groundwater data
 - (b) excavation phase (during dewatering), in the form of a comprehensive impact prediction description as well as a monitoring and management

strategy (the latter equivalent to the requirements for a Dewatering Management Plan):

- (i) predicted groundwater modelling impacts (extent, magnitude and duration) that are developed through suitable methods comprising either;
 - a. numerical modelling in high risk areas;
 - b. analytical solutions in low risk areas
 - (ii) corresponding trigger levels (levels, quality, flow, volume and ground surface settlement) to manage any potential impacts
 - (iii) construction techniques and approaches that will be used to prevent any ongoing groundwater pumping at the same time as not causing any obstruction to natural groundwater behaviour
 - (iv) details of monitoring (groundwater levels, quality as required, rate of inflows, metered pumping)
 - (v) where a risk of ground settlement is identified due to the proposed dewatering, the proponent is to provide a program of monitoring, trigger and responses to Council (Note while it is the Proponent's responsibility to identify the risk, the Department recommends that Council enforce this requirement for all applications in all high risk areas which includes sand formations or other unconsolidated ground).
- (c) post-excavation phase (during aboveground construction) in the form of a comprehensive post-dewatering impact review (equivalent to the requirements for a Dewatering Completion Report):
- (i) collation of monitoring records,
 - (ii) analysis of actual impacts compared to predicted impacts, noting that some impacts may be delayed,
 - (iii) magnitude and extent of potential long-term effects from the completed structure
 - (iv) arrangements for reporting (measurements, technical analysis and future predictions) to the relevant authority
- (d) occupational phase (after building completion) in the form of an annual groundwater monitoring plan:
- (i) monthly monitoring to demonstrate the magnitude of groundwater pumping after construction, either through satisfactory photographic and documented evidence of no visible seepage into the building or, if inflows cannot be prevented, measured flow rates into all pump-out sumps
 - (ii) recording arrangements to document ongoing compliance, event-based notification of unexpected groundwater take to the relevant authority and annual reporting arrangements.

- (44)** All monitoring data collected for the development and all monitoring and management reports are to be provided in electronic format (tabulated and raw corrected data) to the Department of Planning, Industry and Environment.