

# **Attachment A**

<b>Recommended Conditions of Consent</b>
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## SCHEDULE 1

### (1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2019/1427 dated 12 December 2019, as amended, and the following drawings prepared by Urban Art Projects:

Drawing Number	Revision	Drawing Name	Date
C4206_100_LP	J	Site Layout	16.10.2019
C4206_100_LP	I	Landscape Plan	16.10.2019
C4206_100_LD	J	Landscape Plan	16.10.2019
C4206_100_EL-2	I	Site Section B Elevation (south)	16.10.2019
C4206_100_EL-2	J	Site Section B Elevation (north)	16.10.2019
C4206_102_GA	I	General Arrangement	16.10.2019
S01	02	Notes Sheet	17.05.2019
S02	02	Footing Plan	17.05.2019
S03	02	Bara Elevation	17.05.2019
S04	02	Typical Details	17.05.2019
S05	02	Bara Sections Sheet 1	17.05.2019
S06	02	Bara Sections Sheet 2	17.05.2019
S07	02	Bara Sections Sheet 3	17.05.2019

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) LIGHTING**

- (a) Lighting associated with the artwork is to be controlled by timers and dimming devices. The intensity, period of intermittency and hours of illumination of lighting may be varied as directed by written notice from Council.
- (b) Lighting must not flash.
- (c) At all time, the lighting must comply with Australian Standard AS4282:2019 *Control of the obtrusive effects of outdoor lighting*.

## **(3) SECTION 61 CONTRIBUTIONS PAYABLE - COST SUMMARY REPORT - CONCURRENT WITH ISSUE OF CONSTRUCTION CERTIFICATE**

- (a) Concurrent with the issue of a Construction Certificate, the "City of Sydney - Cost Summary Report" must be completed in full and submitted to Council by the Accredited Certifier indicating the itemised cost of the development. A copy of the required report format may be obtained from the City of Sydney One Stop Shop and the City of Sydney's website ([www.cityofsydney.nsw.gov.au](http://www.cityofsydney.nsw.gov.au)).
- (b) Should the total cost of the development be \$200,000 or more, a contribution comprising 1% of the total cost of the proposed development under Section 61 of the *City of Sydney Act 1988* and the *Central Sydney Development Contributions Plan 2013* must be paid prior to the release of the Construction Certificate. Such payment must be verified by the Principal Certifier. Payment, if applicable, may be by EFTPOS (debit card only), CASH (up to 10K only), Credit Card (up to 50K only) or a BANK CHEQUE made payable to the City of Sydney. Direct debit, personal or company cheques will not be accepted.
- (c) 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 (d) 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.
- (d) 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.

#### **(4) EROSION AND SEDIMENT CONTROL - LESS THAN 250SQM**

Where less than 250 square metres are being disturbed, no formal plan is required however, the site is to be provided with sediment control measures and these must be implemented so that sediment, including soil, excavated material, building material or other materials cannot fall, descend, percolate, be pumped, drained, washed or allowed to flow to the street, stormwater system or waterways.

#### **(5) TREE PROTECTION**

Trees must be protected in accordance with the Australian Standard 4970 Protection of Trees on Development Sites. The applicant must consult the Royal Botanic Gardens and Domain Trust's Senior Arborist to determine which trees are to be protected with a Tree Protection Zone (TPZ). The subject 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 trees.

- (d) 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 Royal Botanic Gardens and Domain Trust's Senior Arborist, in order to determine the appropriate action for maintaining the health and structural integrity of any damaged street tree.

**(6) SYDNEY WATER CERTIFICATE (TAP-IN)**

- (a) The approved plans must be submitted to Sydney Water's "Tap-in" online service to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Sydney Water's "Tap-in" online service is available at [www.sydneywater.com.au](http://www.sydneywater.com.au), (see Plumbing, Building & Development and then Sydney Water "Tap-in").
- (b) The Consent Authority or a Principal Certifier must ensure that Sydney Water has appropriately stamped the plans before the commencement of work.

**(7) 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.

**(8) 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 Team, 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*.

**(9) LIGHTING OF SITE OUTSIDE OF STANDARD CONSTRUCTION HOURS**

Lighting of the site while any work is undertaken outside of Council's standard hours of construction must ensure that at no time must the intensity, hours of illumination or location of the lighting cause objectionable glare or injury to the amenity of the neighbourhood or Obtrusive Light in accordance with the definition in Australian Standard AS4282-1997 *Control of the obtrusive effects of outdoor lighting*. If in the opinion of Council, injury is likely to be caused, the intensity, hours of illumination and location of the lighting must be varied so that it does not cause injury to nearby residents.

**(10) COVERING OF LOADS**

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

**(11) VEHICLE CLEANSING**

Prior to the commencement of work, suitable measures are to be implemented to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site. It is an offence to allow, permit or cause materials to pollute or be placed in a position from which they may pollute waters.

**(12) 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 and Section 138 of the Roads Act 1993 must be obtained.

**(13) NO OBSTRUCTION OF FOOTPATH**

The footpath adjoining the subject site 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.

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

An Occupation Certificate must be obtained from the Principal Certifier and a copy submitted to Council prior to use of the structure.

## SCHEDULE 2 – GENERAL TERMS OF APPROVAL: HERITAGE COUNCIL OF NSW

### (15) APPROVED DEVELOPMENT

Development must be in accordance with:

(a) Architectural drawings prepared by Urban Art Projects, as listed below:

Dwg No	Dwg Title	Date	Rev
<b>Project Name:</b> Monument for the Eora			
C4206_100_EP	Event Plan Site Layout	21.10.2019	J
C4206_100_LP	Plan View	21.10.2019	J
C4206_100_LP	Landscaping Plan	17.10.2019	I
C4206_100_LD	Lighting Detail	21.10.2019	J
C4206_100_EL-2	Site Section B-B Elevation	21.10.2019	J
C4206_100_EL-2	Site Section A-A Elevation	17.10.2019	I
C4206_102_GA	Bara General Arrangement	17.10.2019	I

(b) Architectural drawings prepared by Richard Green Consulting, as listed below:

Dwg No	Dwg Title	Date	Rev
<b>Project Name:</b> Monument for the Eora			
S00	Cover Sheet	19.11.2019	2
S01	Notes Sheet	19.11.2019	2
S02	Footing Plan	19.11.2019	2
S03	Bara Elevation	19.11.2019	2
S04	Typical Details	19.11.2019	2
S05	Bara Sections Sheet 1	19.11.2019	2
S06	Bara Sections Sheet 2	19.11.2019	2
S07	Bara Sections Sheet 3	19.11.2019	2

- (c) Visual Impact Assessment Report titled, *Monument for the Eora Tarpeian Lawn, The Royal Botanic Gardens*, prepared by City Plan, dated 6 November 2019.
- (d) Heritage Impact Statement Report titled, *bara Monument for the Eora, Tarpeian Lawn, The Royal Botanic Gardens*, prepared by City Plan, dated 12 November 2019.
- (e) Archaeological Assessment titled, *bara Monument to the Eora Tarpeian Lawn, The Royal Botanic Gardens*, prepared by City Plan, dated 26 November 2019.
- (f) Lighting report titled, *Monument for the Eora, Lighting Report & Plan*, prepared by Northrop, dated November 2019.
- (g) Document titled, Construction Management Plan – Installation Methodology Monument for the Eora, prepared by Urban Art Projects, undated.
- (h) Photomontage 1 and 2, undated.

**EXCEPT AS AMENDED** by the following general terms of approval:

#### **(16) HERITAGE CONSULTANT**

A suitably qualified and experienced heritage consultant must be nominated for this project. The nominated heritage consultant must provide input into the detailed design, provide heritage information to be imparted to all tradespeople during site inductions, and oversee the works to minimise impacts to heritage values. The nominated heritage consultant must be involved in the selection of appropriate tradespersons and must be satisfied that all work has been carried out in accordance with the conditions of this consent.

*Reason: So that appropriate heritage advice is provided to support best practice conservation and ensure works are undertaken in accordance with this approval.*

#### **(17) SPECIALIST TRADESPERSONS**

All work to, or affecting, significant fabric shall be carried out by suitably qualified tradespersons with practical experience in conservation and restoration of similar heritage structures, materials and construction methods.

*Reason: So that the construction, conservation and repair of significant fabric follows best heritage practice.*

#### **(18) SITE PROTECTION**

Significant built and landscape elements are to be protected during site preparation and the works from potential damage. Protection systems must ensure significant fabric, including landscape elements, is not damaged or removed.

*Reason: To ensure significant fabric including vegetation is protected during construction.*

#### **(19) UNEXPECTED HISTORICAL ARCHAEOLOGICAL RELICS**

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

*Reason: This is a standard condition to identify to the applicant how to proceed if historical archaeological deposits or relics are unexpectedly identified during works.*

#### **(20) ABORIGINAL OBJECTS**

Should any Aboriginal objects be uncovered by the work which is not covered by a valid Aboriginal Heritage Impact Permit, excavation or disturbance of the area is to stop immediately and the Office of Environment & Heritage is to be informed in accordance with the *National Parks and Wildlife Act 1974* (as amended). Works affecting Aboriginal objects on the site must not continue until the Office of Environment and Heritage has been informed and the appropriate approvals are in place. Aboriginal objects must be managed in accordance with the *National Parks and Wildlife Act 1974*.

*Reason: This is a standard condition to identify to the applicant how to proceed if Aboriginal objects are unexpectedly identified during works.*

#### **(21) COMPLIANCE**

If requested, the applicant and any nominated heritage consultant may be required to participate in audits of Heritage Council of NSW approvals to confirm compliance with conditions of consent.

*Reason: To ensure that the proposed works are completed as approved.*

#### **(22) SECTION 60 APPLICATION**

An application under section 60 of the *Heritage Act 1977* must be submitted to, and approved by, the Heritage Council of NSW (or delegate), prior to work commencing.

*Reason: To meet legislative requirements.*

#### **(23) ADVICE**

Section 148 of the *Heritage Act 1977* (the Act), allows people authorised by the Minister to enter and inspect, for the purposes of the Act, with respect to buildings, works, relics, moveable objects, places or items that is or contains an item of environmental heritage. Reasonable notice must be given for the inspection.

## **SCHEDULE 3 – THE ROYAL BOTANIC GARDENS AND DOMAIN TRUST CONDITIONS**

### **(24) CONSTRUCTION SITE COMPOUND**

- (a) The proposed site compound in the Construction Management Plan submitted with the application is to be amended in the following manner:
  - (i) Provide a 3 metre wide gap from the Tarpeian Way path to allow for the movement of Royal Botanic Gardens and Domain Trust (RBGDT) mowers along this section of the Domain.
  - (ii) Ensure there is no encroachment on the tree protection zones (TPZs) for adjacent significant trees. RBGDT's Senior Arborist is to be consulted on the TPZ boundaries.

The revised site compound configuration is to be approved by RBGDT before establishment.

- (b) The construction site compound to be delineated by ATF fencing which must be properly secured and stabilised to a standard acceptable to RBGDT. The fencing is to include an appropriate scrim to screen the inside of the compound and is to identify the project for the information of the general public.
- (c) The site office and stockpiling and storage of all materials and equipment and any work vehicles not in use must be contained within the site compound.

### **(25) VEHICLE MOVEMENTS**

- (a) Truck and work vehicular access to the construction site from Macquarie Street to be finalise in consultation with the RBGDT. The distance travelled over turfed areas by work vehicles is to be minimise as far as possible and must not encroach on the TPZs for adjacent significant trees. RBGDT's Senior Arborist is to be consulted on the TPZ boundaries.
- (b) Track mats or suitable alternatives are to be used for all truck and heavy vehicle movement over turfed areas to minimise damage to the turf.
- (c) In traversing off-road areas, maximum care is to be taken when people are in the vicinity with vehicle speed at walking pace and hazard lights activated.
- (d) A traffic management plan which documents measures to ensure the safe movement of works vehicles to and from the construction site must be supplied to the RBGDT prior to the commencement of any work.
- (e) No personal vehicle parking for staff working on the project is available at the site or in the Gardens generally. Only work vehicles can enter the Garden to access the site.

## **(26) EXCAVATION AND WORKS**

- (a) During excavation for footings and electrical trenches the RBGDT must be contacted immediately if any tree roots are exposed and no further work is to be proceed until authorise by the RBGDT's Senior Arborist.
- (b) No tree pruning or limb removal is to be undertaken without the approval of the RBGDT's Senior Arborist.
- (c) All soil not to be reused on site is to be removed completely from the Royal Botanic Gardens and Domain.

## **(27) SITE RESTORATION**

- (a) On completion of the project, the construction site is to be left clean, free of any construction materials and equipment and in a condition acceptable to the RBGDT.
- (b) Any damage / impact to turf, vegetation or other RBGDT fabric or assets (such as utility services, fencing, lighting, signage, park furniture, kerbs and pavements, etc.) must be made good by the City of Sydney at no cost to RBGDT and must be undertaken under the direction of and to the satisfaction of RBGDT.

## **(28) STRUCTURAL CERTIFICATION**

On completion of the installation, certification of the structural integrity of the artwork must be supplied to the RBGDT.

## **(29) MAINTENANCE**

- (a) The City of Sydney is to be responsible for all ongoing maintenance of the artwork and this arrangement is to be formalised in an agreement between the RBGDT and the City of Sydney in accordance with the RBGDT's letter of in-principle consent for the project dated 8 December 2017.
- (b) The maintenance plan is to be formalised prior to the issue of an Occupation Certificate.

## **(30) TIMING OF WORKS**

The timing of the works is to be finalised in negotiation with the RBGDT with no works to commence without approval from the RBGDT.

## **SCHEDULE 4**

### **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>