

# **Attachment A**

<b>Recommended Conditions of Consent</b>
--

## **PART A - DEFERRED COMMENCEMENT CONDITIONS**

### **SCHEDULE 1**

(A) The consent is not to operate until the following condition is satisfied:

#### **(1) VOLUNTARY PLANNING AGREEMENT**

- (a) The Voluntary Planning Agreement between the COUNCIL OF THE CITY OF SYDNEY and 110 VICTORIA STREET PTY LIMITED which was placed on public exhibition between 29 April 2022 and 28 May 2022 shall be executed and submitted to Council.
  - (b) The guarantee must be provided to Council in accordance with the Voluntary Planning Agreement.
  - (c) The Voluntary Planning Agreement, as executed, must be registered on the title of the land.
  - (d) The payment of the monetary contribution must be provided to Council in accordance with the Voluntary Planning Agreement.
- (B) 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.
- (C) 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.
- (D) 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 (Once the Consent is Operation).

## PART B – CONDITIONS OF CONSENT

### SCHEDULE 1A

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

**Note:** Some conditions in Schedule A 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/2021/1054 dated 16 September 2021 and the following drawings prepared by DEREK RAITHY ARCHITECTURE:

Drawing Number	Drawing Name	Date
02 Rev 07	Ground Floor Plan	04/22
03 Rev 07	Level 1 Floor Plan	04/22
04 Rev 07	Level 2 Floor Plan	04/22
05 Rev 07	Roof Plan	04/22
06 Rev 06	Elevation East and West	04/22
07 Rev 06	Elevation North and South	04/22
08 Rev 06	Sections	04/22

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) COMPLIANCE WITH VOLUNTARY PLANNING AGREEMENT

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

**(3) AFFORDABLE HOUSING CONTRIBUTION – GREEN SQUARE – PAYMENT IN LIEU OF FLOOR SPACE CONTRIBUTION**

- (a) In accordance with the City of Sydney Affordable Housing Program and prior to the issue of a Construction Certificate, the applicant must provide evidence that a monetary contribution towards the provision of affordable housing has been paid to the City of Sydney Council.
- (b) The contribution is \$200,443.55 (indexed in April 2022). This is calculated by establishing the sum of the equivalent monetary contribution \$11,599.74 multiplied by 3% of the total floor area for residential development (being approximately 576sqm).
- (c) If the contribution is paid after the indexation period in which the consent is granted, being 1 March 2022 to 28 February 2023, the above contribution will be adjusted according to the Sydney LGA median strata dwelling price ('MDP') using the following formula.
- (d) Contribution payable at Time of Payment =  $C \times \text{MDP2} / \text{MDP1}$ , where:
  - (i) C is the original total contribution amount payable to the City of Sydney as shown above;
  - (ii) MDP2 is the Median Strata Dwelling Price in Sydney LGA taken from the most recent NSW Government Rent and Sales Report at the time of indexation of the equivalent monetary contribution rate; and
  - (iii) MDP1 is the Median Strata Dwelling Price in Sydney LGA taken from the NSW Government Rent and Sales Report used to establish the current equivalent monetary contribution rate, being 1 March 2022 to 28 February 2023.

Contact Council's Planning Assessment Unit at [planningsystemsadmin@cityofsydney.nsw.gov.au](mailto:planningsystemsadmin@cityofsydney.nsw.gov.au) for written confirmation of the amount payable, with indexation as necessary, prior to payment.

**(4) USE OF THE LANEWAY STRUCTURE**

- (a) Each of the laneway structure (studio and garage) fronting Victoria Lane is ancillary to and must be used in conjunction with the principal dwelling that is located within the same allotment and must not be used as a separate (secondary) dwelling.
- (b) No approval is granted for the installation of any kitchen or kitchenette facilities within the studios.

**(5) DESIGN MODIFICATIONS**

The design of the building must be modified as follows:

- (a) The principal dwellings' front building lines are to align with the front building line of 90-106 Victoria Street by increasing the front setback to Victoria Street. The depth of the ground floor front verandahs and first floor front

balconies (and associated hoods) are to be increased to be consistent with the depth of the verandahs of 90-106 Victoria Street.

- (b) Privacy screens are to be provided to the full extent of the upper level west-facing windows of the principal dwellings.
- (c) The roof form of the laneway structures fronting Victoria Lane are to be amended as follows:
  - (i) Be of a symmetrical gable roof form with a maximum roof pitch of 40 degrees. The gable ends are to face the side boundaries.
  - (ii) The parapet height must not exceed 3m and the ridge height must not exceed 5.4m when measured from Victoria Lane.
  - (iii) Two (2) 'dormer style' inserts are to be provided to the east and west roof planes. The 2 inserts are to be set back a minimum 500mm from the sides, set back a minimum 200mm from the front and rear walls, and set down a minimum 200mm from the ridge.
- (d) The east and west facing windows of the studios are to be redesigned to have a sill height of 1.4m, measured from the finished floor level. Those windows are to include external fixed privacy screens that will be at least 60% obscure.

The modifications are to be submitted to and approved by Council's Area Planning Manager prior to the issue of any Construction Certificate.

## **(6) DESIGN DETAILS**

Detailed design intent construction drawings must be submitted at a scale no smaller than 1:20 for the following elements:

- (a) the proposed front fence to Victoria Street; and
- (b) the privacy screens required by Condition 5 above, showing the proposed construction, materials and spacing of the blades.

The details are to be submitted to and approved by Council's Area Planning Manager prior to the issue of any Construction Certificate.

## **(7) MATERIALS AND SAMPLES SCHEDULE**

- (a) A revised 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 any 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'.
- (b) The revised schedule must not include the use of dark colours including 'monument' and 'domino', except for the steel balustrades, door frames and window frames.

**(8) USE OF STRUCTURAL ENGINEER – DEMOLITION**

- (a) A suitably qualified practising structural engineer is to be commissioned to work with the consultant team throughout the design development, contract documentation and demolition stages of the project. The engineer is to be involved in the resolution of all matters relating to the demolition of the existing terraces and the alterations of the existing chimneys shared with 106 and 114 Victoria Street. The structural engineer is to be provided with full access to the site and authorised by the applicant to respond directly to Council where information or clarification is required regarding the resolution of issues regarding demolition, retention of party walls, and alterations to the shared chimneys throughout the project.
- (b) Prior to the issue of an Occupation Certificate, the commissioned structural engineer is to provide structural certification to the Principal Certifier verifying that the chimneys of 106 and 114 Victoria Street are structurally sound following the alterations.

**(9) DEMOLITION AND CONSTRUCTION METHODOLOGY**

- (a) A Detailed Demolition and Construction Methodology is to be prepared by the builder engaged for the project. The methodology must be endorsed by the structural engineer engaged as per Condition (8)(a) and incorporates the following recommendations included in the *Demolition Methodology – Dividing Walls and Shared Chimneys* prepared by Danny Morched of Danmor Consulting Engineers dated 2 February 2022:
  - (i) the only recommended option for the front shared chimney with 106 Victoria Street;
  - (ii) the only recommended option for the front shared chimney with 114 Victoria Street; and
  - (iii) the second recommended option for the rear shared chimney with 114 Victoria Street.
- (b) All demolition, and alterations to the party walls and shared chimneys are to be carried out in accordance with the methodology required by (a) above.

**(10) ASSOCIATED ROADWAY COSTS**

All costs associated with the construction of any new road works including kerb and gutter, road pavement, drainage system and footway shall be borne by the developer. The new road works must be designed and constructed in accordance with the City's *Sydney Streets Technical Specification* including amendments and *Sydney Streets Code*.

## **SCHEDULE 1B**

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

#### **(11) BASIX CERTIFICATE – DETAILS TO BE LODGED WITH A CC**

A copy of the required completed BASIX certificate accepted as part of this Development Consent with respect to the proposed residential building works, must be lodged with an application for a construction certificate and the items nominated as part of the subject BASIX certificate must be specified on the plans submitted with the construction certificate application. – See Note.

#### **IMPORTANT NOTE:**

Any requirement detailed in the accompanying BASIX Certificate, MUST be included as a specific notation or inclusion on any future Construction Certificate plans and specification in accordance with Part 3 of Schedule 1 of the EP&A Regulation, 2000.

#### **(12) CONSTRUCTION TRAFFIC MANAGEMENT PLAN**

- (a) A Construction Traffic Management Plan must be submitted to and approved by Council prior to a Construction Certificate being issued.
- (b) The approved plan must be complied with during any demolition and/or construction work.

#### **(13) MATERIALS FOR MAKING GOOD**

New materials for making good and repairs, are to match the existing in terms of colours, finishes, sizes, profile and properties.

#### **(14) STRUCTURAL CERTIFICATION FOR PARTY WALLS**

Prior to a Construction Certificate being issued, a certificate from a qualified practising structural engineer in accordance with Clause A2.2(a)(iii) of the *Building Code of Australia* must be submitted to the satisfaction of Principal Certifier. The Certificate must verify the structural integrity of the existing 'Party Wall(s)' as consequence of the additional loads imposed thereon by the proposal.

#### **(15) FLASHINGS TO BOUNDARY WALLS**

A flashing must be provided to prevent water entering between the proposed and existing external boundary walls of the adjoining properties.

Note: Attachments or connections to party walls may require the consent of the adjoining property owner/s.

#### **(16) DILAPIDATION REPORT**

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of neighbouring properties, are to be prepared by an appropriately qualified structural engineer prior to

commencement of demolition/excavation works. A copy of the dilapidation report/s together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Accredited Certifier and the Council prior to the issue of a Construction Certificate.

#### UPON COMPLETION OF EXCAVATION/DEMOLITION

- (b) A second Dilapidation Report/s, including a photographic survey must then be submitted at least one month after the completion of demolition/excavation works. A copy of the second dilapidation report/s, together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Principal Certifier and the Council prior to the issue of any Occupation Certificate.

Any damage to buildings, structures, lawns, trees, sheds, gardens and the like must be fully rectified by the applicant or owner, at no cost to the affected property owner.

Note: Prior to the commencement of the building surveys, the applicant/owner must advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making a claim regarding property damage. A copy of this information must be submitted to Council.

#### **(17) EROSION AND SEDIMENT CONTROL**

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.

#### **(18) IMPORTED FILL MATERIALS**

All fill imported onto the site must be validated to ensure the imported fill is suitable for the proposed land use from a contamination perspective. Fill imported on to the site shall also be compatible with the existing soil characteristic for site drainage purposes.

The City may require details of appropriate validation of imported fill material to be submitted with any application for future development of the site. Hence all fill imported onto the site should be validated by either one or both of the following methods during remediation works:

- (a) Imported fill must be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material for the known past history of the site where the material is obtained; and/or
- (b) Sampling and analysis of the fill material shall be conducted in accordance with NSW EPA (1995) Sampling Design Guidelines.

#### **(19) NOTIFICATION – NEW CONTAMINATION EVIDENCE**

Council's Area Planning Manager and the Principal Certifier must be notified of any new information which comes to light during remediation, demolition or



construction works which has the potential to alter previous conclusions about site contamination.

## **(20) STOCKPILES**

- (a) No stockpiles of soil or other materials must be placed on footpaths or nature strips unless prior approval has been obtained from the City's Construction Regulation Team.
- (b) All stockpiles of soil or other materials must be placed away from drainage lines, gutters or stormwater pits or inlets.
- (c) All stockpiles of soil or other materials likely to generate dust or odours must be covered.
- (d) All stockpiles of contaminated soil must be stored in a secure area and be covered if remaining more than 24 hours

## **(21) CLASSIFICATION OF WASTE**

Prior to the exportation of waste (including fill or soil) from the site, the waste materials must be classified in accordance with the provisions of the Protection of the *Environment Operations Act 1997* and the *NSW DECC Waste Classification Guidelines, Part 1: Classifying Waste (July 2009)*. The classification of the material is essential to determine where the waste may be legally taken. The *Protection of the Environment Operations Act 1997* provides for the commission of an offence for both the waste owner and the transporters if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid waste advice should be sought from the EPA.

## **(22) 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 must 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 2017* and the NSW Government and SafeWork NSW 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.

### **(23) HAZARDOUS MATERIALS SURVEY REQUIRED**

A Hazardous Materials Survey Report must be prepared by a certified Occupational Hygienist (*Australia Institute of Occupational Hygienists*) and submitted to the satisfaction of Council's Area Planning Manager prior to any demolition / refurbishment work commencing at the site. The report must identify and record the type, location and extent of any hazardous materials on the site and make recommendations as to their safe management and/or removal to ensure the site is made safe for demolition, construction and future use/occupation.

### **(24) COMPLIANCE WITH HAZARDOUS MATERIALS SURVEY REPORT**

All of the recommendations for management and/or removal of hazardous materials on the site, as outlined in the Hazardous Materials Survey Report required by Condition 23 above must be complied with.

Prior to the issue of any Occupation Certificate, certification must be submitted to the Principal Certifier from a certified Occupational Hygienist (*Australia Institute of Occupational Hygienists*) confirming that all hazardous materials identified have been contained, managed or removed in accordance with the recommendations given in the approved Hazardous Materials Survey Report and that the site is safe for future occupation in accordance with the approved use.

## **(25) PHOTOGRAPHIC ARCHIVAL DOCUMENTATION**

Prior to a Construction Certificate being issued, an archival photographic recording of the existing buildings at 108, 110 and 112 Victoria Street is to be prepared to Council's satisfaction. The recording is to be in digital form and prepared in accordance with the NSW Heritage Division guidelines titled "Photographic Recording of Heritage Items using Film or Digital Capture". One copy of the record is to be submitted to Council to be lodged with Council's Archives.

The form of the recording is to be as follows:

- (a) The Development Application number must be noted on the submitted information.
- (b) Include a summary report detailing the project description, date and authorship of the photographic record, method of documentation and limitations of the photographic record.
- (c) 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 licence 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.
- (d) The report is to be submitted on a USB or digital file transfer in PDF/A format, (created directly from the digital original), with the digital catalogue of images containing the following data for each location, image subject/description and date.
- (e) The electronic images are to be taken with a minimum 8 megapixel camera, saved as JPEG TIFF or PDF files with a size of approximately 4-6MB, and cross referenced to the digital catalogue sheets and base plans. Choose only images that are necessary to document the process and avoid duplicate images.

## **(26) TREES APPROVED FOR REMOVAL**

- (a) All trees detailed in Table 1 below are approved for removal. Tree removal must not occur until the Construction Certificate has been issued.

Table 1 – Tree Removal:

Tree No	Botanical/Common Name	Location
1	<i>Ficus benjamina</i> (Weeping Fig)	Front yard of 112 Victorian St
2	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)	Rear yard of 112 Victorian St
3	<i>Syzygium spp.</i> (Lilly Pilly)	

- (b) All tree removal works must be carried out by a qualified Arborist, with a minimum Level 3 AQF in arboriculture and in accordance with WorkCover’s Code of Practice – Amenity Tree Industry.

**(27) TREES THAT MUST BE PROTECTED**

- (a) The existing trees detailed in Table 2 below must be protected in accordance with the conditions of consent throughout the construction and development.

Table 2 – Trees to be protected:

Tree No	Botanical/Common Name	Location
4, 5, 6	<i>Callistemon viminalis</i> (Bottlebrush)	Victoria Street trees

**(28) TREE PROTECTION PLANS**

All detailed architectural, building, engineering (structural, stormwater and drainage services) and landscape documentation submitted for the Construction Certificate shall clearly show on all drawings the retention of trees as required by these conditions of consent, the position of their trunks, full diameter of their canopies, Structural Root Zones (SRZs) and Tree Protection Zones (TPZs).

**(29) STREET TREE PROTECTION**

All street trees directly outside the site must be retained and 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 the commencement of any works. The protection must be installed and certified by a qualified Arborist (AQF level 3) and must include:
- (i) An adequate clearance, minimum 250mm, must be provided between the structure and tree branches, limbs and trunks at all times;

- (ii) Tree trunk/s and/or major branches, 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) Young street trees shall be protection by installing three (3) wooden takes around the edge of the tree pit. Hessian shall be wrapped around the stakes. If existing stakes are already in place, these shall suffice as tree protection.
  - (d) Temporary signs, or any other items, shall not be fixed or attached to any street tree.
  - (e) 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.
  - (f) Any excavation within in any area known to, or suspected of having street tree roots greater than 30mm diameter must be undertaken by hand.
  - (g) Any trenching works for services / hydraulics / drainage etc must not be undertaken within 3 metres of any street tree. Alternative installation methods for services, such as directional boring/drilling, or redirection of services shall be employed where large woody roots greater than 30mm diameter are encountered during the installation of any services.
  - (h) Existing sections of kerbs adjacent to any street tree must not be removed without approval from the Council's Tree Management Officer.
  - (i) Any damage sustained to street tree/s as a result of construction activities (including demolition) must be immediately reported to the Council's Tree Management Officer on 9265 9333. Any damage to street trees as a result of construction activities may result in a prosecution under the Local Government Act 1993 and the Environmental Planning and Assessment Act 1979.

### **(30) TREE PRUNING**

The consent from Council's Tree Management Officer must be obtained prior to the undertaking of any tree pruning works, including tree roots greater than 30mm in diameter. Only minor pruning works will be approved by Council.

### **(31) 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 of any tree listed for retention. The Arborist must certify compliance with each key milestone as detailed below:
  - (i) Installation of tree protection measures;
  - (ii) During demolition of any ground surface materials (paving, concrete, grass etc) within the Tree Protection Zone (TPZ) of any tree to be retained;
  - (iii) During construction of the new structures within the TPZ of any tree to be retained;
  - (iv) During any excavation and trenching which has been approved by Council within the TPZ of any tree to be retained;
  - (v) During any Landscape works within the TPZ of any tree to be retained.
- (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.

### **(32) LANDSCAPING OF THE SITE**

- (a) The Landscape Plan prepared by Landscape Plan prepared by Cavas dated 3 August 2021 'Revision A' is not approved. 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. 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) A minimum of 6 trees, 2 for each proposed lot, must be included in the design. The trees species must be a minimum mature height of 8 metres and canopy spread of 5 metres. Palms, fruit trees and species recognised to have a short life span will not be accepted as suitable replacements;
  - (v) The trees must be grown to Australian Standard 2303:2015 'Tree stock for landscape use' and be self-supporting without the use of a prop i.e. stakes tied to the tree(s);
  - (vi) At the time of planting, the container size is to be a minimum of 100 litres and a minimum height of 2 metres;
  - (vii) New trees must be planted in natural ground with adequate soil volumes to allow maturity to be achieved. Root barrier / metal edging / stake etc. that limits the availability of adequate soil volumes for tree maturity to be achieved will not be accepted;
  - (viii) Planter boxes will not be accepted for tree planting;
  - (ix) The trees must be planted by a qualified Horticulturalist or Arborist of Level 2 under the Australian Qualifications Framework (AQF).
  - (x) New trees must be appropriately located away from existing buildings and structures to allow maturity to be achieved without restriction;
  - (xi) Details of planting procedure and maintenance;
  - (xii) Details of drainage, waterproofing and watering systems.
- (b) Prior to the issue of a Construction Certificate, a maintenance plan is to be submitted to and approved by the Principal Certifying Authority. 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.
  - (d) Any newly planted tree that fails to establish within 2 years of the initial planting date must be replaced with a tree of comparable qualities.

**(33) APPLICATION FOR HOARDINGS AND SCAFFOLDING INSTALLED ON OR ABOVE A PUBLIC ROAD AND OPERATING HOISTING DEVICES INCLUDING BUILDING MAINTENANCE UNITS OVER A PUBLIC ROAD**

- (a) Where a hoarding and/or scaffolding (temporary structures) are proposed to be installed on or above a road reservation (footway and/or roadway), a separate application under Section 68 of the *Local Government Act 1993* and Sections 138/139 of the *Roads Act 1993* must be submitted to and approved by Council for such structures.
- (b) Where an approval (Permit) is granted allowing the placement of temporary structures on or above a public road the structures must comply fully with

Council's *Hoarding and Scaffolding Policy; Guidelines for Hoardings and Scaffolding*; and the conditions of approval (Permit) granted including:

- (i) maintaining a current and valid approval for the full duration that the temporary structure/s is in place;
- (ii) maintaining temporary structure/s in a structurally sound and stable condition for the full duration of installation (Clause 2.11.1);
- (iii) bill posters and graffiti being removed within 24 hours of their placement (Clause 2.11.2);
- (iv) maintaining temporary structures and the public place adjoining the work site in a clean and tidy condition including repainting and/or repair of graphics (Clauses 2.11.1, 2.11.4, 2.14.1 and 3.9.3);
- (v) maintaining a watertight deck (Type B hoardings) to prevent liquids including rainwater, falling onto the footway/roadway surfaces (Clauses 3.9.1 and 3.9.4);
- (vi) approved site sheds on the decks of a Type B hoarding being fully screened from the public place (Clause 3.9.5);
- (vii) material and equipment not being placed or stored on the deck of Type B hoardings, unless specifically approved by Council (Clause 3.9.4);
- (viii) providing and maintaining operational artificial lighting systems under Type B hoardings including at high-bay truck entry points (Clause 3.9.9); and
- (ix) ensuring all required signage, artwork or historic images are provided and fully maintained to the City's requirements (Clauses 3.4, 3.9.3, 3.9.6, 3.9.8, 3.10.1 and 4.2).

If it is proposed to operate a hoisting device including a building maintenance unit above a public road which swings, hoists material/equipment and/or slews/wind vanes any part of the device over the public road, a separate application under Section 68 of the *Local Government Act 1993* and Sections 138/139 of the *Roads Act 1993* must be made to Council to obtain approval.

Note: 'Building maintenance unit' means a power-operated suspended platform and associated equipment on a building specifically designed to provide permanent access to the faces of the building for maintenance (*Work Health and Safety Regulation 2017*).

#### **(34) DILAPIDATION REPORT - PUBLIC DOMAIN**

Prior to an approval for demolition and preparatory works being granted or the issue of any Construction Certificate being issued, whichever is earlier, a photographic recording of the public domain site frontages is to be prepared as described in the *Public Domain Manual* and submitted to and approved by Council's Public Domain Unit. The City's *Public Domain Manual* is available for download from the City's website at <https://www.cityofsydney.nsw.gov.au/>



The submission is to 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.

### **(35) SURVEY INFRASTRUCTURE – IDENTIFICATION AND RECOVERY**

Under Section 24 of the Surveying and Spatial Information Act 2002, it is an offence to remove, damage, destroy, displace, obliterate or deface any survey mark unless authorised to do so by the Surveyor-General. Accordingly, the applicant must, where possible, ensure the preservation of existing survey infrastructure undisturbed and in its original state or else provide evidence of the Surveyor-General's authorisation to remove or replace marks.

Prior to the issue of any Construction Certificate, documentary evidence must be prepared by a Registered Surveyor and submitted to and approved by Council's Area Planning Manager / Coordinator. This evidence must include either:

- (a) A copy of any Surveyor-General's Approval for Survey Mark Removal granted by NSW Spatial Services for the subject site, including all documentation submitted as part of that application (for example the survey mark audit schedule, strategy plan and strategy report); or
- (b) A letter, signed by a current NSW Registered Land Surveyor and including his or her Board of Surveying and Spatial Information (BOSSI) identification number, stating that all investigations required under Surveyor-General's Direction No.11 have been made for the subject site and that no survey infrastructure will be affected by the proposal.

Council's Principal Surveyor may request further information and/or add conditions to any Surveyor-General's Approval at their discretion.

### **(36) STORMWATER AND DRAINAGE - MINOR DEVELOPMENT**

The drainage system is to be constructed in accordance with the City's standard drawings and requirements as detailed in the City of Sydney's Stormwater Drainage Manual. The development is to be designed so that the flow of pollutants from the site due to stormwater is reduced.

The requirements of Sydney Water regarding the on-site detention (OSD) of stormwater must be ascertained and complied with. Evidence of the on-site detention (OSD) approval must be submitted to City's Public Domain Unit prior to issue of any Construction Certificate other than demolition.

### **(37) TEMPORARY DEWATERING DURING CONSTRUCTION**

Prior to discharging any water collected during excavation and construction into the City's stormwater drainage system, approval must be sought from the City's Public Domain Unit. A dewatering management plan must be submitted with an *Application for Temporary Dewatering* available to download on the City's website.

Other options for dewatering include disposal to sewer with prior approval from Sydney Water, or off-site disposal by a liquid waste transporter for treatment/disposal to an appropriate waste treatment/processing facility.

**(38) NO OBSTRUCTIONS**

All public footways and paths of travel must be free from obstructions. If services are required to be relocated to clear paths of travel, then this must be undertaken at the developer's expense. All obstructions are to be removed prior to the issue of any Occupation Certificate.

**(39) STORMWATER COMPLETION DEED OF AGREEMENT AND POSITIVE COVENANT**

Prior to the issue of any Occupation Certificate, a Positive Covenant must be registered on the property title for all drainage systems involving On-Site Detention (OSD) to ensure maintenance of the approved OSD system regardless of the method of connection. The positive covenant will contain terms reasonably required by the City and will be drafted by the City's solicitor at the cost of the applicant, in accordance with the City's Fees and Charges.

**(40) SURVEY INFRASTRUCTURE – RESTORATION**

- (a) Prior to any Occupation Certificate being issued for the development, documentary evidence of restoration must be prepared by a Registered Surveyor and submitted to and approved by Council's Area Planning Manager / Coordinator. This evidence must include:
  - (i) Certification that all requirements requested under the Surveyor-General's Approval for Survey Mark Removal or by the City's Principal Surveyor under condition "Survey Infrastructure – Identification and Recovery" have been complied with;
  - (ii) Certification that all requirements requested under any Surveyor-General's Approval for Deferment of Survey Marks from condition "Survey Infrastructure – Pre-Subdivision Certificate works" have been complied with and;
  - (iii) Time-stamped photographic records of all new survey infrastructure relating to the site clearly showing the mark itself and sufficient context to aid in identifying the mark on site.

**(41) PUBLIC DOMAIN DAMAGE SECURITY BOND**

- (a) A Public Domain Damage Security Bond calculated on the basis 57 square metres of asphalt/concrete must be lodged with the City in accordance with the City of Sydney's adopted fees and charges. The bond must be provided as security for repairing any damage to the public domain in the vicinity of the site. The bond may be required for stone kerbs and gutters in accordance with the City of Sydney's adopted Schedule of Fees and Charges.
- (b) The City's Public Domain Unit must be contacted to determine the bond amount prior to lodgement. The Bond must be lodged with the City prior to an approval for demolition being granted or any Construction Certificate being issued, whichever is earlier.

#### **(42) PROTECTION OF STONE KERBS**

- (a) The existing stone kerbs on the Victoria Street frontage of the site are to be retained and properly protected during demolition, 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. A temporary concrete kerb will need to be constructed to retain the footpath until the stone kerbs can be reinstalled.
- (c) Note the following:
  - (i) All costs associated with the works are to be borne by the developer.
  - (ii) Damaged kerbs are to be replaced to match existing to Council's satisfaction or as otherwise advised by Council officers.
  - (iii) Where new vehicle crossings or temporary crossings are to be constructed to access the property, the affected kerb stones should be salvaged and reused wherever possible.
  - (iv) Council approval is required before kerbs are removed.
  - (v) Council approval is required prior to the cutting of existing stone kerbs for stormwater kerb outlets.
  - (vii) A bond may be required for stone kerbs and gutters in accordance with the City of Sydney's adopted Schedule of Fees and Charges. If so, this will be included with the Public Domain Damage Bond.

#### **(43) DRAINAGE AND SERVICE PIT LIDS**

All existing or proposed drainage and utility service pit lids throughout the public domain shall be to City of Sydney specifications and heel / bicycle safe, slip resistant, infill with material to match surrounding surface, finished flush with the adjacent pavement to avoid trip hazards and be clear of obstructions for easy opening and cleaning. Infill pit lids are to be detailed where specified by the Council's Public Domain Officer. Private pits are not permitted within the public domain. All details of pit lids must be shown on the public domain plan and must be approved by the City's Public Domain Unit prior to the issue of an approval for public domain works.

#### **(44) UTILITY SERVICES**

To ensure that utility authorities are advised of the development:

- (a) Prior to the issue of a Construction Certificate a survey is to be carried out of all utility services within and adjacent to the site including relevant information from utility authorities and excavation if necessary, to determine the position and level of services.

- (b) Prior to the commencement of work the applicant is to obtain written approval from the utility authorities (e.g. Energy Australia, Sydney Water, and Telecommunications Carriers) in connection with the relocation and/or adjustment of the services affected by the construction of the underground structure. Any costs in the relocation, adjustment or support of services are to be the responsibility of the developer.

**(45) WASTE AND RECYCLING MANAGEMENT**

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.

## SCHEDULE 1C

### DURING CONSTRUCTION/PRIOR TO OCCUPATION/COMPLETION

#### **(46) ENCROACHMENTS – NEIGHBOURING PROPERTIES**

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

#### **(47) 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.

#### **(48) HOURS OF WORK AND NOISE – OUTSIDE CBD**

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

- (a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg. loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.30am and 5.30pm on Mondays to Fridays, inclusive, and 7.30am and 3.30pm on Saturdays, with safety inspections being permitted at 7.00am on work days, and no work must be carried out on Sundays or public holidays.
- (b) All work, including demolition, excavation and building work must comply with the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436 - 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites.
- (c) Notwithstanding the above, the use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes outside of above hours can occur, subject to a permit being issued by Council under Section 68 of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993.

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

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

#### **(49) NOTIFICATION OF EXCAVATION WORKS OR USE OF HIGH NOISE EMISSION APPLIANCES/PLANT**

The immediately adjoining neighbours must be given a minimum of 48 hours notice that excavation, shoring or underpinning works or use of high noise emission appliances / plant are about to commence.

**(50) USE OF HIGH NOISE EMISSION APPLIANCES / PLANT**

- (a) The operation of high noise emission appliances, plant and/or machinery such as pile – drivers, rock breakers and hydraulic hammers and those which are not listed in Groups B, C, D, E or F of Schedule 1 of 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* is restricted to the hours of:
  - (i) Monday to Friday: 9.00am-12.00 midday and 1.00pm-4.00pm
  - (ii) Saturday: 9.00am-1.00pm.
- (b) All reasonable and feasible steps must be undertaken to ensure that the work, including demolition, excavation and building complies 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*.

**(51) 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.

**(52) 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 application under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993 must be submitted to and approved by Council.

**(53) 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.

#### **(54) 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 separate application being submitted to and approved by Council under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993.

#### **(55) 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.

## **SCHEDULE 1D**

### **SUBDIVISION**

#### **(56) SUBDIVISION PLAN – SOME COMPONENTS PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

- (a) Prior to the issue of any approval for demolition or Construction Certificate, the initial boundary definition survey work necessary for the preparation of a subdivision plan shall be carried out by a surveyor registered under the Surveying and Spatial Information Act, 2002. The registered surveyor shall provide a letter to the Principal Certifier certifying that the initial survey work and calculations for the boundary determination has been completed, prior to the issue of the Construction Certificate.
- (b) The subdivision must not be finalised until the external walls & party walls have been completed and the roof and guttering completed
- (c) Prior to the issue of any Staged or Final Occupation Certificate, the subdivision plan shall be completed and lodged with the Office of NSW Land Registry Services, showing the new building and creating any easements as necessary. Evidence of lodgement of the subdivision plan shall be supplied to the Principal Certifier prior to the issue of a Staged or Final Occupation Certificate.

Advisory note: It is recommended that the Construction Certificate plans provide for the external walls of the building to be set back a minimum of 20 millimetres from the boundaries to allow for construction tolerances and minimise risk of encroachment and consequent delays and expenses.

#### **(57) SURVEYS FOR THE BUILDING**

- (a) **AT FOUNDATION STAGE** - All footings and walls adjacent to a boundary or approved setback line must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be submitted to the Principal Certifier indicating the position of external walls in relation to the boundaries of the proposed allotment. Any encroachments of the subject building over the side boundaries must be removed prior to continuation of building construction work, or alternatively a letter supplied from the registered proprietor(s) of the adjoining private land confirming that they are aware of the nature & extent of the encroachment, and undertaking to execute all necessary documentation to permit the creation of an easement to permit the encroachment to remain.
- (b) **AT COMPLETION** - Prior to the issue of any staged Occupation Certificate for a part or the whole of the building - a Final Identification Survey prepared by a Surveyor registered under the Surveying & Spatial Information Act, 2002 must be submitted at the completion of the building work certifying the location of the building in relation to the boundaries of the allotment. Any encroachments of the building over the external site boundaries or proposed internal boundaries as approved by this consent must be rectified prior to the issue of any staged Occupation Certificate for the whole or any part of the building, or suitable easements registered on title.



**(58) LAND SUBDIVISION – SUBDIVISION CERTIFICATE**

A separate application must be made to Council to obtain the approval of the plan of subdivision and issue of a Subdivision Certificate under Section 6.15 of the Environmental Planning and Assessment Act 1979.

**(59) EASEMENTS**

The final Torrens title Plan of Subdivision is to include the creation of appropriate easements to address any services passing through one lot in the subdivision and benefiting another, pursuant to Section 88B of the Conveyancing Act 1919. The easements are to be created in appropriate terms, burdening each affected lot, and to the satisfaction of Council.

**(60) PARTY WALL**

The central common wall shall be of masonry construction, and noted on the plan of subdivision as a party wall, in order to create cross-easements for support upon registration of the plan under Section 88BB of the Conveyancing Act, 1919.

**(61) STREET ADDRESSES OF LOTS**

In accordance with Clause 60(c) of the Surveying and Spatial Information Regulation 2012, the final Plan of Subdivision must show the street addresses of both new lots. An application should be made to council's Spatial Information Officer to allocate street addresses for the proposal.

**(62) SURVEY INFRASTRUCTURE**

Prior to the issue of the subdivision certificate, sufficient survey infrastructure, including survey reference marks and permanent marks, must remain in place in order to satisfy the requirements of the Surveying and Spatial Information Regulation 2012, and to the satisfaction of Council.

**(63) SYDNEY WATER CERTIFICATE - SUBDIVISION**

Prior to the issue of a Subdivision/Strata Certificate, a Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section on the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to Council or the Accredited Certifier prior to a Subdivision/Strata Certificate being issued.

## 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>