

# **Attachment B**

**Conditions of Consent – D/2020/1072/A**

**Deferred Commencement - Approval** issued under Section 4.16(1)(a) and in accordance with the provisions of Section 4.16(3) of the *Environmental Planning and Assessment Act, 1979*

<b>Development application number</b>	D/2020/1072/A
<b>Applicant</b>	Growthbuilt Pty Ltd
<b>Land to be developed</b>	110-122 Oxford Street, Darlinghurst NSW 2010 Lot 2 Deposited Plan 815188
<b>Approved development</b>	Use of the existing building as a mixed use development and associated alterations and additions, and signage strategy. The <b>proposed</b> uses include a 75 room hotel, retail premises, food and drink premises, and tenancies for cultural and creative uses on the lower ground and ground levels.  <b>(Description amended - D/2020/1072/A - 9 November 2022)</b>
<b>Cost of development</b>	\$16,104,915
<b>Determination</b>	The application was determined by the Local Planning Panel and was granted a deferred commencement subject to the attached conditions.  This Section 4.55 modification application was determined under delegation of Council and was granted approval subject to the attached conditions.
<b>Section 7.11 contribution</b>	A Section 7.11 Contribution (under the City of Sydney Development Contributions Plan 2015) applies to this development.
<b>Other approvals</b>	Before commencing <i>building work</i> or <i>subdivision work</i> , a relevant Construction Certificate must be obtained from Council or an Accredited Certifier. Council must be appointed the Principal Certifier for any <i>subdivision work</i> under the Act.
<b>Date of determination</b>	18 May 2022
<b>Consent is to operate from</b>	<b>Refer to section 4.16(3) of the Act</b>
<b>Consent will lapse on</b>	<b>Five years from the date the consent is to operate from</b>
<b>Date of Section 4.55(1A) modification</b>	<b>9 November 2022</b>

**Reasons for conditions**

Unrestricted consent may affect the environmental amenity of the area and would not be in the public interest.

**Reasons for approval**

1. The development, as modified, is substantially the same as that originally approved; and
2. Appropriate conditions of consent have been imposed to ensure that the development will not result in detrimental environmental impacts.

**Community consultation**

As a Section 4.55(1A) modification, and in accordance with the City of Sydney Community Participation Plan, the application was not notified as by way of scale, character and operation the proposed modifications are likely to have minimal or acceptable impacts.

**Right of appeal**

If you are dissatisfied with this decision, Section 8.9 of the *Environmental Planning and Assessment Act, 1979* gives you the right to appeal to the Land and Environmental Court within 6 months of the date of this notification.

Alternatively, you may request a review under Division 8.2 of the Act within 28 days of the date of this notice (NB Division 8.2 is not applicable to integrated or designated development).



per

**Graham Jahn AM**

Director - City Planning, Development & Transport

**PART A - DEFERRED COMMENCEMENT CONDITIONS (CONDITIONS TO BE SATISFIED PRIOR TO CONSENT OPERATING)**

**SCHEDULE 1**

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

- (A) 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) A Voluntary Planning Agreement (VPA) between the Council of the City of Sydney and AM Darlinghurst Investment Pty Ltd ACN 633 798 384 shall be drafted, exhibited, executed and submitted to Council in accordance with the Public Benefit Offer dated 10 September 2021.
- (b) A 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 for folio identifier 2/815188, commonly known as 110-122 Oxford Street Sydney.

**(2) CULTURAL AND CREATIVE FLOOR SPACE**

- (a) An equivalent amount of 10% of gross floor area within the site must be used for cultural and creative space, calculated as follows:

	Existing	10% Required	Total Required
110-122 Oxford Street (Group 3)	0sqm	242sqm	242sqm

- (b) Amended plans showing the location of these areas are to be submitted to and approved by Council's Area Planning Manager.

**(3) FINAL STRUCTURAL DESIGN AND SOLUTIONS PERTAINING TO FLOOR UPGRADE REQUIREMENTS:**

- (a) Prior to the operation of consent, final structural design solutions must be resolved to the satisfaction of Council's Area Planning Manager including floor upgrade requirements in relation to Fire Resistance, Seismic Stability and Vertical Load Capacity within the heritage listed buildings at Nos 110 to 122 Oxford Street (Group 3) as follows:
  - (i) Concept drawings: The submitted drawing set by Robert Bird Group entitled 'CONCEPT ONLY' must be further developed as a final design solution to retain as much heritage fabric as possible.
  - (ii) Fire Resistance: The proposed approach to proving supplementary fire protection to the floors to increase the fire separation capacity of

the floor structures of the heritage buildings, to achieve required Fire Resistance Levels (FRLs).

- (iii) Seismic Stability: The proposed method to achieving seismic strengthening of existing floor structures to overcome the shortfalls for Seismic Stability.
- (iv) Vertical Load Capacity: The proposed methods to strengthening of existing floor structures to resolve the shortfalls for Vertical Loads based of further investigation and assessment of both the capacity of the existing floor structure and the impact of the weight of addition of fire protection or acoustic treatment.

- (b) The above solutions are to minimise the impact upon, and interference of, significant heritage fabric, enable significant ceilings and structural elements to be exposed to view and conserve the historic character of the interiors.

**(4) CONSERVATION OF ENTRANCE VESTIBULE, AND STAIRWELL AND STAIR FROM GROUND FLOOR TO EXISTING ROOF LEVEL, AT NO. 120 OXFORD STREET:**

- (a) Prior to the activation of consent, the proposal must be amended to the satisfaction of Council’s Area Planning Manager as follows:

- (i) The proposed demolition of the stair at No. 120 Oxford Street above the Ground Floor level is NOT APPROVED. The original stair must be retained at the Ground floor level and at all levels of the building above the ground floor including to the existing roof level.
- (ii) All masonry walls of the stairwell must be retained and conserved at all levels of the building, including the curved features within the stairwell. The proposed demolition of the curved nib walls at the southern end of the stair well on the Lower Ground Floor is NOT APPROVED and the nibs must be retained.

- (iii) The following conservation actions must be included in the works:

- a. All components of the stair at all levels must be retained in situ and conserved including the following:

- i. the marble balustrade panels, timber newel, timber handrail, terrazzo treads and risers of the ground floor flight.
- ii. the timber treads, risers and stringers, the timber balustrades, timber newels and timber handrails of all the upper flights.
- iii. ***all*** landings including associated balustrades, skirtings and window joinery and window glazing ***except the level 2 landing including balustrade and skirting where the new stair flight is to be added.***
- iv. the plaster finishes to the underside of all flights.

- v. the original shellac finishes of the timber components which are to be reinstated where painted over.
- b. The timber frames and glazed doors, highlight glazing and door hardware at the Oxford Street frontage must be retained.
- c. The flight of stairs descending from the Ground Floor down to the Lower Ground Floor level may be removed as proposed, and the edge of the terrazzo landing at the Ground Floor Level where it meets the lower flight must be made good and stabilised.
- d. The Keene's cement walls finishes on all levels of the stair wells must be retained and conserved.
- (iv) ~~**The proposed extension of the stairwell vertically is not to result in any loss or disturbance of significant fabric of the stair or stairwell and is not to bear structurally on the existing stairwell walls and accordingly must be done in lightweight fire resistant construction.**~~
- (v) Decorative lighting must be installed within the ground floor vestibule so that visibility is retained into the stairwell from Oxford Street at all times.
- (vi) ~~**A fire engineered performance solution resolving any issues within the stairwell and that ensures all fabric in (i) to (iii) above is retained and conserved, must be submitted for approval.**~~
- (vii) Plans sections and elevations of the stair must be submitted at 1:50 and 1:20 scale including the existing and the additional flights through the addition.
- (viii) ~~**The conservation actions outlined above must be included in the Schedule of Conservation Works.**~~

**(Condition amended - D/2020/1072/A - 9 November 2022)**

- (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) of the subject report.

**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 Number D/2020/1072 dated 15 October 2020 and the following drawings prepared by FJMT:

Group 3 – 110-122 Oxford Street		
Drawing Number	Drawing Name	Date
A-12300/ DA01	Site Plan	30/09/2020
A-23001/ DA05	Group 3 - Proposed Plan – Lower Ground	21/10/2021
A-23002/ DA04	Group 3 - Proposed Plan – Ground Floor	21/10/2021
A-23003/ DA01	Group 3 - Proposed – Level 1	30/09/2020
A-23004/ DA01	Group 3 - Proposed – Level 2	30/09/2020
A-23005/ DA01	Group 3 - Proposed – Level 3	30/09/2020
A-23006/ DA01	Group 3 - Proposed – Level 4	30/09/2020
A-23007/ DA05	Group 3 - Proposed - Roof	17/11/2021
A-23051/ DA01	Proposed Reflected Ceiling Plans Group 3 – Proposed Plan – Lower Ground	09/07/2021
A-23052/ DA01	Proposed Reflected Ceiling Plans Group 3 – Proposed Plan – Ground Level	09/07/2021

Group 3 – 110-122 Oxford Street		
Drawing Number	Drawing Name	Date
A-23053/ DA01	Proposed Reflected Ceiling Plans Group 3 – Proposed Plan – Level 1	09/07/2021
A-23054/ DA01	Proposed Reflected Ceiling Plans Group 3 – Proposed Plan – Level 2	09/07/2021
A-23101/ DA03	Group 3 – Demolition Plan – Lower Ground	18/06/2021
A-23102/ DA03	Group 3 – Demolition Plan – Ground	18/06/2021
A-23103/ DA02	Group 3 – Demolition Plan – Level 1	26/11/2020
A-23104/ DA02	Group 3 – Demolition Plan – Level 2	26/11/2020
A-23105/ DA02	Group 3 – Demolition Plan – Roof	26/11/2020
A-23601/ DA01	Group 3 – Demolition RCP – Lower Ground	26/11/2020
A-23602/ DA01	Group 3 – Demolition RCP – Ground	26/11/2020
A-23603/ DA01	Group 3 – Demolition RCP – Level 1	26/11/2020
A-23604/ DA01	Group 3 – Demolition RCP – Level 2	26/11/2020
A-32301/ DA09	Group 3 – Elevations	23/11/2021
A-43011/ DA03	Group 3 - Sections	21/10/2021
A-70101/ DA01	Window Treatment Details	26/11/2020

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.



**(2) STAGED CONSTRUCTION CERTIFICATES**

The works may be carried out in stages with the relevant conditions being satisfied prior to the issue of a Construction Certificate for each stage as follows:

<b>Stage</b>	<b>Works</b>
1	<ul style="list-style-type: none"> <li>• Site Establishment</li> <li>• Demolition</li> <li>• Hazardous material removal</li> <li>• Structure associated with demolition</li> </ul>
2	<ul style="list-style-type: none"> <li>• In ground services</li> <li>• Excavation and footings, including OSD tanks and underpinning</li> </ul>
3	<ul style="list-style-type: none"> <li>• Structure</li> </ul>
4	<ul style="list-style-type: none"> <li>• Services above ground</li> <li>• Remainder of works (main architectural works)</li> </ul>
5	<ul style="list-style-type: none"> <li>• Public Domain</li> </ul>

**(3) OPERATIONAL CONDITIONS – HOTEL ACCOMMODATION**

The following operational conditions apply to the use of the hotel accommodation at all times:

- (a) The maximum number of occupants permitted to stay at the premises is 150 occupants at any one time.
- (b) The Foley Street entrance must not be used by guests between the hours of 10.00pm and 7.00am the following day. The Oxford Street entrance may be used during these hours.
- (c) The capacity of each bedroom must not be increased at any time.
- (d) The maximum permitted length of stay for each guest is 3 months.
- (e) The premises are to have a manager on-site 24-hours per day with their contact phone number made available to guests, local residents, police and local council via the website, on-site signage and/or letters.
- (f) Lockable storage of a minimum of 1.2 cubic metres per room is to be provided.

**(4) VISITOR AND TOURIST ACCOMMODATION - USE AND OPERATION**

The use and operation of the premises must comply with the requirements of Schedule 2 (Standards for Places of Shared Accommodation) of the *Local Government (General) Regulation, 2005* under the *Local Government Act, 1993*, the *Public Health Act, 2010* and regulations thereunder and *Sydney Development Control Plan 2012 – 4.4.8*.

**(5) PLAN OF MANAGEMENT – HOTEL ACCOMMODATION**

- (a) The use must always be operated / managed in accordance with the Plan of Management, titled 'Hotel Operations Plan' prepared by TFE Hotels which is to be further amended as follows:
  - (i) To include information on the availability of bicycle parking for staff and guests within the end of trip facilities of the Group 2 building; and
  - (ii) To ensure that it is consistent with all conditions of consent.
- (b) The amended Plan of Management must be submitted to and approved by Council's Area Planning Manager/Co-ordinator prior to the issue of an Occupation Certificate.
- (c) In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.

**(6) ACCOMMODATION - REGISTRATION AND MANAGER**

Prior to the issuing of any Occupation Certificate, Council's Health and Building Unit must be advised in writing of the business name, address, owner or company name, 24 hour contact details for the site manager, and the number of occupants approved for the premises. A manager must be contactable 24 hours a day.

**(7) USE AND LOCATION OF CULTURAL AND CREATIVE FLOOR SPACE**

- (a) The cultural and creative space must be used for 'live entertainment, performing arts, fine arts and craft, design (fashion, industrial or graphic), media, film and television, photography or publishing, or museums and archives dedicated to these purposes'. Information confirming the specific uses of each space must be submitted to and approved by Council's Area Planning Manager prior to an Occupation Certificate for those spaces being issued.
- (b) The use of cultural and creative floor space must only be used for permissible uses under the Sydney Local Environmental Plan 2012.
- (c) The location of the cultural and creative space must be consistent with the plans submitted to satisfy deferred commencement condition 2 (Cultural and Creative Floor Space).

**(8) RESTRICTION OF CULTURAL AND CREATIVE FLOOR SPACE**

Prior to any Occupation Certificate being issued or the use commencing, whichever is earlier, a documentary Restriction on the Use of Land must be

registered on the Title of the development site pursuant to section 88E of the *Conveyancing Act, 1919*. The Restriction on the Use of Land must be to the effect that the amount of Gross Floor Area of the building required in deferred commencement condition “Cultural and Creative Floor Space” of the building has been approved as ‘cultural and creative’ floor space only and must not be used for any other purpose. The Restriction is to be created appurtenant to Council and at no cost to Council.

**(9) BUILDING HEIGHT**

- (a) The height of the buildings must not exceed:
  - (i) Group 3 – 21.9 metres
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification that the height of the building accords with (a) above, to the satisfaction of the Principal Certifier.

**(10) FLOOR SPACE RATIO - ALL OTHER AREAS**

The following applies to Floor Space Ratio (FSR):

- (a) The FSR for Group 3 must not exceed 4:1 calculated in accordance with the Sydney Local Environmental Plan 2012. For the purposes of the calculation of FSR, the Gross Floor Area for Group 3 is 2,416 square metres.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification of the total and component Gross Floor Areas (by use) in the development, utilising the definition under Sydney Local Environmental Plan 2012, applicable at the time of development consent, to the satisfaction of the Principal Certifier.

**(11) DESIGN QUALITY EXCELLENCE**

- (a) In order to ensure the design quality excellence of the development is retained to completion:
  - (i) The design architect FJMT must have direct involvement in the design documentation, contract documentation and construction stages of the project including signing off any required certifications at Development application, Section 4.55 modification application, Construction Certificate and Occupation Certificate stages.
  - (ii) The design architect must have full access to the site and must be authorised by the applicant to respond directly to Council where information or clarification is required in resolving design issues throughout the life of the project.
  - (iii) Evidence of the design architect’s commission must be provided to the Council prior to release of the Stage 1 Construction Certificate.
- (b) The design architect of the project must not be changed without prior notice and approval of the Council’s Director Planning, Development and Transport.

The Accredited Certifier and Principal Certifier must be satisfied that the above matters are complied with prior to the issue of a relevant Construction and Occupation Certificates, in accordance with written confirmation from Council.

**(12) AMENDED DRAWINGS**

- (a) A consolidated set of demolition drawings and proposed drawings must be submitted that address all of the design modification conditions of this consent.
- (b) The addresses of each building within Group 3 must be indicated on the drawings.

This information must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Stage 1 Construction Certificate.

**(13) DESIGN MODIFICATIONS – RESIDENTIAL BIN ROOM – GROUP 3**

The design of the building must be modified as follows:

- (a) The residential bin room must be located so that it is capable of complying with the requirements of Council's *Guidelines for Waste Management in New Development*.

The modifications must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Stage 1 Construction Certificate.

**(14) EXTERNAL DESIGN MODIFICATIONS – FACADES – GROUP 3**

The design of the building must be modified as follows:

- (a) External facades: The original face brickwork, sandstone, vents, and all tiled, pressed metal, metal, rendered and joinery components of all facades of Nos 110 to 122 Oxford Street must be retained and conserved, except where new openings are approved as part of this consent. The following must be included in the works:
  - (i) The paintwork must be removed from the Foley Street facades of Nos 110-122 Oxford Street, to expose the original face brickwork or stonework components. These requirements apply to the following facades:
    - a. Foley Street facade of No. 110 Oxford Street, at the Lower Ground level, the Ground Floor level, Level 1, Level 2 and the parapet level.
    - b. Foley Street facade of Nos. 112 and 114 Oxford Street, at the Lower Ground level.
    - c. Where paintwork has been applied to the glazing or tiling of the shopfront components to be retained.

The modifications must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Stage 1 Construction Certificate.

**(15) EXTERNAL DESIGN MODIFICATIONS – ROOF AND PARAPET – GROUP 3**

The design of the building must be modified as follows:

- (a) Roof and parapet elements:
  - (i) Lead **or zinc** cappings must be applied to the top surfaces of all the brick and sandstone parapets and to the projecting sandstone ledges and cornices of Nos 116 to 122 Oxford Street, to protect the facades from ingress of water. Existing steel cappings must be removed.

The modifications must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Stage 1 Construction Certificate.

***(Condition amended - D/2020/1072/A - 9 November 2022)***

**(16) EXTERNAL DESIGN MODIFICATIONS – AWNINGS – GROUP 3**

The design of the building must be modified as follows:

- (a) The proposal for the cantilevered awnings at Nos 110 to 122 Oxford Street, is to include the following:
  - (i) The original components of the cantilevered awnings, their supporting metal ties and tie brackets and associated roofing and roof plumbing components, of Nos 110-122 Oxford Street must be conserved.
  - (ii) All non-original attachments to the roofs, soffits, brackets and fascias of the awnings including the timber plywood, the building services, external lighting and signage, must be removed.
  - (iii) The replacement roofing of the awnings must be corrugated in profile, and to be of a mid to dark grey colour.
  - (iv) Existing downpipes from the cantilevered awnings must be concealed behind the linings of the piers either side of the shopfronts.
  - (v) The conservation actions must be notated on the main drawing set and conservation details included in the Schedule of Conservation Works, ***with the latter document to be submitted to and approved by Council's Area Planning Manager prior to the issue of a Stage 4 Construction Certificate.***

The modifications must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Stage 1 Construction Certificate, ***unless stated otherwise above.***

***(Condition amended - D/2020/1072/A - 9 November 2022)***

**(17) EXTERNAL DESIGN MODIFICATIONS – WINDOWS – GROUP 3**

The design of the building must be modified as follows:

- (a) Window joinery, all facades: All original and early window joinery installed prior to 1945 within the facades of the buildings must be conserved. Any replacement of the original and early window joinery is only to occur where the condition has deteriorated beyond reasonable repair and must be consistent with original joinery in respect of the design, size, detailing, proportions, cross sectional size and profile of components and timber species. The conservation actions must be notated on the main drawing set and conservation details included in the schedule of conservation works.
- (b) Oriel windows, Nos. 110 to 114 Oxford Street: The belcast metal cladding, the projecting eaves, the window joinery and the cantilevered soffits of the oriel windows at 110 to 114 Oxford Street must be conserved to ensure a long term sound condition. Any rafters or timber linings to the eaves that are in poor condition must be replaced with timber to match the original in species, profile and size. The eaves gutters of the oriels may be fitted with spitters. Gutters and spitters must be in copper or painted galvanised steel. The conservation actions must be notated on the main drawing set and conservation details included in the Schedule of Conservation Works.
- (c) All original and early external glazing predating 1945 must be retained and conserved.
- (d) All existing aluminium framed windows, shopfronts and doors on the Oxford and Foley Street facades must be removed.
- (e) The proposed windows 'WT02', to be inserted into the Foley Street facade at Level 1 and Level 2 of Nos. 112-114 Oxford Street must be of high quality framing materials, either timber or steel. Detail plans, elevations and sections at 1:50 must be submitted for approval.
- (f) The proposed windows 'WT02', to be inserted into the Foley Street facade at Ground Floor and Level 2 of Nos. 116 to 122 Oxford Street must be of high quality framing materials, either timber or steel. Detail plans, elevations and sections at 1:50 must be submitted for approval.
- (g) New openings and assemblies, Lower Ground Floor level, Foley Street facade: The openings must be fitted with high quality framing materials such as steel or timber framed glazed assemblies. No aluminium framed assemblies must be installed. New shopfronts must be sympathetic in design to the period and style of the buildings and incorporate. The glass line must be inset within the brick reveals to accord with the location of original joinery and glazing. Detail plans, elevations and sections at 1:50 must be submitted.

The modifications must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Stage 1 Construction Certificate.

**(18) EXTERNAL DESIGN MODIFICATIONS – SERVICES AND STORMWATER – GROUP 3**

The design of the building must be modified as follows:

- (a) Original stormwater drainage components, Oxford Street facade: The exposed and recessed cast iron spitters, rainwater heads, downpipes and

astragals in the Oxford Street facades at each end pier of Nos. 112 to 114 Oxford Street must be conserved. The drawings must be amended to clearly draw and notate the retention and conservation of these features. Any replacement component must be of matching material and profiles. The conservation actions must be notated on the main drawing set and conservation details included in the Schedule of Conservation Works, ***with the latter document to be submitted to and approved by Council's Area Planning Manager prior to the issue of a Stage 4 Construction Certificate.***

- (b) External building services, external sanitary drainage, external lighting and external signage:
  - (i) All existing sanitary drainage, building services plant, installations and reticulation components of building services (ductwork, conduit and the like) and any associated fixings, must be removed from all facades of the buildings and the facades made good.
  - (ii) All existing signage and external light fixtures on any facade or awning installed post 1945 must be removed and the facades made good.
  - (iii) No additional sanitary drainage components, building services plant, installation and reticulation components must be attached to the external facades of the heritage listed component of the buildings, and must be reticulated internally, the exception being low voltage wiring associated with external lighting, security and fire warning systems, or reticulation of water to fire drenchers.
  - (iv) Should any early signage be discovered during the removal of paintwork from the facades of the buildings, the signage must be retained and stabilised.
- (c) External stormwater components associated with the additions:
  - (i) The proposed stormwater downpipes on the Foley Street facade that service the proposed additions must be installed in a high-quality metal such as zinc, stainless steel, or copper.
  - (ii) If any additional downpipes are required to service the additions, these must be reticulated internally.
  - (iii) No downpipes must be installed on the Oxford Street facades to service the proposed addition.
- (d) All new external fixings must have a corrosion resistance equal to Grade 316 stainless steel.

The modifications must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Stage 1 Construction Certificate, ***unless stated otherwise above.***

***(Condition amended - D/2020/1072/A - 9 November 2022)***

**(19) EXTERNAL DESIGN MODIFICATIONS – ENTRANCE – GROUP 3**

The design of the building must be modified as follows:

- (a) Entrance at No. 120 Oxford Street: The proposal for the entrance at 120 Oxford Street is to include the following conservation actions:
  - (i) The terrazzo pavement, thresholds, timber framed and glazed door joinery, door hardware and the highlight glazing must be retained in situ and conserved.
  - (ii) A fire engineered performance solution is to enable the retention of the glazed doors and highlight glazing, **to be submitted to and approved by Council's Area Planning Manager prior to the issue of a Stage 4 Construction Certificate.**
  - (iii) Any non-slip treatment required to the pavement must be clear.
  - (iv) The projecting sign and the downlights must be carefully removed and the fabric made good. Decorative lighting must be installed that is sympathetic to the period of the building.
  - (v) Retain or replace the stone cladding over the piers and submit details.
  - (vi) All plans and elevations related to the Ground Floor on the Oxford Street frontage must include the address of the entrance.

The modifications must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Stage 1 Construction Certificate, **unless stated otherwise above.**

***(Condition amended - D/2020/1072/A - 9 November 2022)***

**(19A) EXTERNAL DESIGN MODIFICATIONS – ENTRANCE – GROUP 3**

***The design of the building must be modified as follows:***

- (a) ***The proposed extension of the stairwell vertically is not to result in any loss or disturbance of significant fabric of the stair or stairwell and is not to bear structurally on the existing stairwell walls and accordingly must be done in lightweight fire-resistant construction, except at the level 2 landing including balustrade and skirting where the new stair flight is to be added. This modification must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Stage 3 Construction Certificate.***
- (b) ***A fire engineered performance solution resolving any issues within the stairwell and that ensures all fabric in Deferred Commencement Condition 4 (i) to (iii) above is retained and conserved, must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Stage 4 Construction Certificate.***
- (c) ***The conservation actions outlined above in Deferred Commencement Condition 4 must be included in the Schedule of Conservation Works to be submitted to and approved by Council's***



***Area Planning Manager prior to the issue of a Stage 4 Construction Certificate.***

***(Condition inserted - D/2020/1072/A - 9 November 2022)***

**(20) EXTERNAL DESIGN MODIFICATIONS – SHOPFRONTS – GROUP 3**

The design of the building must be modified as follows:

- (a) Shopfronts and adjacent structural piers Nos 110 to 118 and 122 Oxford Street, Ground Floor level. The following modifications must be undertaken and submitted for approval with notated detail plans, elevations and sections at 1:50 and the conservation actions included in the Schedule of Conservation Works:
  - (i) All shopfronts at Nos 110 to 118 and 122 Oxford Street, whether to be retained, conserved, modified or replaced according to this condition in parts (ii) to (vii) below, must be designed as follows:
    - a. Each shopfront must be fitted with clear glazing including the highlight windows above the transom rails, the shopfront below the transom rail and the doors. The highlight windows above the transom rails are to extend full height to the underside of the original beams over the shopfronts.
    - b. No part of any shopfront below the street awnings must be used for air intake or for air exhaust, and the proposed air condition system must be redesigned accordingly.
    - c. In reference to parts a. and b. above, the proposed Shopfront facade Type 1.2 (modified Oxford Street shopfronts in Group 3) on drawing A-70102 DA01 by FJMT must be modified accordingly to remove the grills and to provide clear glazing above the transoms.
    - d. All tiling of the stallboards and the adjacent piers must be of a small format, either 75 x 150mm or 100 x 100mm, consistent with the period of construction of the building 1911-1912.
  - (ii) No. 110 Oxford Street: The shopfront Type 1.2 proposed to be installed at No 110 Oxford Street must be amended as follows:
    - a. To include a recessed entry and porch below the transom rail.
    - b. The proposed grills above the transom rails must be deleted and replaced by clear glazing.
    - c. The highlight windows above the transom rails are to extend full height to the underside of the original beams over the shopfronts.
    - d. No part of the shopfront including above the transom rail must be used for air intake or for air exhaust, and the proposed air condition system must be redesigned accordingly.
    - e. Install a terrazzo pavement to the recessed porch.

- (iii) No. 112 Oxford Street including shopfront and recessed fire escape:
- a. The shopfront Type 1.2 proposed to be installed at No 112 Oxford Street must be amended as follows:
    - i. The proposed grills above the transom rails must be deleted and replaced by clear glazing.
    - ii. The highlight windows above the transom rails are to extend full height to the underside of the original beams over the shopfronts.
    - iii. No part of the shopfront including above the transom rail is to be used for air intake or for air exhaust, and the proposed air condition system must be redesigned accordingly.
  - b. The early tiled margins around the shopfront at No.112 Oxford Street and the tiling of the western pier, must be retained and conserved.
  - c. The threshold at the entry doorway of the shopfront must be terrazzo.
  - d. The proposed lining to the reveals of the fire exit recess at No 112 Oxford Street must be integrated with the linings of the adjacent stallboard, and details submitted.
  - e. The marble thresholds and floor tiles of the existing entries to the upper levels at Nos. 112 and 114 Oxford Street must be salvaged and laid as the pavement of the fire exist recess at 112 Oxford Street and the surface completed with new matching material as required. Any non-slip treatment required to the pavement must be clear. If the tiles cannot be salvaged, a terrazzo pavement must be installed within the fire exist recess.
- (iv) No. 114 Oxford Street including shopfront and recessed hotel entrance:
- a. The shopfront Type 1.2 proposed to be installed at No 114 Oxford Street must be amended as follows:
    - i. The proposed grills above the transom rails must be deleted and replaced by clear glazing.
    - ii. The highlight windows above the transom rails are to extend full height to the underside of the original beams over the shopfronts.
    - iii. No part of the shopfront including above the transom rail is to be used for air intake or for air exhaust, and the proposed air condition system must be redesigned accordingly.

- b. A terrazzo pavement must be installed to the recessed entry porch.
  - c. The hotel entrance door is to incorporate a timber framed and panel door salvaged from within the building, with clear highlight glazing above. Details at 1:50 scale must be submitted for approval.
- (v) No. 116 Oxford Street: The shopfront Type 1.2 proposed to be installed at No 116 Oxford Street must be amended as follows:
- a. The proposed grills above the transom rails must be deleted and replaced by clear glazing.
  - b. The highlight windows above the transom rails are to extend full height to the underside of the original beams over the shopfronts.
  - c. No part of the shopfront including above the transom rail is to be used for air intake or for air exhaust, and the proposed air condition system must be redesigned accordingly.
- (vi) No. 118 Oxford Street: The existing shopfront at 118 Oxford Street is to be retained as proposed. However, the proposed grill above the transom is not APPROVED. The following amendments must be incorporated into the proposal:
- a. The proposal must be amended to retain the clear highlight glazing above the shopfront and the recessed door.
  - b. No part of the shopfront including above the transom rail is to be used for air intake or for air exhaust, and the proposed air condition system must be redesigned accordingly.
  - c. Retain the terrazzo pavement of the recessed porch.
  - d. Retain or replace the stone cladding of the western pier.
- (vii) No. 122 Oxford Street: The shopfront Type 1.2 proposed to be installed at No 122 Oxford Street must be amended as follows:
- a. The proposed grills above the transom rails must be deleted and replaced by clear glazing.
  - b. The highlight windows above the transom rails are to extend full height to the underside of the original beams over the shopfronts.
  - c. No part of the shopfront including above the transom rail is to be used for air intake or for air exhaust, and the proposed air condition system must be redesigned accordingly.
  - d. The threshold at the entry doorway must be terrazzo.

- (viii) All plans and elevations related to the Ground Floor shopfronts at Nos 110 to 118 or No. 122 Oxford Street must include the addresses of each shopfront, to ensure clarity.

The modifications must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Stage 4 Construction Certificate.

***(Condition amended - D/2020/1072/A - 9 November 2022)***

**(21) EXTERNAL DESIGN MODIFICATIONS – EXISTING OPENINGS – GROUP 3**

The design of the building must be modified as follows:

- (a) The two existing door openings, fronting Foley Street at Nos 112 and 114 Oxford Street:
- (i) The proposed windows 'WT02', replacing the highlight assemblies above the two existing door openings, fronting Foley Street at Nos. 112 and 114 Oxford Street are NOT APPROVED.
  - (ii) The highlight timber and glazed joinery assemblies above each of the four door openings fronting the Foley Street at Nos 110, 112 and 114 Oxford Street must be retained in situ and conserved.
  - (iii) Contemporary doors may be fitted to the openings beneath the highlight windows.

The modifications must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Stage 1 Construction Certificate.

**(22) INTERIOR DESIGN MODIFICATIONS – COLUMN – GROUP 3**

The design of the building must be modified as follows:

- (a) The **new** proposed **exposed** columns within **the** retail **tenancy tenancies of between Nos 118 112 and 122** Oxford Street must be **clad finished** in a sympathetic material consistent with the style and period of the shopfront and the building.

The modifications must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Stage 1 Construction Certificate.

***(Condition amended - D/2020/1072/A - 9 November 2022)***

**(23) INTERIOR DESIGN MODIFICATIONS – INTERNAL WALLS – GROUP 3**

The design of the building must be modified as follows:

- (a) Internal walls: Internal masonry party and dividing walls must be retained and conserved, except where demolition is approved by this consent. The proposed demolition of the following masonry walls is NOT APPROVED:
- (i) The original masonry wall between Nos. 112 and 114 Oxford Street alongside gridline 4 at the Lower Ground Floor and Ground Floor levels must be retained and conserved except for the proposed fire stair/luggage room structure and lower ground circulation hall. The

guest UAT will need to be re-located, however a doorway is permitted. The proposed opening in this wall on the Lower Ground Floor must retain piers at the north and south of the opening. The retained piers of brickwork must be a minimum width of 600mm, or of a greater dimension if required to provide adequate structural seating of lintel spanning the opening. The proposed hotel rooms immediately west of this wall on ground level will need to be amalgamated or re-planned.

- (ii) The joists housings must be left exposed within both the eastern and western walls of the proposed Hotel Foyer at 114 Oxford Street.
  - (iii) The original masonry wall on the Ground Floor and Lower Ground Floor levels between Nos. 116 and 118 Oxford Street must not be fully demolished. A portion of the wall must be retained either side of gridline C. The nib to be retained along the southern wall must be increased in length to meet the column to be relocated, as required in part (s) above.
- (b) The Keene's cement finishes applied to the internal faces of all masonry walls on all levels of the buildings at Nos 110 to 122 Oxford Street, together with incised details, must be retained and conserved.
  - (c) Historic decorative paint finishes, Level 2, No 114 Oxford Street: The historic decorative paint finishes on the eastern wall of No 114 Oxford Street (near Gridline 5) on Level 2 must be retained and conserved, as a feature within the hotel room on the northern side of the corridor.

The modifications must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Stage 1 Construction Certificate.

#### **(24) INTERIOR DESIGN MODIFICATIONS – FLOORS – GROUP 3**

The design of the building must be modified as follows:

- (a) Floors: The following modifications must be undertaken and actions noted on the drawings:
  - (i) All original floorboards (***other than those approved to be demolished***) must be retained and conserved ***where feasible pending structural and heritage assessment***, including the floorboards of the Ground Floors, Level 1 and Level 2, or parts thereof, of Nos 110-122 Oxford Street. The drawings must be amended to clearly indicated the locations and the conservation actions included in the Schedule of Conservation Works.
  - (ii) All original timber floor joists supporting the floors of the Ground Floor, Level 1 and Level 2 of Nos 110-122 Oxford Street, must be retained and conserved in situ. Should any strengthening be required, new joists must be placed alongside the existing. The drawings must be amended to clearly indicated the locations and the conservation actions included in the Schedule of Conservation Works. The joists removed above the foyer at No 114 Oxford Street must be retained and utilised within the building.

- (iii) The proposed plywood diaphragms must be fixed using stainless steel screws.
- (iv) The insertion of structural connections between floor joists and external walls must be undertaken as follows:
  - a. The original floorboards must be lifted carefully to avoid their splitting. All lifted floorboards must be reinstalled upon completion. Where ongoing access to the floor cavities is required, the floorboards must be refixed using stainless steel screws.
  - b. Where historic ceilings have been previously removed, the insertion of structural connections between floor joists and external walls must be undertaken from below to avoid lifting the floorboards.
  - c. The structural connections must be designed to minimise vibrations within the buildings during the process of installation and are to utilise fixings with a corrosion resistance equal to Grade 316 stainless steel.

The modifications must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Stage 1 Construction Certificate.

***(Condition amended - D/2020/1072/A - 9 November 2022)***

**(25) INTERIOR DESIGN MODIFICATIONS – CEILINGS – GROUP 3**

The design of the building must be modified as follows:

- (a) Pressed metal ceilings: The original or early pressed metal ceilings within the buildings at Nos 110-122 Oxford Street must be interpreted through the careful salvage and reuse within the buildings as follows:
  - (i) ***Prior to the issue of a Stage 3 Construction Certificate, details must be submitted to and approved by Council's Area Planning Manager of ~~The~~ early pressed metal ceilings existing within the Ground Floor at No 114 Oxford Street, which must be retained salvaged where possible within No 114. Recovered sheets or matching metal sheets should be fixed to and conserved as the ceiling of the retail tenancy fronting Oxford Street and as the ceiling to the void above the lower ground floor of No 114 Oxford Street of the Hotel Foyer fronting Foley Street.*** The ceilings may be first carefully dismantled to insert fire rating sheet material, then refixed into position.
  - (ii) An assessment of all other pressed metal ceilings within the building must be undertaken and a photographic inventory compiled of all pressed metal ceilings according to their pattern and condition.
  - (iii) ***Prior to the issue of a Stage 4 Construction Certificate, details must be submitted to and approved by Council's Area Planning Manager of ~~All~~ all sound panels, which must be salvaged for reuse where possible and consolidated according to their patterns, to***

form ceilings within publicly accessible spaces including the hotel hallways, and the retail spaces and cultural and creative spaces of the Lower Ground Floor and Ground Floor levels. The consolidated pressed metal ceiling systems must be exposed to view as the finished surface below fire rating sheet material.

(iv) Any components such as ceiling panels and cornices, required to complete the systems in (i) and (iii) above, must be replicated to match the original.

(v) The above conservation actions must be incorporated into the Schedule of Conservation Works and amended reflected ceiling plans **and submitted to and approved by Council's Area Planning Manager prior to the issue of a Stage 4 Construction Certificate.**

(b) All new ceilings of the retail spaces and cultural and creative spaces within Nos 110 to 122 Oxford Street, on the Lower Ground and Ground Floor levels, must be set at the original levels. No new ceilings must be inserted below the original ceiling levels **except for where new fire rated ceilings are required. New ceilings are to be installed as close to the original ceilings as possible.** New services and internal lighting must be mounted below the ceilings and ceiling joists.

The modifications must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Stage 1 Construction Certificate, **unless stated otherwise above.**

***(Condition amended - D/2020/1072/A - 9 November 2022)***

**(26) INTERIOR DESIGN MODIFICATIONS – INTERNAL JOINERY – GROUP 3**

The design of the building must be modified as follows:

(a) Internal joinery trim: All architraves, skirtings, sill boards, apron moulds on retained walls must be retained and conserved throughout all levels of the buildings at Nos 110 to 122 Oxford Street. Where components have been removed or are in poor condition replacement components are to match the original.

The modifications must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Stage 1 Construction Certificate.

**(27) INTERIOR DESIGN MODIFICATIONS – TIMBER STAIR – GROUP 3**

The design of the building must be modified as follows:

(a) The original timber stairs within Nos 110 and 112 Oxford Street must be interpreted through the salvage and reuse of the timber balustrades in, and above, the proposed Hotel Foyer at No. 114 Oxford Street.

The modifications must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Stage 4 Construction Certificate.

***(Condition amended - D/2020/1072/A - 9 November 2022)***

**(28) DESIGN DETAILS: STRUCTURAL INTERVENTIONS INTO HERITAGE LISTED BUILDINGS**

The following architectural design details of the proposed structural interventions relative to the heritage fabric of the buildings at Nos 110 to 122 Oxford Street, must be submitted for approval by Council's Area Planning Manager prior to the issue of a Stage 1 Construction Certificate:

- (a) The proposed connections of floor joists to the inside face of the external walls;
- ~~(b) **The bracing frames proposed to be inserted along the southern section of the interiors;**~~
- (c) Columns and beams proposed to be inserted within the building relative to heritage fabric including:
  - (i) Around the perimeter of the internal faces of external wall;
  - ~~(ii) **Within existing walls;**~~ and
  - (iii) Adjacent to timber posts and beams;
- (d) Lift and fire stair cores relative to timber floor joists and steel beams;
- (e) New lintels over openings; and
- (f) All localised penetrations to existing footings, floors and ceilings to install the new columns, bracing frames and connections. All such penetrations must be minimised.

***(Condition amended - D/2020/1072/A - 9 November 2022)***

**(29) DESIGN DETAILS: EXTERNAL AND INTERNAL COLOURS AND FINISHES**

The following design details must be submitted for approval by Council's Area Planning Manager prior to the issue of a Stage 4 Construction Certificate:

- (a) A schedule of internal colours, internal paint types, and all internal finishes together with colour swatches and samples. The internal colour scheme and internal finishes of the interiors of the heritage listed buildings must be sympathetic to the architectural style and period of the buildings at Nos. 110-122 Oxford Street. The following must be submitted:
  - (i) Samples of finishes to the lift cores, stair wells and amenities; and
  - (ii) Samples of components to be reconstructed such as pressed metal ceiling components.
- (b) A schedule of external colours, external paint types, timber species types, and all external finishes together with colour swatches and samples. The external colour scheme and all external finishes must be sympathetic to the architectural style and period of the buildings at Nos. 110-122 Oxford Street and the Heritage Conservation Area. The samples submitted are to include the following materials and finishes:



- (i) The metal roof is to have an oxidised natural zinc finish of varied finishes across all three groups;
  - (ii) External tiling to shopfront stallboards and piers; and
  - (iii) Pigmented or colour backed glazing to shopfront stallboards, transoms and piers.
- (c) Details and samples of all finishes and colours related to the addition including all glass types, light shelves, and roof/wall cladding systems.
- (d) A physical material sample board which specifies all proposed materials, finishes and colours, (including visible rainwater goods and services) keyed to each building elevation. The materials and samples board must not include generic material or colour descriptions, or use terminology such as 'or similar'.

**(30) DESIGN DETAILS**

In addition to the design details required in the various conditions relating to design modifications, the following design details must be submitted to and be approved by Council's Area Planning Manager prior to the issue of a Stage 4 Construction Certificate:

- (a) PART A: Design details to be submitted related to 110-122 Oxford Street - referred to as 'Group 3':
- (i) Revised details of retained and new shopfronts at Nos 110-122 Oxford Street, including plans, sections and elevations at 1:50 scale, and specification notes. The details must be consistent with the requirements of conditions of consent DESIGN MODIFICATIONS.
  - (ii) Design of all the proposed new openings fronting Foley Street at Lower ground floor level including the retail shopfronts, the enclosure and reveals of the loading dock, the frontage of the substation and associated access door service installation, including plans sections and elevations at 1:50 scale, and specification notes. The details must be consistent with the requirements of conditions of consent DESIGN MODIFICATIONS
  - (iii) Design of all the proposed new assemblies fronting Foley Street at Lower Ground floor level, Ground Floor, Level 1 and Level 2 including plans sections and elevations at 1:50 scale, and specification notes. The details must be consistent with the requirements of conditions of consent DESIGN MODIFICATIONS.
  - (iv) Revised details of the stair at No 120 Oxford Street including plans sections and elevations of the stair must be submitted at 1:50 and 1:20 scale including the additional flights through the addition and including the conservation actions outlined above and below. The drawings must be consistent with the requirements of conditions of consent DESIGN MODIFICATIONS.
  - (v) Further analysis of original and early fabric including the pressed metal ceilings and the strategy for salvage and reuse including

amended reflected ceiling plans consistent with the requirements of conditions of consent DESIGN MODIFICATIONS.

- (vi) Design details of the amendments required to the proposed openings in all dividing walls, as required in the conditions of consent DESIGN MODIFICATIONS.
- (vii) Details of the retention and conservation of the historic decorative paint finishes on the eastern wall of No 114 Oxford Street on Level 2 must be retained and conserved.
- (viii) Details of the proposed interpretation of the original timber stairs within Nos 110 and 112 Oxford Street as required in the conditions of consent DESIGN MODIFICATIONS.

***(Condition amended - D/2020/1072/A - 9 November 2022)***

**(31) COMPLIANCE WITH VOLUNTARY PLANNING AGREEMENT**

The terms of the Planning Agreement between the Council of the City of Sydney and TOGA Pty Ltd and Ashe Morgan (The Partnership) must be complied with.

In accordance with the Planning Agreement:

- (a) The completion of the developer’s works are required prior to the issue of any Occupation Certificate.

**(32) SECTION 7.11 CONTRIBUTIONS PAYABLE - CONTRIBUTION TOWARDS PUBLIC AMENITIES – CITY OF SYDNEY DEVELOPMENT CONTRIBUTIONS PLAN 2015 – EAST PRECINCT**

Council has identified the development will increase demand for public amenities and facilities. Pursuant to Section 7.11 of the Environmental Planning and Assessment Act, 1979 (as amended), and the City of Sydney Development Contributions Plan 2015, the following monetary contributions are required towards the cost of public amenities.

<u>Contribution Category</u>	<u>Amount</u>
Open Space	\$541,399.23
Community Facilities	-\$48,754.75
Traffic and Transport	\$18,404.65
Stormwater Drainage	\$0.00
<b>Total</b>	<b>\$510,989.12</b>

The City of Sydney will index the above contribution for inflation at the time of payment using the following formula.

Cpayment = Cconsent x (CPIpayment ÷ CPIconsent)

Where:

- Cpayment = Is the contribution at time of payment;
- Cconsent = Is the contribution at the time of consent, as shown above;
- CPIpayment = Is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment; and
- CPI1consent = Is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being – 119.4 for the Jun 2021 quarter.

The contribution must be paid as follows:

- (a) No later than the issue of the first occupation certificate in respect of any building to which this consent relates, except as provided by (b);
- (b) If no construction certificate in respect of the erection of any building to which the consent relates has been issued on or before 25 September 2022, the contribution must be paid before the issue of the first construction certificate after that date for any such building.

Please contact Council's Planning Administration staff at [planningsystemsadmin@cityofsydney.nsw.gov.au](mailto:planningsystemsadmin@cityofsydney.nsw.gov.au) to request a letter confirming the indexed contribution amount payable.

Once the letter confirming the indexed contribution is obtained, payment may be made at any of the City's Neighbourhood Service Centres or the One Stop Shop at Town Hall House. Acceptable payment methods are 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. Personal or company cheques will not be accepted.

As required under the Environmental Planning and Assessment Amendment (Occupation Certificates) Regulation 2020, prior to the issue of an occupation certificate:

- (a) Written confirmation from the Council is required to be submitted to the Accredited Certifier certifying that a contribution under section 7.11 or 7.12 of the Environmental Planning and Assessment Act 1979 is required, and that this requirement has been met through payment of the contribution; and
- (b) The Accredited Certifier must also confirm that the document referred to in (a) was issued by the Council, and that no further contributions have been required since the document was issued.

The Section 7.11 contributions payable as set out above may be offset in accordance with the terms of the Voluntary Planning Agreement required to satisfy Deferred Commencement Condition (1) prior to indexing being applied.

**(33) RETAIL USE - SEPARATE DEVELOPMENT APPLICATION REQUIRED**

No consent is granted or implied for the fitout or specific use of each individual retail tenancy.

A development consent or Complying Development Certificate (as appropriate) is required to be obtained for the fitout and use of each retail tenancy prior to that fitout or use commencing.

**(34) HOURS OF OPERATION**

The hours of operation are restricted to between 7.00am and 10.00pm, Monday to Sunday.

**(35) NO SPEAKERS OR MUSIC OUTSIDE**

Speakers and/or noise amplification equipment must not be installed and music must not be played in any of the outdoor areas associated with the premises including the public domain. Speakers located within the premises must not be placed so as to direct the playing of music towards the outdoor areas associated with the premises.

**(36) SURVEILLANCE CAMERAS**

- (a) CCTV surveillance cameras must be strategically installed, operated and maintained throughout the premises during all trading hours with particular coverage to:
  - (i) Principal entrance/s and exits; and
  - (ii) All areas within the premise occupied by the public (excluding toilets).
- (b) All CCTV recording equipment and cameras must be of high grade digital quality capable of establishing the identification of patrons, offenders and incidents within the depth of field view of the cameras.
- (c) CCTV recordings must have time and date auto recorded and be retained for 28 days before being re-used, destroyed or deleted. A digital copy must be handed to the Council or Police Officer on request.
- (d) All CCTV recording devices and cameras must be checked daily to ensure the equipment is operating correctly. All reasonable steps must be taken to ensure repairs to the system are completed as soon as practicable within 24 hours.
- (e) The CCTV recording device must be kept in a secured location.

**(37) PUBLIC ART**

- (a) The public artwork must be in accordance with the Preliminary Public Art Plan, Revision D, dated 24 November 2021, the Sydney DCP 2012, the Public Art Policy, and the Interim guidelines: public art in private developments.
- (b) Final details of the proposed public artwork must be submitted to and approved by Council's Area Planning Manager prior to issue of the Stage **4 5** Construction Certificate.

- (c) Public art work must be installed and the Final Public Art report submitted to and approved by Council's Area Planning Manager prior to the issue of any Occupation Certificate.

Note: Public art must be reviewed and endorsed by the City's Public Art Team and/or the Public Art Advisory Panel prior to submission for Council approval. Further information is available online at:

<http://www.cityofsydney.nsw.gov.au/explore/arts-and-culture/public-art>

Please contact the Public Art Team for further information at:

[publicartreferrals@cityofsydney.nsw.gov.au](mailto:publicartreferrals@cityofsydney.nsw.gov.au)

***(Condition amended - D/2020/1072/A - 9 November 2022)***

**(38) SIGNS/GOODS IN THE PUBLIC WAY**

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

**(39) SIGNS - SEPARATE DEVELOPMENT APPLICATION REQUIRED**

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

**(40) APPROVED DESIGN ROOF TOP PLANT**

All roof-top plant and associated equipment must be located and screened within the approved building envelope.

**(41) REFLECTIVITY**

Prior to issue of the Construction Certificate the Accredited Certifier must ensure that the visible light reflectivity from building materials used on the facade of the building does not exceed 20%.

**(42) SWINGING DOORS OVER PUBLIC WAY**

Any access doors to enclosures housing building services and facilities, such as hydrant and sprinkler booster assemblies or the like, must not open over the footway/roadway.

**(43) AWNING MAINTENANCE**

The awning must be inspected and regular maintenance be carried out to ensure the awning's structural integrity, aesthetic and functional qualities are maintained.

**(44) NO SPRUICKING NOISE**

No persons (such as those commonly known as spruickers) or recordings or other devices which have the effect of spruicking are to be located on Council owned property. Furthermore, the sound level of any spruicking generated within

privately owned land must not be audible on any adjacent property with a shared boundary.

**(45) GLASS CRUSHER**

All glass bottles and other glass waste must be reduced to glass shards (by way of a glass crusher located inside the premises) prior to the removal of such waste from the premises.

**(46) NOISE FROM GLASS REMOVAL**

Glass must not be emptied or transferred from one receptacle to another anywhere in a public place. All glass must be emptied / transferred inside of the building on the premises and removed in containers.

**(47) NOISE – COMMERCIAL PLANT / INDUSTRIAL DEVELOPMENT**

- (a) Noise from commercial plant and industrial development must not exceed a project amenity/intrusiveness noise level or maximum noise level in accordance with relevant requirements of the NSW EPA [Noise Policy for Industry 2017 \(NPfl\)](#) unless agreed to by the City's Area Planning Manager. Further:
- (i) Background noise monitoring must be carried out in accordance with the long-term methodology in [Fact Sheet B](#) of the NPfl unless otherwise agreed by the City's Area Planning Manager.
  - (ii) Commercial plant is limited to heating, ventilation, air conditioning, refrigeration and energy generation equipment.
- (b) An  $L_{Aeq,15\text{ minute}}$  (noise level) emitted from the development must not exceed the  $L_{A90, 15\text{ minute}}$  (background noise level) by more than 3dB when assessed inside any habitable room of any affected residence or noise sensitive commercial premises at any time. Further:
- (i) The noise level and the background noise level must both be measured with all external doors and windows of the affected residence closed.
  - (ii) Background noise measurements must not include noise from the development but may include noise from necessary ventilation at the affected premise.
- (c) Corrections in [Fact Sheet C](#) of the NPfl are applicable to relevant noise from the development measured in accordance with this condition, however duration corrections are excluded from commercial noise.

**(48) NOISE - ENTERTAINMENT**

- (a) The  $L_{A10, 15\text{ minute}}$  noise level emitted from the use must not exceed the background noise level ( $L_{A90, 15\text{ minute}}$ ) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 5dB between the hours of 7.00am and 12.00 midnight when assessed at the boundary of any affected residence.

- (b) The  $L_{A10, 15 \text{ minute}}$  noise level emitted from the use must not exceed the background noise level ( $L_{A90, 15 \text{ minute}}$ ) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) between the hours of 12.00 midnight and 7.00am when assessed at the boundary of any affected residence.
- (c) Notwithstanding compliance with (a) and (b) above, noise from the use when assessed as an  $L_{A10, 15 \text{ minute}}$  enters any residential use through an internal to internal transmission path is not to exceed the existing internal  $L_{A90, 15 \text{ minute}}$  (from external sources excluding the use) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed within a habitable room at any affected residential use between the hours of 7am and 12midnight. Where the  $L_{A10, 15 \text{ minute}}$  noise level is below the threshold of hearing,  $T_f$  at any Octave Band Centre Frequency as defined in Table 1 of International Standard ISO 226 : 2003- Normal Equal-Loudness-Level Contours then the value of  $T_f$  corresponding to that Octave Band Centre Frequency must be used instead.
- (d) Notwithstanding compliance with (a), (b) and (c) above, the noise from the use must not be audible within any habitable room in any residential use between the hours of 12.00 midnight and 7.00am.
- (e) The  $L_{A10, 15 \text{ minute}}$  noise level emitted from the use must not exceed the background noise level ( $L_{A90, 15 \text{ minute}}$ ) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 3dB when assessed indoors at any affected commercial premises.

Note: The  $L_{A10, 15 \text{ minute}}$  noise level emitted from the use is as per the definition in the Australian Standard AS1055-1997 Acoustics – Description and measurement of environmental noise. The background noise level  $L_{A90, 15 \text{ minute}}$  is to be determined in the absence of noise emitted by the use and be representative of the noise sensitive receiver. Background noise monitoring must be carried out in accordance with the long-term methodology in Fact Sheet B of the NPfl unless otherwise agreed by the City’s Area Planning Manager.

**(49) COMPLIANCE WITH THE ACOUSTIC REPORT PRIOR TO CONSTRUCTION AND OR OCCUPATION CERTIFICATES**

- (a) All relevant performance parameters (including but not limited to requirements, engineering assumptions and recommendations) in the DA Acoustic Report prepared by Katherine Beeston of Acoustic Logic Consultants, dated 19/03/2021, ref 20200569.2/2909B/R2/KB Revision 2, titled Darlinghurst Collection Building 3 – 110-122 Oxford Street, Darlinghurst Noise Impact Assessment, Council Ref 2021/182974 must be implemented in the development prior to the commencement of its use.
- (b) Prior to the issue of any relevant Construction Certificate, the final construction drawings and final construction methodology must be assessed and reported to be in accordance with the requirements of the DA Acoustic Report in (a) above, with reference to relevant documentation. This must be done by a Suitably Qualified Acoustic Consultant\* (see definition below). This work will be to the satisfaction of the accredited certifier.

- (c) Prior to the issue of any Occupation Certificate, a Suitably Qualified Acoustic Consultant\* is to provide a written Acoustic Verification Report to the satisfaction of the Principal Certifier that the development complies with the requirements set out in the Report and in (a) and (b) above.

Note: *Suitably Qualified Acoustic Consultant* means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member.

- (d) All physical aspects of the building's structure installed in order to meet performance parameters in accordance with this condition must be maintained at all times. The acoustic report states the below noise mitigation measures are required as a minimum:-
- (i) Minimum 12.38mm laminated glazing with minimum Rw rating of 37 for all hotel bedrooms;
  - (ii) Minimum 6mm float glazing with minimum Rw rating of 29 for all windows on the northern facades facing Foley Street;
  - (iii) Q-Ion type acoustic seals to be fitted on all external windows and doors. Mohair Seals will not be acceptable.
  - (iv) Acoustic seals will be required around the full perimeter of openable frames, with the frames being sealed into the building using an acoustic grade flexible sealant.

If alternative/additional noise mitigation measures are proposed all amendments must be summarised and submitted to the City's Area Planning Manager for review and approval prior to the issue of the Stage 4 Construction Certificate.

**(50) ACOUSTIC VERIFICATION – MECHANICAL PLANT**

- (a) Prior to issue of the Stage 4 Construction Certificate an acoustic assessment must be submitted to the PCA and the Council's Area Planning Manager for approval outlining the extent of the mechanical services provided within the development and confirming that resultant maximum individual and combined operational noise levels from their use complies with the City of Sydney "Noise - Commercial Plant / Industrial Development" condition which forms part of the consent. Should the report indicate that resultant noise levels are or are likely to be in exceedance of the noise criteria then further acoustic controls must be implemented as recommended by the acoustic consultant to ensure ultimate compliance with the noise criteria will be achieved.
- (b) Prior to issue of an Occupation Certificate, maximum individual and combined operational noise levels from commercial plant complies with the noise criteria outlined within the City of Sydney "Noise - Commercial Plant / Industrial Development" condition which forms part of the consent
- (c) All acoustic assessment and verification reports must be prepared by a suitably qualified Acoustic Consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustical Society,



Institution of Engineers Australia or the Association of Australian Acoustical Consultants at the grade of member.

**(51) NOISE LIMITERS**

Use of the all amplification equipment must comply with the following:

- (a) At a minimum, all amplification equipment used at the event must be controlled by a Root Mean Square (RMS) noise limiter, set by a suitably qualified acoustic consultant\* in accordance with the manufactures specification to ensure that resultant amplified sound complies with the Council's licensed premises noise criteria. The equipment must be tamper proof and only operable by the acoustic consultant.
- (b) The noise limiter must be factory or laboratory calibrated by an accredited instrumentation calibration service provider at the time of installation. The limiter must be checked by an acoustic consultant with a piston phone calibrator at the time of installation and on three subsequent occasions during the first 60 days of monitoring. The checks must correlate with the close of business as per the requirements of Part (b)ii), Additional Noise Conditions for Licensed Premises and not be undertaken before any external noise compliance checks. The proprietor is not to be made aware on what date the calibration checks are to be conducted and will provide the consultant access to the limiter.
- (c) A piston phone check of the noise limiter must be completed by the consultant every twelve months, the result reported to Council and a copy kept on the premises available at all times.
- (d) Field calibration check results (times and levels), serial numbers and laboratory calibration parameters of all other instrumentation and calibrators used in the process of setting and calibrating the noise limiter must be reported.
- (e) LAeq 1 minute 1/1 octave band (31.5Hz to 8kHz centre frequencies inclusive) measurement results internal and external of hand held sound level meters used to assist in setting the noise limiter must be reported to the satisfaction of council.
- (f) Additionally, a white noise signal must be played through the noise amplification system in order to set the maximum permissible broadband level of the noise limiter. The results are to be reported.
- (g) Finally, where necessary and where complex signal processing equipment is used to limit noise, the maximum A-Weighted LAF Sound Pressure Levels which are not to be exceeded in any 1/1 octave band 31.5Hz – 16kHz inclusive, within each of the rooms with noise amplification equipment are to be specified such that the noise control approval conditions cannot be exceeded must be reported.
- (h) All noise amplification equipment must be controlled by the noise limitation device as detailed in (a) above.

- (i) Access to noise limiter settings must be restricted to the Licensee or manager of the premises. The limiter settings/calibration levels must be available to Council officers upon request.
- (j) The Acoustic consultant must submit Certificate of Compliance to the Council to certify that the limiters are installed and calibrated to satisfy of Council's noise criteria for the licensed venues.

Note: Suitably qualified Acoustic Consultant means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member.

**(52) DEMOLITION, EXCAVATION AND CONSTRUCTION NOISE AND VIBRATION MANAGEMENT PLAN**

A site specific noise management plan must be submitted to and approved by Council's Area Planning Manager prior to issue of the Stage 1 Construction Certificate.

The Plan must be prepared by a suitably qualified person who possesses the qualifications to render them eligible for membership of the Australian Acoustic Society, Institution of Engineers Australia or the Australian Association of Acoustic Consultants.

The plan must include but not be limited to the following:

- (a) Identification of noise sensitive receivers near to the site;
- (b) A prediction as to the level of noise impact likely to affect the nearest noise sensitive receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite. A statement must also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the *City of Sydney Construction Hours /Noise Code of Practice 1992* for the typical construction hours of 07.00am to 7.00pm. Where resultant site noise levels are likely to be in exceedance of this noise criteria then a suitable proposal must be given as to the duration and frequency of respite periods that will be afforded to the occupiers of neighbouring property;
- (c) A representative background noise measurement ( $L_{A90, 15 \text{ minute}}$ ) must be submitted, assessed in the vicinity of any potentially affected receiver locations and measured in accordance with AS 1055:1.2.1997;
- (d) Confirmation of the level of community consultation that has/is and will be undertaken with Building Managers/ occupiers of the main adjoining noise sensitive properties likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases;
- (e) Confirmation of noise monitoring methodology that is to be undertaken during the main stages of work at neighbouring noise sensitive properties in order to keep complaints to a minimum and to ensure that noise from site works complies with the noise criteria contained within City's Construction Noise Code;

- (f) What course of action will be undertaken following receipt of a complaint concerning offensive noise;
- (g) Details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupiers of neighbouring noise sensitive property to a minimum; and
- (h) What plant and equipment is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on the occupiers of neighbouring property and other less intrusive technologies available.

**(53) COMPLIANCE WITH DEMOLITION, EXCAVATION & CONSTRUCTION NOISE AND VIBRATION MANAGEMENT PLAN**

- (a) All works conducted on site which form part of this development must be carried out in accordance with the submitted Demolition, Excavation and Construction Management Plan approved via the condition above.
- (b) Where all such control measures have been implemented and the resultant noise and/ or vibration levels at any sensitive receiver still exceed the council's applicable criteria stated in the Construction Hours/Noise Code 1992 and are giving rise to sustained complaints then the contractor must provide regular, appropriate and sustained periods of respite in consultation with Council's Health and Building unit. Approval to vary the authorised noise and vibration levels must be received in writing by the proponent from Council prior to activities being undertaken that exceed sanctioned emission levels.
- (c) Such periods must be set and agreed to by Council's Health and Building Unit.

**(54) RODENT TREATMENT PROGRAMME – PRE-DEMOLITION AND/OR EXCAVATION**

- (a) Prior to the commencement of any demolition and/or excavation works, a programme of baiting and monitoring of rodent activity is to be put in place at the site.
- (b) A licensed Pest Control Operative must carry out all pest control work and prepare a report, confirming that there is no evidence of any rodent activity at the site prior to the commencement of any works on site. The report must be submitted to and be approved/endorsed by Council's Area Coordinator Planning Assessments/Area Planning Manager.
- (c) Pest proofing of all waste storage areas onsite will be required for the entire development. Sufficient waste storage to adequately contain the volume and type of garbage and recyclable matter generated by the development will be required.
- (d) All waste bins must be pest proof with tight fitting lids that are designed and constructed so that they may be easily and effectively cleaned.

- (e) Prior to the issue of an Occupational Certificate there must be no gaps leading into the waste storage areas, including around service penetrations underneath doors etc. All gaps must be sealed with a solid durable material to prevent pest entry.
- (f) Pest proofing works at intersections/junctions must be reinforced to prevent exploitation by pest who will target weak points in proofing works.

**(55) UNDER AWNING LIGHTING**

Illumination from the under awning lighting, when measured from any place in the public domain, must comply with the following:

- (a) The horizontal luminance level must not exceed 200 lux (including reflectivity from exterior finishes). The lux level may be increased to 220 lux in some areas in Central Sydney CBD;
- (b) The horizontal illuminance uniformity ratio ( $E_{avg}/E_{min}$ ) must not exceed 4:1 to ensure safe movement of pedestrians;
- (c) The intensity, colour, period of intermittency and hours of illumination must be varied if, at any time in the opinion of the Council, adverse impact or Obtrusive Light in accordance with the definition in Australian Standard AS4282-1997 *Control of the obtrusive effects of outdoor lighting* is being caused to the amenity of the area;
- (d) Where nearby residents are located above the level of the under awning lighting, details are to be provided to show that light is not directed upwards toward such residences; and
- (e) Batten type fluorescent lighting is not permitted to be used for under awning lighting.

**(56) SHOP FRONTS**

- (a) All shop front glazing must be clear and untinted and must not be obscured by blinds, curtains or the like.
- (b) Security roller shutters must not be installed on the outside of the shop front. Any security grill must be a dark recessive colour, located on the inside of the shop front, must be an open grille / see through and not a solid metal type. Details are to be submitted to and approved by the Accredited Certifier prior to a Construction Certificate being issued.
- (c) Merchandise, public telephones, stored material or the like must not be placed on the footway or other public areas.
- (d) No flashing signage visible from the public way will be installed.
- (e) The approved layout must not be altered, without the prior approval of Council, where it would result in the shopfront being obscured in any way.
- (f) Any proposed shelving along the glass shopfronts must be of an open-framed, see through construction and the combined height of shelving and any goods displayed must not exceed 1200mm above the finished floor level.

- (g) All shelving, shop fittings, refrigeration equipment and the like which are placed in front of windows, must be kept a minimum of 1 metres from the inside face of the window.

**(57) DELIVERY VEHICLES**

Deliveries associated with the site, that involve the movement of vehicles, must only occur between the hours of 7.00am and 8.00pm.

**(58) CHANGES TO KERB SIDE CAR PARKING RESTRICTIONS**

A separate submission must be made for any changes to kerbside parking arrangements. There is no guarantee kerbside parking will be changed or that any change will remain in place for the duration of the development/use.

All costs associated with any parking changes would be borne by the developer.

Note: The applicant is to contact the Area Traffic Engineer to discuss the proposal before making a submission.

If new parking signage is installed, the developer is to immediately notify the City's Public Domain team.

**(59) COST OF SIGNPOSTING**

All costs associated with signposting of any kerbside parking restrictions and traffic management measures associated with the development must be borne by the developer.

**(60) ASSOCIATED ROADWAY COSTS**

All costs associated with the construction of any new road works including kerb and gutter, road pavement, drainage system and footway must be borne by the developer. The new road works must be designed and constructed in accordance with the City's "Development Specification for Civil Works Design and Construction".

**(61) BICYCLE PARKING SIGNAGE AND WAYFINDING PLAN**

Signage directing users to the bicycle parking facilities must be installed from the street level, between the bicycle riders entry point/s at the site boundary and the entry point to the bike parking and End of Trip facilities. Signage must be generally in accordance with signage shown in *Australian Standard AS 2890.3:2015 Parking Facilities Part 3: Bicycle Parking Facilities*. The signage plan must be submitted to and approved by Council prior to the Occupation Certificate for the site being granted. Signage must be installed before the issue of any Occupation Certificate.

**(62) LOADING AND SERVICING MANAGEMENT PLAN**

A Loading and Servicing Management Plan must be submitted to and approved by Council's Area Planning Manager prior to the Occupation Certificate for the site/use being granted.

The Loading and Servicing Management Plan must include the strategy for the management of all servicing of the site including coordination with the

neighbouring sites for managing kerbside loading zone use, delivery vehicles, garbage collection, size of the service vehicles and should include information such as arrivals to the site, the anticipated numbers of arrivals per week, time of day of the arrivals, length of stay, vehicle type etc. along with how these will be managed to prevent disruption to public streets. The management of the plan needs to be able to respond to changes in the surrounding road environment and be updated accordingly.

The Plan should be generally in accordance with the PTC Traffic Report that is submitted as part of the application.

Once approved, this management plan must be provided to all tenants and external users.

**(63) TRANSPORT ACCESS GUIDE**

A Transport Access Guide must be implemented and maintained by the operators of the premises and be made available to staff, clients, customers and visitors at all times. The following information must be submitted to and approved by Council prior to the issue of an Occupation Certificate for the site/use:

The Transport Access Guide is to include (but not limited to) the following:

- (a) A Transport Access Guide detailing sustainable transport options to access the site including public transport, cycling and walking or a combination of these modes.
- (b) Information regarding lack of off-street car parking and passenger pick-up and set-down areas at the development site.
- (c) Suitable nearby drop-off/pick-up locations.
- (d) Identify areas where drop-off/pick-up is prohibited and instruct visitors to avoid use of these areas.
- (e) Suitable nearby Taxi Zones.
- (f) Public Transport options adjacent to the site.
- (g) Pedestrian access to the site.
- (h) Bicycle Parking and cycleway networks to the site.
- (i) Communication methods by which the Transport Access Guide will be made available to staff, clients, customers and visitors.

Note: Transport Access Guide requirements are detailed in Schedule 7.7 of the Sydney Development Control Plan 2012. Information about preparing a Transport Access Guide is available on Council's website. For further information about a preparing a Transport Access Guide, the applicant should contact the City's Transport and Access Unit.

**SCHEDULE 1B**

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

**(64) CONSTRUCTION AND PROTECTION MANAGEMENT PLAN - HERITAGE LISTED BUILDINGS**

- (a) The proposed works must be carried out in a manner that minimises potential damage to the significant fabric of the existing buildings which are listed as Heritage Items in Sydney Local Environmental Plan 2012.
- (b) Similarly, the proposed works must avoid detrimental impacts upon adjacent buildings which are also listed as Heritage Items in Sydney Local Environmental Plan 2012.
- (c) The fabric and features of the heritage listed buildings must be properly protected throughout the duration of the works. The buildings must be suitably protected and stabilized during the construction process including from any construction waste, dust, damp, water or liquid runoff, air borne particles, sprayed substances, vibration or structural disturbance or damage.
- (d) The works must be fully supervised by the Contractor at all times and all personnel must be fully inducted as to the requirements of the project to avoid any accidental loss or damage and to ensure an appropriate quality of workmanship.
- (e) Details of the protection measures proposed throughout the duration of the works, and how any potential detrimental impacts arising out of the works must be avoided, must be specified in the construction and protection management plan.
- (f) The details must include, but are not limited to, the following:
  - (i) Induction of contractors and subcontractors as to the detail requirements of the project.
  - (ii) Weather protection, security, temporary fire control and fire warning systems, storage of flammable materials on site, and control measures during processes that create dust, utilise liquids or sprays such as the pouring of concrete, application of fire rating, painting, and cleaning processes.
  - (iii) A geotechnical report detailing the investigation of the depth of the existing footings of the buildings, and addressing details of lateral ground movement, advice on the suitability of structural engineer's proposals for underpinning or other support to footings adjacent to the work zone.
  - (iv) Reporting and certification from a practicing structural engineer experienced in dealing with heritage buildings explaining how the buildings must be supported and stabilised throughout the duration of the works including through processes involving demolition, temporary loading, temporary openings. The report is to provide

details of any protective intervention, retrofitting, temporary bracing and propping needed, and advice related to demolition techniques, use of equipment to control vibrations, and recommend a cycle of regular inspections. The report is also to include details of how all openings must be cut including into existing footings, rock, or masonry walls which must be initially saw cut to minimise vibrations.

- (v) Details of temporary hydraulic drainage works to ensure that all water both in ground and above ground is channelled to the street and that no such water is channelled into the property.
  - (vi) Details of progressive cleaning processes throughout the duration of the works.
  - (vii) Protection methodologies detailing how vulnerable components such as glazing, wall and floor tiling, terrazzo, floorboards, ceilings, timber structural components and internal and external joinery will be protected throughout the duration of the works from accidental damage, loss, ingress of liquids or airborne particles, or from vibrations.
  - (viii) A list of all heritage components to be temporarily dismantled or displaced by the works, recording and methodologies for dismantling procedures and details of the proposed storage of these components, whether on site or offsite.
- (g) The above construction and protection management plan must be submitted for approval by Council's Area Planning Manager prior to the issue of the Stage 1 Construction Certificate, or commencement of work on site.

**(65) ARCHAEOLOGICAL DISCOVERY DURING EXCAVATION**

- (a) Should any relics be unexpectedly discovered on the site during excavation, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW must be informed in accordance with section 146 of the *Heritage Act, 1977*.
- (b) Should any Aboriginal objects be unexpectedly discovered then all excavation or disturbance of the area is to stop immediately and NSW Government Office of Environment and Heritage is to be informed in accordance with Section 89A of the *National Parks and Wildlife Act, 1974*.
- (c) Should any archaeological remains or Aboriginal objects be discovered, a copy of recording of the finds and the final archaeological summary report is to be submitted to Council prior to the issue of any Occupational Certificate.
- (d) If the discovery is on Council's land, Council must be informed.

**(66) ARCHIVAL DOCUMENTATION (MEASURED DRAWINGS)**

The archival recording of the following components of the buildings must be undertaken and is include accurate measured drawings of the following:



- (a) The stair at No 120 Oxford Street including plans, elevations and sections of the whole stairwell and stair at 1:50 and 1:20 scale to facilitate the conservation and extension of this stair.
- (b) The stairs to be demolished at Nos 110 and 112 Oxford Street including plans, elevations and sections of the stair at 1:50 and 1:20 scale.
- (c) The measured drawings must be cross-referenced to each other, clearly titled, indicate scale, orientation and date of execution. The drawings must be annotated to reveal more about the heritage significance of the components to differentiate between dates of construction, materials and finishes, record and locate markings of former materials such as battens and former fixings).

The measured drawings must be submitted to and approved by Council's Area Planning Manager prior to the issue of the Stage 1 Construction Certificate.

**(67) BUILDING WORKS TO COMPLY WITH BUILDING CODE OF AUSTRALIA – HERITAGE BUILDINGS OR BUILDINGS WITHIN CONSERVATION AREA**

Any building works required to ensure compliance with the National Construction Code / Building Code of Australia or the Australian Standards not specified or drawn in the approved documents are not approved. If such works have impact or potentially have impact on the existing spatial appreciation, fabric and features, details of the works must be submitted as part of a modified application and approved by Council's Area Planning Manager for approval prior to issue of any Construction Certificate.

**(68) BUILDING SERVICES**

Any sanitary drainage and any building services plant, installation and reticulation components of these services, required to complete the works not specified or drawn in the approved documents are NOT APPROVED. Should further components be required, the proposals must be the subject of a modified application.

**(69) CONSERVATION OF PAVEMENT LIGHTS: NOS 110-122 OXFORD STREET**

- (a) A conservation plan, prepared by a suitably qualified practitioner detailing the conservation, upgrade and ongoing maintenance of the footpath lights, and vaults below, at Nos 110 to 122 Oxford Street, must be submitted to and approved by Council's Area Planning Manager prior to the Stage 1 Construction Certificate being issued.
- (b) The Principal Certifier must ensure compliance with the approved plan and conservation upgrade works during the period of construction.
- (c) The final works must be inspected and approved by Council's Area Planning Manager prior to an Occupation Certificate being issued.

**(70) COSTED HERITAGE ASSET MAINTENANCE PLAN**

- (a) To ensure the continued protection of heritage significance of the heritage items at Nos 110 to 122 Oxford Street and to guide the future maintenance on heritage fabric, a costed Heritage Asset Maintenance

Plan must be developed and submitted to Council. The following is to apply:

- (i) The Plan must be based the NSW Heritage Division of the Department of Environment and Heritage publication: 'Preparing a maintenance plan', and must be a guide for the effective, continuous, protective maintenance and conservation of all significant heritage fabric at minimum cyclic intervals of 5, 10, 25, 50, 75 and 100 years.
- (ii) The Plan must include conservation and maintenance works to all fabric identified as being of heritage significance, specification notes and methodologies based on the Articles of the Australian ICOMOS Burra Charter 2013 and best conservation practise, and a list of appropriate consultants and suppliers together with the projected costing for each item of work.
- (iii) It is noted that the works to be undertaken at the cyclic intervals in (i) above, are in addition to the Schedule of Conservation Works to be undertaken as part of the approved works.
- (iv) The Plan must be prepared by the Conservation Architect and must be submitted to Council's Area Planning Manager for approval prior to the issue of any Occupation Certificate.
- (v) The applicant must enter a Deed with Council to ensure the works are undertaken at minimum cyclic intervals of 5, 10, 25, 50, 75 and 100 years.

**(71) SALVAGE, REUSE AND RECYCLING OF TRADITIONAL BUILDING MATERIALS – MAJOR DEVELOPMENT**

- (a) Stone, bricks, joinery, floorboards, and decorative architectural elements to be demolished, must be salvaged and where possible reused on the project.
- (b) Salvaged building materials surplus to the project must either be stored on site for future reuse or transferred to an established second building material dealer for recycling.
- (c) Documentation of the salvage methodology must be submitted to and approved by Council's Area Planning Manager prior to the issue of the Stage 1 Construction Certificate. An inventory of stored items, the proposed storage location and the proposed method of reinstatement or reuse on the site must be submitted to and approved by Council's Area Planning Manager.

**(72) GENERAL HERITAGE**

- (a) The proposed works must be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to the significant fabric of the existing buildings which are listed as Heritage Items in Sydney Local Environmental Plan 2012.

- (b) The fabric and features to be retained by the proposal must be properly protected during the process of demolition and construction. The protection measures must be specified in the construction management plan.
- (c) All conservation and adaptation works must be in accordance with the Articles of the Australian ICOMOS Burra Charter 2013.
- (d) New services must be designed to minimise impact on heritage fabric:
  - (i) New services must use existing service runs where possible;
  - (ii) Where this is not possible, details of an alternative solution must be shown on drawings at a suitable scale and submitted and approved by Council's Area Planning Manager prior to the issue of the Stage 1 Construction Certificate.
- (e) Appropriately qualified tradespersons (as appropriate) must be commissioned who are skilled in traditional building and engineering trades to carry out the proposed scope of works.
- (f) The new windows and doors on the existing building must match the original material, which are timber joinery, and steel-framed.
- (g) The face brickwork, stone and tiles must not be rendered, painted or coated.
- (h) Where internal partitions meet external walls they must abut window mullions, columns or other such building elements and not glazing.
- (i) New materials for making good and repairs, are to match the existing in terms of colours, finishes, sizes, profile and properties.

**(73) CONSERVATION MANAGEMENT PLAN PERTAINING TO NOS 110-122 OXFORD STREET DARLINGHURST**

- (a) The Conservation Management Plan pertaining to Nos 110 to 122 Oxford Street Darlinghurst by Urbis Pty Ltd dated 5 July 2021 must be amended and the modifications must be submitted for approval by Council's Area Planning Manager prior to the issue of the Stage ~~4~~ **3** Construction Certificate:
  - (i) The location of all significant fabric must be clearly indicated.
  - (ii) Where fabric is concealed, the components must be opened up and investigated, and the results included in the report. These investigative works must be subject of a Development Application Exemption – Heritage Works (HWC) application. The design must be amended accordingly if fabric of significance is discovered.
  - (iii) The new report is to include high resolution scans of all the original and pre 1940 drawings related to the original design and alterations to the buildings. A number of these have been previously forwarded to the applicant and the remainder are available at the City of Sydney Archives in lieu of reproductions from other reports.

- (iv) The assessment of significance under the NSW Heritage Council criteria, the gradings of significance and the statement of significance must be re-evaluated in consultation with Council's heritage specialist. Subsequently changes may be required to the Policies. The works are to comply with the amended Conservation Management Plan as approved by Council's Area Planning Manager.
- (b) The works are to comply with the amended Conservation Management Plan as approved by Council's Area Planning Manager.

***(Condition amended - D/2020/1072/A - 9 November 2022)***

**(74) HERITAGE CONSERVATION WORKS**

- (a) Prior to the issue of the Stage 4 Construction Certificate, the Schedule of Conservation Works pertaining to Nos 110-122 Oxford Street by Urbis dated 5 July 2021 must be further developed and must be submitted to and approved by Council's Area Planning Manager.
- (b) The schedule is to detail the conservation of all fabric identified as having heritage significance including but not limited to the following external and internal fabric and components:
  - (i) **EXTERNAL:** Face brickwork, sandstone elements, external tiling, external metal cladding, external metalwork, external vents, door and window joinery, lintels and beams, external glazing, cantilevered street awnings, eaves of the oriel windows, cantilevered soffits of the oriel windows, door and window hardware, shopfront components, external wall tiling terrazzo pavements, roof plumbing (Nos 110, and 112-114), roofing and painting, and if revealed, pre 1945 external signage.
  - (ii) **INTERNAL:** Internal timber floors and floor joists, the stair well and staircase at No 120 Oxford Street, floorboards and joists, pressed metal ceilings, internal terrazzo floors, internal masonry walls and wall plaster, and historic decorative paint finishes on the eastern wall of No 114 Oxford Street on Level 2.
- (c) The schedule is to include the removal of paintwork from all facework, including brickwork, sandstone, glazing and tiling.
- (d) The schedule is to include the conservation outcomes and actions in the conditions of consent related to DESIGN MODIFICATIONS.
- (e) The developed schedule must be supported by floor plans, reflected ceiling plans, elevations (internal and external) and sections that fully explain the scope and extent of the works, by larger scale detail drawings at 1:20 and 1:5 scale as appropriate. The details must incorporate any approved structural and/or building services design for the building.
- (f) The schedule must be supported by repair methodologies and outline specifications and by supporting engineering documentation.
- (g) Of particular note are the following requirements:

- (i) The schedules for sandstone conservation must be further developed through the undertaking of detailed diagnostic analysis of the sandstone components on a unit and by unit basis, including salt testing and structural analysis. The analysis must be undertaken by sandstone specialist conservators and structural engineers with proven experience in the assessment of Sydney sandstone.
- (ii) Specifications related to sandstone conservation are to include, but not limited to, details of cyclic cleaning and desalination, method of paintwork by non-abrasive methods, details of replacement units, including details of the supply quarry and locations within the quarry, physical properties, petrographic analysis, porosity, dry and wet compressive strength, details of replacement and repointing methods, and application of lead cappings to parapets and ledges.
- (iii) The schedules for brickwork conservation must be further developed through the undertaking of detailed diagnostic analysis, including salt testing, analysis of causes of falling and lateral moisture ingress, and structural analysis where movements have occurred. All brickwork must be inspected for defective units and open brick perpend and bed joints, and the joints made good.
- (iv) The schedules are to include the removal of paintwork from all external face brickwork by non-abrasive methods.
- (v) Specifications related to brick work conservation are to include, but not limited to, details of cyclic cleaning and desalination, method of paintwork removal which must be non-abrasive, details of replacement units, including details of the supply quarry and locations within the quarry, physical properties, petrographic analysis, porosity, dry and wet compressive strength, details of replacement and repointing methods, and application of lead parapet cappings.
- (h) The proposed works must be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to the significant fabric of the existing building.
- (i) All conservation and adaptation works must be in accordance with the Articles of the Australian ICOMOS Burra Charter 2013. Appropriately qualified contractors and tradespersons must be commissioned who are skilled in traditional building and engineering trades to carry out the proposed scope of works within the heritage building.
- (j) **INSPECTION AND APPROVAL:** The conservation works must be progressively inspected by and be implemented to the satisfaction of Council's Urban Design and Heritage Manager prior to the issue of any Occupation Certificate or commencement of the use, whichever is the earlier.

***(Condition amended - D/2020/1072/A - 9 November 2022)***

**(75) HERITAGE INTERPRETATION PLAN**

- (a) The proposed Heritage interpretation Strategy by Urbis dated 7 July 2021 must be amended and developed into an interpretation plan for the site and the existing buildings at Nos 110-122 Oxford Street. The plan must be submitted to and approved by Council's Area Planning Manager prior to the Stage 4 Construction Certificate being issued. The plan must be prepared by a suitably qualified and experienced heritage practitioner or historian.
- (b) The interpretation plan must detail how information on the history and significance of the site and the existing buildings will be provided for the public and make recommendations regarding public accessibility, signage and lighting. Public art, details of the heritage design, the display of selected artefacts are some of the means that can be used.
- (c) The plan must specify the location, type, making materials and contents of the interpretation device being proposed.
- (d) Prior to occupation certificate being issued the approved interpretation plan must be implemented to the satisfaction of Council's Area Planning Manager.

**(76) HISTORIC MARKER**

A plaque of high-quality material (e.g. bronze or stainless steel) describing the history of the site and building must be installed on the facade of the building prior to any Occupation Certificate being issued. The design, location and wording must be submitted for the approval of Council's Urban Design and Heritage Manager prior to manufacture and installation. The marker must be incorporated into the heritage interpretation plan.

**(77) PHOTOGRAPHIC ARCHIVAL DOCUMENTATION**

Prior to the Stage 1 Construction Certificate being issued, an archival photographic recording of the buildings at Nos 110-122 Oxford Street must be prepared to Council's satisfaction. The recording must be in digital form, prepared in accordance with the NSW Heritage Division of the Department of Environment and Heritage guidelines titled "Photographic Recording of Heritage Items using Film or Digital Capture". One copy of the record must be submitted to Council to be lodged with Council's Archives.

**Procedure**

For buildings or structures with heritage significance, the archival documentation, and the number and type of selected enlarged photographs required will be determined by the significance and quality of the building or structure. For a scope of work, refer to Council's Heritage Specialist to determine the particular architectural/design features of the building/site that may need to be recorded.

For buildings or structures with no heritage significance the archival documentation requirements are less comprehensive and may just be limited to contextual and exterior photographs only. However, this will depend upon the type, complexity and significance of the building, and must be confirmed with

Council's Area Coordinator Planning Assessments / Area Planning Manager, and if necessary, Council's Urban Design and Heritage Manager.

Because significant fabric may remain concealed and only be exposed during construction works, the archival recording must be undertaken in stages, prior to the removal of any significant building fabric or furnishings from the site, during the removal of fabric on site that exposes significant building fabric or furnishings, and after work has been completed on site, as considered appropriate by the conservation architect commissioned for the project, and submitted as two parts as follows.

- (a) The first submission of the archival recording of significant building fabric or furnishings must be prior to the removal of any significant building fabric or furnishings from the site and must be submitted to and approved by Council prior to the commencement of any work on site and prior to a Stage 1 Construction Certificate being issued.
- (b) The second submission of the archival recording is of significant building fabric or furnishings that is exposed during demolition or construction and after work has been completed on site and must be submitted to Council prior to any Occupation Certificate being issued.

The form of recording must be a photographic documentation of the site and its context, and the exteriors and interiors of the existing building(s) photographed, where appropriate, using a camera/lens capable of 'perspective correction'.

- (c) For each of the two submissions listed above in (a) and (b), the digital form of the recording must be as follows:
  - (i) The Development Application number and the Condition of Consent number must be noted.
  - (ii) Include a summary report detailing the project description, date and authorship of the photographic record, method of documentation and limitations of the photographic record.
  - (iii) The electronic images must 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.
  - (iv) 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.
  - (v) The report can be submitted on a USB, or digital file transfer in PDF/A format (created directly from the digital original), with a digital catalogue of images with the following data for each location, image subject/description and date.

**(78) PROTECTION OF PUBLIC FEATURES IN CONSERVATION AREAS**

The proposed work must take measures to protect existing street furniture and features on the public land including street and laneway stone curbs and gutters. If they need to be interrupted during process of construction, they must be properly recorded and reinstated to the original condition.

**(79) SITES IN THE VICINITY OF A HERITAGE ITEM**

- (a) A protection strategy for the duration of the construction works, must be submitted to and approved by Council's Area Planning Manager prior to the issue of the Stage 1 Construction Certificate. The Strategy is to detail how the proposed works will ensure that the adjacent heritage listed building at No 108 Oxford Street must be suitably protected and stabilized during the construction process including from any construction waste, dust, damp, water runoff, vibration or structural disturbance or damage.
- (b) Additionally, the protection strategy is to include:
  - (i) Details of temporary hydraulic drainage works to ensure that all water both in ground and above ground is channelled to the street and that no such water is channelled onto the adjacent property fabric or interiors.
  - (ii) Construction debris on neighbouring properties, in drainage lines or in cavities between the boundary walls of the adjacent buildings, must be removed progressively as the works progress.
  - (iii) A geotechnical report detailing the investigation of the location and depth of footings of the adjacent buildings. The report must address details of lateral ground movement, advice of any additional boundary offsets that may be required as a result of the location of footings and on the suitability of structural engineer's proposals for underpinning or other support to adjacent footings.
  - (iv) Details of the proposed protection of party walls from damp and water ingress during the works.

**(80) USE OF HERITAGE CONSULTANT**

- (a) An experienced heritage consultant must be commissioned to work with the consultant team throughout the design development, contract documentation and construction stages of the project. The conservation architect must be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The heritage consultant must be provided with full access to the site and authorised by the applicant to respond directly to Council staff where information or clarification is required regarding the resolution of heritage issues throughout the project.
- (b) Evidence and details of the above commission on the above terms must be provided to Council prior to the issue of the Stage 1 Construction Certificate or commencement of work on site whichever is the earlier.



- (c) Throughout the documentation and construction stages of the approved works the experienced heritage consultant is to:
  - (i) Undertake site inspections of not less than fortnightly intervals.
  - (ii) Report to Council's heritage specialist on a regular basis throughout the project.
  - (iii) Arrange and undertake inspections with Council's heritage specialist of not less than monthly intervals.
  - (iv) Progressively compile a report that includes the following:
    - a. A diary of site inspections,
    - b. Photographs of the works being undertaken at each visit,
    - c. Details of heritage advice and decisions arising out of each inspection,
    - d. An assessment of the heritage impact of all decisions made, throughout the duration of the works and the compliance with the Conservation Management Plan,
    - e. Any further physical evidence uncovered during the works.

This report must be progressively submitted Council's Area Planning Manager for ongoing approval at not less than two monthly intervals.
- (v) Compile the final report, verifying how the heritage conditions and heritage related design modification conditions have been satisfied, and the works completed in accordance with the Conservation Management Plan.
- (d) Upon completion of the works, the final report must be submitted for approval by Council's Area Planning Manager prior to the issue of any Occupation Certificate or the commencement of the use, whichever is earlier.

**(81) SIGNAGE STRATEGY**

- (a) No signage or signage zones is approved as part of this consent.
- (b) The proposed signage strategy must be amended to interpret traditional forms of signage according to the period and style of the buildings, use high quality materials, utilise low voltage indirect light sources. The size of signage must be limited to avoid large structural members, fixing plates and fixings. Suspended under awning and cantilevered light boxes must be slim line, and the area of the sign illuminated must be limited to cut outs in a predominantly solid background.
- (c) The following proposed signage zones are not approved:
  - (i) BSZ Signage Zone- The proposed vertical Building Signage Zone is not approved.

- (d) The following proposed signage zones must be amended as follows:
- (i) SZH Signage Zone – The proposed horizontal signage installations above the shopfronts must be amended to vary according to the shopfront design and date and period of the shopfront. They are to comprise hand painted signage and are based upon photographic evidence.
  - (ii) SZC Signage Zone – The proposed retail blade signs cantilevered perpendicular to shopfront Foley Street must be amended as follows:
    - a. The size 400 x 400 mm is supported but the maximum thickness of the signs must be 70mm.
    - b. The square projecting wall signs must be made of a sandwich of two high quality metal panels such as dark painted steel, brass or bronze with cut-outs in the metal to reveal the illuminated surface within a predominantly solid background. The blades must be expressed on all edges. The entire sign must not be illuminated. (An example is the current projecting wall signs of the COS tenancy at 5 Martin Place.)
  - (iii) SZS Signage Zone – The proposed rectangular signage lightboxes fixed below the awnings must be amended as follows:
    - a. The fixing points are to accord with the location of existing structural awning components.
    - b. The proposed size must be reduced to a maximum of 1800 x 400mm. The maximum thickness of the signs must be 100mm.
    - c. The signs are to comprise of a sandwich of two high quality metal panels with cut-outs in the unilluminated metal panels to reveal the illuminated surface within a predominantly solid background. The blades must be expressed on all edges. The entire sign must not be illuminated.
    - d. The signs are to have a minimum height of 2700mm above the footpath from underside of the sign.
  - (iv) Additional signage zones of signage may be considered that interpret the original style, type and location of signage including on glazing, provided the areas are limited to those typical of the period of construction of the buildings and are based upon photographic evidence.
- (e) A revised Signage Strategy must be submitted based upon the above parameters and modifications outlined above and must be approved by Council's Area Planning Manager prior to the issue of the Stage 4 Construction Certificate. The signage strategy must include information and scale drawings of the location, type, construction, materials and total number of signs appropriate for the building.

**(82) STRATEGY FOR FUTURE TENANCIES**

- (a) A Tenancy Strategy must be developed to inform and to provide a set of guidelines for future tenants of the buildings at Nos 110-122 Oxford Street Darlinghurst to ensure the protection of the significant heritage fabric, and the significant heritage character of the exterior and interior of the heritage listed buildings as follows:
- (b) Retail tenancies and cultural and creative spaces: The strategy is to ensure that future tenancy fitouts and cultural and creative spaces are designed to:
  - (i) Respond sympathetically to the significant external and internal heritage character of the buildings,
  - (ii) Retain and conserve significant fabric and do not negatively impact on the original shopfronts, and floors, ceilings and wall plaster of the interiors, and limit fixings into significant fabric,
  - (iii) Retain fabric installed as part of this consent such as shopfronts and external linings to piers and stallboards,
  - (iv) Maintain a visual consistency along all street frontages,
  - (v) Maintain a consistency of approach to signage design and internal lighting design,
  - (vi) Do not conceal the shopfronts and the clear glazing, and
  - (vii) Maintain visibility into the Lower Ground floor, and Ground Floor from Oxford and Foley Streets.
  - (viii) That cleaning operations are designed and specified to be consistent with the fabric and components being cleaned, and do not result in damage to the fabric.
  - (ix) Retain and maintain interpretation devices and initiatives that are to be installed as part of the approved works.
- (c) Hotel operation: The strategy is to ensure that the future hotel operator ensures that:
  - (i) Conserves the significant character of the interiors,
  - (ii) Conserves the significant components and fabric including floors, ceilings, wall plaster internal joinery and trim and stairs of the interiors, and
  - (iii) That significant fabric is protected and remains exposed to view,
  - (iv) Avoid fixings into significant fabric, and
  - (v) The historic decorative paint finishes on the eastern wall of No 114 Oxford Street on Level 2 are retained and conserved, as a feature within hotel room on the northern side of the corridor and are not painted over.

- (vi) All other interpretation devices and initiatives that are to be installed as part of the approved works are retained and maintained.
- (vii) That cleaning and maintenance operations are designed and specified to be consistent with the fabric and components being cleaned, and do not result in damage to the fabric.
- (d) The guidelines are to include specific recommendations relating to the retention of visibility into the buildings, appropriate finishes, retention of party and dividing walls, ceilings, floors, internal wall finishes, joinery trim, visual clutter, partitioning, additional requirements for mechanical servicing, lighting, security and signage and cleaning operations.
- (e) The strategy must be submitted to and approved by Council's Area Planning Manager prior to the Stage 4 Construction Certificate being issued.

**(83) EXTERNAL LIGHTING**

- (a) A separate development application is required to be lodged and approved prior to any external floodlighting or illumination of the building or site landscaping.
- (b) All external lighting is to be sympathetic to the style and period of the buildings and is to utilise low voltage wiring and indirect light sources.
- (c) The pavement lights may be utilised for incorporation of low voltage external lighting.

**(84) BCA COMPLIANCE - ALTERATIONS AND ADDITIONS - UPGRADE OF BUILDING IS REQUIRED (CONSTRUCTION CERTIFICATE REQUIRED)**

- (a) Pursuant to Clause 94 of the *Environmental Planning and Assessment Regulation, 2000*, where currently non-compliant, the whole building must comply with the performance requirements relating to the following parts of the Building Code of Australia (BCA):
  - (i) Fire resistance and stability – Part C1
  - (ii) Compartmentation and separation – Part C2
  - (iii) Protection of openings – Part C3
  - (iv) Provision for escape - Part D1
  - (v) Construction of exits - Part D2
  - (vi) Fire fighting equipment - Part E1
  - (vii) Smoke hazard management – Part E2
  - (viii) Lift installations – Part E3
  - (ix) Visibility in an emergency, exit signs and warning systems - Part E4.

- (b) Prior to a construction certificate being issued, the Certifying Authority must ensure that the proposed works and other upgrading works required by this condition satisfy the Building Code of Australia by complying with Clause A2.1 of the BCA.

**(85) RESTRICTION ON STRATA SUBDIVISION**

Any strata subdivision of the hotel to create individual lots for hotel rooms is not permitted.

**(86) LAND SUBDIVISION**

Any proposal for land subdivision, including any stratum subdivision of the buildings, will require a separate application to Council to obtain development consent and the subsequent approval of the plan of subdivision and issue of a Subdivision Certificate under Section 6.15 of the *Environmental Planning and Assessment Act, 1979*.

**(87) STRATA SUBDIVISION – DEVELOPMENT CONSENT**

Any proposal for strata subdivision will require development consent and therefore the lodgement of a separate development application or complying development application and subsequent approval from Council, or an accredited certifier, of the Strata Plan – and issue of a Strata Certificate, under the *Strata Schemes Development Act, 2015*.

**(88) EASEMENTS FOR RESIDENTS BIN AREA**

Prior to the issue of an Occupation Certificate, a documentary Easement (or Easements) for access to and use of the area denoted on the plans, as amended by design modification conditions, as the “residents bin area”, is to be created burdening 110-122 Oxford Street (known as Lot 2 in DP 815188) and benefitting properties 2 to 16 Foley Street. The Easement is to be defined over those parts of Lot 2 in DP 815188 that are required for:

- (a) The storage of residential waste (“residents bin area”);
- (b) Access to the area shown as “residents bin area”; and
- (c) The Easement is to be created granting rights of use and access within the Easement site, with terms relating to the management of the area, to the satisfaction of Council.

**(89) ACCESS AND FACILITIES FOR PERSONS WITH DISABILITIES**

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

If, in complying with this condition, amendments to the development are required, the design changes must be submitted to and approved by Council prior to the Stage 4 Construction Certificate being issued.

**(90) EXTERNAL WALLS AND CLADDING FLAMMABILITY**

The external walls of the building including attachments must comply with the relevant requirements of the Building Code of Australia (BCA). Prior to the issue

of the Stage 4 Construction Certificate and Occupation Certificate the Accredited Certifier and the Principal Certifier must:

- (a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the BCA; and
- (b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the BCA as proposed and as built.

**(91) PRODUCTS BANNED UNDER THE BUILDING PRODUCTS (SAFETY) ACT 2017**

- (a) No building products that are banned, or products that are subject to a ban if used in a particular way, under the *Building Products (Safety) Act, 2017* are to be used in the construction of the development approved in this development consent.
- (b) Prior to the issue of any Occupation Certificate, the principal certifier is to confirm that none of the building products used on the building are subject to a building product use ban under the *Building Products (Safety) Act, 2017* or, if a product is only subject to a ban if used in a particular way that it is not used in any way contrary to the *Building Products (Safety) Act, 2017*.

**(92) OPERATING HOISTING DEVICES INCLUDING BUILDING MAINTENANCE UNITS OVER A PUBLIC ROAD**

If it is proposed to install a building maintenance unit or operate a hoisting device above a road (footpath) including swinging, hoisting material/equipment and slewing any part of the device, 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 prior to the installation of such devices.

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*).

**(93) PHYSICAL MODELS**

- (a) Prior to the issue of any Occupation Certificate an accurate 1:500 scale model of the development as constructed must be submitted to and approved by Council's Area Coordinator Planning Assessments/Area Planning Manager for the City Model in Town Hall House.

Note:

- (i) The models must be constructed in accordance with the Model Specifications available online at:

<http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements>

- (ii) Council's modellers must be consulted prior to construction of the model.
- (iii) The models are to comply with all of the conditions of the Development Consent.
- (iv) The models must be amended to reflect any further modifications to the approval (under Section 4.55 of the *Environmental Planning and Assessment Act, 1979*) that affect the external appearance of the building.

**(94) SUBMISSION OF ELECTRONIC CAD MODELS PRIOR TO OCCUPATION CERTIFICATE**

- (a) Prior to any Occupation Certificate being issued, an accurate 1:1 electronic CAD model of the completed development must be submitted to and approved by Council's Area Coordinator Planning Assessments/Area Planning Manager for the electronic Visualisation City Model.
- (b) The data required to be submitted within the surveyed location must include and identify:
  - (i) Building design above and below ground in accordance with the development consent;
  - (ii) All underground services and utilities, underground structures and basements, known archaeological structures and artefacts; and
  - (iii) A current two points on the site boundary clearly marked to show their Northing and Easting MGA (Map Grid of Australia) coordinates, which must be based on Established Marks registered in the Department of Lands and Property Information's SCIMS Database with a Horizontal Position Equal to or better than Class C.

The data is to be submitted as a DGN or DWG file on a Compact Disc. All modelling is to be referenced to the Map Grid of Australia (MGA) spatially located in the Initial Data Extraction file.

- (c) The electronic model must be constructed in accordance with the City's 3D CAD electronic model specification. The specification is available online at:

<http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements>

- (d) Council's Modelling staff should be consulted prior to creation of the model. The data is to comply with all of the conditions of the Development Consent.

**(95) CONSTRUCTION TRAFFIC MANAGEMENT PLAN**

- (a) A Construction Traffic Management Plan must be submitted to and approved by Council prior to the issue of the Stage 1 Construction Certificate.
- (b) The approved plan must be complied with during any demolition and/or construction work.
- (c) Construction Traffic and Pedestrian Management Plans must be prepared in accordance with Standard Requirements for Construction Traffic Management Plan on the City's website at:

<https://www.cityofsydney.nsw.gov.au/construction-permits-approvals/prepare-construction-traffic-management-plan>

- (d) A Construction Pedestrian and Traffic Management Plan (CPTMP) should be submitted in consultation with the TfNSW for endorsement via [development.ctmp.cjp@transport.nsw.gov.au](mailto:development.ctmp.cjp@transport.nsw.gov.au). The CPTMP needs to specify matters including, but not limited to, the following:
  - (i) A description of the development;
  - (ii) Construction program and construction methodology;
  - (iii) Proposed construction hours;
  - (iv) A detailed plan of any proposed hoarding and/or scaffolding;
  - (v) Details of crane arrangements including location of any crane(s);
  - (vi) Location(s) where it is proposed to park construction vehicle;
  - (vii) Location of any proposed work zone(s);
  - (viii) Pedestrian and traffic management measures;
  - (ix) Haulage routes;
  - (x) Predicted number of construction vehicle movements and detail of vehicle types;
  - (xi) Consideration of street uses and events and throughout the year;
  - (xii) Identify any potential impacts to general traffic, cyclists, pedestrians and light rail and bus services within the vicinity of the site from construction vehicles during the construction of the proposed works;
  - (xiii) Cumulative construction impacts of projects. Existing CPTMPs for developments within or around the development site should be referenced in the CPTMP to ensure that coordination of work activities are managed to minimise impacts on the surrounding road network;
  - (xiv) Measures to minimise movement delays. i.e. Vehicle movements are to be minimised during peak network demand periods;



- (xv) Details of specific measures to ensure the arrival of construction vehicles to the site do not cause additional queuing on public roads;
- (xvi) Proposed mitigation measures. Should any impacts be identified, the duration of the impacts and measures proposed to mitigate any associated general traffic, public transport, pedestrian and cyclist impacts should be clearly identified and included in the CPTMP;
- (xvii) Measures to avoid construction worker vehicle movements;
- (xviii) Details of the monitoring regime for maintaining the simultaneous operation of buses, light rail and construction vehicles on roads surrounding the site;
- (xix) Consultation strategy for liaison with surrounding stakeholders, including other developments under construction; and
- (xx) Provide the builder's direct contact number to small businesses adjoining or impacted by the construction work and TfNSW to resolve issues relating to traffic, public transport, freight, servicing and pedestrian access during construction in real time. The applicant is responsible for ensuring the builder's direct contact number is current during any stage of construction.

**(96) DEMOLITION, EXCAVATION AND CONSTRUCTION MANAGEMENT**

- (a) Prior to the issue of the Stage 1 Construction Certificate the following details must be submitted to and be approved by the Principal Certifier:
  - (i) Plans and elevations showing distances of the subject building from the location of adjoining and common/party walls, and (where applicable) the proposed method of facade retention;
  - (ii) A Demolition Work Method Statement prepared by a licensed demolisher who is registered with the Work Cover Authority. (The demolition by induced collapse, the use of explosives or on-site burning is not permitted.);
  - (iii) An Excavation Work Method Statement prepared by an appropriately qualified person;
  - (iv) A Waste Management Plan for the demolition and or excavation of the proposed development; and
  - (v) Plans and elevations showing the location, construction and installation of temporary site fencing and any temporary structures used in connection with the construction of the development.

Note: Temporary structures, including hoardings and scaffolding, proposed for erection on City-owned and controlled land (footways and roadways), must comply with the City's *Guidelines for Hoardings and Scaffolding* and be approved by Council under the provisions of the *Local Government Act, 1993* and the *Roads Act, 1993* prior to installation.

- (b) Such statements must, where applicable, be in compliance with AS2601-2001 Demolition of Structures, the *Work, Health and Safety Act, 2011* and Regulation; Council's *Policy for Waste Minimisation in New Developments 2005*, the *Waste Avoidance and Resource Recovery Act, 2001*, and all other relevant acts and regulations and must include provisions for:
- (i) A Materials Handling Statement for the removal of refuse from the site in accordance with the *Waste Avoidance and Resource Recovery Act, 2001*;
  - (ii) The name and address of the company/contractor undertaking demolition/excavation works;
  - (iii) The name and address of the company/contractor undertaking off site remediation/disposal of excavated materials;
  - (iv) The name and address of the transport contractor;
  - (v) The type and quantity of material to be removed from site;
  - (vi) Location and method of waste disposal and recycling;
  - (vii) Proposed truck routes, in accordance with this development consent;
  - (viii) Procedures to be adopted for the prevention of loose or contaminated material, spoil, dust and litter from being deposited onto the public way from trucks and associated equipment and the proposed method of cleaning surrounding roadways from such deposits. (**Note:** With regard to demolition of buildings, dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site);
  - (ix) Measures to control noise emissions from the site;
  - (x) Measures to suppress odours;
  - (xi) Enclosing and making the site safe;
  - (xii) Induction training for on-site personnel;
  - (xiii) Written confirmation that an appropriately qualified Occupational Hygiene Consultant has inspected the building/site for asbestos, contamination and other hazardous materials, in accordance with the procedures acceptable to SafeWork NSW;
  - (xiv) An Asbestos and Hazardous Materials Clearance Certificate by a person approved by the SafeWork NSW;
  - (xv) Disconnection of utilities;

- (xvi) Fire fighting (fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed);
  - (xvii) Access and egress. (Demolition and excavation activity must not cause damage to or adversely affect the safe access and egress of the subject building or any adjacent buildings);
  - (xviii) Waterproofing of any exposed surfaces of adjoining buildings;
  - (xix) Control of water pollution and leachate and cleaning of vehicles tyres (proposals must be in accordance with the *Protection of the Environmental Operations Act, 1997*);
  - (xx) Working hours, in accordance with this development consent; and
  - (xxi) Any SafeWork NSW requirements.
- (c) The approved work method statements and a waste management plan as required by this condition must be implemented in full during the period of construction.

**(97) DILAPIDATION REPORT – MAJOR EXCAVATION/DEMOLITION**

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of 108 Oxford Street, 124-128 Oxford Street, 4 Foley Street, 6 Foley Street, 8 Foley Street, 10 Foley Street, 12 Foley Street, 14 Foley Street, 16 Foley Street, 18 Foley Street and 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 Stage 1 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.

**(98) ROAD OPENING APPLICATION**

A separate road opening application under Sections 138/139 of the *Roads Act, 1993* must be submitted to and approved by Council prior to the commencement of any:

- (a) Excavation in or disturbance of a public way, or
- (b) Excavation on land that, if shoring were not provided, may disturb the surface of a public road (including footpath).

**(99) 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*).

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

Where construction/building works require the use of a public place including a road or footpath, a separate application under Sections 138/139 of the *Roads Act, 1993* must be submitted to and approved by Council prior to the commencement of work. Details of any barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.

### **(101) ENERGY EFFICIENCY OF BUILDINGS**

The design of the building and its services must achieve a Base Building National Australian Built Environment Rating System (NABERS) Energy Commitment Agreement of 4 Stars as per the Department of Planning, Industry and Environment (DPIE). This is to be demonstrated by:

- (a) Entering into a Commitment Agreement with DPIE, to deliver this star rating for the base building;
- (b) The applicant must provide a copy of the signed Commitment Agreement contract with the Stage 4 Construction Certificate application; and
- (c) Providing a copy of the independent energy assessment report to NABERS administration and submitting the same report with the Stage 4 Construction Certificate application. This report must be based on the same design documents as that submitted with the Stage 4 Construction Certificate.

Note: Definitions referred to above are as follows:

- (i) Commitment Agreement means an agreement that is set out in accordance with DPIE. The NABERS Commitment Agreement, which is signed between DPIE and the applicant/building owner/building manager, to design, build and commission the premises to achieve an agreed star rating.
- (ii) Star rating refers to the benchmarking system applied by DPIE for measuring the energy efficiency of a building and known as NABERS the National Australian Built Environment Rating System.

- (iii) Base Building means central services and common areas of a building, as defined under NABERS.

**(102) INSTALLATION OF DUAL-FLUSH TOILETS**

All toilets installed within the development must be of water efficient dual-flush or other water-saving capacity with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS). The details must be submitted for the approval of the Accredited Certifier, prior to a Construction Certificate being issued.

**(103) INSTALLATION OF WATER EFFICIENT TAPS**

All taps and shower heads installed must be water efficient with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS). The details are to be submitted for the approval of the Principal Certifier, prior to any Occupation Certificate being issued.

**(104) INSTALLATION OF WATER EFFICIENT URINALS**

New urinal suites, urinals and urinal flushing control mechanisms must use waterless technology. Where it is submitted that this is not feasible, it must be demonstrated that products have been selected with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS). Systems must include "smart controls" to reduce unnecessary flushing. Continuous flushing systems are not approved. Details are to be submitted to and approved by the Accredited Certifier, prior to a Construction Certificate being issued.

**(105) 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.

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

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

Table 1 – Trees to be protected:

Tree No	Botanical/Common Name	Location
---------	-----------------------	----------

1-7	<i>Platanus acerifolia</i> /Plane Tree	Oxford Street - Street Tree
-----	--	-----------------------------

**(107) 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.
  - (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) All plant used to gain access to the site (Cranes, Hoists, Lifts etc.) must be situated outside the canopy of any street tree.
- (d) Temporary signs, or any other items, will 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 40mm diameter must be undertaken by hand.
- (g) Any trenching works for services / hydraulics / drainage etc must not be undertaken within six metres of any street tree. Alternative installation methods for services, such as directional boring/drilling, or redirection of

services must be employed where large woody roots greater than 40mm 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*.

**(108) STREET TREE PRUNING**

- (a) The consent from Council's Tree Management Officer must be obtained prior to the undertaking of any street tree pruning works including tree roots greater than 40mm diameter. Only minor pruning works will be approved by Council.
- (b) Any pruning that has been approved by Council, must be carried out by a qualified Arborist (AQF3), and must be in accordance with AS4373 Australian Standards 'Pruning of Amenity Trees'.

**(109) STORMWATER AND DRAINAGE - TREES**

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

**(110) EMISSIONS**

- (a) The use of the premises must not give rise to the emission of gases, vapours, dusts or other impurities which are a nuisance, injurious or prejudicial to health.
- (b) Gaseous emissions from the development must comply with the requirements of the *Protection of the Environment Operations Act, 1997* and *Protection of the Environment Operations (Clean Air) Regulation, 2010*.
- (c) Uses that produce airborne particulate matter must incorporate an effective dust collection system.

**(111) 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 must 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.

**(112) 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 Coordinator Planning Assessments / 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.

**(113) 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 as approved by Council 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.

**(114) 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, Part1: 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 must be sought from the NSW EPA.

**(115) 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 must 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 must 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 must be conducted in accordance with NSW EPA (1995) Sampling Design Guidelines.

**(116) 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.

**(117) 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

**(118) MICROBIAL CONTROL IN WATER SYSTEMS**

The installation, operation and maintenance of water-cooling or warm water systems installed on the premises must comply with the following:

- (a) AS/NZS 3666:1:2011 - Air-handling and water systems of buildings-Microbial Control Part 1: Design, installation and commissioning.
- (b) AS/NZS 3666:2:2011 - Air-handling and water systems of building-Microbial Control Part 2: Operation and maintenance.
- (c) AS/NZS 3666:3:2011 - Air-handling and water systems of buildings-Microbial Control Part 3: Performance based maintenance of cooling water systems.
- (d) AS/NZS 3666:4:2011 – Air-handling and water stems of buildings-Microbial Control Part 4: Performance – based maintenance of air – handling systems (ducts and components).

Note: The occupier of premises at which a water-cooling system is installed, must notify the council in writing on the prescribed form, of the installation of all water-cooling tower systems within the premises - *Public Health Act, 2010*. Warm water systems other than hospitals (which also includes nursing homes, declared mental health facilities, private health facilities) are exempt from notifying Council.

Notification forms are available on Council's website:

[www.cityofsydney.nsw.gov.au](http://www.cityofsydney.nsw.gov.au).

**(119) GREASE AND LIQUID WASTE TRAPS**

- (a) A grease trap if required by Sydney Water must be installed in accordance with Sydney Water requirements and:
  - (i) Must be installed by a suitably qualified and licensed plumber in accordance with the *Plumbing Code of Australia*;
  - (ii) The grease trap must not be located in any kitchen, food preparation or food storage area;
  - (iii) Be suitably constructed and installed in a location which allows it to be easily and effectively cleaned and emptied; and
  - (iv) Be suitably constructed and located as not to encourage the harbourage of pests and be effectively pest proofed.
- (b) In-sink and in-floor waste bucket traps must be installed in all sinks and floor wastes in all commercial kitchens and food preparation areas and must be carried out by a suitably qualified and licensed plumber in accordance with the *Plumbing Code of Australia*.

**(120) WASTE STORAGE AREA**

- (a) To ensure the adequate storage and collection of waste from the food premises, all garbage and recyclable materials emanating from the premises must be stored in a designated waste storage area. The waste storage area must be designed and constructed in accordance with *AS 4674 – Design, Construction and Fit-out of Food Premises, Australia New Zealand Food Standards Code 3.2.3 – Food Premises and Equipment* and comply with the *Council Policy for Waste Minimisation in New Developments*, and must be:
  - (i) Provided with a hose tap connected to the water supply;
  - (ii) Paved with impervious floor materials;
  - (iii) Coved at the intersection of the floor and walls;
  - (iv) Graded and drained to a waste disposal system in accordance with the requirements of the relevant regulatory authority (Sydney Water);
  - (v) Adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour or air pollution as defined by the *Protection of the Environment Operations Act, 1997* or a nuisance;
  - (vi) Fitted with appropriate interventions to meet fire safety standards in accordance with the *Building Code of Australia*;

- (vii) Provided with the appropriate number and size of bins adequate for the storage of waste generated by the business, including recycling; and
- (viii) Appropriately managed so that it does not attract pests or create litter.
- (b) Detailed plans and specifications for the construction of the waste storage area must be submitted to and approved by the Accredited Certifier prior to the issue of the Construction Certificate and must be constructed in accordance with such plans and specifications prior to the issuance of any Occupation Certificate.

**(121) FUTURE FOOD USE - MECHANICAL VENTILATION PROVISION**

Prior to the issue of a **Stage 2** Construction Certificate, the mechanical exhaust systems and/or shafts must be designed to allow for the discharge of effluent air above roof level and must be designed with capacity to accommodate exhaust ducts and mechanical ventilation systems for all **commercial retail** tenancies proposed **on the lower ground floor and ground floor levels** with the potential to become a food premises in future. Systems must be designed in accordance with *AS1668.2 – The Use of Ventilation and Air-conditioning in Buildings – Mechanical Ventilation in Buildings*, and *AS1668.1 – The Use of Ventilation and Air-conditioning in Buildings – Fire and Smoke Control in Buildings*.

**(Condition amended - D/2020/1072/A - 9 November 2022)**

**(122) MECHANICAL VENTILATION**

- (a) The premises must be ventilated in accordance with the Building Code of Australia and AS1668.1 and AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings - Mechanical Ventilation in Buildings.
- (b) Details of any mechanical ventilation and/or air conditioning system complying with AS1668.1 and AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings - Mechanical Ventilation in Buildings, the Building Code of Australia and relevant Australian Standards must be prepared and certified in accordance with Clause A5.2(1)(e) of the Building Code of Australia, to the satisfaction of the Accredited Certifier prior to the issue of a Construction Certificate.
- (c) Prior to issue of any Occupation Certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A5.2(1)(e) of the *Building Code of Australia*, must be submitted to the Principal Certifier.

**(123) WASTE AND RECYCLING MANAGEMENT – COMMERCIAL**

- (a) The Waste and Recycling Management Plan accompanying this Development Application has not been approved by this consent.
- (b) A Waste and Recycling Management Plan, which meets the requirements as set out in Council's *Guidelines for Waste Management in New*

*Developments 2018*, is to be approved by the Principal Certifier prior to a Construction Certificate being issued. All requirements of the approved Building Waste and Recycling Management Plan must be implemented during construction of the development.

**UPON COMPLETION OF THE DEVELOPMENT**

- (c) Prior to any Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifier must ensure that waste handling works have been completed in accordance with: the Waste and Recycling Management Plan; other relevant development consent conditions; and Council's *Guidelines for Waste Management in New Developments 2018*.

**(124) WASTE/RECYCLING COLLECTION - COMMERCIAL**

- (a) The collection of waste and recycling must only occur during the designated zone collection times to avoid noise disruption to the surrounding area.
- (b) Waste and recycling bins must not be placed on the street for collection, services must be conducted within the property boundary or as wheel-out/wheel back service. Commercial waste storage and service collections arrangements must be conducted in accordance with the City's *Waste Policy – Local Approvals Policy for Managing Waste in Public Places (2017)*.
- (c) Unimpeded access must be provided for collection vehicles to set down within 10 metres of waste storage area(s) during zone collection times on collection day(s).

**(125) WASTE AND RECYCLING COLLECTION CONTRACT**

Prior to any Occupation Certificate being issued and/or commencement of the use, whichever is earlier, the building owner must ensure that there is a contract with a licensed contractor for the removal of all waste. No garbage is to be placed on the public way, e.g. footpaths, roadways, plazas, reserves, at any time.

**(126) WASTE COLLECTION HOURS**

Waste collection associated with the site, that involve the movement of vehicles, must only occur between the hours of 7.00am and 8.00pm.

**(127) PHOTOGRAPHIC RECORD / DILAPIDATION REPORT - PUBLIC DOMAIN**

Prior to an approval for demolition being granted or a Stage 1 Construction Certificate being issued, whichever is earlier, a photographic recording of the public domain site frontages is to be prepared and submitted to Council's satisfaction.

The recording must include clear images of the building facade adjoining the footpath, the footpath, nature strip, kerb and gutter, driveway crossovers and laybacks, kerb ramps, road carriageway, street trees and plantings, parking restriction and traffic signs, and all other existing infrastructure along the street.

The form of the recording is to be as follows:

- (a) A PDF format report containing all images at a scale that clearly demonstrates the existing site conditions.
- (b) Each image is to be labelled to identify the elements depicted, the direction that the image is viewed towards, and include the name of the relevant street frontage.
- (c) Each image is to be numbered and cross referenced to a site location plan.
- (d) A summary report, prepared by a suitable qualified professional, must be submitted in conjunction with the images detailing the project description, identifying any apparent existing defects, detailing the date and authorship of the photographic record, the method of documentation and limitations of the photographic record.
- (e) Include written confirmation, issued with the authority of both the applicant and the photographer that the City of Sydney is granted a perpetual non-exclusive license to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of both the applicant and the photographer must be included.

Any damage to the public way including trees, footpaths, kerbs, gutters, road carriageway and the like must immediately be made safe and functional by the applicant. Damage must be fully rectified by the applicant in accordance with the City's standards prior to a Certificate of Completion being issued for Public Domain Works or before an Occupation Certificate is issued for the development, whichever is earlier.

**(128) 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 a Stage 1 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.

**(129) PUBLIC DOMAIN LEVELS AND GRADIENTS**

Prior to the issue of a Stage **4 2** Construction Certificate, a Public Domain Levels and Gradients submission for the building and site for the Foley Street frontage must be submitted to and approved by the City's Public Domain Unit. The submission, must be prepared in accordance with the City's *Public Domain Manual* and submitted with a completed *Application for Public Domain Levels and Gradients*. Information on how to complete the submission can be downloaded from the City's website at:

<https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works>.

Any requirements to comply with Disability Discrimination Act at the entrance to a building or publicly accessible space must be resolved inside the site boundary.

Note: Public Domain Levels and Gradients plans are to be included with Public Domain Plan – Detailed Documentation for Construction Condition submission.

**(Condition amended - D/2020/1072/A - 9 November 2022)**

**(130) STORMWATER DRAINAGE DESIGN**

Prior to issue of a Stage **4 2** Construction Certificate a detailed stormwater management plan prepared by suitable qualified and experienced professionals demonstrating compliance with the requirements of Section 3.7.2 - *Drainage and Stormwater Management*, Section 3.7.3 – *Stormwater Quality*, 3.7.4 – *Additional provisions for Commercial and Industrial Properties* of the Sydney Development Control Plan 2012 must be submitted to and approved by the City's Public Domain Unit.

The submission must include the following;

- (a) Stormwater infrastructure design certification, stating that the proposed design complies with:
  - (i) Council's Sydney Streets Technical Specifications, Part A4 Stormwater Drainage Design;
  - (ii) Council's Sydney Streets Technical Specifications, Standard Drawings;
  - (iii) Council's Sydney Streets Technical Specifications, Part B10: Stormwater Drainage Construction; and
  - (iv) All relevant Australian Standards; and



- (b) Structural certification of the hydraulic and structural design of all elements, excluding standard details from Council's *Sydney Streets Technical Specifications*.

The above certification must accompany information that address the requirements of *Section 4.5 Data Requirements, Part A4 Stormwater Drainage Design* of Council's *Sydney Streets Technical Specifications*. This information is available for download from the City's website at:

<https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works>.

The requirements of Sydney Water with regard to the on-site detention (OSD) of stormwater must be ascertained and complied with. Evidence of the approval must be submitted to Council prior to a Stage 2 Construction Certificate.

Note: A Deed of Agreement for all proposed connections to the City's drainage system, and a Positive Covenant for all OSD systems may be required prior to issue of any Occupation Certificate.

Note: The total discharge per site from kerb outlets must not exceed 25Litres/sec. If site discharge is greater, a connection must be made to a Council kerb inlet pit. If no kerb inlet pit exists, an extension of the Council storm water pipe system is required with a minimum 375mm diameter RCP.

***(Condition amended - D/2020/1072/A - 9 November 2022)***

### **(131) PUBLIC DOMAIN LIGHTING UPGRADE**

Prior to issue of a Stage 2 Construction Certificate, a concept Public Domain Lighting Upgrade Plan for pedestrian and street lighting in the public domain must be submitted to and approved by City's Public Domain Unit. The Lighting Plan must be prepared in accordance with the *Sydney Streets Technical Specifications A5 and B8, Sydney Lights Design Code* and *Public Domain Manual*. This information is available for download from the City's website at <https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works>.

The lighting upgrade plan must cover all adjacent Oxford Street and Foley Street frontages and must be designed to include the following.

#### **Oxford Street**

- (a) Provide under-awning lighting complying with the requirements of COS Awnings Policy.
- (b) Lighting standards compliance of AS1158.3.1:2020 Category PA2 is required.

#### **Foley Street**

- (a) Provide COS standard wall mounted lighting.
- (b) Lighting standards compliance of AS1158.3.1:2020 Category PP1 + 2lux min vertical illuminance must be achieved.

Advice on site specific lighting requirements must be obtained from the City's Public Domain Unit before proceeding with the preparation of any final lighting design proposals.

**(132) PUBLIC DOMAIN PLAN DETAILED DOCUMENTATION FOR CONSTRUCTION**

A detailed public domain plan and all relevant documentation must be submitted to and approved by the City's Public Domain Unit prior to the Stage 5 Construction Certificate. This Plan must document all works required to ensure that the public domain complies with the City of Sydney's *Public Domain Manual*, *Sydney Streets Code*, *Sydney Street Tree Masterplan*, *Sydney Lights Design Code*, *Sydney Streets Technical Specification* and *Sydney's Parks Code*. The plan must consider road pavement, traffic measures, footway pavement, kerb and gutter, drainage, vehicle crossovers, pedestrian ramps, lighting, street trees and landscaping, signage and other public domain elements. The documentation must be *checked, accurate, and comply with specified requirements*. Plans must be based on an accurate survey, to scale and fully coordinated across all disciplines and submissions. The supplied documentation must be to construction standard and will be approved under Section 138 of the *Roads Act, 1993*.

The Public Domain Manual and all other relevant documents are available for download from Council's website at:

<https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works>.

The Public Domain Plan documentation must be submitted with an *Application for Public Domain Plan Assessment* and include the approved Public Domain Levels and Gradients documentation. If the proposed detailed design of the public domain requires changes to any previously approved levels, an *Application for Public Domain Levels and Gradients* must be submitted to and approved by the Public Domain Unit to reflect these changes prior to an approval being issued for the construction of public domain work.

Note: Stamped plans will be issued for construction and approved under Section 138 of the *Roads Act, 1993*.

**(133) SECTION 138 ROADS ACT 1993 APPROVAL**

Approval under Section 138 of the *Roads Act, 1993* must be obtained from Council prior to the commencement of any excavation in or disturbance of a public way for the construction of approved public domain works.

**(134) DRAINAGE CONNECTION**

For approval of a connection into the City of Sydney's drainage system an "*Application for Approval of Stormwater Drainage Connections*" must be submitted to the City, together with an application fee in accordance with the City of Sydney's adopted Schedule of Fees and Charges. This must be approved prior to the issue of the Stage 2 Construction Certificate.

### **(135) LIGHTING RETICULATION**

Prior to the issue of any relevant approval for the Stage 5 Construction Certificate, a detailed Public Domain Lighting Plan for pedestrian and street lighting in the public domain must be submitted to and approved by the City's Public Domain Unit in accordance with the City of Sydney's *Sydney Lights Design Code*, *Sydney Streets Code*, *Sydney Streets Technical Specification* and *Public Domain Manual*.

The *Public Domain Manual* and all other relevant documents are available for download from Council's website at:

<https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works>.

If applicable, this public domain lighting documentation must include pole footing locations and structural details, location and details of underground electrical reticulation including connections and conduits, pit cabling and certifications as described in the City's *Public Domain Manual*. The public domain lighting is to be superimposed on the public domain plan to show any conflicts between lighting and the proposed landscape design.

### **(136) PUBLIC DOMAIN WORKS BOND**

A Public Domain Works Bond will be required as security for the public domain works and for repairing damage that may be caused to the public domain in the vicinity of the site, in accordance with the City of Sydney's adopted fees and charges and the *Public Domain Manual*. The Public Domain Works Bond must be submitted as cash, an unconditional bank guarantee or insurance bond as per the Council's Performance Bond Policy in favour of the City as security for completion of the obligations under this consent (Guarantee).

The City's Public Domain Unit must be contacted to determine the guarantee amount prior to lodgement of the guarantee. The guarantee must be lodged with the City prior to an approval being issued for the Public Domain Plan.

The Guarantee will be retained in full until all Public Domain works, including rectification of damage to the public domain, are completed to City of Sydney standards and approval and the required certifications, warranties and works-as-executed documentation are submitted and approved by the City in writing. On satisfying the above requirements, 90% of the security will be released. The remaining 10% will be retained for the duration of the specified Defects Liability Period.

### **(137) DEFECTS LIABILITY PERIOD – PUBLIC DOMAIN WORKS**

All works to the City's public domain, including rectification of identified defects, are subject to a 6 month defects liability period from the date of final completion. The date of final completion will be nominated by Council on the Certificate of Practical Completion for public domain works.

### **(138) 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.

**(139) PUBLIC DOMAIN WORKS COMPLETION**

The Public Domain works are to be constructed in accordance with the Public Domain Works Approval, approved stamped plans for Gradients and Levels, Stormwater, Public Domain Lighting, the City of Sydney's *Public Domain Manual, Stormwater Drainage Manual, Sydney Lights Design Code* and *Sydney Streets Technical Specification*.

The public domain work must be inspected and a Certificate of Practical Completion must be issued by Council's Public Domain Officer prior to the issue of any Occupation Certificate or before the commencement of use, whichever is earlier.

**(140) PUBLIC DOMAIN COMPLETION - WORK AS EXECUTED DOCUMENTATION**

Prior to a Certificate of Practical Completion being issued for public domain works, works-as-executed (As-Built) plans and documentation, must be submitted to and accepted by the City of Sydney for all public domain works, including where required Stormwater, Public Domain Lighting and Road construction. These works must be certified by a suitably qualified, independent professional. Details of the documentation required for approval will be advised by the City's Public Domain Unit.

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

Prior to the issue of any Occupation Certificate:

- (a) The Owner is required to enter into a Deed of Agreement with the City of Sydney and obtain registration of Title of a Positive Covenant for all proposed connections to the City's underground drainage system. The deed and positive covenant will contain terms reasonably required by the City and will be drafted by the City's Legal Services Unit at the cost of the applicant, in accordance with the City's Fees and Charges.
- (b) 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.

**(142) SURVEY INFRASTRUCTURE – PRE-SUBDIVISION CERTIFICATE WORKS**

- (a) Pursuant to Section 38 of the *Surveying and Spatial Information Act, 2002*, if it is likely that any new survey mark will be disturbed by associated works (for example, footpath or kerb and gutter construction), a surveyor may defer the placement of those marks.
- (b) Prior to any the issue of any Subdivision Certificate, documentary evidence in accordance with Section B11 – *Survey Infrastructure of the*

*Technical Specification* must be prepared by a Registered Surveyor and submitted to and approved by the City. This evidence must include:

- (i) A copy of any Surveyor-General's Approval for Deferment of Survey Marks granted by NSW Spatial Services for the subject site, including all documentation submitted as part of that application (for example the draft deposited plan) or
- (ii) A certificate of Practical Completion obtained from the City's Public Domain team, together with 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 survey marks shown on their Deposited Plan remain at the date of practical completion.

**(143) 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.

**(144) PUBLIC DOMAIN DAMAGE BOND**

- (a) A Public Domain Damage Bond calculated on the basis of 202 square metres of granite and 25 square metres of concrete site frontage must be lodged with Council in accordance with the City of Sydney's adopted Schedule of Fees and Charges. The Public Domain Damage Bond must be submitted as an unconditional bank guarantee or insurance bond as per the Council's Performance Bond Policy in favour of Council as security for repairing any damage to the public domain in the vicinity of the site (Guarantee).
- (b) The Guarantee must be lodged with Council prior to an approval for demolition being granted or any Construction Certificate being issued, whichever is earlier.
- (c) The Guarantee in this condition will be retained in full until the final Occupation Certificate has been issued, or the public domain works bond has been lodged and any rectification works to the footway and Public Domain, are completed to Council's satisfaction. The Guarantee will be

released in full unless rectification works are required where upon 90% of the total securities will be released, with the remaining 10% to be retained for the duration of a 6 months Defect Liability Period.

**(145) PROTECTION OF STONE KERBS**

- (a) The existing stone kerbs on the Oxford and Foley Street frontages 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 must be salvaged and reused wherever possible.
  - (iv) All new driveway laybacks and kerbs are to be constructed with stone kerbs to match existing stones or as specified by City officers.
  - (v) Council approval is required before kerbs are removed.
  - (vi) Council approval is required prior to the cutting of existing stone kerbs for stormwater kerb outlets.
  - (vii) Stone kerbs and gutters may be bonded 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.

**(146) DRAINAGE AND SERVICE PIT LIDS**

All existing or proposed drainage and service pit lids throughout the public domain must 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.

**(147) TACTILE GROUND SURFACE INDICATORS AND HANDRAILS**

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

**(148) PAVING MATERIALS**

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

**(149) OVERHEAD POWERLINES**

Safe work NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.

The "as constructed" minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website, [www.ausgrid.com.au](http://www.ausgrid.com.au)

It remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.

"Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost.

It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site."

**(150) UNDERGROUND CABLES**

Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area.

Safework Australia – Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables.

Should ground anchors be required in the vicinity of the underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

**(151) TRANSPORT FOR NSW**

- (a) All buildings and structures, together with any improvements integral to the future use of the site are wholly within the freehold property (unlimited in height or depth), along the Oxford Street boundary.
- (b) Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to [development.sydney@transport.nsw.gov.au](mailto:development.sydney@transport.nsw.gov.au).
- (c) A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.
- (d) Bicycle Parking should be provided in accordance with AS2890.3.
- (e) All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Oxford Street during when the 'Bus Lane' hours.
- (f) A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre (TMC) for any works that may impact on traffic flows on Oxford Street during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>

**(152) MINIMISE IMPACT OF POOL ON NEIGHBOURING PROPERTIES**

- (a) To minimise the impact of the pool on adjoining properties and to ensure the safety of the pool/spa area, the design and construction of the swimming pool/spa and associated equipment and fencing must comply with the following requirements:
  - (i) The *Swimming Pools Act, 1992* and Regulations.
  - (ii) The swimming pool must have safety barriers installed in accordance with the requirements of AS 1926.1 - 2007 - 'Safety barriers for swimming pools' and AS 1926.2 - 2007 'Location of safety barriers for swimming pools'.
  - (iii) Australian Standards 1926.3 - Water Recirculation and Filtration; and
  - (iv) *Protection of the Environment Operations Act, 1997*

**(153) SWIMMING POOL - CONSULTATION WITH AUSGRID**

Ausgrid must be consulted in respect to the location of the proposed swimming pool relative to any overhead electrical wiring within a distance of 9 metres around the pool. Details of consultation with Ausgrid are to be submitted to the Accredited Certifier prior to a Construction Certificate being issued.

**(154) SWIMMING POOL - WASTE AND OVERFLOW WATERS**

Swimming pool waste and overflow waters must be collected and directed to the sewer in accordance with the requirements of Sydney Water, and details are to



be submitted with the application for a Construction Certificate to the satisfaction of Council or the accredited certifier and approved by the Accredited Certifier.

**(155) SWIMMING POOL/SPA**

Swimming and/or spa pool/s and pool surrounds must be maintained in accordance with the *Public Health (General) Regulation, 2012*. Note: Guidance may also be obtained from the NSW Health Department's *Public Swimming Pool and Spa Pool Guidelines*.

## SCHEDULE 1C

### DURING CONSTRUCTION/PRIOR TO OCCUPATION/COMPLETION

#### (156) 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.

#### (157) HOURS OF WORK AND NOISE

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 (e.g. 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*.

#### (158) 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.

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

A site notice is to be prominently displayed at the boundary to each frontage of the site for the purposes of informing the public of appropriate project details and relevant approvals. The notice(s) is to satisfy all of the following requirements:

- (a) Minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
- (b) The notice is to be durable and weatherproof and is to be displayed throughout the construction period;
- (c) A copy of the first page of the development approval, building approval (including any modifications to those approvals) and any civic works approvals is to be posted alongside the notice in weatherproof casing;
- (d) The approved hours of work, the Principal Certifier including contact address and certification details, the name of the site manager, the responsible managing company, its address and 24 hour contact phone number for any enquiries, including construction/noise complaint, and the estimated date of completion of the project are to be displayed on the site notice;
- (e) The notice(s) is to be mounted at eye level on the perimeter hoardings and is also to state that unauthorised entry to the site is not permitted.
- (f) All notices and signs must be displayed in locations as specified in the City's Guidelines for Hoardings and Scaffolding.

**(160) 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 specified in writing by an authorised officer (of the *Environmental Planning and Assessment Act, 1979*) to the applicant and/or the person identified as being in charge of the site following the receipt of substantiated noise complaints.
- (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*.

**(161) ENCROACHMENTS – NEIGHBOURING PROPERTIES**

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

**(162) ENCROACHMENTS – PUBLIC WAY**

Apart from existing encroachments by the heritage buildings, no portion of the new works, including gates and doors during opening and closing operations, will encroach upon or over Council's footpath area.

**(163) SURVEY**

All footings, walls and floor slabs adjacent to a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report, prepared by a Registered Surveyor, must be submitted to the Principal Certifier indicating the position of external walls in relation to the boundaries of the allotment. Any encroachments by the subject building over adjoining boundaries or roads must be removed prior to continuation of building construction work.

**(164) SURVEY CERTIFICATE AT COMPLETION**

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

**(165) 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.

**(166) HAZARDOUS AND INDUSTRIAL WASTE**

Hazardous and/or industrial waste arising from the demolition/operational activities must be removed and/or transported in accordance with the requirements of the NSW Work Cover Authority pursuant to the provisions of the following:

- (a) *Protection of the Environment Operations Act, 1997*
- (b) *Protection of the Environment Operations (Waste) Regulation, 2005*
- (c) *Waste Avoidance and Resource Recovery Act, 2001*
- (d) *Work Health and Safety Act, 2011*
- (e) *Work Health and Safety Regulation, 2017.*

**(167) SHOP NUMBERING - EASE OF IDENTIFICATION**

Prior to any Occupation Certificate being issued, shop numbers must be clearly visible at the front of the premises, for ease of identification. Numbering must be maintained so that identification can be made at all times.

**(168) SYDNEY WATER 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 Principal Certifier prior to any Occupation Certificate or subdivision/strata certificate being issued.

**(169) 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.

**(170) 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.

**(171) 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*.

**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>