

# **Attachment D**

**General Terms of Approval – Heritage NSW**

Matthew Girvan  
Planner  
City of Sydney Council  
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SYDNEY NSW 2001  
**By email:** mgirvan@cityofsydney.nsw.gov.au

Dear Mr Girvan

## HERITAGE COUNCIL OF NSW – REVISED GENERAL TERMS OF APPROVAL

### Integrated Development Application

**Address:** 28-30 Orwell Street POTTS POINT NSW 2011  
**SHR item:** The Metro Theatre (formerly Minerva Theatre), SHR no. 02049  
**Proposal:** CNR-26452 - D/2021/893  
 ALTERATIONS AND ADDITIONS TO THE MINERVA BUILDING AND ITS ADAPTIVE REUSE FOR THE PURPOSES OF ENTERTAINMENT FACILITIES, FOOD & DRINK PREMISES AND TOURIST AND VISITOR ACCOMODATION  
**IDA application no:** HMS ID 4528

As delegate of the Heritage Council of NSW (the Heritage Council), I have considered the above integrated development application. In accordance with Section 4.47 of the *Environmental Planning and Assessment Act 1979*, the following general terms of approval are granted:

### Approved development

1. Development must be in accordance with:

a. Architectural drawings, prepared by Tonkin Zulaikha Greer as listed below:

Dwg No	Dwg Title	Date	Rev
<b>Project Name: The Minerva</b>			
A-000	Cover Page	16/08/2023	F

Dwg No	Dwg Title	Date	Rev
A-001	Site Plan	1/03/2023	-
A-002	Site Analysis	1/03/2023	-
A-050	Basement 3&4 Demolition Plan (BLANK)	1/03/2023	A
A-051	Basement 2 Demolition Plan	1/03/2023	B
A-052	Basement 1 Demolition Plan	1/03/2023	B
A-053	Ground Demolition Plan	1/03/2023	C
A-054	Level 1 Demolition Plan	1/03/2023	C
A-055	Level 2 Demolition Plan	1/03/2023	-
A-056	Level 3 Demolition Plan	1/03/2023	A
A-057	Level 4 Demolition Plan	1/03/2023	A
A-058	Level 5 Demolition Plan	1/03/2023	A
A-059	Roof Demolition Plan	1/03/2023	-
A-060	Ground RCP Demolition	1/03/2023	A
A-061	Level 1 RCP Demolition	1/03/2023	-
A-062	Level 3 RCP Demolition	1/03/2023	A
A-070	Demolition South Elevation	1/03/2023	B
A-071	Demolition North Elevation	1/05/2023	C
A-072	Demolition East Elevation	1/03/2023	C
A-073	Demolition West Elevation	1/03/2023	C
A-080	Long Section Demolition	1/03/2023	D
A-081	Cross Section A Demolition	1/03/2023	D
A-102	Basement 2 Floor Plan	16/08/2023	F

Dwg No	Dwg Title	Date	Rev
A-103	Basement 1 Floor Plan	16/08/2023	E
A-104	Ground Floor Plan	16/08/2023	I
A-105	Level 1 Plan	16/08/2023	G
A-106	Level 2 Plan	16/08/2023	G
A-107	Level 3 Plan	16/08/2023	D
A-108	Level 4 Plan	16/08/2023	E
A-109	Level 5 Plan	16/08/2023	F
A-110	Level 6 Plan	16/08/2023	E
A-111	Roof Plan	16/08/2023	D
A-121	Auditorium RCP Proposed Ground Floor – Level 3	1/03/2023	D
A-200	South Elevation	1/03/2023	D
A-201	South Elevation Fly Tower Façade	1/03/2023	E
A-202	North Elevation	16/08/2023	E
A-203	North Elevation Fly Tower Façade	16/08/2023	F
A-204	East Elevation	16/08/2023	E
A-205	East Elevation Fly Tower Facade	16/08/2023	E
A-206	West Elevation	1/03/2023	C
A-207	West Elevation Fly Tower Façade	1/03/2023	C
A-208	West Elevation Inner Façade	1/03/2023	D
A-210	Signage Strategy – South Elevation	1/03/2023	C
A-211	Signage Strategy – East Elevation	1/03/2023	D
A-300	Longitudinal Section 1	1/03/2023	E

Dwg No	Dwg Title	Date	Rev
A-301	Cross Section 1	1/03/2023	E
A-302	Cross Section 2	1/03/2023	E
A-303	Longitudinal Section 2	16/08/2023	F
A-304	Longitudinal Section 3	1/03/2023	E
A-305	Cross Section 3	1/03/2023	E
A-306	Section: Sun Shadow Analysis	1/03/2023	A
A-400	Perspective Images – 1	1/03/2023	B
A-401	Perspective Images – 2	1/03/2023	-
A-402	Perspective Images – 3	1/03/2023	-
A-403	Perspective Images – 4	1/03/2023	A
A-500	Shadow Diagrams – 21 June (1of 2)	1/03/2023	B
A-501	Shadow Diagrams – 21 June (2of 2)	1/03/2023	B
A-600	GFA Diagrams	16/08/2023	E
A-601	Materials Board	1/03/2023	C
A-602	Flytower Window Schedule	1/03/2023	D
A-603	Flytower Schedule Room Area Plans	1/03/2023	B
A-605	LEP VS Proposed Height Comparison	16/08/2023	A
A-606	22m Height Plane	16/08/2023	-
A-607	View Diagrams	21/08/2023	-
A-608	Reversibility Potential	17/08/2023	-
A-609	View Diagrams from 25 Hughes St Terrace	21/08/2023	-

b. Fire Safety Sprinkler System Drawings, prepared by LCI as listed below:

Dwg No	Dwg Title	Date	Rev
<b>Project Name: The Minerva</b>			
220459-F100	Fire Services – Level 2 Sprinkler Layout	7/02/2023	A
220459-F100	Fire Services – Level 2 Sprinkler Layout	7/02/2023	A

c. Public Domain Plan, prepared by Arcadia as listed below:

Dwg No	Dwg Title	Date	Rev
<b>Project Name: Metro Minerva theatre</b>			
L-000	Cover page	18.11.22	B
L-101	Landscape Masterplan Public Domain	18.11.22	B
L-201	Setout + Grading Public Domain Plans	18.11.22	B

- d. *Statement of Heritage Impact- Rev 2*, prepared by Tonkin Zulaikha Greer, dated June 2022
- e. *Conservation Management Plan*, prepared by Tanner Kibble Denton, dated June 2020.
- f. *Statement of Environmental Effects*, prepared by Planning Lab, dated 29 July 2021
- g. *Heritage Interpretation Strategy*, prepared by Tonkin Zulaikha Greer, dated July 2021
- h. *Baseline Archaeological Assessment*, prepared by Archaeological Management & Consulting Group, dated 13 July 2021.
- i. *Archaeological Research Design & Excavation Methodology*, prepared by Archaeological Management & Consulting Group, dated November 2022
- j. *Historical Archaeology Test Excavation Report*, prepared by Archaeological Management & Consulting Group, dated May 2022
- k. Technical Memo Titled *Piling, vibration and impact on existing footing details*, prepared by Taylor Thomas Whitting, dated 20 July 2022.
- l. Technical Memo for *Additional information requested relating to locations of columns and shear walls*, prepared by Taylor Thomas Whitting, dated 18 April 2023
- m. *Structural Methodology & Construction Sequence*, prepared by Taylor Thomas Whitting
- n. *Alterations And Additions to The Minerva Theatre – Clause 4.6 Variation Request*, prepared by Planning Lab, dated 22 August 2023
- o. *Auditorium Methodology Report*, prepared by Taylor Thomas Whitting, dated 24 May 2022
- p. *View Loss Assessment*, prepared by Urbaine Design Group, dated 17 February 2023
- q. *Visual Impact Assessment*, prepared by Urbaine Design Group, dated August 2022
- r. *Façade Study*, prepared by Tonkin Zulaikha Greer
- s. *Levels 1 & 2 Relationship to Façade*, prepared by Tonkin Zulaikha Greer, dated 13 April 2023
- t. *Section to Demonstrate Extent of Retained Existing Northern Wall*, prepared by Tonkin Zulaikha Greer, dated 13 April 2023

- u. Letter titled *Development Application No 2021/893 Response to City Sydney Request for Information*, prepared by Central Element, dated 23 August 2023.
- v. *Structural Diagram 1 & 2*, prepared by Tonkin Zulaikha Greer, dated 14 April 2023

## **EXCEPT AS AMENDED by the General Terms of Approval:**

### **DETAILS TO BE SUBMITTED FOR APPROVAL**

2. The following information is to be submitted with the s60 application for approval by the Heritage Council of NSW (or delegate):
  - a. Revised construction methodology drawings and structural sequencing reflecting the updated proposal.
  - b. Structural adequacy report of the upper stalls/balcony and their ability to withstand additional load.
  - c. Detailed drawings providing further details on the facilities required to operate the entertainment venue including lighting, green rooms, backstage storage, sound, etc., to maintain as much of the original heritage fabric and form as possible.
  - d. Detailed drawings that consider compliance with building standards, safety and access.
  - e. Minimise the number of openings to reduce impact on eastern and western elevations. The openings should be articulated to be sympathetic to the style of the existing Interwar heritage facades.
  - f. Detailed inventory, condition and significance assessment of all existing fabric and a detailed schedule of conservation works.
  - g. Provide an inventory of significant fabric being salvaged for reuse within the building or used as part of interpretation.
  - h. An inventory of moveable heritage items associated to the significant historical occupancy of the building be recorded. The inventory should identify items, their storage (short and long term) and their eventual relocation within the site.

*Reason: The details requested were not supplied during the assessment of the application. The subject site contains historical archaeological relics, which are protected under the Heritage Act 1977 and must be managed appropriately.*

### **HERITAGE CONSULTANT**

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

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

### **SPECIALIST TRADESPERSONS**

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

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

## **SITE PROTECTION**

5. Report outlining a program of monitoring and mitigation measures to be undertaken before, during and after construction. The report should address the following aspects:
  - a. Strict ring fencing of allowable demolition, and necessary conservation works, as the builder's value engineering may lead to further loss of existing building to save cost and enable construction.
  - b. The piles are very close to the existing structure. It is critical to set parameters to preserve the existing building from damage from vibration, and lateral and vertical movement of the existing foundation to be retained.
  - c. The vibration levels set by the German Standard are the minimum requirement for vibration and lateral movement of the retained ground behind the perimeter piles to be limited to 0.001% of the retained height. Furthermore, the loads affecting these movements are to be doubled of the normal design loads to provide some assurance against likely failure of the system.
  - d. The monitoring setup to remain permanently with the building (e.g., monitoring vibrations and relative movements) for future condition assessments.
  - e. These measures are to be monitored by an independent body.
  
6. Significant built and landscape elements are to be protected during site preparation and the works from potential damage. Protection systems must ensure significant fabric, including landscape elements, is not damaged or removed.

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

## **HERITAGE INTERPRETATION PLAN**

7. An interpretation plan must be prepared in accordance with the Heritage NSW publication 'Interpreting Heritage Places and Items Guidelines' (2005) and submitted for approval to the Heritage Council of NSW (or delegate) prior to the issue of a Construction Certificate/Government certification.
8. The interpretation plan must detail how information on the history and significance of name of item will be provided for the public, and make recommendations regarding public accessibility, signage, and lighting. The plan must identify the types, locations, materials, colours, dimensions, fixings and text of interpretive devices that will be installed as part of this project.
9. The approved interpretation plan must be implemented prior to the issue of an Occupation Certificate.

*Reason: Interpretation is an important part of every proposal for works at heritage places.*

## **PHOTOGRAPHIC ARCHIVAL RECORDING**

10. A photographic archival recording must be prepared prior to the commencement of works, during works and at the completion of works. This recording must be in accordance with the Heritage



NSW publication 'Photographic Recording of Heritage Items using Film or Digital Capture' (2006). The digital copy of the archival record must be provided to Heritage NSW, Department of Premier and Cabinet.

**Reason:** *To capture the condition and appearance of the place prior to, and during, modification of the site which impacts significant fabric.*

## **HISTORICAL ARCHAEOLOGY**

### **11. SECTION 60 APPLICATION**

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

### **12. As part of the section 60 application:**

- a. The applicant shall submit an Archaeological Research Design and Excavation Methodology prepared by a suitably qualified and experienced historical archaeologist to ensure that the salvage of any Orwell House remains for completeness of scientific knowledge .
- b. The applicant shall nominate an Excavation Director(s) suitable to satisfy the Excavation Director Criteria of the Heritage Council of NSW for the proposed activity and significance level. The nomination(s) shall be supported by a response to the Excavation Director Criteria 2019.
- c. Following the receipt of the Archaeological Research Design and Excavation Methodology as part of the section 60 application, the Heritage Council of NSW reserves the right to issue Archaeological Conditions as part of the section 60 approval to manage the archaeology. Matters such as (but not limited to) fieldwork methodology, artefact analysis, final reporting may be included as part of these archaeological conditions.

**Reason:** *The subject site contains historical archaeological relics, which are protected under the Heritage Act 1977 and must be managed appropriately.*

## **UNEXPECTED HISTORICAL ARCHAEOLOGICAL RELICS**

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

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

## **COMPLIANCE**

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

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

## SECTION 60 APPLICATION

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

*Reason: To meet legislative requirements.*

## Advice

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

## Unexpected discoveries during works

If during works under this approval, you unexpectedly discover a relic or believe you may have discovered an historical archaeological 'relic', notification is required under s146 of the *Heritage Act 1977*. If you believe you have unexpectedly discovered an Aboriginal object, notification is required under s89A of the *National Parks and Wildlife Act 1974*.

In these scenarios work must cease in the affected area(s) and the following notifications are required (a relic - the Heritage Council of NSW and an Aboriginal object – Heritage NSW). Additional assessment and approval may be required under the relevant legislation prior to works continuing in the affected area(s) based on the nature of the discovery.

## Right of appeal

If you are dissatisfied with this determination, section 70A of the Act gives you the right of appeal to the Land and Environment Court.

If you have any questions about this correspondence, please Mariyam Nizam, Senior Assessments Officer at Heritage NSW on (02) 9873 8500 or [heritagemailbox@environment.nsw.gov.au](mailto:heritagemailbox@environment.nsw.gov.au)

Yours sincerely

*Rajeev Maini*

Rajeev Maini

Manager, Assessments Team 3

Heritage NSW

Department of Planning and Environment

**As Delegate of the Heritage Council of NSW**

16 October 2023