

Attachment A

Recommended Conditions of Consent

GENERAL CONDITIONS

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2024/214 dated 3 April 2024 and the following drawings prepared by TonkinZulaikhaGreer:

Drawing Number	Drawing Name	Date
A050	Demolition Ground Floor Plan	7/03/2024
A051 REV A	Demolition First Floor Plan	2/07/2024
A052	Demolition Roof Plan	7/03/2024
A060 REV A	Demolition North Elevation	2/07/2024
A061	Demolition East Elevation	7/03/2024
A062	Demolition South Elevation	7/03/2024
A063	Demolition West Elevation	7/03/2024
A100 REV A	General Arrangement Ground Floor Plan	31/05/2024
A101 REV A	General Arrangement First Floor Plan	2/07/2024
A102	General Arrangement Plant Level Plan	7/03/2024
A103	General Arrangement Roof Plan	7/03/2024
A200 REV B	North Elevation	3/07/2024
A201 REV A	East Elevation	3/07/2024
A202 REV A	South Elevation	3/07/2024
A203 REV a	West Elevation	3/07/2024
A204	North Elevation – Window Detail	2/07/2024
A300 REV A	Section 01 Looking North	3/07/2024

Drawing Number	Drawing Name	Date
A301	Section 02 Looking East	7/03/2024
A600 REV A	Material Finishes	3/07/2024

and as amended by the conditions of this consent.

- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the drawings will prevail.

Reason

To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

(2) RELIANCE ON PREVIOUS DEVELOPMENT CONSENT D/2004/1408 (AS AMENDED)

This development consent relies on and must be read in conjunction with development consent D/2004/1408 (as amended).

This development consent is subject to compliance with conditions of consent contained in D/2004/1408 (as amended).

Reason

To ensure all parties are aware of the relevant development consents and conditions of consent.

(3) MATERIALS AND FINISHES SCHEDULE

The Materials and Finishes Schedule (A600) must be amended to include details of the metal standing seam roof and submitted to and approved by Council's Area Planning Manager prior to the issue of a Crown Certificate (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979). The material should be of a high quality finish.

Reason

To require amendments to the approved plans and supporting documentation following assessment of the development.

(4) FACADE DETAILS

1:20 scale or other appropriate scale detailed construction drawings of the facade extent noted as stainless steel mesh with integrated plant ventilation are to be submitted to and approved by Council's Area Planning Manager prior to the issue of a Crown Certificate (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979).

The plan should demonstrate a high quality design, detailing, materiality and integration with the facade. The reflectivity of the stainless steel mesh should be minimised.

The required information must include detailed material, finishing, spacing, elemental sizing details. The information submitted should show a level of detail equivalent to For Construction detailing.

Reason

To require amendments to the approved plans and supporting documentation following assessment of the development.

(5) MATERIALS FOR MAKING GOOD

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

Reason

To ensure appropriate materials and finishes are used.

(6) WASTE AND RECYCLING MANAGEMENT - GENERAL

The proposal must comply with the relevant provisions of the Sydney Development Control Plan 2012 and Council's *Guidelines for Waste Management in New Developments 2018*, which requires facilities to promote the safe and efficient storage, separation, collection and handling of waste to maximise resource recovery.

Reason

To ensure that waste and recycling is appropriately managed throughout all phases of the development.

(7) COMPLIANCE WITH THE ACOUSTIC REPORT PRIOR TO CERTIFICATION

- (a) All relevant performance parameters (including but not limited to requirements, engineering assumptions and recommendations) in the DA Acoustic Report prepared by Arup Australia Pty Ltd, dated 5 June 2024, ref AC01(v3), titled Art Gallery of NSW Brett Whiteley Studio Upgrade Acoustic DA Report (Council Ref 2024/333541) must be implemented in the development prior to the issue of a Crown Certificate (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979).
- (b) Prior to the issue of a Crown Certificate (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979), 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 Crown Certifier.

- (c) Prior to the issue of a Crown Certificate (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979), a Suitably Qualified Acoustic Consultant* is to provide a written Acoustic Verification Report to the satisfaction of the Crown 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 join the Australian Acoustical Society, Institution of Engineers Australia (grade of member) or the Association of Australasian Acoustical Consultants (grade of member firm).

- (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.

Reason

To ensure all parties are aware of the supporting documentation that applies to the development.

(8) PUBLIC DOMAIN DAMAGE BOND

- (a) A Public Domain Damage Deposit calculated on the basis of 50 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 bond must be provided as security for repairing any damage to the public domain in the vicinity of the site.
- (b) The City's Public Domain Unit must be contacted to determine the bond amount prior to lodgement. The Bond must be lodged with the City prior to an approval for demolition being granted or issue of a Crown Certificate (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979)
- (c) The bond in this condition will be released in full upon Final Occupation. If rectification works are required the City will release 90% of the total Bond, with the remaining 10% balance to be held for the duration of a 6 months Defect Liability Period.

Reason

To allow for the appropriate management and rectification of damage to the public domain.

(9) DILAPIDATION REPORT - PUBLIC DOMAIN

Prior to an approval for demolition and preparatory works being granted or issue of a Crown Certificate (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979), whichever is earlier, a photographic recording of the public domain site frontages is to be prepared as described in the Public Domain Manual and submitted for approval by Council's Public Domain Unit. The City's *Public Domain Manual* is available for download from the City's website at <https://www.cityofsydney.nsw.gov.au/>

The submission is to include written confirmation, issued with the authority of both the applicant and the photographer that the City of Sydney is granted a perpetual non-exclusive license to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of both the applicant and the photographer must be included.

Reason

To establish and document the condition of the public domain for comparison as building work progresses and is completed.

(10) DILAPIDATION REPORT – MINOR

Subject to the receipt of permission of the affected landowner, dilapidation report/s of adjoining buildings are to be prepared by an appropriately qualified practising structural engineer and submitted for the approval of the Registered Certifier prior to the issue of a Crown Certificate (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979).

Reason

To ensure that dilapidation reports are prepared and to identify damage to for adjoining/nearby properties resulting from building work on the development site.

(11) WASTE AND RECYCLING MANAGEMENT – COMMERCIAL

The Operational Waste Management Plan dated 4 June 2024 (Rev A and dated 31 May 2024), prepared by Elephants Foot (TRIM 2024/333540) accompanying the Development Application is approved. Should the architectural plans be updated, an updated Operational Waste Management Plan is to be submitted to Council's City Cleansing and Resource Recovery Unit and approved by Council's Area Planning Manager prior to the issue of any certification (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979).

Reason

To document agreed waste management facilities and arrangements and ensure good waste management outcomes.

BEFORE BUILDING WORK COMMENCES

(12) STRUCTURAL INTEGRITY OF RETAINED BUILDING ELEMENTS

Prior to commencement of demolition, excavation or construction work, a report or certification from a practicing structural engineer experienced in dealing with heritage buildings must be submitted to and approved by the Crown Certifier. The report must explain how the retained building elements, such as building facades or chimneys are to be retained, supported and not undermined by the proposed development and give details of any intervention or retrofitting needed.

Reason

To ensure the preservation of the building elements that are proposed to be retained.

DURING BUILDING WORK

(13) USE OF HIGH NOISE EMISSIONS/PLANT

- (a) The operation of high noise emission appliances, plant and/or machinery such as pile drivers, rock breakers and hydraulic hammers and those which are not listed in Groups B, C, D, E or F of Schedule 1 of the City of Sydney Code of Practice for Construction Hours/Noise 1992” and Australian Standard 2436-2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites is restricted to the hours of 08:00 to 12:00 and 14:00 to 17:00 Monday to Friday.
- (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

Reason

To ensure the acoustic amenity of surrounding developments is maintained.

(14) NOTIFICATION OF EXCAVATION WORKS OR USE OF HIGH NOISE EMISSION APPLIANCES/PLANT

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

Reason

To protect the amenity of the surrounding area.

(15) HOURS OF WORK AND NOISE – OUTSIDE CBD

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

- (a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg. loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.30am and 5.30pm on Mondays to Fridays, inclusive, and 7.30am and 3.30pm on Saturdays, with safety inspections being permitted at 7.00am on work days, and no work must be carried out on Sundays or public holidays.
- (b) All work, including demolition, excavation and building work must comply with the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436 - 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites.

- (c) Notwithstanding the above, the use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on-site tower cranes which warrant the on-street use of mobile cranes outside of above hours can occur, subject to a 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.

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

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

Reason

To protect the amenity of the surrounding area.

(16) NOTIFICATION – NEW CONTAMINATION EVIDENCE

Council's Area Planning Manager and the Crown 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.

Reason

To ensure that the site is appropriately remediated.

(17) IMPORTED FILL MATERIALS

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

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

- (a) Imported fill must be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material for the known past history of the site where the material is obtained; and/or
- (b) Sampling and analysis of the fill material shall be conducted in accordance with NSW EPA (2022) Sampling Design Guidelines.

Reason

To ensure that imported fill is not contaminated.

(18) 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 EPA Waste Classification Guidelines, Part1: Classifying Waste (November 2014)*. 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 a particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid waste advice should be sought from the EPA.

Reason

To ensure that waste from site is classified and disposed of appropriately.

(19) 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.

Reason

To ensure that stockpiles of soil or other materials are appropriately managed.

OCCUPATION AND ONGOING USE

(20) 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 \(NPfI\)](#) 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 NPfI 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 premises.
- (c) Corrections in [Fact Sheet C](#) of the NPfI are applicable to relevant noise from the development measured in accordance with this condition, however duration corrections are excluded from commercial noise.

Reason

To protect the acoustic amenity of surrounding properties.

(21) SCHEDULED COLLECTIONS – COMMERCIAL

- (a) Commercial waste collection arrangement(s) are to be conducted in accordance with the approved Operational Waste Management Plan, Council's Guidelines for Waste Management in New Developments, the City of Sydney's DCP, the developments Conditions of Consent and Local Approvals Policy for Managing Waste in Public Places.
- (b) The collection of waste and recycling stream(s) is to only occur during designated zone collection times outlined within the Local Approvals Policy for *Managing Waste in Public Places* to minimise impacts to residential amenity.
- (c) Waste and recycling stream(s) bins must not be placed at the nominated collection point more than half an hour before the scheduled collection time. Bins and containers are to be removed from the street within half an hour of collection occurring.

Reason

To minimise the impacts on amenity and safety caused by the presentation and collection of commercial waste.

(22) ONGOING WASTE MANAGEMENT – COMMERCIAL

- (a) The ongoing use of development/tenancy must be in accordance with the approved Operational Waste Management Plan, Council's *Guidelines for Waste Management in New Developments*, the City of Sydney's DCP, and the developments Conditions of Consent.
- (b) All general waste and recycling materials emanating from the premises must be stored in the designated waste storage area(s), must not be stored outside the premises (including the public domain) at any time.
- (c) All waste and recycling stream(s) storage area(s) are to only be used for the purposes of storing waste and recycling from the premises in accordance with the original consent and approved Operational Waste Management Plan and not be converted to a different use.
- (d) Scheduled collections and waste management arrangements of the development/tenancy is the responsibility of the business owner or property manager and are to be conducted in accordance with the stamped plans, approved Operational Waste Management Plan and this consent. These arrangements include:
 - (i) arranging an adequate number of bins and the servicing regime matched to the needs of the premises.
 - (ii) actively managing waste streams and supporting infrastructure to ensure bins are not overflowing, damaged or leaking and lids are fully closed at all times.
 - (iii) routine cleaning and maintenance of waste storage area(s) to inhibit the permeation of odour and prevent litter and pests.
 - (iv) the installation and maintenance of all education signage for the respective waste stream(s) as requested by the City of Sydney.
- (e) Contracts (or agreements) with cleaners, building managers and tenants must clearly outline the waste management and collection arrangements, identifying clear roles and responsibilities outlined within the approved Operational Waste Management Plan.

Reason

To promote good waste management arrangements and minimise the impacts on amenity and safety caused by the presentation and collection of commercial waste.

(23) PRIOR TO OCCUPATION OR USE

Prior to occupation or use, the relevant certification is to be obtained certifying that the approved building works are suitable for occupation or use in accordance with their classification under the BCA and that Certification has been issued under Section 6.28 of the Environmental Planning and Assessment Act 1979 and BCA 2016.