



28 May 2021

Anthony Witherdin
Director
Key Sites Assessments
Department of Planning, Industry & Environment

via email: [REDACTED]

Dear Mr Witherdin

**Harbourside Shopping Centre Redevelopment (SSD 7874)
Request for Comment – Recommended Conditions of Consent**

I refer to the above application currently before the Independent Planning Commission (**Commission**) for determination.

The Commission is considering the imposition of the attached conditions of consent for the Project (**Attachment A**) should it determine to approve the application. The Commission seeks the Department's advice on the workability, enforceability and any potential unintended consequences of the proposed conditions.

Could you please provide the Department's advice by 5pm on **Tuesday, 1 June 2021**.

This letter and your response will be made publicly available on the Commission's website immediately following the publication of the Commission's determination of this application.

If you require any clarification in relation to the above, or wish to discuss further, please contact Ms Kate Moore or Mr Lindsey Blecher on (02) 9383 2100.

Yours sincerely,

Stephen Barry
Planning Director

Development Consent – Key Sites

Section 4.38 of the Environmental Planning and Assessment Act 1979

The Independent Planning Commission (the Commission), as the declared consent authority under clause 8A of the *State Environmental Planning Policy (State and Regional Development) 2011* and section 4.5(a) of the *Environmental Planning and Assessment Act 1979*, approves the development application referred to in Schedule 1, subject to the conditions in Schedule 2 and Schedule 3.

These conditions are required to:

- prevent, minimise, or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development

[Name of Commissioner] Member of the Commission	[Name of Commissioner] Member of the Commission
Sydney	2021
SCHEDULE 1	
Application Number:	SSD 7874
Applicant:	Mirvac Projects Pty Ltd
Consent Authority:	The Independent Planning Commission
Site:	Harbourside Shopping centre, Darling Harbour Lots 1-10, 12-15 and 17 DP776815, Lot 2015 DP1234971 and Lot 300 DP836419
Development:	Redevelopment of Harbourside Shopping centre comprising: Concept Proposal for: <ul style="list-style-type: none">• a residential and commercial building envelope, comprising:<ul style="list-style-type: none">○ a maximum height of RL 166.95○ a maximum GFA of 87,000 m², including:42,000 m² residential GFA45,000 m² non-residential GFA

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Commented [LB1]: Intent is to remove GFA controls and instead rely on building envelope to constrain scale.

See comments on Condition B2 for more detail on amendments to Northern Podium building envelope.

- minimum publicly accessible open space of 3,500 m² on the Northern Podium
- sitewide concept landscaping including public domain upgrades and through site links
- Bunn Street bridge
- design guidelines and design excellence strategy
- car parking rates

Stage 1 works for the demolition of:

- existing shopping centre and structures
- southern pedestrian link bridge
- monorail infrastructure
- tree removal.

DRAFT

DEFINITIONS

Applicant	Mirvac Projects Pty Ltd, or any person carrying out any development to which this consent applies
BCA	Building Code of Australia
BC Act	<i>Biodiversity Conservation Act 2016</i>
Central Podium	<u>As identified on annotated plan in Attachment B</u>
Certifying Authority	A person who is authorised by or under section 6.17 of the EP&A Act to issue Part 6 certificates
Conditions of this consent	Conditions contained in Schedule 2 of this document
Construction	The demolition and removal of buildings or works, the carrying out of works for the purpose of the development, including bulk earthworks, and erection of buildings and other infrastructure permitted by this consent.
Council	City of Sydney Council
Day	The period from 7 am to 6 pm on Monday to Saturday, and 8 am to 6 pm on Sundays and Public Holidays
Demolition	The deconstruction and removal of buildings, sheds and other structures on the site
Department	NSW Department of Planning, Industry and Environment
EIS	The Environmental Impact Statement prepared by JBA Urban Planning Consultants dated November 2016, submitted with the application for consent for the development, including any additional information provided by the Applicant in support of the application
ENM	Excavated Natural Material
Environment	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings
EPA	NSW Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPL	Environment Protection Licence under the POEO Act
ESD	Ecologically Sustainable Design
FEAR	Future Environmental Assessment Requirement
Feasible	Means what is possible and practical in the circumstances
Future Development Applications	Subsequent development application(s) for detailed proposals pursuant to this consent in accordance with the EP&A Act
GFA	Gross floor area
Incident	An occurrence or set of circumstances that causes or threatens to cause material harm and which may or may not be or cause a non-compliance Note: "material harm" is defined in this consent

Commented [LB2]: Definitions added for Northern Podium, Central Podium and Southern Podium for clarity, particularly to underpin Condition B2 which requires amendments to the Northern Podium building envelope.

Land	Has the same meaning as the definition of the term in section 1.4 of the EP&A Act
<u>Material Harm</u>	<p><u>Is harm to the environment that:</u></p> <ul style="list-style-type: none"> <u>involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial, or</u> <u>results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)</u> <p><u>This definition excludes "harm" that is authorised under either this consent or any other statutory approval</u></p>
Minister	NSW Minister for Planning and Public Spaces (or delegate)
Modification Assessments	The document assessing the environmental impact of a proposed modification of this consent and any other information submitted with the following modification applications made under the EP&A Act.
Non-compliance	An occurrence, set of circumstances or development that is a breach of this consent
<u>Northern Podium</u>	<u>As identified on annotated plan at Attachment B</u>
PA	Means a planning agreement within the meaning of the term in section 7.4 of the EP&A Act.
Planning Secretary	Planning Secretary under the EP&A Act, or nominee
Planning Secretary's approval, agreement or satisfaction	A written approval from the Secretary (or nominee/delegate). Where the Secretary's approval, agreement or satisfaction is required under a condition of this approval, the Secretary will endeavour to provide a response within one month of receiving an approval, agreement or satisfaction request. The Secretary may ask for additional information if the approval, agreement or satisfaction request is considered incomplete
POEO Act	<i>Protection of the Environment Operations Act 1997</i>
Reasonable	Means applying judgement in arriving at a decision, taking into account: mitigation benefits, costs of mitigation versus benefits provided, community views, and the nature and extent of potential improvements.
Rehabilitation	The restoration of land disturbed by the development to a good condition, to ensure it is safe, stable and non-polluting.
Response to submissions/ RtS	The Applicant's response to issues raised in submissions received in relation to the application for consent for the development under the EP&A Act.
<u>Southern Podium</u>	<u>As identified on annotated plan Attachment B</u>
Subject Site	The site as described in Schedule 1
TFNSW	Transport for NSW
ToA	Term of Approval

SCHEDULE 2

PART A - TERMS OF APPROVAL FOR CONCEPT DEVELOPMENT APPLICATION

DEVELOPMENT DESCRIPTION

- A1. Consent is granted to the Concept Proposal as described in Schedule 1 and the EIS (as amended by the RtS, Further RtS, Final Further RtS and supplementary information) and the conditions contained within this development consent. This consent does not authorise the carrying out of any physical works, including construction works, which must be the subject of Future Development Application(s).

Commented [LB3]: Where necessary, condition numbers and references to condition numbers will be updated prior to determination

TERMS OF CONSENT

- A2. The Applicant, in acting on this consent, must carry out the development:
- in compliance with the conditions of this consent
 - in accordance with all written directions of the Planning Secretary
 - generally, in accordance with the State significant development application SSD 7684, including the:
 - Environmental Impact Statement, prepared by JBA Urban Planning Consultants Pty Ltd, dated 15 November 2016
 - Response to Submissions and Amended Concept proposal prepared by Ethos Urban Pty Ltd, dated 24 March 2020
 - Response to Submissions and Further Amended Concept Proposal prepared by Ethos Urban dated 12 October 2020
 - Response to submissions prepared by Ethos Urban and dated 27 November 2020; As amended by documents, 17 and 18 December 2020
 - in accordance with the following drawings (as amended by the conditions of this consent) or superseding drawings approved by the Planning Secretary pursuant to the conditions of this consent:

Commented [LB4]: Intent is to capture the changes required through conditions, particularly B2 which requires amendments to the Northern Podium building envelope

Concept Proposal Drawings by fjmt			
Drawing No.	Revision	Title	Date
SSDA1-100	-	Envelope Plan - Podium	22/12/2020
SSDA1-101	-	Envelope Plan - Tower	08/10/2020
SSDA1-102	-	Envelope Plan - Basement	08/10/2020
SSDA1-103	-	Envelope Plan - East Elevation	08/10/2020
SSDA1-104	-	Envelope Plan - West Elevation	08/10/2020
SSDA1-105	-	Envelope Cross Sections	08/10/2020

DETERMINATION OF FUTURE DEVELOPMENT APPLICATION(S)

- A3. In accordance with section 4.22 of the EP&A Act, all physical works and subsequent stages of the Concept Proposal are to be subject of Future Development Application(s).
- A4. In accordance with section 4.24 of the EP&A Act, the determination of Future Development Application(s) cannot be inconsistent with this development consent (SSD 7874) as described in **Schedule 1**, and subject to the conditions in **Schedule 2**.

LAPSING OF APPROVAL

- A5. This consent will lapse five years from the date of consent unless works the subject of Future Development Application(s) have physically commenced by the date.

PLANNING AGREEMENT AFFORDABLE HOUSING

- A6. Prior to the determination of the first Future Development Application, the Applicant or its successor must enter into a Planning Agreement and /or other legally binding agreement to the satisfaction of the Planning Secretary securing the provision of \$5,200,000.00 to a Registered Community Housing provider for affordable housing.
- A7. Any Planning agreement must be prepared in accordance with Division 7.1 of Part 7 of the EP&A Act.

LEGAL NOTICES

- A8. Any advice or notice to the consent authority ~~shall~~**must** be served on the Planning Secretary.

Commented [LB5]: Changed throughout for clarity

INCONSISTENCY BETWEEN DOCUMENTS

- A9. In the event of any inconsistency between the conditions of this approval and the drawings / documents referred in **Condition A2**, the conditions of this approval prevail.

GROSS FLOOR AREA CONTROL

~~A10. The maximum achievable gross floor area (GFA) for the development is 87,000 m², comprising:~~

- ~~(a) 42,000 m² residential GFA
(b) 45,000 m² non-residential GFA.~~

~~The maximum GFA can only be achieved subject to demonstration of:~~

- ~~(i) compliance with the conditions of this concept approval
(ii) design excellence
(iii) consistency with the Design Guidelines (as amended by **Condition B1**)
(iv) being wholly contained within the approved building envelope.~~

Commented [LB6]: Intent is to rely on building envelope to constrain development

BUILDING ENVELOPE HEIGHT CONTROL

~~A11-A10.~~ The maximum building envelope heights for the development are shown on the concept drawings listed in **Condition A2** and shall not exceed:

- (a) maximum tower envelope height RL 166.95
(b) maximum podium envelope height RL 31.00
(c) maximum podium envelope height adjacent to Pyrmont Bridge RL 13.75.

OPEN SPACE CONTROL

~~A12.~~ A minimum of 3,500 m² of publicly accessible open space ~~shall~~**must** be provided ~~on the site above the Northern Podium~~, comprising:

~~A13. 1,500 m² publicly accessible open space located above the northern podium adjacent to Pyrmont Bridge~~

~~A14. 2,000 m² above the remaining area of the northern podium.~~

~~A15. Alternatives to the spatial allocation as described in a) and b) above may be considered, subject to future DA(c) demonstrating the alternative achieves:~~

~~A16. a superior transition between each space~~

~~A17. an improved open space outcome in terms function, usability, activation and access~~

~~A18-A11. design excellence.~~

~~A19-A12.~~ The calculation of the 3,500 m² publicly accessible open space:

- (a) may include stairs, terraces, hard and soft landscaping associated with publicly accessible open space
(b) must exclude retail tenancies ~~inclusive of~~ **and associated** outdoor seating/dining areas.

Commented [LB7]: Intent is to ensure that open space is provided at one level to maximise amenity and accessibility

Commented [LB8]: Intent is to clarify that outdoor seating is only excluded if it is associated with retail tenancies

A20-A13. In addition to the publicly accessible open space referred to in **Condition A12** and **A13**, an additional area of onsite open space must be provided for gathering/events adjacent to the foreshore and link to the Bunn Street through site link. This space must be accessible 24 hours, provide equitable access (including to people with disabilities and similar requirements) flexible and be suited to both casual public use and more structured gatherings and performance events (e.g. pop up cinema, theatre, music).

NORTHERN PODIUM-ARTICULATION ZONE- SOFT LANDSCAPING

A24-A14. ~~Structures including balustrades, vegetation and planting, garden pavilions, shade structures and hard landscaping features~~ Soft landscaping (including planting and trees) may extend above the RL ~~25-13.75~~ building envelope where these components are within and relate specifically to improving the amenity of the publicly accessible open space above the Northern Podium. Future Development Application(s) ~~shall~~ must demonstrate that any projection within this ~~zone area~~ above RL ~~25-13.75~~ will have minimal detrimental impact on views from neighbouring properties to the Pyrmont Bridge and harbour. ~~No mechanical plant should be proposed in this location.~~

Commented [LB9]: Intent is to allow soft landscaping to exceed envelope height subject to demonstrating minimal view impacts but ensure fixed, hard landscaping is contained within the envelope.

RL changed to 13.75 to reflect the changes in condition B2, which reduces the envelope height to 13.75 across the Northern Podium.

CAR PARKING CONTROL

A22-A15. The maximum number of on-site car parking spaces ~~shall~~ must be in accordance with the following rates:

Resident spaces	
For each studio dwelling	0.2 spaces
For each 1-bedroom dwelling	0.4 spaces
For each 2-bedroom dwelling	0.8 spaces
For each 3-bedroom or more dwelling	1.1 spaces
Visitor Spaces	
For each dwelling up to 30 dwellings	0.167 spaces
For each dwelling more than 30 and up to 70 dwellings	0.1 spaces
For each dwelling more than 70 dwellings	0.05 spaces

A23-A16. Resident car parking spaces may be used for the purposes of providing parking for residents of the building only and not for any other purpose.

A24-A17. Visitor car parking spaces must be used for the purposes of providing parking for visitors to the residential building only and not for any other purpose.

A25-A18. No parking is permitted for non-residential uses.

DESIGN EXCELLENCE

A26-A19. Prior to the lodgement of any Future Development Application(s), the detailed design of the development ~~shall~~ must be subject to a Design Excellence Competition (Competition) carried out in accordance with the Design Excellence Strategy prepared by Ethos Urban, dated 8 February 2021.

A27-A20. Prior to the commencement of any Competition (**Condition A19**), a Competitive Design Brief (CDB) prepared in consultation with the Government Architect NSW, ~~shall~~ must be submitted to and approved by the Secretary. The CDB ~~shall~~ must be generally in accordance

with the Government Architect's Design Excellence Competition Guidelines and include the membership of the jury, specific assessment criteria against which the submissions will be judged, having regard to the requirements of this consent, built form controls and design guidelines. At least two members of the jury, excluding the GANSW representative, should be selected from the NSW SDRP panel pool.

~~A28-A21.~~ A Design Integrity Panel (DIP) ~~shall~~must be established by the Applicant prior to the lodgement of any Future Development Application(s). The DIP ~~shall~~must comprise at least three of the members of the Competition jury selected in consultation with the Government Architect NSW and in accordance with the Government Architect's Design Excellence Competition Guidelines (being one nominee from each of the Applicant, Government Architect and local authority).

~~A29-A22.~~ Prior to the establishment of the DIP (**Condition A21**) a detailed DIP Terms of Reference ~~shall~~must be prepared in consultation with the Government Architect NSW and submitted for approval to the Planning Secretary, clearly outlining:

- (a) the role of the DIP to review and advise on the detailed building design to ensure the achievement of design excellence, having regard to the requirements of this consent, built form controls and design guidelines (as endorsed by the Planning Secretary)
- (b) that the DIP will review and provide advice prior to the lodgement of any Future Development Application(s), and be retained during the assessment and post approval stages
- (c) governance arrangements, including meeting frequency, secretariat functions, dispute resolution and deliverables.

~~A30-A23.~~ The detailed design ~~shall~~must be presented to the DIP ~~either~~ prior to the lodgement of a Future Development Application(s) ~~or during the public exhibition of any such application following lodgement.~~

Commented [LB10]: Intent is to ensure DIP has appropriate opportunity to provide input into Future Development Applications

END OF PART A

PART B – MODIFICATIONS TO THE CONCEPT PROPOSAL

DESIGN GUIDELINES

B1. The Applicant must revise the Harbourside Urban Design and Public Domain Guidelines Rev 3, prepared by fjmt and dated 7 October 2020, as set out in **Attachment A**. The revised Design Guidelines must be submitted to and approved by the Planning Secretary prior to the lodgement of the first Future Development Application.

AMENDMENTS TO THE CONCEPT PROPOSAL

B2. Prior to the lodgement of the first development application, revised concept proposal drawings must be submitted to and approved by the Planning Secretary that include the following amendments:

Northern Podium

(a) Reduce the building envelope RL of the Northern Podium to RL 13.750 as follows:

<u>Northern Podium Concept Proposal Building Envelope RL</u>	<u>Amendment to the Northern Podium Concept Proposal Building Envelope RL</u>
<u>RL17.600</u>	<u>RL 13.750</u> <u>(with the exception of the pedestrian bridge landing and associated access routes)</u>
<u>RL 25.000</u>	<u>RL 13.750</u>
<u>RL 14.000</u>	<u>RL 13.750</u>

(b) The maximum terrace deck level of any part of the Northern Podium must not exceed RL 12.5

(c) The Northern Podium building envelope minimum setback from the southern edge of the Pyrmont Bridge deck railing, must be increased to 10 metres, with the exception of the podium areas west of the Pyrmont Bridge western sandstone abutment wall.

Tower

(d) The eastern setback of the tower from the eastern edge of the podium must be increased from 12m to 22m.

Commented [LB11]: The following amendments to the building envelope would not preclude the Applicant from achieving a GFA of 87,000 sqm or more. This is because the removal of restrictions on volumetric occupancy, through deletion of C1(c), free up significantly more area than is lost through the reduced BEA.

Commented [LB12]: Intent is to improve the amenity and accessibility of the public open space above the podium by ensuring that it is provided across one level rather than being tiered. Additional intent to improve solar access to public domain foreshore area by reducing height of areas of the Northern Podium.

Commented [LB13]: Intent is to ensure the deck height is lower than building envelope height for the Northern Podium, allowing balustrades, raised planting areas and the like to be accommodated within the building envelope.

Commented [LB14]: Intent is to safeguard the heritage value of the Pyrmont Bridge by improving visibility and minimise the impact of the proposal on Pyrmont Bridge. The set-back is not required to the west of the western abutment wall in order to allow for access from the Pyrmont Bridge landing.

Commented [LB15]: Intent is to improve solar access to the public domain foreshore area to the east of the site.

END OF PART B

PART C FUTURE ENVIRONMENTAL ASSESSMENT REQUIREMENTS

Conditions to be met in Future Development Applications

BUILDING DESIGN

- C1 Future Development Application(s) ~~shall~~**must** demonstrate consistency with:
- ~~(a)(e)~~ the revised Harbourside Urban Design and Public Domain Guidelines and Urban Design, as endorsed by the Planning Secretary (Condition B1)
 - ~~(b)(f)~~ the advice of the Design Integrity Panel (**Condition A20**)
 - ~~(c)~~ the following built form controls

Built Form Control	Maximum Control
The Tower	
Maximum tower floor plate	1,000m ² -GFA*
Maximum volumetric tower envelope utilisation	80%
The Podium	
Maximum volumetric podium envelope utilisation	80%

* Excluding balconies and/or wind-affected balconies per Clause 4.5A of Sydney LEP 2012

- C2. Future development applications must demonstrate that the buildings are wholly contained within the building envelopes consistent with the plans listed in Condition A2, as modified by the conditions of this consent.
- C3. Building height and gross floor area (including the exclusion from GFA of wind-affected balconies) is to be measured in accordance with the definitions contained within the Sydney Local Environmental Plan 2012.
- C4. Future Development Application(s) ~~shall~~**must** demonstrate that the design of the podium:
- (a) provides improved east west connections and permeability between the foreshore and Pyrmont
 - (b) delivers a safe and activated streetscape interface on all boundaries
 - (c) ~~allows~~**provides** for a direct through-site open to the sky pedestrian connection(s) between the foreshore and the new Bunn Street bridge
 - (d) ~~allows for~~**provides** direct civic-quality open to the sky pedestrian connection(s) stair access from the foreshore adjacent Pyrmont Bridge to open space above the northern podium and the Pyrmont Bridge approach
 - ~~(e)~~ **is** articulated and modulated to break down massing and bulk-
 - ~~(f)~~ **provides for equitable access to all publicly accessible through site links, terraces and podiums**
- C5. Future Development Application(s) ~~shall~~**must** demonstrate that the design of the proposed ~~tower and podium~~ **are** sympathetic in aspect and final ~~form~~ to Pyrmont Bridge including colours and materiality.

Commented [LB16]: Intent is to remove this control on GFA and volumetric utilisation and rely on the building envelope area (as amended) and design competition as controls on building scale/form.

Commented [LB17]: Intent is to ensure legibility and appropriate connectivity of public space and ensure that a direct connection that is public in character is provided from the Pyrmont Bridge approach to the foreshore without relying on an enclosed passage through the podium

Commented [LB18]: Objective of tower being sympathetic to Pyrmont Bridge is not considered necessary or achievable, especially with regard to form

- C6. Future Developmental Application(s) ~~shall~~**must** demonstrate the detailed design of the ~~N~~**N**orthern ~~P~~**P**odium retains the visual link of Pyrmont Bridge in its context with Darling Harbour when viewed from the west. The final design ~~shall~~**must** resolve and improve the interface between Pyrmont Bridge and the site and sensitively manage the relationship between the new development and the extant bridge approach based on the SHR listed values.
- C7. Future Development Application(s) ~~shall~~**must** include a Reflectivity Analysis demonstrating that the external treatments, materials and finishes of the development do not cause adverse or excessive glare.
- C8. Future Development Application(s) ~~shall~~**must** include an Access Report demonstrating that the development achieves an appropriate degree of accessibility.
- C9. Future Development Application (s) ~~shall~~**must** include specifications and details of all external facing materials, demonstrating the proposed colour, texture, jointing and method of fixing.
- C10. Future Development Application(s) ~~shall~~**must** include a retail design and activation strategy addressing the interface between retail tenancies ~~and and~~ the foreshore public domain, Darling Drive and Iron Wharf Place. The strategy ~~shall~~**must** include objectives, design parameters and/or other measures to ensure future retail spaces make a positive contribution to the character of the building ~~and~~ the Darling Harbour foreshore, Darling Drive and Iron Wharf Place.

OPEN SPACE AND PUBLIC DOMAIN

- C11. Future Development Application(s) ~~shall~~**must** include an Open Space, Public Domain and Landscape Report including the design and treatment of all areas of open space, public domain and landscaping and the relationship of these spaces with existing and proposed buildings, spaces, structures, connections and Darling Harbour.
- C12. Future Development Application(s) ~~shall~~**must** demonstrate how the proposal improves and enhances the events and gathering capacity of the public domain.
- C13. Future Development Application(s) ~~shall~~**must** confirm method(s) / arrangement(s) to ensure open space (**Condition A12**) is publicly accessible 24 hours-a-day 7 days-a-week and demonstrate:
- an appropriately designed, civic quality transition ~~between levels~~ above the ~~N~~**N**orthern ~~P~~**P**odium including direct external access, access from Pyrmont Bridge, the Harbour foreshore and from within the ~~C~~**C**entral ~~p~~**p**odium;
 - transitions between the ~~se levels podium levels~~ are of a form and scale to encourage connection and continuity from the Pyrmont Bridge approach up to the ~~upper northern~~ Central ~~p~~**p**odium terrace area;
 - comprehensive activation of the space including co-location of potential uses such as retail, community or other active uses within the adjacent podium, ~~seating, shade and planting and other attractors such as interactive sculpture, play and/or water features supported by the design competition brief~~;
 - ~~the provision of deep soil planting zones incorporated within the structure of the podium deck and pot sizes for the provision of taller trees to provide shade, enhance outlook from the west and allow views through canopy;~~ and
 - ~~how community consultation has informed the design and operation of the publicly accessible open space~~

Commented [LB19]: Intent is to ensure deep soil planting forms part of the building design to enhance amenity of public open spaces

Commented [LB20]: Intent is for appropriate consultation to be undertaken on the design of proposed public open spaces

- C14. Future Development Application(s) ~~shall~~**must** demonstrate that the Northern Podium publicly accessible open space has a sympathetic and complementary built form relationship to the interface with Pyrmont Bridge. ~~Finished terrace ground levels along the northern edge of Guardian Square should not exceed the Pyrmont Bridge deck level.~~
- C15. Future Development Application(s) ~~shall~~**must** ensure the landscaping design is informed by an ecologist ~~and qualified bush regenerator~~ and:
- provides new plantings (including plantings on the green roofs) consisting of a mix of local native provenance trees, shrubs and groundcover species from the vegetation community that once occurred in this locality (rather than plant exotic species or non-local natives).
 - seeks to maximise urban tree canopy cover and incorporates advanced and established trees.
 - includes medium to large canopy trees within the foreshore public domain area
 - incorporates minimum appropriate soil volumes and depth ~~above~~within the structure of the inaccessible podium-rooftop deck areas for taller trees and shrubs to improve biodiversity and habitat creation, enhance outlook from the west and allow views through canopy
 - seeks to minimise impacts to surrounding building views from the west while maximising planting and activation opportunities above the podium
 - explores opportunities to incorporate the existing 20 Cabbage Tree Palms in the detailed landscaping design.
 - includes details of landscape maintenance.
- C16. Future development application(s) ~~shall~~**must** demonstrate consideration of the GANSW's draft Connecting with Country Framework.

Commented [LB21]: Intent is to ensure maximum ground level does not preclude delivery of two levels below of appropriate height

FUTURE RESIDENTIAL AMENITY

- C17. Future development application(s) relating to residential use ~~shall~~**must** demonstrate a high level of residential amenity in accordance with the relevant requirements of the State Environmental Planning Policy 65 – Residential Apartment Development and the residential guidelines within the associated Apartment Design Guide.

ENTERTAINMENT PRECINCT PROTECTION

- C18. Future Development Application(s) ~~shall~~**must** demonstrate that apartments within the proposal are adequately separated from lower floor active uses and events within the public domain to minimise the likelihood of noise disturbance.
- C19. Future Development Application(s) ~~shall~~**must** be accompanied by a Noise and Vibration Impact Assessment (NVIA) that identifies and provides a quantitative assessment of the main noise generating sources and activities during operation. The NVIA ~~shall~~**must include**:
- ~~include~~ an alternative noise criterion for future apartments within the development utilising internal noise measurements with windows closed and designed to maximise the usage of the retail tenancies and events in the public domain without resulting in excessive impact on new and existing residents.
 - ~~include~~ details of any mitigation measures to ensure the amenity of sensitive land uses, and the function and 24-hour operation of noise generating uses are protected during the operation of the development.

- (c) ~~include~~ noise management and mitigation strategies for commercial uses which restricts hours of operation as a last resort.

C20. Future Development Application(s) ~~shall~~must demonstrate that the proposed apartments include sufficient acoustic attenuation to enable compliance with the alternative noise criteria.

LAND USE

C21. Future Development Application(s) ~~shall~~must demonstrate how the proposed non-residential land use mix aligns with the Tumbalong Park Place Priorities and Harbourside Key Site Framework within the Pyrmont Peninsula Place Strategy.

C22. Future Development Application(s) ~~shall~~must explore opportunities to provide for affordable workspace for creative industries including performance and rehearsal spaces, cultural uses, start-ups and researchers, maker and producer spaces to support the Innovation Corridor.

SOCIAL IMPACTS AND INFRASTRUCTURE REQUIREMENTS

C23. Future development applications ~~shall~~must include a Social Impact Assessment (SIA) that considers social impacts of the proposal, including cumulative impacts of the development in context with other existing/approved large developments within Darling Harbour and Pyrmont. The SIA ~~shall~~must investigate any potential need for additional community or social services or other infrastructure arising from the development.

OVERSHADOWING

C24. Future development application(s) ~~shall~~must include an Overshadowing Impact Assessment (OIP), including shadow studies and diagrams showing the likely overshadowing impact of the development on the public domain surrounding existing open spaces and neighbouring developments. The OIP ~~shall~~must demonstrate that building/s have been designed to minimise overshadowing. This assessment ~~shall~~must include the cumulative impacts of all existing and approved development on and around the site.

PUBLIC AND PRIVATE VIEWS

C25. Future Development Application(s) ~~shall~~must include a Visual and View Loss Assessment, which assesses public and private view impacts and demonstrates how consideration has been given to minimising such impacts where feasible. Any ~~planting, trees and structures proposed hard and soft landscaping, including trees,~~ above the podium should be considered in the view assessment to minimise impact to surrounding buildings views and maximise planting and activation opportunities in areas of lower impact.

HERITAGE

C26. Future Development Application(s) ~~shall~~must include a detailed Heritage Impact Assessment, which considers and seeks to mitigate the heritage impact of the development including any visual impacts on Pyrmont Bridge.

C27. Future Development Application(s) ~~shall~~must include a Heritage Interpretation Strategy informed by the results of the archaeological fieldwork/investigations (**Condition C26**)

ARCHAEOLOGY

- C28. Future Development Application(s) ~~shall~~ **must** be informed by Historical, Maritime and Aboriginal Archaeology testing and demonstrate how the results of such testing have been used to minimise impacts to State Significant archaeological resources. The results of the archaeological testing must be documented in a report which outlines opportunities for conservation in situ as a preference, development and interpretation. The testing is to be undertaken in accordance with the following:
- (a) The ~~a~~Applicant ~~shall~~ **must** nominate a suitably qualified and experienced historical archaeologist to manage the historical archaeology program for test excavation in accordance with its conditions. This person must fulfil the Heritage Council's Excavation Director Criteria 2019 for test excavation of State significant archaeological relics. Details of the nominated person and their ability to demonstrate against the Criteria ~~shall~~ **must** be supplied to the Heritage Council (or its delegate) for comment and to the ~~Planning~~ Secretary for approval prior to the commencement of the testing program.
 - (b) An Archaeological Research Design and Excavation Methodology ~~shall~~ **must** be prepared in accordance with Heritage NSW guidelines and in consultation with Heritage NSW and submitted to the ~~Planning~~ Secretary for approval prior to the commencement of the testing program
 - (c) A final excavation report ~~shall~~ **must** be prepared within 12 months of the completion of the archaeological test excavation. It should include details of any significant artefacts recovered, where they are located and details of their ongoing conservation and protection in perpetuity by the landowner. The Excavation report ~~shall~~ **must** respond to any research questions and reassess the significance of the site and its archaeological potential for State significant archaeology with recommendations of future design of SSD Stage 2. Copies of the final excavation report ~~shall~~ **must** be provided to Heritage NSW, Council's locals studies unit and the ~~Planning~~ Secretary.
 - (d) The Applicant ~~shall~~ **must** engage a suitably qualified and experience maritime archaeologist, with understanding of the effects of dredging and reclamation processes on former submerged maritime infrastructure sites, to prepare a maritime archaeological assessment for the project within 6 months of the date of consent. The assessment ~~shall~~ **must** be used to inform the testing and detailed design of the Stage 2 SSDA and ~~should~~ **must** include the following:
 - i) remote sensing and/or driver surveys of the seabed under any piled areas that currently form waterfront or paved areas of the prosed development.
 - ii) any geotechnical and borelog information should be considered in this assessment and the maritime assessment should be used to better inform the testing program

PUBLIC ART

- C29. Future Development Application(s) ~~shall~~ **must** include a Public Art Strategy (PAS) for the inclusion of public art within the development. The PAS ~~shall~~ **must** be prepared in consultation with Council and PMNSW.

EVENTS IN DARLING HARBOUR PRECINCT

- C30. Future Development Application(s) ~~shall~~ **must** include an Events Management Plan in consultation with PMNSW, which considers site access, management and mitigation measures during major events held within the broader Darling Harbour precinct.
- C31. Future Development Application(s) ~~shall~~ **must** include details of strategies and/or mechanisms which can be secured through the development consent or other legal agreement to make purchasers and occupiers of future residential apartments and non-residential tenancies

aware that the development is in a vibrant entertainment and recreation precinct that is subject to many cultural and community events that may result in significant noise, light emissions, vibration and temporary changes to access arrangements over multiple 24 hour cycles throughout the year.

ENVIRONMENTAL PERFORMANCE

- C32. Future Development Application(s) ~~shall~~**must** demonstrate the incorporation of Ecological Sustainable Development principles in the design, construction and ongoing operation phases of the development, including the following minimum environmental standards:
- (a) 5-Star Green Star Design & As Built v1.3 for retail;
 - (b) 6-Star Green Star Design & As Built v1.3 for commercial;
 - (c) 5-Star Green Star Design & As Built v1.3 for the residential tower;
 - (d) 5.5-Star NABERS Energy for Offices;
 - (e) 3.5-Star NABERS Water for Offices; and
 - (f) 20% water reduction per sqm for retail.
- C33. Future Development Application(s) ~~must~~**shall** consider improvements to the minimum environmental standards (Condition C30) and endeavoured to achieve the following stretch environmental standards:
- (a) 6-Star Green Star Design & As Built v1.3 for retail
 - (b) 6-Star Green Star Design & As Built v1.3 for the residential tower.

TRAFFIC AND TRANSPORT

- C34. Future development application(s) ~~shall~~**must** be accompanied by a Traffic Impact Assessment (TIA) that assesses the traffic, transport and pedestrian impacts on the road and footpath networks and nearby intersection capacity. The TIA ~~shall~~**must** also address:
- (a) traffic generation impacts and any necessary road infrastructure upgrades to adjoining and nearby roads and intersections
 - (b) vehicle and pedestrian safety within and around the site
 - (c) loading / unloading, servicing, coach, pick-up/drop-off arrangements
 - (d) on-site car parking provision consistent with **Condition A16**, location, access and operation
 - (e) the impact of the removal of any existing on-street car parking spaces
 - (f) pedestrian and bicycle infrastructure and facilities and any necessary upgrades
- C35. Future Development Application(s) ~~shall~~**must** include a green travel plan, wayfinding strategies and travel access guides to assist with increasing the mode share of walking and cycling.
- C36. Future Development Application(s) ~~shall~~**must** include a Road Safety Audit for the cycleway/ drop off area on Darling Drive, in accordance with Austroads Guide to Road Safety Part 6: Managing Road Safety Audits and Austroads Guide to Road Safety Part 6A: Implementing Road Safety Audits prepared by an independent TfNSW accredited road safety auditor. Based on the results of the road safety audit, the ~~a~~Applicant ~~shall~~**must** review the design drawings and implement safety measures if required, in consultation with TfNSW.
- C37. Future Development Application(s) ~~shall~~**must** include queuing analysis and/ or traffic modelling to demonstrate the drop off area has adequate capacity and propose mitigation measures to ensure queuing on Darling Drive does not occur, to the satisfaction of TfNSW.

C38. Future Development Application (s) ~~shall~~**must** include draft management plans for Drop-off and Pick-up Zone, and Carpark and Loading Dock to manage vehicles accessing the site.

C39. Future Development Application(s) ~~shall~~**must** include pedestrian modelling of the pedestrian network **immediately** surrounding the development, **including all approved permanent and temporary structures,** in consultation with TfNSW **and** PMNSW, to demonstrate adequate capacity for pedestrian movements is provided with the proposed development.

Commented [LB22]: Intent is to ensure pedestrian modelling reflects possible future foreshore conditions, including the Ferris wheel, if retained or replaced

BICYCLE PARKING AND FACILITIES

C40. Future Development Application(s) ~~shall~~**must** include bicycle parking for employees / visitors and end of trip facilities (toilets, change/locker rooms and showers) in accordance with the Sydney Development Control Plan 2012 bicycle parking rates and end of trip facilities design requirements.

C41. Future development Applications(s) ~~shall~~**must** include a Bicycle Strategy demonstrating:

- (a) how the safe and efficient movement of cyclists is managed around the site
- (b) the design and location of any proposed bicycle parking infrastructure
- (c) alignment with PMNSW's bicycle strategy for Darling Harbour

C42. Future Development Application(s) ~~shall~~**must**, in consultation with Council, PMNSW and TfNSW, explore opportunities to improve cycleway connections within and around the development.

C43. Future Development Application(s) ~~shall~~**must**, in consultation with Council, PMNSW and TfNSW, explore and implement feasible opportunities to upgrade the Darling Drive Cycleway within the constraints of the existing carriageway, between Murray Street/Union Street intersection (major cycleway) to the roundabout adjacent the site.

WIND ASSESSMENT

C44. Future Development Application(s) ~~shall~~**must** include a Wind Impact Assessment, including wind tunnel testing, which assesses the existing and proposed wind environment, demonstrates spaces within and around the site are suitable for their intended purpose and includes mitigation measures to address adverse wind conditions, where necessary.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

C45. Future Development Application(s) ~~shall~~**must** include a Crime Prevention Through Environmental Design Report (CPTED) including method(s) / treatment(s) to ensure that all spaces and places within and around the development are safe and secure and the opportunity for crime has been minimised in accordance with CPTED principles.

SERVICING REQUIREMENTS

C46. Future Development application(s) ~~shall~~**must** provide a detailed analysis of the servicing requirements for the residential and non-residential floorspace to ensure adequate servicing provision for the development.

WASTE

C47. Future Development Applications **shall** include a Waste Management Plan to address storage, collection, and management of waste and recycling within the development.

UTILITIES

C48. Future Development Application(s) **shall** include a Utility Services Infrastructure Assessment (USIA) which addresses the existing capacity and any augmentation requirements of the development for the provision of utilities, including staging of infrastructure. The USIA **shall** be prepared in consultation with relevant agencies and service providers.

HYDROLOGY

C49. Future Development Application(s) **shall** consider potential flooding, stormwater, climate change/sea level rise and water quality impacts and management.

CONTAMINATION

C50. Future Development Application(s) **shall** include a Detailed Environment Site Investigation (DESI) and, as necessary, a Remedial Action Plan reviewed and approved by a site auditor accredited under the Contamination Land Management Act 1997.

CONSTRUCTION

C51. Future Development Application(s) **shall** include a draft Construction Pedestrian and Traffic Management Plan in consultation TfNSW and the Sydney Light Rail Operator.

C52. The Applicant **shall** consult with Sydney Trains to ensure no damage is done ~~to the~~ 33kV High Voltage cable and to comply with safety and design requirement during the preparation of the Stage 2 development application.

C53. All future development application(s) must provide an analysis and assessment of the impacts of construction and include:

- (a) Construction Pedestrian and Traffic Management Plan (CPTMP), prepared in consultation with Transport for NSW and the Sydney Light rail Operator. The CPTMP must detail vehicles routes, numbers of trucks, hours of operation, access arrangements and traffic control measures and cumulative construction impacts (i.e. arising from concurrent construction activity)
- (b) Construction Noise and Vibration Impact Assessments that identifies and provides a quantitative assessment of the main noise generating sources and activities during construction. Details are to be provided outlining any mitigation measures to ensure the amenity of adjoining sensitive land uses, including but not limited to the National Maritime Museum, is protected throughout the construction period(s)
- (c) Community Consultation and Engagement Plans
- (d) Construction Waste Management Plan
- (e) Air Quality Management Plan
- (f) Water Quality Impact Assessments and an Erosion and Sediment Control Plan (including water discharge and dewatering considerations)
- (g) Geotechnical and Structural Investigation Report
- (h) Acid Sulphate Soil Assessment and Management Plan
- (i) Sediment and Erosion Management Plan.

END OF PART C

END OF SCHEDULE 2

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SCHEDULE 3
CONDITIONS OF CONSENT FOR STAGE 1 DEMOLITION WORKS
PART A ADMINISTRATIVE CONDITIONS

OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

A1. In addition to meeting the specific performance measures and criteria in this consent, all reasonable and feasible measures must be implemented to prevent, and if prevention is not reasonable and feasible, minimise, any material harm to the environment that may result from the construction and operation of the development, and any rehabilitation required under this consent.

DEVELOPMENT DESCRIPTION

A2. Consent is granted to demolition works as described in **Schedule 1** and in accordance with the conditions contained in this development consent.

TERMS OF CONSENT

A3. The development may only be carried out:

- (a) in compliance with the conditions of this consent;
- (b) in accordance with all written directions of the Planning Secretary;
- (c) in accordance with the EIS and Response to Submissions;
- (d) in accordance with following drawings (as amended by the conditions of this consent) the plans in the table below:

Demolition Drawings by fjmt			
Drawing No.	Revision	Title	Date
SSDA1-200	-	Demolition Plan - Existing Harbourside and Monorail Station	08/10/2020
SSDA1-2101	-	Site Plan - Demolition	08/10/2020
SSDA1- 2102	-	Aerial Photo and Floor plans	08/10/2020
SSDA1- 2103	-	Elevations - Demolition	08/10/2020

A4. Consistent with the requirements in this consent, the Planning Secretary may make written directions to the Applicant in relation to:

- (a) the content of any strategy, study, system, plan, program, review, audit, notification, report or correspondence submitted under or otherwise made in relation to this consent, including those that are required to be, and have been, approved by the Planning Secretary; and
- (b) the implementation of any actions or measures contained in any such document referred to in condition A3(a).

A5. The conditions of this consent and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and documents listed in condition A3. In the event of an inconsistency, ambiguity or conflict between any of the documents listed in condition A3, the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

LAPSING OF APPROVAL

A6. This consent lapses five years after the date of consent unless the concurrent stage 1 site early works associated with the development have physically commenced.

LEGAL NOTICES

A7. Any advice or notice to the consent authority ~~shall~~**must** be served on the Planning Secretary.

EVIDENCE OF CONSULTATION

A8. Where conditions of this consent require consultation with an identified party, the Applicant must:

- (a) consult with the relevant party prior to submitting the subject document to the Planning Secretary for approval; and
- (b) provide details of the consultation undertaken including:
 - (i) the outcome of that consultation, matters resolved and unresolved; and
 - (ii) details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.

OPERATION OF PLANT AND EQUIPMENT

A9. All plant and equipment used on site, or to monitor the performance of the development must be:

- (a) maintained in a proper and efficient condition; and
- (b) operated in a proper and efficient manner.

APPLICABILITY OF GUIDELINES

A10. References in the conditions of this consent to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, Standards or policies in the form they are in as at the date of this consent.

A11. However, consistent with the conditions of this consent and without altering any limits or criteria in this consent, the Planning Secretary may, when issuing directions under this consent in respect of ongoing monitoring and management obligations, require compliance with an updated or revised version of such a guideline, protocol, Standard or policy, or a replacement of them.

MONITORING AND ENVIRONMENTAL AUDITS

A12. Any condition of this consent that requires the carrying out of monitoring or an environmental audit, whether directly or by way of a plan, strategy or program, is taken to be a condition requiring monitoring or an environmental audit under Division 9.4 of Part 9 of the EP&A Act. This includes conditions in respect of incident notification, reporting and response, non-compliance notification and independent environmental auditing.

Note: *For the purposes of this condition, as set out in the EP&A Act, “monitoring” is monitoring of the development to provide data on compliance with the consent or on the environmental impact of the development, and an “environmental audit” is a periodic or particular documented evaluation of the development to provide information on compliance with the consent or the environmental management or impact of the development.*

INCIDENT NOTIFICATION, REPORTING AND RESPONSE

A13. The Department must be notified in writing to compliance@planning.nsw.gov.au immediately after the Applicant becomes aware of an incident. The notification must identify the development (including the development application number and the name of the development if it has one) and set out the location and nature of the incident.

A14. Subsequent notification must be given, and reports submitted in accordance with the requirements set out in Appendix 1.

NON-COMPLIANCE NOTIFICATION

A15. The Department must be notified in writing to compliance@planning.nsw.gov.au within seven days after the Applicant becomes aware of any non-compliance. The **PCA-Certifying Authority** must also notify the Department in writing to compliance@planning.nsw.gov.au within seven days after they identify any non-compliance.

A16. The notification must identify the development and the application number for it, set out the condition of consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.

A17. A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.

REVISION OF STRATEGIES, PLANS AND PROGRAMS

A18. If necessary, to either improve the environmental performance of the development, cater for a modification or comply with a direction, the strategies, plans and programs required under this consent must be revised, to the satisfaction of the Planning Secretary. Where revisions are required, the revised document must be submitted to the Planning Secretary for approval within six weeks of the review.

Note: *This is to ensure strategies, plans and programs are updated on a regular basis and to incorporate any recommended measures to improve the environmental performance of the development.*

A19. No works involving excavation, ground disturbance or changes to the existing ground level or grade are permitted under this development consent.

COMPLIANCE

A20. The Applicant must ensure that all its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities they carry out in respect of the development.

END OF PART A

PART B PRIOR TO COMMENCEMENT OF DEMOLITION WORKS

REVIEW OF DOCUMENTATION

- B1. Prior to the commencement of any demolition works, the final demolition plans including methodology for demolition ~~must~~shall be provided for the review and endorsement of TfNSW and submitted to and approved by the Certifying Authority. All demolition work must be undertaken in accordance with the approved plans.

INSURANCE REQUIREMENTS

- B2. Prior to the commencement of demolition, the Applicant must hold current public liability insurance cover for a sum acceptable to TfNSW. This insurance ~~shall~~must not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure. The ~~a~~Applicant is to contact TfNSW to obtain the level of insurance required for this proposal. Prior to commencement of demolition the ~~PCA~~Certifying Authority ~~must~~ witness written proof of this insurance in conjunction with TfNSW's written advice to the ~~A~~applicant on the level of insurance required.

WORKS DEED / AGREEMENTS

- B3. Prior to the commencement of any preparatory, demolition or excavation works, whichever is the earlier, if required by TfNSW, Works Deed (s) between the ~~A~~applicant, TfNSW and/or Altrac and the Sydney Light Rail Operator must be agreed and executed by the parties and submitted to the Planning Secretary. These agreements ~~must~~stay deal with matters including, but not limited to, the following:
- (a) Inner West Light Rail Operational requirements;
 - (b) Inner West Light Rail access requirements;
 - (c) Altrac and Sydney Light Rail Operator policies, rules and procedures compliance requirements;
 - (d) Indemnities and releases;
 - (e) Security of costs;
 - (f) Insurance requirements and conditions;
 - (g) TfNSW, Altrac and the Sydney Light Rail Operator's recovery of costs from the ~~a~~applicant for costs incurred by these parties in relation to the development (e.g. review of designs and reports, legal, shutdown /power outages costs including alternative transport, customer communications, loss of revenue etc) risk assessments and configuration change processes;
 - (h) Interface coordination between the Sydney Light Rail Operator and the subject development construction works, including safety interface;
 - (i) Infrastructure Assess Deed Poll and Safety Interface Agreement between the ~~a~~Applicant and the Sydney Light Rail Operator must be agreed and executed by the parties. This agreement may deal with matters including, but not limited to, the following:
 - i. Pre and post demolition dilapidation reports (**Conditions B15 and D1**)
 - ii. The need for track possessions;
 - iii. Endorsement of Risk Assessment/Management Plan and Safe Work Method Statements (SWMS);
 - iv. Endorsement of plans regarding proposed craneage and other aerial operations;
 - v. Erection of scaffolding/hoarding;
 - vi. Light Rail Operator's rules and procedures; and
 - vii. Alteration of rail assets such as the OHW along of track and associated hoarding demarcation system, if undertaken by the ~~a~~Applicant.

- (j) Arrangements for shutdowns and Inner West Light Rail restricted operations, with related costs attributed to the Aapplicant; and
- (k) Inner West Light Rail site works access approval and access permit to work.

NOTIFICATION OF COMMENCEMENT

B4. The Department and Council must be notified in writing of the dates of commencement of physical work at least 48 hours before those dates.

ACCESS TO INFORMATION

B5. At least 48 hours before the commencement of construction until the completion of all works under this consent, or such other time as agreed by the Planning Secretary, the Applicant must:

- (a) make the following information and documents (as they are obtained or approved) publicly available on its website:
 - (i) the documents referred to in condition A3 of this consent;
 - (ii) all current statutory approvals for the development;
 - (iii) all approved strategies, plans and programs required under the conditions of this consent;
 - (iv) regular reporting on the environmental performance of the development in accordance with the reporting arrangements in any plans or programs approved under the conditions of this consent;
 - (v) a comprehensive summary of the monitoring results of the development, reported in accordance with the specifications in any conditions of this consent, or any approved plans and programs;
 - (vi) a summary of the current stage and progress of the development;
 - (vii) contact details to enquire about the development or to make a complaint;
 - (viii) a complaint register, updated monthly;
 - (ix) audit reports prepared as part of any independent environmental audit of the development and the Applicant's response to the recommendations in any audit report;
 - (x) any other matter required by the Planning Secretary; and
- (b) keep such information up to date, to the satisfaction of the Planning Secretary.

FAUNA

B6. Prior to commencement of demolition works a pre-clearance fauna survey is to be undertaken by a qualified ecologist prior to the clearing of any trees on site to determine the presence of resident native fauna using nests, dreys etc. Any resident native fauna potentially impacted by the removal of the trees should be relocated (preferably prior to removing the trees) to an appropriate nearby location and in a sensitive manner under the supervision of a qualified ecologist or licensed wildlife handler.

TREE TRANSPLANTING

B7. If determined to retain trees following exploration under condition C14(e), a Transplanting Methodology Report addressing transplanting of the 20 existing cabbage tree palms for use in future public domain on site ~~shall~~ must be prepared by a suitably qualified Arborist with 10 years' experience and submitted to Council for approval.

DEMOLITION

B8. Demolition work must comply with *Australian Standard AS 2601-2001* The demolition of structures (Standards Australia, 2001). The work plans required by AS 2601-2001 must be accompanied by a written statement from a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work

plans and the statement of compliance must be submitted to the Certifying Authority before the commencement of works.

DEMOLITION ENVIRONMENTAL MANAGEMENT PLAN

B9. Prior to the commencement of works, a Demolition Environmental Management Plan (DEMP), which considers the Preliminary Construction and Environmental Management Plan contained within the Response to Submission and Amended Concept Proposal, prepared by Ethos urban and dated October 2020 ~~shall~~**must** be submitted to and approved by the ~~PCA~~**PCACertifying Authority**.

- (a) The DEMP ~~shall~~**must** address, but not be limited to, the following matters:
- i) hours of work
 - ii) 24-hour contact details of site manager
 - iii) traffic management, in consultation with Council and TfNSW
 - iv) ~~D~~Demolition ~~N~~Noise and ~~V~~vibration ~~M~~Management ~~P~~Plan (DNVMP), prepared by a suitably qualified person, which addresses the relevant provisions of Australian Standard 2436 - 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites, the City of Sydney Construction Hours / Noise within the Central Business District Code of Practice 1992 and the Interim Construction Noise Guideline (Department of Environment and Climate Change, 2009)
 - v) management of vermin
 - vi) management of dust and odour to protect the amenity of the neighbourhood
 - vii) erosion and sediment control
 - viii) procedures for encountering groundwater during construction works including contact with NSW Office of Water
 - ix) stormwater control and discharge
 - x) water discharge management and protection of Darling Harbour
 - xi) measures to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the Subject Site
 - xii) waste storage and recycling control
 - xiii) construction material storage
 - xiv) litter control
 - xv) unexpected finds protocol
 - xvi) external lighting in compliance with AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting.
- (b) The DEMP must not include works that have not been explicitly approved in the development consent. In the event of any inconsistency between the consent and the DEMP, the consent shall prevail
- (c) The Applicant ~~shall~~**must** submit a copy of the DEMP to the Planning Secretary and Council for information prior to commencement of works.
- (d) The DEMP (as revised from time to time) must be implemented by the Applicant for the duration of the demolition works.

DEMOLITION TRAFFIC AND PEDESTRIAN MANAGEMENT PLAN

B10. Prior to the commencement of works, a Demolition Traffic and Pedestrian Management Plan (DTPMP), prepared by a suitably qualified person, ~~must~~**shall** be submitted to and approved by TfNSW. The DTPMP must be prepared in consultation with Council, ~~Transport for TfNSW~~ and the Sydney Light Rail Operator.

- (a) The DTPMP ~~shall~~**must** address, but not be limited to, the following matters:
- i) A description of the development;

- ii) Location of any proposed work zone(s)
 - iii) Details of crane arrangements including location of any crane(s);
 - iv) Haulage routes;
 - v) Proposed hours of work;
 - vi) Predicted number of construction vehicle movements and detail of vehicle types, noting that vehicle movements are to be minimised during peak periods;
 - vii) Details of specific measures to ensure the arrival of construction vehicles to the site do not cause additional queuing on Darling Drive;
 - viii) Details of the monitoring regime for maintaining the simultaneous operation of buses and construction vehicles on roads surrounding the site;
 - ix) Pedestrian and traffic management measures;
 - x) Demolition program and methodology;
 - xi) A detailed plan of any proposed hoarding and/or scaffolding;
 - xii) Measures to avoid construction worker vehicle movements within the CBD;
 - xiii) Consultation strategy for liaison with surrounding stakeholders, including other developments under construction;
 - xiv) 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;
 - xv) Cumulative construction impacts of projects including Sydney Metro City and South West. Existing DPTMPs for developments within or around the development site should be referenced in the DPTMP to ensure that coordination of work activities is managed to minimise impacts on the surrounding road network; and
 - 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 DTPMP.
- (b) ~~The Applicant must Submit a copy of the final plan to TfNSW for endorsement~~
- (c) The Applicant ~~shall~~**must** provide the builder's direct contact number to small businesses adjoining or impacted by the construction work and the Transport Management Centre and Sydney Coordination Office within Transport for NSW to resolve issues relating to traffic, public transport, freight, servicing and pedestrian access during construction in real time. The ~~A~~applicant is responsible for ensuring the builder's direct contact number is current during any stage of construction
- (d) The Applicant ~~shall~~**must** submit a copy of the DTPMP to the Planning Secretary and Council for information prior to commencement of works.
- (e) The DTPMP (as revised from time to time) must be implemented by the Applicant for the duration of demolition works.

Commented [LB23]: Requirement covered at beginning of condition

ONGOING SITE TREATMENT

B11. Prior to the commencement of works, an Ongoing Site Treatment Management Plan (OSTMP) ~~shall~~**must** be submitted to and approved by the ~~PCA~~**PCACertifying Authority**. The OSTMP shall provide details of the treatment and management of the site following demolition and before construction of an approved Stage 2 development.

- (a) The OSTMP ~~shall~~**must** include, but not be limited to, the following matters:
 - i) site surface treatment/stabilisation
 - ii) site access and fencing
 - iii) security

- iv) environmental health and prevention of contact with contaminants
 - v) management of dust and odour to protect the amenity of the neighbourhood
 - vi) erosion and sediment control
 - vii) stormwater control and discharge
 - viii) water discharge management and protection of Darling Harbour.
- (b) The Applicant ~~shall~~**must** submit a copy of the ~~OSTPMP~~ to the Planning Secretary and Council for information prior to commencement of works.
- (c) The OSTMP (as revised from time to time) must be implemented by the Applicant for the duration of the period between the demolition works and the construction of a future Stage 2 development.

VEHICLE CLEANSING

B12. Prior to the commencement of work, suitable measures are to be implemented to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the Site. It is an offence to allow, permit or cause materials to pollute or be placed in a position from which they may pollute waters.

COMMUNITY INVOLVEMENT PLAN

~~B13. A Community Involvement Plan (CIP) shall be prepared in consultation with Council and submitted to the Secretary for information prior to commencement of works. The CIP shall include how notification of residents and complaints associated with the demolition works will be mitigated/managed.~~

B13. No later than two weeks before the commencement of construction, a Community Communication Strategy must be submitted to the Planning Secretary for approval and approved by the Planning Secretary prior to the commencement of construction or within another timeframe agreed with the Planning Secretary. The Community Communication Strategy must provide mechanisms to facilitate communication between the Applicant, the relevant Council and the community (including public and private adjoining affected landowners, institutions and businesses and others directly impacted by the development), during the design and Construction of the development and for a minimum of 12 months following the completion of construction.

Commented [LB24]: Intent is to ensure appropriate communication with community throughout the project

The Community Communication Strategy must:

- (a) identify people to be consulted during the design and Construction phases;
- (b) set out procedures and mechanisms for the regular distribution of accessible information about or relevant to the development;
- (c) provide for the formation of community-based forums, if required, that focus on key environmental management issues for the development;
- (d) set out procedures and mechanisms:
 - (i) through which the community can discuss or provide feedback to the Applicant;
 - (ii) through which the Applicant will respond to enquiries or feedback from the community;
 - (iii) to resolve any issues and mediate any disputes that may arise in relation to Construction and operation of the development, including disputes regarding rectification or compensation.
 - (iv) include any specific requirements around traffic, noise and vibration, visual impacts, amenity, flora and fauna, soil and water, contamination and heritage.

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PRE-DEMOLITION WORK DILAPIDATION REPORT

B14. The Applicant is to engage a qualified structural engineer to complete dilapidation surveys and prepare a Pre-Demolition Dilapidation Report detailing the current structural condition of all retained existing and adjoining buildings, infrastructure and roads within the 'zone of influence', including but not limited to:

(a) The Pyrmont Bridge

(b) Inner West Light Rail and its assets – the dilapidation survey must include a joint site inspection by representatives of the Sydney Light Rail Operator, TfNSW and the Applicant.

B14. Any entry into private land is subject to the consent of the owner(s) and any inspection of buildings on privately affected land shall must include details of the whole building where only part of the building may fall within the 'zone of influence'. The report shall must be submitted to the satisfaction of the Certifying Authority prior to the commencement of any works. A copy of the report is to be forwarded-submitted to the Planning Secretary.

~~**B15.** A pre-demolition work Dilapidation Report of the Inner West Light Rail and its assets shall be prepared by a qualified structural engineer. The dilapidation survey shall be undertaken via a joint site inspection by the representatives of the Sydney Light Rail Operator, TfNSW and the applicant. These dilapidation surveys will establish the extent of existing damage and enable any deterioration during construction to be observed.~~

B16. In the event that access for undertaking a Pre-Construction Dilapidation Report is denied by an adjoining owner, the Applicant must demonstrate, in writing, to the satisfaction of the Planning Secretary that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the report and that these steps have failed.

DEMOLITION WASTE MANAGEMENT PLAN

~~**B17.**~~ **B16.** Prior to the commencement of works, a Demolition Waste Management Plan (DWMP), prepared by a suitably qualified person, shall must be submitted to and approved by the PCACertifying Authority.

- (a) The Plan shall must address, but not be limited to, the following matters:
 - i) recycling of demolition materials including concrete
 - ii) removal of hazardous materials and disposal at an approved waste disposal facility in accordance with the requirements of the relevant legislation, codes, standards and guidelines, prior to the commencement of any building works.
- (b) Details demonstrating compliance with the relevant legislative requirements, associated with the removal of hazardous waste, particularly the method of containment and control of emission of fibres to the air, are to be submitted to the satisfaction of the Certifying Authority prior to the removal of any hazardous materials.
- (c) The Applicant shall must submit a copy of the DWMP to the Planning Secretary and Council for information prior to commencement of works.
- (d) The Applicant must notify the TfNSW Traffic Management Centre of the truck routes(s) to be followed by trucks transporting waste material from the Subject Site, prior to the commencement of the removal of any waste material from the Subject Site.

UTILITY SERVICE PROVIDERS

~~**B18.**~~ **B17.** Prior to the commencement of work, written advice must be obtained from the electricity supply authority, an approved telecommunications carrier and an approved gas carrier (where relevant) confirming that satisfactory arrangements have been made to ensure provision of adequate services and submitted to the Certifving Authorityier.

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PROTECTION OF SURVEY INFRASTRUCTURE

~~B19-B18.~~ Prior to the commencement of work, a statement prepared by a Surveyor registered under the *Surveying Act 2002* must be submitted to Council. The statement is to verify that a survey has been carried out in accordance with the Surveyor General's Direction No. 11 – Reservation of Survey Infrastructure. Any Permanent Marks proposed to be, or have been destroyed, must be replaced and a "Plan of Survey Information" must be lodged at the Land and Property Management Authority.

NO OBSTRUCTION OF PUBLIC DOMAIN WITHOUT APPROVAL

~~B20.~~ At least 8 weeks prior to the commencement of works, a Work Zone Permit must be sought and issued by Council or the relevant roads authority to allow any obstructions of the public way, footpaths, road reserves and the like, by any mobile cranes, materials, vehicles, refuse, skips, loading and unloading or the like.

~~B24-B19.~~ Where supported by the relevant authority, the Work Zone Permit should be given for the shortest possible time, so as not to restrict movement or use of the public domain. Consideration should be given to issuing the permit for a specific time period(s) or specific works. Pedestrian access along the Darling Harbour foreshore must be maintained at all times during demolition.

WORKS AND STRUCTURES OVER A PUBLIC ROAD

~~B22-B20.~~ Prior to the commencement of work, evidence that the relevant approvals have been obtained under Section 138 of the Roads Act 1993 must be submitted to the Planning Secretary, Council and ~~Certifier~~Certifying Authority. This includes approvals to erect a hoarding and/or scaffolding on or above a public road or footpath, barricade a public road or in order to obtain a road occupancy licence.

EROSION AND SEDIMENT CONTROL

~~B23-B21.~~ Prior to the commencement of any below ground works, evidence that soil erosion and sediment control measures have been designed in accordance with Managing Urban Stormwater – Soils & Construction Volume 1 (Landcom, 2004) must be submitted to the ~~Certifier~~Certifying Authority.

ARCHAEOLOGY

~~B24-B22.~~ All demolition contractors, subcontractors and personnel are to be inducted and informed by the nominated archaeological consultant prior to commencing work on site as to their obligations and requirements in relation to historical archaeological sites and 'relics' in accordance with guidelines issued by the Heritage Council of NSW.

~~B25-B23.~~ An unexpected finds protocol must be created to manage the unexpected discovery of potential relics during demolition works. This ~~must~~should include details of what constitutes an archaeological relic for the project, stop work procedures, procedures for contacting a suitably qualified archaeologist to assess the find, and processes for notification and consultation with the Heritage Council. If a relic is uncovered work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Work may only recommence after approval from the Heritage Council. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

COMPLIANCE REPORTING

~~B26.~~ No later than 6 weeks before the date notified for the commencement of demolition works, a Compliance Monitoring and Reporting Program prepared in accordance with the Compliance Reporting Post Approval Requirements (Department 2018) must be submitted to the Department.

~~B27.~~ Compliance Reports of the project must be carried out in accordance with the Compliance Reporting Post Approval Requirements (Department 2018).

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~~The Applicant must make each Compliance Report publicly available no later than 60 days after submitting it to the Department and notify the Department in writing at least 7 days before this is done.~~

~~B24. Compliance Reports of the project must be carried out in accordance with the Compliance Reporting Post Approval Requirements (2020).~~

~~B25. Compliance Reports must be submitted to the Department in accordance with the timeframes set out in the Compliance Reporting Post Approval Requirements (2020), unless otherwise agreed by the Planning Secretary.~~

~~B26. The Applicant must make each Compliance Report publicly available 60 days after submitting it to the Planning Secretary.~~

~~B27. Notwithstanding the requirements of the Compliance Reporting Post Approval Requirements (2020), the Planning Secretary may approve a request for ongoing annual operational compliance reports to be ceased, where it has been demonstrated to the Planning Secretary's satisfaction that an operational compliance report has demonstrated operational compliance.~~

~~B28.~~

COMPLIANCE

~~B29-B28.~~ The Applicant must ensure that all its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities they carry out in respect of the development.

END OF PART B

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PART C DURING DEMOLITION

APPROVED PLANS TO BE ON-SITE

- C1. A copy of the approved and certified plans, specifications and documents, incorporating conditions of approval, modifications and certification must be kept on the Site at all times and must be readily available to view by any officer of the Department, Council or ~~Certifying Authority~~ Certifying Authority or a member of the public.

SITE NOTICE

- C2. A site notice(s) must be prominently displayed at the boundaries of the Site for the purposes of informing the public of project details, including details of the builder, ~~Certifier~~ Certifying Authority and structural engineer. The notice(s) must satisfy the following requirements:
- (a) be able to be read by the general public
 - (b) be rigid, durable and weatherproof and displayed throughout the works period
 - (c) specify the approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24-hour contact phone number for any inquiries and complaints
 - (d) mounted at eye level on the perimeter hoardings/fencing
 - (e) include a statement that unauthorised entry to the Site is not permitted.

CONTACT TELEPHONE NUMBER

- C3. The 24-hour contact telephone number must be continually attended by a person(s) with authority over the works for the duration of the development.

IMPLEMENTATION OF MANAGEMENT PLANS

- C4. The requirements of the **DEMP (including DNVMP)**, **DTPMP**, and **DWMP** required by **Conditions B9, B10 and B17** of this consent must be implemented during demolition.
- C5. The relevant requirements of the Transplantation Methodology Report required under **Condition B7** must be implemented.

HOURS OF DEMOLITION

- C6. Demolition, including the delivery of materials to and from the site, may only be carried out between the following hours:
- (a) between 7 am and 6 pm, Mondays to Fridays inclusive; and
 - (b) between 7 am and 5 pm, Saturdays.
- C7. No work may be carried out on Sundays or public holidays.
- C8. Activities may be undertaken outside of these hours if required:
- (a) by the Police or a public authority for the delivery of vehicles, plant or materials; or
 - (b) in an emergency to avoid the loss of life, damage to property or to prevent environmental harm.
- C9. Notification of such activities must be given to affected residents before undertaking the activities or as soon as is practical afterwards.

DEMOLITION NOISE MANAGEMENT

- C10. Demolition works ~~shall~~ must be undertaken with the aim of achieving the construction noise management levels detailed in the City of Sydney Construction Hours / Noise within the Central Business District Code of Practice 1992 and the Interim Construction Noise Guideline (Department of Environment and Climate Change, 2009). All feasible and reasonable noise mitigation measures ~~shall~~ must be implemented and any activities that could exceed the

Commented [LB28]: Please confirm the basis of these hours, noting that the ICNG hours differ

construction noise management levels ~~shall~~ **must** be identified and managed in accordance with the DNVMP, approved as part of the DEMP.

- C11. If the noise from a demolition activity is substantially tonal or impulsive in nature (as ~~described~~ **those terms are used in Chapter 4.5 of the NSW DECC Interim Construction Noise Guideline, and** in Chapter 4 of the NSW Industrial Noise Policy), 5dB(A) must be added to the measured construction noise level when comparing the measured noise with the construction noise management levels.
- C12. The Applicant shall schedule intra-day 'respite periods' for demolition activities predicted to result in the 75dB(A) "highly noise affected" target being exceeded. Respite periods shall be scheduled at the same time each day (e.g. 8 am to 11 am Monday to Saturday or 12 pm to 3 pm Monday to Friday or 4 pm to 6 pm Monday to Friday) unless otherwise negotiated with the most affected noise sensitive receivers.

~~C13.~~ **Continuous unattended noise monitoring is to be undertaken at the most affected external residential boundary (which may include a balcony) for the duration of the demolition work. This noise monitoring is to be analysed, reviewed and submitted as a summary, on a fortnightly basis to the Planning Secretary and must be incorporated in the DNVMP and DEMP.**

~~C13-C14.~~ For Category A appliances (as identified in the city of Sydney Construction Hours / Noise within the Central Business District Code of Practice 1992), respite periods shall be applied for activities predicted to result in exceedances of the Highly Noise Affected Threshold (as identified in the EPA ~~Interim e~~Construction ~~n~~Noise ~~g~~Guideline). For these activities, respite periods to be adopted as follows (unless other arrangement with the effected noise receiver is agreed):

- (a) 7am to 8am (Monday to Saturday)
- (b) 1pm to 2pm (Monday to Saturday).

These respite periods do not apply to periods of equipment set up or similar.

~~C14-C15.~~ Any noise generated during the construction of the development must not be offensive noise within the meaning of the Protection of the Environment Operations Act, 1997 or exceed approved noise limits for the ~~Subject-subject~~ Site.

~~C15-C16.~~ The Applicant ~~shall~~ **must** undertake a safety risk assessment of demolition activities to determine whether it is practicable to use audible movement alarms of a type that would minimise the noise impact on surrounding noise sensitive receivers, without compromising safety.

VIBRATION CRITERIA

~~C16-C17.~~ Vibration caused by demolition at any residence or structure outside the ~~S~~subject Site must be limited to:

- (a) for structural damage vibration to buildings (excluding heritage buildings), British Standard BS 7385 Part 2-1993 Evaluation and Measurement for Vibration in Buildings
- (b) for structural damage vibration to heritage buildings, German Standard DIN 4150 Part 3 Structural Vibration in Buildings Effects on Structure
- (c) for human exposure to vibration, the evaluation criteria presented in *British Standard BS 6472- Guide to Evaluate Human Exposure to Vibration in Buildings* (1Hz to 80 Hz) for low probability of adverse comment

~~C17-C18.~~ These limits apply unless otherwise outlined in a DNVMP, approved as part of the DEMP.

Commented [LB29]: Intent is to safeguard sensitive receivers from undue disruption

DISPOSAL OF SEEPAGE AND STORMWATER

~~C18-C19.~~ Any seepage or rainwater collected on-site during demolition or groundwater ~~must~~ shall not be pumped to the street stormwater system unless separate prior approval is given in writing by the EPA in accordance with the New South Wales *Protection of the Environment Operations Act 1997*.

WASTE MANAGEMENT

~~C19-C20.~~ Notwithstanding the DWMP referred to in **Condition B17**, the ~~applicant~~ Applicant must ensure that:

- (a) all waste generated by the development is classified and managed in accordance with the EPA's *Waste Classification Guidelines Part 1: Classifying Waste 2009*
- (b) all waste generated by the development is treated and/or disposed of at a facility that has sufficient capacity to and may lawfully accept that waste
- (c) waste (including concrete waste, rinse litter, debris or other matter) are not disposed of on the site and do not enter the waters of Sydney Harbour
- (d) any vehicle used to transport waste, materials and/or excavation spoil from the site is covered before entering the public roadway
- (e) the wheels of any vehicle, trailer or mobilised plant are cleaned of debris prior to leaving the site.

DUST CONTROL MEASURES

~~C20-C21.~~ Adequate measures must be taken to prevent dust from affecting the neighbouring amenity during demolition. In particular, the following measures must be implemented:

- (a) physical barriers erected at right angles to the prevailing wind direction or placed around and over dust sources to prevent wind or activity from generating dust emissions
- (b) earthworks and scheduling activities managed to coincide with the next stage of development to minimise the amount of time the site is left in a cut or exposed
- (c) all materials stored or stockpiled not to exceed 4 meters in height, are constructed and maintained to prevent cross contamination, include suitable erosion and sediment controls, and are covered, if necessary, to control emissions of dust and/or VOCs/odour
- (d) the surface dampened slightly to prevent dust from becoming airborne, but not be wet to the extent that run-off occurs
- (e) all vehicles carrying spoil or rubble to or from the site covered to prevent the dust or other materials escaping
- (f) all equipment wheels washed before exiting the site using manual or automated sprayers and drive-through washing bays
- (g) gates closed between vehicle movements and fitted with shade cloth
- (h) cleaning of footpaths and roadways carried out regularly.

NO OBSTRUCTION OF THE PUBLIC WAY

~~C24-C22.~~ The public way, footpaths, road reserves and the like, must not be obstructed by any mobile cranes, materials, vehicles, refuse, skips or the like, under any circumstances unless in accordance with a Work Zone Permit (See **Condition B20**). ~~Non-compliance with this requirement will result in the issue of a notice by the Planning Secretary to stop all work on site.~~

LOADING AND UNLOADING DURING DEMOLITION

~~C22-C23.~~ All loading and unloading associated with demolition and construction must be accommodated on-site, unless in accordance with a Work Zone Permit (See **Condition B20**).

DAMAGE TO THE PUBLIC WAY

C23-C24. Any damage to the public way, footpaths, road reserves and the like, including trees, kerbs, paving, gutters, road carriageway and the like, must immediately be made safe and functional by the Applicant.

EROSION AND SEDIMENT CONTROL

C24-C25. All erosion and sediment control measures are to be effectively implemented and maintained at or above design capacity for the duration of the works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.

IMPACTS OF BELOW GROUND (SUB SURFACE) WORKS – NON-ABORIGINAL OBJECTS

C25-C26. If non-Aboriginal historical archaeological deposits are discovered unexpectedly during works, the deposits must be dealt with according to the unexpected finds procedure contained in the DEMP

IMPACTS OF BELOW GROUND (SUB SURFACE) WORKS – ABORIGINAL OBJECTS

C26-C27. If during the course of construction the Applicant becomes aware of any previously unidentified Aboriginal object(s) discovered unexpectedly during works, all works likely to affect the object(s) must cease immediately and Heritage NSW must be informed in accordance with section 89A of the *National Parks and Wildlife Act 1974*. Council must also be informed. Relevant works must not recommence until written authorisation has been received from Heritage NSW.

ASBESTOS AND HAZARDOUS WASTE REMOVAL

C27-C28. Any hazardous materials, including asbestos, must be identified before demolition work commences and be removed in a safe manner.

C28-C29. All materials requiring removal from the site must be classified in accordance with Waste Classification Guidelines (NSW EPA, 2014). The Applicant must ensure that demolition works are undertaken so that cross-contamination of the site does not occur.

C29-C30. Removal of asbestos and other hazardous building materials must only be undertaken by a suitably licensed contractor and an asbestos clearance certificate must be submitted before waste classification, disposal or site validation is undertaken.

CONTAMINATION (UNEXPECTED FINDS)

C30-C31. The Applicant must implement the Unexpected Finds Protocol within the DEMP (see **Condition B9**) for the duration of demolition. Should any new information come to light during demolition which has the potential to alter previous conclusions about site contamination, the Planning Secretary must be immediately notified, and works must cease. Works must not recommence on site until the Planning Secretary confirms works can recommence.

SAFework NSW REQUIREMENTS

C31-C32. To protect the safety of work personnel and the public, the work site must be adequately secured to prevent access by unauthorised personnel, and work must always be conducted in accordance with relevant SafeWork NSW requirements.

TfNSW REQUIREMENTS

C32-C33. No metal ladders, tapes and plant/machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment unless a physical barrier such as a hoarding or structure provides separation.

- ~~C33-C34.~~ During all stages of the development extreme care ~~shall~~must be taken to prevent any form of pollution entering the light rail corridor. Any form of pollution that arises as a consequence of the development activities ~~shall~~must remain the full responsibility of the Applicant.
- ~~C34-C35.~~ Rainwater from the roof must not be projected and/or falling into the rail corridor/assets and must be piped down the face of the building which faces the rail corridor. Given the site's location next to the rail property, drainage from the development must be adequately disposed of/managed and not allowed to be discharged into the corridor unless prior approval has been obtained from TfNSW and the Sydney Light Rail Operator (or the delegated authority).
- ~~C35-C36.~~ No scaffolding is to be used within 6 horizontal metres of the rail corridor unless prior written approval has been obtained from the Sydney Light Rail Operator and TfNSW and a physical barrier such as a hoarding or structure provides separation. To obtain approval the ~~applicant~~Applicant will be required to submit details of the scaffolding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor.
- ~~C36-C37.~~ The ~~applicant~~Applicant must comply with all Altrac Light Rail Partnership (Altrac) or any subsequent operator of Sydney Light Rail (Sydney Light Rail Operator) policies, rules and procedures when working in and about the Inner West Light Rail corridor;
- ~~C37-C38.~~ Activities of the ~~applicant~~Applicant must not affect and/or restrict Sydney Light Rail operations without prior written agreement between the ~~applicant~~Applicant, Transport for NSW (TfNSW), Altrac, and the Sydney Light Rail Operator, and it is a condition precedent that such written agreement must be obtained no later than two (2) months prior to the activity. Any requests for agreement are to include as a minimum the proposed duration, location, scope of works, and other information as required by the Sydney Light Rail Operator;
- ~~C38-C39.~~ The ~~applicant~~Applicant must apply to Altrac and the Sydney Light Rail Operator for any required network shutdowns four (4) months prior to each individual required network shutdown event. Each request for network shutdown must include as a minimum the proposed shutdown dates, duration, location, scope of works, and other information as required by the Sydney Light Rail Operator. The Sydney Light Rail Operator may grant or refuse a request for network shutdown at its discretion;
- ~~C39-C40.~~ The ~~applicant~~Applicant ~~shall~~must provide safe and unimpeded access for Sydney Light Rail patrons traversing to and from the Inner West Light Rail stops at all times; and
- ~~C40-C41.~~ All TfNSW, Altrac and Sydney Light Rail Operator's costs associated with review of plans, designs and legal must be borne by the ~~applicant~~Applicant.

HOARDING/FENCING REQUIREMENTS

- ~~C41-C42.~~ The following hoarding requirements must be complied with:
- (a) no third-party advertising is permitted to be displayed on the subject hoarding/fencing
 - (b) the removal of all graffiti from any hoarding/fencing or the like within the construction area must be removed within 48 hours of its application.

PROTECTION OF TREES

- ~~C42-C43.~~ No street tree is to be trimmed or removed unless prior written approval from Council is obtained or is required in an emergency to avoid the loss of life or damage to property.
- ~~C43-C44.~~ All street trees ~~shall~~must be protected at all times during construction. Any tree on the footpath, which is damaged or removed during construction due to an emergency, ~~shall~~must be replaced, to the satisfaction of Council.

PROTECTION OF PUBLIC INFRASTRUCTURE

- ~~C44-C45.~~ Unless the Applicant and the applicable authority agree otherwise, the Applicant must:

- (a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by carrying out the development; and
- (b) relocate, or pay the full costs associated with relocating any infrastructure that needs to be relocated as a result of the development.

INDEPENDENT ENVIRONMENTAL AUDIT

C46. An independent auditor must be agreed to in writing by the Planning Secretary prior to the preparation of an Independent Audit Program or commencement of an Independent Audit.

C47. Independent Audits of the development must be conducted and carried out in accordance with the Independent Audit Post Approval Requirements (2020).

C48. The Planning Secretary may require the initial and subsequent Independent Audits to be undertaken at different times to those specified above, upon giving at least 4 week's notice to the Applicant of the date or timing upon which the audit must be commenced.

C49. In accordance with the specific requirements in the Independent Audit Post Approval Requirements (2020), the Applicant must:

- (a) review and respond to each Independent Audit Report prepared under condition C47 of this consent;
- (b) submit the response to the Planning Secretary and the Certifying Authority and
- (c) make each Independent Audit Report and response to it publicly available within 60 days after submission to the Planning Secretary.

C50. Independent Audit Reports and the Applicant's response to audit findings must be submitted to the Planning Secretary within 2 months of undertaking the independent audit site inspection as outlined in the Independent Audit Post Approval Requirements (2020), unless otherwise agreed by the Planning Secretary.

C51. Notwithstanding the requirements of the Independent Audit Post Approval Requirements (2020), the Planning Secretary may approve a request for ongoing independent operational audits to be ceased, where it has been demonstrated to the Planning Secretary's satisfaction that an audit has demonstrated operational compliance.

END OF PART C

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PART D POST DEMOLITION

POST DEMOLITION DILAPIDATION REPORT

- D1. Prior to the commencement Stage 2 works, a post-demolition dilapidation survey ~~shall~~must be undertaken via a joint inspection with representatives from TfNSW, Altrac, the Sydney Light Rail Operator and the ~~applicant~~Applicant. The dilapidation survey ~~will~~must be undertaken on the rail infrastructure and property in the vicinity of the project. These dilapidation surveys ~~will~~must establish the extent of any existing damage and enable any deterioration during demolition to be observed. The submission of a detailed dilapidation report to TfNSW and the Sydney Light Rail Operator will be required unless otherwise notified by TfNSW. The ~~applicant~~Applicant needs to undertake rectification of any damage to the satisfaction of TfNSW and the Sydney Light Rail Operator and if applicable the local council.

END OF PART D

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ADVISORY NOTES

DIRECTIONS FROM THE **PLANNING** SECRETARY

- AN1. Consistent with the requirements in this consent, the Planning Secretary may make written directions to the Applicant in relation to:
- (a) the content of any strategy, study, system, plan, program, review, audit, notification, report or correspondence submitted under or otherwise made in relation to this consent, including those that are required to be, and have been, approved by the Planning Secretary; and
 - (b) the implementation of any actions or measures contained in any such document referred to in condition.

APPEALS

- AN2. The Applicant has the right to appeal to the Land and Environment Court in the manner set out in the EP&A Act and the EP&A Regulation.

RESPONSIBILITY FOR OTHER CONSENTS / AGREEMENTS

- AN3. The Applicant is solely responsible for ensuring that all additional consents, approvals, agreements and permits are obtained from other authorities, as relevant.

DISABILITY DISCRIMINATION ACT

- AN4. This application has been assessed in accordance with the EP&A Act. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*. The Applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation. The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the BCA which references *AS 1428.1 - Design for Access and Mobility*. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the *Disability Discrimination Act 1992* currently available in Australia.

COMMONWEALTH ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999

- AN5.
- a) The Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter; or Commonwealth land, without an approval from the Commonwealth Environment Minister.
 - b) This application has been assessed in accordance with the EP&A Act. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation. It is the Applicant's responsibility to consult the Department of Sustainability, Environment, Water, Population and Communities to determine the need or otherwise for Commonwealth approval and you should not construe this grant of approval as notification to you that the EPBC Act does not have application. The EPBC Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

AIRSPACE PROTECTION

- AN6. Prior to the determination of any Future Development Application(s), and for the purposes of controlled activities within the protected airspace of Sydney Airport, a separate approval

must be obtained from the Commonwealth Department of Infrastructure, Regional Development and Cities under the *Airports (Protection of Airspace) Regulations 1996* for the part of the building or any construction cranes that penetrate the Obstacle Limitation Surface (156 metres Australian Height Datum).

END OF ADVISORY NOTES

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APPENDIX 1 INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS

WRITTEN INCIDENT NOTIFICATION REQUIREMENTS

1. A written incident notification addressing the requirements set out below must be emailed to the Department at the following address: compliance@planning.nsw.gov.au within seven days after the Applicant becomes aware of an incident. Notification is required to be given under this condition even if the Applicant fails to give the notification required under condition A17 or, having given such notification, subsequently forms the view that an incident has not occurred.
2. Written notification of an incident must:
 - a. identify the development and application number;
 - b. provide details of the incident (date, time, location, a brief description of what occurred and why it is classified as an incident);
 - c. identify how the incident was detected;
 - d. identify when the ~~applicant~~ Applicant became aware of the incident;
 - e. identify any actual or potential non-compliance with conditions of consent;
 - f. describe what immediate steps were taken in relation to the incident;
 - g. identify further action(s) that will be taken in relation to the incident; and
 - h. identify a project contact for further communication regarding the incident.
3. Within 30 days of the date on which the incident occurred or as otherwise agreed to by the Planning Secretary, the Applicant must provide the Planning Secretary and any relevant public authorities (as determined by the Planning Secretary) with a detailed report on the incident addressing all requirements below, and such further reports as may be requested.
4. The Incident Report must include:
 - a. a summary of the incident;
 - b. outcomes of an incident investigation, including identification of the cause of the incident;
 - c. details of the corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence; and
 - d. details of any communication with other stakeholders regarding the incident.

ATTACHMENT A – AMENDMENTS TO DESIGN GUIDELINES (CONDITION B1)

The Design Guidelines titled 'Harbourside Urban Design and Public Domain Guidelines' Rev 3, prepared by fjmt and dated 7 October 2020 ~~shall~~ **must** be revised including:

- (1) the following amendments shown by the insertion of the following **bold and underlined** words/numbers and deletion of ~~bold and struck out~~ words/numbers
- (2) updated imagery/diagrams (as appropriate) to reflect the following changes.

a) Amend 1.3 as follows:

1.3 Project Vision

- The urban design of the Harbourside development must achieve the project vision to:
 - Deliver a world class ~~retail, commercial and residential~~ **mixed use** precinct that incorporates significant public domain.
 - Reaffirm Darling Harbour as Australia's premier gathering place by creating an exciting, connected, active and vibrant precinct that brings delight to visitors and Sydney siders alike.
- The following principles support realisation of the Project Vision
 - Place-making – integrate the built forms, landscaping and public realm to a holistic and integrated development offering
 - Permeability – serve as an attraction to visitors and tourists
 - Identity – create a development that is world class
 - Flexibility and adaptability – provide public domain spaces that are flexible for curation and activation opportunities
 - Connectivity – provide clear and generous public connections
 - Linkage – provide a ~~retail, commercial and residential~~ **mixed use** offering that complements the surrounding precinct and context

b) Amend 1.4 as follows:

1.4 Context and Design Excellence

The design shall:

- Integrate with the surrounding context by providing ~~retail, commercial, and residential use~~ **a mix of uses**, to compliment the surrounding uses **and reinforce the role of Darling Harbour as a major public entertainment, tourism and leisure precinct**.
- ~~including convention and exhibition space (ICC), hotel (ICC Hotel and The Ribbon), and residential (Darling Square)~~
- Use appropriate building height, alignment, form, massing
- Respect the heritage significance of the Pyrmont Bridge
- Promote view sharing
- Provide a new landmark at Darling Harbour, and enriching the ground plane and skyline
- Engage with people at the ground plane
- Create strong public pedestrian connections
- Provide public domain spaces that can accommodate activation through temporary events and programme activities
- **Promote solar access to Darling Harbour foreshore public domain**

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c) Amend 2.1 as follows:

2.1 Appreciating the Context

Objective

- Integrate with the surrounding Darling Harbour context
- Respect the site heritage
- Create a place that protects, conserves and interprets Sydney's natural and cultural heritage
- Appreciate and respond to the unique waterfront location
- Acknowledge that traditional owners were the Cadigal, who are part of the Dharug Nation or language group

Control

Provide:

- ~~Retail, commercial, and residential a mix of uses~~ that ~~complement support~~ the surrounding uses ~~including convention use (ICC), hotel (The Ribbon and ICC Hotel) and leisure~~ and reinforce the role of Darling Harbour as a major public entertainment, tourism and leisure precinct.
- Provide architecture commensurate with the revitalised transformation of Darling Harbour
- A safe pedestrian friendly environment that tap into the existing surrounding road and pedestrian and cycle pathways

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d) Amend 3.2 as follows:

3.2 Setbacks

Objective

- Ensure appropriate distances are maintained between towers to create a skyline of well spaced towers for the west side of Cockle Bay

Control

Provide:

- ~~Retail, commercial, and residential a mix of uses that complement the surrounding uses including convention use (ICC), hotel (The Ribbon and ICC Hotel) and leisure~~
- ~~Provide architecture commensurate with the revitalised transformation of Darling Harbour~~
- ~~Provide waterfront setbacks per below, measured to Stage 1 DA Envelope~~
- ~~Building separations to respond to SEPP65 requirements~~

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Commented [LB31]: Intent is to remove reference to controls which already apply outside of design guidelines and/or do not relate to setbacks

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e) Amend 3.3 as follows:

Control

- Development shall demonstrate consistency with the following built form controls:

Height restrictions and setbacks set out at Condition B2.

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Built Form Control

Maximum Control Maximum

volumetric tower 80% envelope utilisation

the maximum volumetric tower envelope utilised relates to that overall proportion of the approved tower envelope utilised by the Gross Building Area of the detailed design.

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~~The size of the tower floor plate above podium level shall not exceed 1,000m² Gross Floor Area.~~

ef) Amend 4.4.4.1 as follows:

4.1 Thriving Public Realm

Objective

- Make places not spaces
- Provide an attraction for visitors
- Create clear and unobstructed pedestrian connections
- Link the development to its surrounding context
- Provide diversity and flexibility to support a broad programme of events and activities
~~and activities~~
- Give consideration to both 'event mode' and 'day to day' mode
- Create a distinctly local Sydney identity
- Integrate art within built and landscape forms
- Build in versatility and flexibility

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Control

The following established planning controls and strategies shall apply:

- Sustainable Sydney 2030
- Sydney Streets Design Code and Sydney Street Technical Specification
- SHFA'S Darling Harbour Public Domain Manual 2015
- NSW Planning Guidelines for Walking & Cycling
- No reduction in the existing area of public realm
- Public Domain concepts documented in the Aspect Studios Stage 1
- SSDA report.

~~This report sets out the proposed public domain concepts and connections for the site:~~

- Mirvac to commit and fund a total minimum area of ~~8,200m²~~ 10,200 m² of public domain works in kind, including:
 - o 4,800m² of Waterfront Boulevard
 - ~~o 1,500m² Guardian Square~~
 - o 3,500m² above the nNorthern ePodium including Guardian Square
 - o Event steps (or equivalent onsite public domain gathering and events area adjacent to the foreshore)
 - o Central through site link
 - o Bunn St pedestrian bridge
 - o New paving to Pyrmont bridge
 - o Upgrade of northern pedestrian bridge (or improved equivalent connection)
 - o Ribbon Stairs or equivalent stair connection from the foreshore at the northern end of the site linking the foreshore to the Pyrmont Bridge approach

Commented [LB32]: This area will be subsumed into larger public open space (3500 m2 above Northern Podium)

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The Competition Design Brief to inform the design excellence process will specify all participating firms are required to incorporate a total minimum of ~~8,200m²~~ 10,200 m² within their respective schemes including the specified areas for the waterfront boulevard ~~and~~ Guardian Square, open space above the nNorthern ePodium and through site

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links How these concepts are incorporated within the design be subject to detailed design and future Stage 2 DA.

f) Amend 6.1 as follows:

6.1 Residential Amenity and Planning

Objective

- Tower is to be slender in form
- Building floorplates should maximise daylight and sunlight into dwellings
- Capitalise on the views
- Maintain generous private amenity to all dwellings in the development
- Provide appropriate acoustic treatment and separation from the retail/ **other uses**
- Provide sufficient storage
- Provide a clear and definable street address
- Residential facades to allow for appropriate shading and privacy

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Control

- The maximum building height, and volume is controlled by the
 - envelope approved in the Stage 1 SSDA
 - Consider SEPP 65 – Apartment Design Guidelines
 - Provide an appropriate mix of apartment sizes
 - Incorporate screening where appropriate to address solar or privacy impacts
 - Incorporating appropriate glazing to assist with limiting reflectivity
 - Acknowledge the orientation of the site
 - ~~Where more than 8 apartments are located off a circulation core, additional attention shall be placed on ensuring the amenity of the circulation spaces is of a high quality with access to daylight and natural ventilation.~~
 - Consider the need to balance acoustic privacy and natural ventilation

g) Amend 7.1 as follows:

7.1 Carparking

Objective

- Respect in ground archaeology, existing infrastructure, potentially contaminated land
- Consider overland flood risk
- Provide a quick and direct access into the basement
- Provide safe and secure parking
- Consider graphics to assist wayfinding

Control

- Carparking on site to be provided for residential use only
- The loading dock is to be clearly separated from the carpark for safety
- Adequate minimum clearances are to be provided
- **Car parking rates to be in accordance with /City of Sydney LEP 2012 'Category B-'**

h) Amend 8.1 as follows:

8.1 Sustainability

Objective

- Limit the development impact on the environment

- Maximise daylight and reduce the need for artificial lighting
- Prioritise Precinct wide solutions

Control

- Development is to be designed to achieve the following ESD targets:
 - 5-Star Green Star Design & As Built v1.3 for retail;
 - ~~5~~ 6-Star Green Star Design & As Built v1.3 for commercial;
 - 5-Star Green Star Design & As Built v1.3 for the residential tower;
 - ~~4.5 Star NABERS Energy for Shopping Centres;~~
 - 5.5-Star NABERS Energy for Offices;
 - 3.5-Star NABERS Water for Offices; and
 - 20% water reduction per sqm for retail.
- **Development is to explore and implement measures to strive to achieve the following stretch ESD standards:**
 - **6-Star Green Star Design & As Built v1.3 for retail**
 - **6-Star Green Star Design & As Built v1.3 for the residential tower**

ATTACHMENT B – PODIUM AREA IDENTIFICATION PLAN

