

Development Consent

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*, determines:

- a) that, pursuant to section 4.38 of the *Environmental Planning and Assessment Act 1979*, to grant consent to the Concept Proposal and Stage 1 demolition works referred to in Schedule 1, subject to the conditions in Schedule 2 and Schedule 3
- b) that, pursuant to section 4.37 of the *Environmental Planning and Assessment Act 1979*, any subsequent part of the development that is not State significant development pursuant to the State Environmental Planning Policy (State & Regional Development) 2011 is to be determined by the relevant consent authority and that part of the development ceases to be State significant development.

These conditions are required to:

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

Mr Peter Duncan AM (Chair)
Member of the Commission

Professor Alice Clark
Member of the Commission

Dr Peter Williams
Member of the Commission

Sydney

13 May 2019

File: OBJ16/07630

SCHEDULE 1

Application No.:

SSD 7684

Applicant:

DPT Operator Pty Ltd and DPPT Operator Pty Ltd

Consent Authority:

Independent Planning Commission

Land:

Cockle Bay Wharf, Darling Harbour
Lot 10 DP801770, Lot 17 DP 801770, Lot 19 DP 801770, Lot 30 DP 1007434, Lot 32 DP 1007434, Lot 33 DP 1007434, Lot 34 DP 1007434, Lot 35 DP 1007434, Lot 37 DP 1007434, Lot 42 DP 864696, Lot 50 DP 1009561, Lot 56 DP 1009561, Lot 60 DP 1009964, Lot 61 DP 1009964, Lot 63 DP 1009964, Lot 64 DP 1009964, Lot 65 DP 1009964, Lot 11 DP 1125890, Lot 2 DP 1048307, Lot 1010 DP 1147364, Lot 2 DP 1199026

Development:

Redevelopment of Cockle Bay Wharf comprising:

Concept Proposal for:

- a commercial building envelope, comprising:
 - a maximum height of RL 183

- a maximum GFA of 89,000 m², including:
 - 75,000 m² commercial office GFA
 - 14,000 m² retail GFA
- minimum publicly accessible open space of 6,500 m²
- building controls and design guidelines.

Stage 1 works for the demolition of:

- existing Cockle Bay Wharf buildings and structures
- the Crescent Garden to Cockle Bay Wharf enclosed pedestrian bridge and associated structure
- the former monorail station and associated structure.

DEFINITIONS

Advisory Notes	Advisory information relating to the consent but do not form a part of this consent
Amended EIS	The Amended Environmental Impact Statement, prepared by Ethos Urban, dated 1 November 2017
Applicant	DPT Operator Pty Ltd and DPPT Operator Pty Ltd, or any person carrying out any development to which this consent applies
Application	The development application and the accompanying drawings, plans and documentation described at Condition A2
Concept Proposal	A concept development application in accordance with section 4.22 of the EP&A Act
Construction	Any works, including earth and building works
Competition	Design Excellence Competition
CDB	Competitive Design Brief
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 and Environment
Design Review Panel / DRP	A site-specific Design Review Panel established under the terms of this approval, unless otherwise specified
DIP	Design Integrity Panel
EIS	The Environmental Impact Statement, prepared by JBA Urban Planning Consultants Pty Ltd, dated 2 December 2016
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	Environmental Planning and Assessment Act 1979
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
ESD	Ecologically Sustainable Design
FEAR	Future Environmental Assessment Requirement
Feasible	Means what is possible and practical in the circumstances
Future Development Application(s)	Subsequent development application(s) for detailed proposal(s) 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
Land	Has the same meaning as the definition of the term in section 1.4 of the EP&A Act
Minister	NSW Minister for Planning (or delegate)
Modification Assessment	The document assessing the environmental impact of a proposed modification of this consent and any other information submitted with any modification applications made under the EP&A Act
Non-compliance	An occurrence, set of circumstances or development that is a breach of this consent
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.

	When further information is requested, the time taken for the Applicant to respond in writing will be added to the one month period
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 Response to Submissions, prepared by Ethos Urban, dated 5 July 2018, including 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.
RMS	Roads and Maritime Services
Subject Site	The site as described at Schedule 1
ToA	Term of Approval

SCHEDULE 2

PART A - TERMS OF APPROVAL

Development description

A1. Consent is granted to the Concept Proposal as described in **Schedule 1** and the EIS (as amended by the Amended EIS and RtS) and does not authorise the carrying out of any physical works, including construction works, which must be the subject of Future Development Application(s).

Development in accordance with plans and documents

- 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:
 - Amended Environmental Assessment Statement, prepared by Ethos Urban Pty Ltd, dated 1 November 2017
 - Response to Submissions prepared by Ethos Urban Pty Ltd, dated 5 July 2018
 - Letter titled 'SSD 7684 - Cockle Bay, Further Information Request' and appendices, prepared by Ethos Urban Pty Ltd, dated 18 September 2018. As amended by documents dated 24 September, 8, 17, 25 October and 12 November 2018
 - in accordance with the following drawings (as amended by the conditions of this consent):

Concept Proposal Drawings by fjmt			
Drawing No.	Revision	Title	Date
SK-1-01	01	Envelope Plan – Ground Level	28/08/2018
SK-1-02	01	Envelope Plan – Level 1	28/08/2018
SK-1.03	01	Envelope Plan – Level 2	28/08/2018
SK-1.04	01	Envelope Plan – Level 3	28/08/2018
SK-1.05	01	Envelope Plan – Level 4	28/08/2018
SK-1.06	01	Envelope Plan – Typical Tower Level	28/08/2018
SK-1.07	01	Envelope Plan – Roof Plan	28/08/2018
SK-1.10	00	Section A – Through Northern Public Open Space	04/07/2018
SK-1.11	00	Section B – Through Tower	04/07/2018
SK-1.12	00	Section C – Through Retail Pavillion	04/07/2018
SK-1.13	00	Section D – Through Land Bridge	04/07/2018
SK-1.14	00	Section E – Across Deck	04/07/2018
SK-1.15	00	Section F – North to South	04/07/2018
SK-1.20	00	3D View Building Envelope	04/07/2018
SK-1.21	00	3D View Building Envelope	04/07/2018

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 the terms of this development consent (SSD 7684) 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.

Limits of approval

A6. This consent does not approve the use of publicly accessible open space for events. Separate approval(s) must be obtained for the use of publicly accessible open space for events.

Legal notices

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

Inconsistency between documents

A8. In the event of any inconsistency between conditions of this approval and the drawings / documents referred in **Condition A2**, the conditions of this approval prevail.

Gross floor area control

A9. The maximum gross floor area (GFA) for the development shall not exceed 89,000 m², comprising:

- a) 75,000 m² commercial office GFA
- b) 14,000 m² retail GFA.

Building height control

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

- a) maximum tower height RL 183
- b) maximum podium and tower base height RL 29
- c) maximum deck over the Western Distributor height RL 19

Open space control

A11. A minimum of 6,500 m² publicly accessible open space shall be provided on the site, comprising:

- a) 5,500 m² publicly accessible open space located at the northern side of the site, between the tower, Pyrmont Bridge, Sussex/Market Streets and the Cockle Bay promenade
- b) 1,000 m² publicly accessible open space located to the south of the tower

A12. The calculation of the 6,500 m² publicly accessible open space:

- a) may include stairs, terraces, hard and soft landscaping associated with publicly accessible open space
- b) shall exclude retail tenancies inclusive of outdoor seating/dining areas and primary pedestrian thoroughfares for the principal purpose of access to/from and/or through the development (e.g. from Market Street to Pyrmont Bridge and Market Street to the Tower).

Car parking control

A13. The maximum number of on-site car parking spaces shall not exceed 150 spaces.

Design excellence

A14. Prior to the lodgement of any Future Development Application(s), the detailed design of the development shall be subject to a Design Excellence Competition (Competition) carried out in accordance with the Design Excellence Strategy prepared by Ethos Urban, dated 12 November 2018.

A15. Prior to the commencement of any Competition (**Condition A14**), a Competitive Design Brief (CDB) prepared in consultation with the Government Architect NSW, shall be submitted to and approved by the Planning Secretary. The CDB shall 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 (as endorsed by the Planning Secretary).

- A16. A Design Integrity Panel (DIP) shall be established by the Applicant prior to the lodgement of any Future Development Application(s). The DIP shall comprise at least three of the members of the Competition jury (**Condition A14**) 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).
- A17. Prior to the establishment of the DIP (**Condition A16**) a detailed DIP Terms of Reference shall 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.
- A18. The detailed design shall be presented to the State Design Review Panel either prior to the lodgement of a Future Development Application(s) or during the public exhibition of any such application following lodgement.

Airspace protection

- A19. Prior to the lodgement 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 PART A

PART B – MODIFICATIONS TO THE CONCEPT PROPOSAL

Design guidelines

B1. Prior to the lodgement of the first Future Development Application, the Cockle Bay Park Development Design Guidelines Rev B, prepared by fjmt and dated 24 September 2018, shall be revised and submitted for approval to the Planning Secretary, reflecting the following amendments:

a) Amend Urban Design Principle 3.3 as follows:

3.3 Enhance the waterfront

Enhance and improve waterfront public space through:

- Enhanced amenity, passive & active
- Improved connections to retail
- Improved north/south movement along the waterfront
- Bring passive public open space closer to the waterfront
- ~~Increased capacity to host large population events~~
- Improved connection to existing marine structures
- Improved connections to Pyrmont Bridge
- Improved connections to the Druitt Street Bridge
- Improved connections to Market Street
- Contribute to the broader Darling Harbour foreshore experience

b) Amend Urban Design Principle 3.4, as follows:

3.4 Contribute to the cultural experience of Darling Harbour

Contribute to the cultural experience of Darling Harbour with the opportunity for significant enhanced cultural experiences which may include:

- Public art installations at Druitt Street Bridge
- An active rooftop
- Natural amphitheatre for Cockle Bay events
- Embedded public art in the public domain / open space
- Cultural partnerships
- ~~Programmed space~~
- Activated public realm / open space
- ~~Market Park~~

c) Amend Urban Design Principle 3.5, as follows:

3.5 Create a new publicly accessible open space on the waterfront

Create a generous publicly accessible open space to the north of the tower spanning the Western Distributor that connects to, and opens toward the harbour and city street connections

Create a publicly accessible open space to the south of the tower that opens towards the harbour and is visually screened from the Western Distributor

All publicly accessible open spaces shall be publicly accessible 24 hours-a-day 7 days-a-week.

d) Amend Urban Design Principle 3.6, as follows:

3.6 The open space is to be significant in size and location

Provide a northern publicly accessible open space that is significant in size (~~6,000~~ minimum of 5,500 m²) and location and offers a unique opportunity to transform the exposed freeway network into a significant public benefit.

Provide a publicly accessible open space to the south of the tower (minimum of 1,000 m²) on the podium rooftop, protected from the freeway to the east by fine grain retail space, and open to provide elevated views of Darling Harbour to the west.

- e) Amend Urban Design Principle 3.7, as follows:
- 3.7 Minimise impact on solar access to nearby publicly open spaces
- Minimise impact on solar access to **affected** public **open** spaces, particularly during the winter months and during hours that those spaces are likely to be used by the public.
- The tower must not result in additional overshadowing of Town Hall Square or the Cockle Bay promenade beyond the overshadowing controls at Built Form Design Principles 5.6 and 5.7.**
- The tower shall not cause any additional overshadowing of Tumbalong Park or Sydney Square.**
- f) Amend Urban Design Principle 3.9, as follows:
- 3.9 Enhance the Druiitt St connection
- The Druiitt Street connection from Sussex Street to Cockle Bay is an important pedestrian link but is currently highly compromised in terms of pedestrian experience. Celebrate the link from Town Hall to the harbour with an aesthetic treatment to the Druiitt Street bridge and new arrival deck with integrated vertical transportation and adjacent a cultural destination. Enhance the user experience both during daytime and nighttime whilst improving pedestrian safety and security. **Explore options for improving the capacity of the Druiitt Street connection.**
- g) Amend Urban Design Principle 3.10, as follows:
- 3.10 ~~Preserve the~~ Preservation of heritage values ~~of Pyrmont Bridge~~
- Pyrmont Bridge is listed on the NSW State Heritage Register. Reconnecting the bridge to the city is a significant enhancement which restores the function of the bridge. Any new works will need to respect the original fabric and be high quality and clearly identifiable as modern additions.
- Maintain the visibility of the full span of the bridge to the eastern buttress when viewed from the harbour, to the extent that the buttress is visible in the existing condition, as a minimum. **Any connections to Pyrmont Bridge should only be to the existing modern bridge structure.**
- The location/design of the new pedestrian bridge connecting Market Street to the podium and Pyrmont Bridge shall avoid unacceptable visual/heritage impacts on Pyrmont Bridge and the Corn Exchange building and Shelbourne Hotel.**
- h) Amend Urban Design Principle 3.12, as follows:
- 3.12 Improve connectivity and wayfinding throughout the precinct
- Improve the connectivity and wayfinding between the City and the harbour, Pyrmont and the International Convention Centre Sydney through intuitive pedestrian **and bicycle** routes and desire lines.
- Consider cycleway access through the site and to provide at grade access for pedestrians and cyclists, rather than stairs, lifts and escalators.**
- Provide and maintain access and a commercial address for the existing and new commercial buildings
- i) Amend Urban Design Principle 3.14, as follows:
- 3.14 Consider and balance private view sharing
- Deliver an equitable approach to view loss, which recognises the significant role of the site's CBD location and encourages view sharing between existing residential and commercial buildings, and the new development.
- View loss impacts to apartments within the western elevation of the Astoria Tower shall, as a minimum, be consistent with the impacts assessed within the Visual**

Impact Assessment (VIA) submitted with the concept approval. In addition, within the parameters set by the building envelope and the concept approval, the design of the development shall endeavour to improve upon the impacts assessed within the VIA.

- j) Amend Urban Design Principle 3.14, as follows:

3.15 Ecologically Sustainable Design (ESD)

Incorporate all ESD principles in the building design including the minimum environmental standards in the ESD Development Application Design Report, Issue 3 prepared by ARUP dated 21 August 2017.

Explore and incorporate all opportunities to achieve (or exceed) the following stretch environmental targets:

- a) **5.5 star NABERS Energy based**
- b) **4.5 star NABERS Water based (for the commercial office component)**
- c) **Incorporation of dual reticulation recycled water system to reduce pressure on existing water/wastewater infrastructure.**

- k) Amend Open Space Design Principle 4.1, as follows:

4.1 Create a new significant publicly accessible open space

Open up the northern end of Cockle Bay to the harbour to create visual + physical connections to water. Open the site and invite the city in.

The New publicly accessible open space at the northern end of the site (minimum 5,500 m²) should:

- **achieve high levels of solar access in winter and late autumn, early spring. ~~It should~~**
- **be ~~very public,~~ publicly accessible 24 hours-a-day 7 days-a-week,** responding to people movement and inviting the city in and through
- **provide lawn, shrub plantings and trees on structure**
- **provide planting that is set down within the land-bridge and not within raised planters**
- **exclude any ventilation stacks/flues and substations**

- l) Insert a new Open Space Design Principle 4.1a, as follows:

4.1a Landscaping

Landscaping within the public domain and open spaces should:

- **endeavour to achieve tree canopy cover of at least 15%**
- **provide a mix of tree heights**
- **preference local indigenous species, in accordance with the City of Sydney's Landscape Code**
- **provide soil volumes for different tree sizes including:**
 - o **39 m³ for large trees (canopy diameter up to 16m at maturity)**
 - o **38 m³ for medium trees (canopy diameter up to 8m at maturity)**
 - o **36 m³ for small trees (canopy diameter up to 4m at maturity)**
- **incorporate permeable surfaces where possible**
- **avoid raised planters in the public domain / open spaces due to their impact in dividing the space, additional technical requirements for irrigation, and limitation on tree growth.**

- m) Amend Open Space Design Principle 4.3, as follows:

4.3 Enhance the waterfront experience

Provide upgraded retail and generous public spaces ~~to allow a moment to pause. Extend the length of the existing wharf where possible~~ **that achieve a high standard of amenity, layout and design** and provide clearly public gathering spaces opening out to the water's edge - adding to the safety of the upper promenade.

Provide an average 17m setback to the retail line noting some licenced seating areas to be maintained within the leasehold area encouraging a mix of spaces from active and urban to passive and relaxing.

Ensure the development achieves an appropriate and activated interface with the Cockle Bay promenade.

No reduction in public walkways is permitted.

All outdoor dining/seating shall be contained wholly within the building envelope and shall not extend into the Cockle Bay promenade.

- n) Amend Open Space Design Principle 4.4, as follows:

4.4 Permeable and diverse public spaces

Encourage fast and slow movements, allow for direct and indirect movements. Create places to discover, lookouts, quiet spaces, open greens and discrete gardens. Create connections to podium foyer and retail spaces at key levels to facilitate ease of movement and a permeability of internal and external environments. Respond to the existing Darling Park buildings, entries and shared spaces.

Circulation and access through the site should be optimised by providing clear and unambiguous routes that rationalise wayfinding.

Consider crime prevention through environmental design principles in the design of all open spaces and public domain areas.

Investigate improvements to the Druiitt Street Bridge entry access point from the Darling Harbour waterfront and the remainder of the route between the development site and Sussex Street, including increased pedestrian capacity, including during events.

Investigate the provision of cycleway connections via the development between:

- **existing pedestrian/cycle infrastructure on the Western Distributor and the King Street and Kent/Liverpool Street cycleways**
- **Market Street / Kent Street**
- **King Street / Kent Street providing for a right turn into Kent Street when travelling from Pymont Bridge.**

- o) Amend Open Space Design Principle 4.5, as follows:

4.5 Provide public spaces that enhance access to the waters edge

Create open spaces suitable for celebrations, viewing the harbour activities and accessing the waters edge in an open and comfortable manner.

Provide facilities like the 'Cockle Bay Steps' as a space for celebrations and informal amphitheatre.

Provide a mix of active, **passive, green** and urban spaces with retail as passive public spaces.

- p) Amend Open Space Design Principle 4.8, as follows:

4.8 Enhance clarity of public and private space

Provide clearly delineated public and private spaces. Use retail to create activation and create passive public spaces.

The publicly accessible open spaces to the north (minimum of 5,500 m²) and south (minimum of 1,000 m²) of the tower:

- **may include stairs, terraces, hard and soft landscaping associated with publicly accessible open space**
- **shall exclude retail tenancies inclusive of outdoor dining areas and primary pedestrian thoroughfares for the principal purpose of access to/from and**

through the development (e.g. from Market Street to Pyrmont Bridge and Market Street to the Tower).

- q) Amend Built Form Design Principle 5.1, as follows:

5.1 Tower ~~S~~setbacks

Provide ~~setbacks of an~~ 8m minimum / 10m average **tower setback from the Darling Harbour promenade** to reduce the visual impact of the tower from the promenade, and reduce overshadowing to the southern end of the promenade, whilst allowing for facade articulation.

- r) Amend Built Form Design Principle 5.2, as follows:

5.2 Tower separation

Provide adequate tower separation between the new tower and the existing towers at Darling Park to **achieve an appropriate built form relationship, consider preserve** the amenity of the existing and new towers and to facilitate view sharing for these buildings and for buildings in the streets beyond.

- s) Delete Built Form Design Principle 5.5, as follows:

5.5 Relationship to existing built form

~~Consider the existing Darling Park tower forms including separation, height and breadth, so that the combined development reads as a cohesive whole.~~

- t) Amend Built Form Design Principle 5.6, as follows:

5.6 ~~5.5~~ Sydney Square and Tumbalong Park amenity

The proposal should not impose any additional overshadowing of **Sydney Square or Tumbalong Park** and the Children's playground.

- u) Amend Built Form Design Principle 5.7, as follows:

5.7 ~~5.6~~ Future Town Hall Square overshadowing

Overshadowing to the Future Town Hall Square should be minimised as far as possible.

Building(s) shall not result in additional overshadowing of the Future Town Hall Square before 4pm on any day throughout the year. Overshadowing after 4pm on any day shall not be beyond the following overshadowing controls: with the maximum additional overshadowing impact of:

- Maximum annual average additional overshadowing ~~hours 2.5~~ **2.46** hours
- Maximum duration of overshadowing ~~period 50~~ **48** days per annum
- **Maximum peak day additional overshadowing 30 minutes**
- Maximum peak day hours of overshadowing across the square increase of ~~4~~ **0.8**%

- v) Amend Built Form Design Principle 5.8, as follows:

5.8 ~~5.7~~ Cockle Bay waterfront overshadowing

No additional overshadowing by the tower to the Cockle Bay Promenade during the draft CSPA control time of 11am - 3pm on 21 June (mid winter).

- w) Amend Built Form Design Principle 5.9, as follows:

5.9 ~~5.8~~ Residential solar access

Maintain ADG compliance of open space and living space of downstream residential buildings.

Sun eye view analysis indicates t~~The proposed~~ **shall envelope does** not impact solar access for 222 Sussex Street (Astoria Tower) at any time on the 21st June (mid winter).

Overshadowing impacts for the remainder of the year (summer, autumn and spring) to apartments within the western elevation of the Astoria Tower shall, as a minimum, be consistent with the impacts assessed within the shadow studies submitted with the concept approval. In addition, within the parameters set by the building envelope and the concept approval, the design of the development shall endeavour to improve upon the impacts assessed within the shadow studies.

- x) Amend Built Form Design Principle 5.10, as follows:

5.10 5.9 Tower form

Create an appropriate addition to the city context, creating an elegant, contemporary, urbane tower form. Complement and enhance this strategically important context with surrounding landmark buildings providing contemporary architecture and an enduring international image.

The design of the tower should **achieve provide** an architectural solution that **achieves design excellence**, is **visually interesting**, appropriately articulated and strives to reduce the perceived visual bulk.

Ensure that the maximisation of gross floor area within the envelope is balanced with the creation of a building form that is proportionally elegant and exhibits appropriate facade articulation and modulation.

Create a facade design that **is not overly assertive, minimises view impacts, includes high standard materials and finishes**, provides good visibility, daylight penetration, energy efficiency, access to views and integration of signage opportunities, whilst eliminating the need for blinds to provide thermal control.

Create a desirable tower slenderness ratio to reduce the buildings bulk and scale, while **allowing for considering** commercial requirements such as **minimum / market ideal** floor plate size and **minimum** overall area. A desirable slenderness ratio for the scheme is 2.5-2.8:1, and should be no lower than 2.2:1.

- y) Insert new Built Form Design Principle 5.10, as follows:

5.10 Tower base

The tower base shall provide an:

- **appropriately designed and proportioned base/plinth for the tower to stand on**
- **appropriate interface and built form transition between the podium and the tower**
- **appropriate interface and relationship to Crescent Garden and new publicly accessible open spaces.**

- z) Amend Built Form Design Principle 5.12, as follows:

5.11 Impact on skyline

Respond to the character and built form of the city skyline from all angles and particularly when viewed from the west.

A balanced and contextual response should be taken to development potential and density

The building shall be carefully designed so that its bulk and massing does not appear overly dominant for its context / Darling Harbour, potentially through form, materials, articulation and other design approaches.

- aa) Amend Built Form Design Principle 5.12, as follows:

5.12 Human Scale

Consider human scale in the design of the podium, awnings and landscape to provide an inviting experience along the waterfront and throughout the new public domain **and open space(s)**.

- bb) Amend Built Form Design Principle 5.13, as follows:

5.13 Wind Impacts

Wind conditions should be safe and appropriate for the proposed activities in all areas of the development, internal and external.

Wind impacts on Crescent Garden and the Darling Harbour promenade should be minimised so that those spaces achieve appropriate wind environments for their use.

- cc) Delete Built Form Design Principle 5.15, as follows:

~~5.15 Views~~

~~Maximise the opportunity for views at all levels of the tower, particularly to the West, North West, North, North East.~~

Amendments to the concept proposal drawings

B2. Prior to the lodgement of any Future Development Application(s), revised concept proposal drawings shall be submitted to, and approved by, the Planning Secretary that include the following amendments:

- a) delete the proposed extension of the Cockle Bay Wharf boardwalk in its entirety
- b) reduce the maximum depth/projection of the podium articulation zone (shown as 3 m) to a maximum of 1 m
- c) delete the existing text stating “(up to 40% Volumetric Utilisation)” from the podium articulation zone annotation
- d) delete the existing text stating ‘potential connection to Pyrmont Bridge’ (SK-1.04 Revision 01)
- e) delete all text under ‘Notes’ on the right hand side of the concept drawings and insert the following new notes/text:
 - i) “the podium articulation zone may include architectural features / projections, balustrades, awnings and the like and shall not include any GFA and/or balconies”.
 - ii) “artworks, garden pavilions, kiosks and signage may extend beyond the building envelope where these components are within, and relate specifically to, the publicly accessible open space or the public domain”.
 - iii) “Service poles and antenna/aerials (and the like), balustrades and vegetation may extend beyond the building envelope”.

PART C – FUTURE ENVIRONMENTAL ASSESSMENT REQUIREMENTS

Conditions to be met in Future Development Applications

Building design

- C1. Future Development Application(s) shall demonstrate consistency with:
- the revised Cockle Bay Park Development Design Guidelines, as endorsed by the Planning Secretary (**Condition B1**)
 - the advice of the Design Integrity Panel (**Condition A16**)
 - the following built form controls

Built Form Control	Maximum Control
The Tower	
Maximum tower width fronting Darling Harbour ^A	53 m ^B
Maximum tower footprint	3,000 m ²
Average tower floor plate	2,350 m ²
Maximum volumetric tower envelope utilisation	65%
The Tower Base	
Maximum tower base width fronting Darling Harbour ^C	73 m

A the maximum tower width relates to the entire tower width as measured between its northern and southern elevations (not just the part of the tower fronting Darling Harbour). The maximum tower width shall be calculated by measuring along an axis parallel to the western site boundary.

B Tower width is the primary tower built form control and in the case of any inconsistency with the other TBFCs the tower width control takes precedent.

C the maximum tower base width relates to the entire tower base width as measured between its northern and southern elevations (not just the part of the tower base fronting Darling Harbour). The maximum tower base width shall be calculated by measuring along an axis parallel to the western site boundary.

- C2. Future Development Application(s) shall include a Reflectivity Analysis demonstrating that the external treatments, materials and finishes of the development do not cause adverse or excessive glare.
- C3. Future Development Application(s) shall include an Access Report demonstrating that the development achieves an appropriate degree of accessibility.

Open space and public domain

- C4. Future Development Application(s) shall 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.
- C5. Future Development Application(s) shall confirm method(s) / arrangement(s) to ensure open space (**Condition A11**) is publicly accessible 24 hours-a-day 7 days-a-week.
- C6. Future Development Application(s) shall demonstrate that the northern publicly accessible open space / deck over the Western Distributor has an appropriate built form relationship and interface with:
- the western side of Sussex Street
 - Crescent Garden within the Darling Park development
 - Pyrmont Bridge

Overshadowing

- C7. Future Development Application(s) shall include an Overshadowing Impact Assessment (OIP), including shadow studies and diagrams showing the likely overshadowing impact of the development on surrounding spaces and properties.

C8. Development of buildings pursuant to this consent shall:

- a) not result in additional overshadowing of the future Town Hall Square public open space before 4 pm on any day throughout the year. Overshadowing after 4 pm on any day shall not be beyond the following maximum Town Hall Square overshadowing controls:

Town Hall Square Overshadowing Control	Maximum Control
Duration of additional overshadowing (per year)	48 days
Average additional overshadowing (per year)	2.46 hours
Peak day additional overshadowing	30 minutes
Peak day overshadowing percentage increase	0.8%

- b) in addition to condition C8(a), demonstrate the development has minimised the loss of solar access to the future Town Hall Square
- c) demonstrate the development has maximised direct solar access to:
- i) apartments within the western elevation of the Astoria Tower, 222-228 Sussex Street
 - ii) the Crescent Garden open space within the Darling Park development
- d) not result in additional overshadowing of the Cockle Bay promenade by the tower between 11am and 3pm on 21 June (mid-winter)
- e) not result in any additional overshadowing of:
- i) Tumbalong Park
 - ii) Sydney Square.

Public and private views

C9. Future Development Application(s) shall 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.

Heritage

C10. Future Development Application(s) shall include a detailed Heritage Impact Assessment, which considers the heritage impact of the development including any visual impacts on Pyrmont Bridge, the Corn Exchange and Shelbourne Hotel.

C11. Future Development Application(s) shall include Heritage Interpretation Strategy prepared in consultation with the Heritage Council NSW and informed by the results of the archaeological fieldwork/investigations (**Conditions C12 and C13**)

Archaeology

C12. Future Development Application(s) shall include a Non-Aboriginal Archaeological Assessment (NAAA) including a Maritime Archaeological Statement of Heritage Impact and a Maritime Archaeological Management Plan. The NAAA shall be prepared in consultation with the Heritage Council NSW.

C13. Future Development Application(s) shall include an Aboriginal Cultural Heritage Assessment Report (ACHAR) to assess the impacts of the development on the Aboriginal archaeological and cultural heritage values of the site. The ACHAR shall be prepared in consultation with the Office of Environment and Heritage, Regional Operations and the Aboriginal community.

Public art

C14. Future Development Application(s) shall include a Public Art Strategy (PAS) for the inclusion of public art within the development. The PAS shall be prepared in consultation with Council.

Events in Darling Harbour precinct

C15. Future Development Application(s) shall include an Events Management Plan, which considers site access, management and mitigation measures during major events held within the broader Darling Harbour precinct.

Environmental performance

C16. Future Development Application(s) shall demonstrate the incorporation of Ecological Sustainable Development principles in the design, construction and ongoing operation phases of the development, consistent with the ESD Development Application Design Report, Issue 3 prepared by ARUP dated 21 August 2017, including the following minimum environmental standards:

- a) 5 star NABERS Energy based
- b) 4 star NABERS Water based
- c) 6 Star Green Design and As Built rating.

C17. Future Development Application(s) shall consider improvements on the minimum environmental standards (**Condition C16**) and endeavour to achieve following stretch environmental standards:

- a) 5.5 star NABERS Energy based
- b) 4.5 star NABERS Water based (for the commercial office component)
- c) Incorporation of dual reticulation recycled water system to reduce pressure on existing water/wastewater infrastructure.

Traffic and transport

C18. Future Development Application(s) shall be accompanied by a Traffic Impact Assessment (TIA) that assesses the traffic and transport impacts on the road network and nearby intersection capacity. The TIA shall also address:

- a) the design, capacity, operation and safety impacts of the redesign / realignment / part closure of Wheat Road
- b) the operation and safety of the new vehicular accesses between Wheat Road and Harbour Street
- c) vehicle and pedestrian safety within the porte cochere
- d) loading / unloading, servicing (including allowance for trucks up to 12 m in length to service the site), taxi and coach arrangements
- e) the relationship and compatibility with the approved access arrangements of the IMAX redevelopment to the south, including:
 - i) road safety audit undertaken by an independent TfNSW accredited road safety auditor
 - ii) assessment of traffic movements (particularly northbound traffic) from vehicles associated with the operation of the IMAX redevelopment.

C19. Future Development Application(s) shall include green travel plans, identifying opportunities to maximise the use of sustainable transport choices, such as incentives and provision of cycle parking and end of trip facilities in the detailed design.

C20. Future Development Application(s) shall investigate improvements to the Druitt Street Bridge entry access point from the Darling Harbour waterfront and the remainder of the route between the development site and Sussex Street, including increased pedestrian capacity to accommodate workers and visitors in the Darling Harbour precinct, including during events, in consultation with TfNSW Sydney Coordination Office.

Bicycle parking and facilities

C21. Future Development Application(s) shall 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.

C22. Future Development Application(s) shall, in consultation with TfNSW Sydney Coordination Office and Council, investigate the provision of cycleway connections via the development between:

- a) existing pedestrian/cycle infrastructure on the Western Distributor and the King Street and Kent/Liverpool Street cycleways
- b) Market Street / Kent Street
- c) King Street / Kent Street providing for a right turn into Kent Street when travelling from Pyrmont Bridge.

Western Distributor

C23. Future Development Application(s) shall include a Western Distributor Impact Assessment (WDIA) that considers the development's relationship to, and design, construction, operational and maintenance impact on, the Western Distributor. The WDIA shall be prepared in consultation with RMS and shall address (but is not limited to):

- a) fire safety
- b) the provision of adequate lighting
- c) reflectivity of the external façade
- d) air quality over/in the Western Distributor
- e) prevention of falling objects
- f) the ability of the Western Distributor to continue to allow for the transportation of dangerous goods
- g) maintenance of the road reserve / corridor width
- h) design, location and impact of structural supports / columns / piers
- i) access for maintenance and repair
- j) impact on the structural integrity and durability of the Western Distributor
- k) maintenance of appropriate clearance in accordance with RMS requirements
- l) methodology for construction over the Western Distributor
- m) responsibility for elements of the development that interface with RMS infrastructure and long term maintenance
- n) major works authorisation deed(s)
- o) road network safety and the safety of the land bridge in case of earthquake
- p) emergency response management during construction, site emergencies and incidents

C24. Future Development Application(s) shall demonstrate compliance with RMS Technical Direction (GTD 2012/001) – Excavation Adjacent to Roads and Maritime Infrastructure.

C25. Future Development Application(s) shall include a Geotechnical and Structural Investigation Report considering design and construction methodology.

Wind assessment

C26. Future Development Application(s) shall 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

C27. Future Development Application(s) shall 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.

Waste

C28. Future Development Applications shall include a Waste Management Plan to address storage, collection, and management of waste and recycling within the development.

Utilities

C29. 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.

Noise and Vibration

C30. Future Development Application(s) for construction of new buildings shall 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 include details of any mitigations measures to ensure the amenity of sensitive land uses are protected during the operation of the development.

CBD Rail Link

C31. Future Development Application(s) shall consider the impact of the design and construction of the development on the CBD Rail Link (CBDRL), in consultation with TfNSW and Sydney Trains, and shall address the following matters:

- a) all buildings and structures and any basement levels, foundations and ground anchors for the development, which have a potential impact on the CBDRL, must be designed in accordance with design criteria specified by TfNSW
- b) allowances for the future construction of railway tunnels in the vicinity of the development
- c) allowances for future operation of railway tunnels in the vicinity of the development, especially in relation to noise, vibration, stray currents, electromagnetic fields and fire safety
- d) consultation with TfNSW and provision to TfNSW of drawings, reports and other information related to the design development
- e) such other matters which TfNSW consider appropriate or as the Applicant and TfNSW may agree.

Hydrology

C32. Future Development Application(s) shall consider potential flooding, stormwater, climate change/sea level rise and water quality impacts and management

Contamination

C33. Future Development Application(s) shall include a Site Contamination Assessment and, as necessary, a Remedial Action Plan reviewed and approved by a site auditor accredited under the Contamination Land Management Act 1997.

Construction

C34. Future Development Application(s) shall provide analysis and assessment of the impacts of construction and include:

- a) Construction Pedestrian and Traffic Management Plan (**Condition C35**)
- b) Cumulative Construction Impact Assessment (i.e. arising from concurrent construction activity)
- c) Noise and Vibration Impact Assessments (**Condition C30**)
- d) Community Consultation and Engagement Plans
- e) Construction Waste Management Plan
- f) Air Quality Management Plan
- g) Water Quality Impact Assessments and an Erosion and Sediment Control Plan (including water discharge considerations)
- h) Acid Sulphate Soil Assessment and Management Plan.

Construction pedestrian and traffic management

C35. Future Development Application(s) shall include a Construction Pedestrian and Traffic Management Plan (CPTMP) and Maintenance Traffic Management Plan (MTMP), prepared in consultation with TfNSW Sydney Coordination Office, Transport Management Centre and RMS. The CPTMP shall specify but not be limited to, the following:

- a) impact on RMS asset maintenance program during construction, operation and maintenance and coordination with this program

- b) management of the impacts of pedestrian and cyclist movements during construction, operation and maintenance
- c) location of work zone(s)
- d) location of crane(s)
- e) haulage routes
- f) construction vehicle access arrangements
- g) details of temporary pedestrian access arrangements. The proposed temporary pedestrian access arrangements should be provided prior to the demolition of pedestrian bridges. The proposed temporary pedestrian accesses should be able to cater for the current demand for the pedestrian bridges that are to be demolished
- h) proposed construction hours
- i) estimated number of construction vehicle movements
- j) construction program
- k) consultation strategy for liaison with surrounding stakeholders
- l) any potential impacts to general traffic, cyclists, pedestrians and bus services within the vicinity of the site from construction vehicles during the construction of the proposed works
- m) cumulative construction impacts of projects including the Sydney Light Rail Project, Sydney Metro City and Southwest and The Ribbon (IMAX) development. Existing CPTMPs for developments within or around the development site should be referenced in the CPTMP to ensure that coordination of work activities are managed to minimise impacts on the road network
- n) cumulative impacts of other known development and major infrastructure projects impacting the Western Distributor and surrounding road network
- o) should any impacts be identified, the duration of the impacts and measures proposed to mitigate any associated general traffic, public transport, pedestrian and cyclist impacts should be clearly identified and included in the CPTMP.

END OF PART C

SCHEDULE 3

CONDITIONS OF CONSENT FOR STAGE 1 DEMOLITION WORKS

PART A – TERMS OF APPROVAL

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 demolition works.

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

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 A4(a) above.

Development in Accordance with Plans and Documents

A5. The Applicant shall carry out the project in accordance with the conditions of consent and generally in accordance with the Amended EIS, as amended by the RtS and as otherwise provided by the conditions of this consent.

Retention of the Market Street to Pyrmont Bridge pedestrian bridge and pedestrian route

A6. This consent does not approve the demolition of the existing Market/Sussex Street to Pyrmont Bridge cable-stayed pedestrian bridge and construction of a temporary pedestrian bridge.

A7. The Market/Sussex Street to Pyrmont Bridge and pedestrian route shall be retained in full and maintained to ensure uninterrupted east-west pedestrian access between the City and Darling Harbour/Pyrmont is continued to be provided via this route during and following demolition works.

Lapsing of Approval

A8. This consent will lapse five (5) years from the date of consent unless the site enabling works have physically commenced.

Legal Notices

A9. Any advice or notice to the consent authority shall be served on the Planning Secretary.

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.

Incident Notification, Reporting and Response

- A12. 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.
- A13. Subsequent notification must be given and reports submitted in accordance with the requirements set out in Appendix 1.

Non-Compliance Notification

- A14. 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 must also notify the Department in writing to compliance@planning.nsw.gov.au within seven days after they identify any non-compliance.
- A15. 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.
- A16. 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

- A17. 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.*

END OF PART A

PART B PRIOR TO COMMENCEMENT OF DEMOLITION WORKS

Notice of Commencement of Works

B1. The Certifying Authority and Council shall be given written notice, at least 48 hours prior to the commencement of building work on the Subject Site.

Access to Information

B2. 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) all current statutory approvals for the development
 - ii) all approved strategies, plans and programs required under the conditions of this consent
 - iii) 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
 - iv) 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
 - v) a summary of the current stage and progress of the development
 - vi) contact details to enquire about the development or to make a complaint
 - vii) a complaints register, updated monthly
 - viii) audit reports prepared as part of any Independent Audit of the development and the Applicant's response to the recommendations in any audit report
 - ix) any other matter required by the Planning Secretary
- b) keep such information up to date, to the satisfaction of the Planning Secretary.

Pedestrian Access Management Plan

B3. Prior to the commencement of works, a Pedestrian Access Management Plan (PAMA) confirming the retention of the Market/Sussex Street to Pyrmont Bridge and Druitt Street to Darling Harbour pedestrian bridges and pedestrian routes shall be submitted to and approved by the Planning Secretary.

- a) The PAMA shall address, but not be limited to, the following matters:
 - i) the methodology for the physical retention and protection, including any necessary mitigation measures, of the following pedestrian infrastructure and routes during demolition works:
 - 1) Market/Sussex Street to Pyrmont Bridge
 - 2) Druitt Street to Darling Harbour
 - ii) confirmation of how uninterrupted east-west pedestrian access will be provided along the Market/Sussex Street to Pyrmont Bridge and Druitt Street to Darling Harbour pedestrian routes during and following the demolition of existing structures and buildings on the site.
- 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 submit a copy of the PAMA to Council prior to commencement of works
- d) The PAMA (as revised from time to time) must be implemented by the Applicant for the duration of the demolition works.

Demolition Environmental Management Plan

- B4. Prior to the commencement of works, a Demolition Environmental Management Plan (DEMP), which considers the Preliminary Construction Management Plan contained within the Amended EIS, prepared by Multiplex and dated 15 September 2017 shall be submitted to and approved by the Planning Secretary.
- a) The DEMP shall address, but not be limited to, the following matters, where relevant:
 - i) hours of work
 - ii) 24 hour contact details of site manager
 - iii) traffic management, in consultation with Council and TfNSW
 - iv) demolition noise and vibration management 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 dust and odour to protect the amenity of the neighbourhood
 - vi) erosion and sediment control
 - vii) procedures for encountering groundwater during construction works including contact with NSW Office of Water
 - viii) stormwater control and discharge
 - ix) water discharge management and protection of Darling Harbour
 - x) measures to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the Subject Site
 - xi) waste storage and recycling control
 - xii) construction material storage
 - xiii) litter control
 - xiv) unexpected finds protocol
 - xv) 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 submit a copy of the DEMP to Council 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

- B5. Prior to the commencement of works, a Demolition Traffic and Pedestrian Management Plan (DTPMP), prepared by a suitably qualified person, shall be submitted to and approved by the Planning Secretary. The DTPMP must be prepared in consultation with Council, Transport for NSW and Roads and Maritime Services.
- a) The DTPMP shall address, but not be limited to, the following matters:
 - i) location of proposed work zone(s)
 - ii) location of any cranes
 - iii) haulage routes
 - iv) vehicle access arrangements
 - v) management of the impacts to pedestrian and cyclist movements during and following demolition. Access arrangements should be able to cater for the current pedestrian and cyclist demand for the pedestrian bridge that is to be demolished

- vi) the impact on RMS asset maintenance program during demolition, and maintenance and coordination with this program.
 - vii) construction hours
 - viii) estimated number of construction vehicle movements
 - ix) construction program
 - x) consultation strategy for liaison with surrounding stakeholders
 - xi) any potential impacts to general traffic, cyclists, pedestrians and bus services within the vicinity of the site from construction vehicles during the construction of the proposed works
 - xii) cumulative construction impacts of projects including the Sydney Light Rail Project, Sydney Metro City and Southwest and the Ribbon (IMAX) development. Existing CPTMPs for developments within or around the development site should be referenced in the CPTMP to ensure that coordination of work activities are managed to minimise impacts on the road network
 - xiii) should any impacts be identified, the duration of the impacts and measures proposed to mitigate any associated general traffic, public transport, pedestrian and cyclist impacts should be clearly identified and included in the CPTMP.
- b) The Applicant shall submit a copy of the final Plan to Council, prior to the commencement of work
 - c) The DTPMP (as revised from time to time) must be implemented by the Applicant for the duration of demolition works.

Ongoing site treatment

- B6. Prior to the commencement of works, an Ongoing Site Treatment Management Plan (OSTMP) shall be submitted to and approved by the Planning Secretary. 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 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 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.

RMS requirements

- B7. The Proponent must enter into a major Works Authorisation Deed (WAD) with Roads and Maritime for the works associated with the Project to the satisfaction of Roads and Maritime. The WAD must be executed prior to Roads and Maritime assessment of any required detailed civil design plans and prior to the commencement of any demolition works. The WAD will include Roads and Maritime requirements for demolition of the Project within or near the Western Distributor, the maintenance requirements for the Project works on or near the Western Distributor and arrangements for Roads and Maritime to access and occupy land to inspect, repair, maintain and replace Roads and Maritime infrastructure. Roads and Maritime fees for administration, various

design reviews including design plan checking, civil works inspections and project management must be paid by the Applicant prior to the commencement of any Demolition works.

- B8. Prior to the commencement of demolition work, the Applicant shall commission reports to investigate and assess the impacts of the demolition on the Western Distributor. Demolition works must not be undertaken until RMS has confirmed in writing the demolition impacts are acceptable.
- B9. The Applicant must consult with RMS to give RMS the opportunity to carry out investigation and maintenance activities to the Western Distributor at the same time as the demolition works. The proposal shall not preclude or restrict right of access to any part of the Western Distributor.
- B10. All works associated with the demolition must be at no cost to RMS

Community Involvement Plan

- B11. A Community Involvement Plan (CIP) shall be prepared in consultation with Council and submitted to the Planning Secretary prior to commencement of works. The CIP shall include how notification of residents and complaints associated with the demolition works will be mitigated/managed.

Pre-construction Dilapidation Report

- B12. The Applicant is to engage a qualified structural engineer to prepare a Pre-Construction Dilapidation Report detailing the current structural condition of all retained existing and adjoining buildings, infrastructure and roads within the 'zone of influence'. Any entry into private land is subject to the consent of the owner(s) and any inspection of buildings on privately affected land shall include details of the whole building where only part of the building may fall within the 'zone of influence'. The report shall 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 to the Planning Secretary.
- B13. 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.

Waste Management Plan During Construction

- B14. Prior to the commencement of works, a Construction Waste Management Plan (CWMP), prepared by a suitably qualified person, shall be submitted to and approved by the Planning Secretary.
 - a) The Plan shall 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 provide a copy of the Plan to Council, prior to commencement of work.
 - d) The Applicant must notify the Roads and Maritime Services 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.

Erosion and Sedimentation Control

- B15. Soil erosion and sediment control measures shall be designed in accordance with the document Managing Urban Stormwater–Soils & Construction Volume 1 (2004) by Landcom. Details are to

be submitted to the satisfaction of the Certifying Authority prior to commencement of above ground works involving vegetation removal or soil disturbance.

Archaeology

- B16. 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.
- B17. An unexpected finds protocol must be created to manage the unexpected discovery of potential relics during demolition works. This 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

- B18. 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.
- B19. Compliance Reports of the project must be carried out in accordance with the Compliance Reporting Post Approval Requirements (Department 2018).
- B20. 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.

Independent Audit

- B21. No later than 4 weeks before the date notified for the commencement of demolition works, an Independent Audit Program prepared in accordance with the Independent Audit Post Approval Requirements (Department 2018) must be submitted to the Department.
- B22. Independent Audits of the development must be carried out in accordance with:
- a) the Independent Audit Program submitted to the Department under condition B21 of this consent
 - b) the requirements for an Independent Audit Methodology and Independent Audit Report in the Independent Audit Post Approval Requirements (Department 2018).
- B23. In accordance with the specific requirements in the Independent Audit Post Approval Requirements (Department 2018), the Applicant must:
- a) review and respond to each Independent Audit Report prepared under condition B22 of this consent
 - b) submit the response to the Department
 - c) make each Independent Audit Report and response to it publicly available no later than 60 days after submission to the Department and notify the Department in writing at least 7 days before this is done.

Compliance

- B24. The Applicant must ensure that all of 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

PART C DURING DEMOLITION

Demolition

- C1. 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 PCA before the commencement of works.

Hours of demolition

- C2. The hours of demolition, including the delivery of materials to and from the Subject Site, shall be restricted as follows:
- a) Between 7 am and 7 pm, Mondays to Fridays inclusive
 - b) Between 7 am and 5 pm, Saturdays
 - c) No work on Sundays and public holidays
 - d) Works may be undertaken outside these hours where:
 - i) the delivery of materials is required outside these hours by the Police or other authorities, or
 - ii) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm, or
 - iii) a variation is approved, in advance, in writing, by the Planning Secretary or her nominee.
- C3. No construction vehicles involved in the demolition works shall arrive at the project site or in surrounding areas outside approved hours of demolition.

Demolition Noise Management

- C4. Demolition works shall 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 be implemented and any activities that could exceed the construction noise management levels shall be identified and managed in accordance with the DNVMP, approved as part of the DEMP.
- C5. If the noise from a demolition activity is substantially tonal or impulsive in nature (as described 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.
- C6. The Applicant shall schedule intra-day 'respite periods' for demolition activities identified in the Interim Construction Noise Guideline as being particularly annoying to surrounding residents and other noise sensitive receivers. Respite periods shall be scheduled at the same time each day (e.g. 8 am to 11 am Monday to Saturday, 12 pm to 3 pm Monday to Friday and 4 pm to 6 pm Monday to Friday) unless otherwise negotiated with the most affected noise sensitive receivers.
- C7. Respite periods shall be applied in accordance with the requirements of City of Sydney Construction Hours / Noise within the Central Business District Code of Practice 1992. Respite periods for the use of Category A appliances will be applied on the site such that operation of Category A appliances are not undertaken during the following periods:
- a) 7am to 8am (Monday to Saturday)
 - b) 1pm to 2pm (Monday to Saturday).
- C8. 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 Site.

- C9. The Applicant shall 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

- C10. Vibration caused by demolition at any residence or structure outside the Subject Site must be limited to:
- a) for structural damage vibration, German Standard DIN 4150 Part 3 Structural Vibration – Effects of Vibration on Structures; and
 - b) 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.
- C11. These limits apply unless otherwise outlined in a DNVMP, approved as part of the DEMP.

Erosion and Sediment Control

- C12. All erosion and sediment control measures are to be effectively implemented and maintained at or above design capacity for the duration of the construction 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.

Disposal of Seepage and Stormwater

- C13. Any seepage or rainwater collected on-site during demolition or groundwater 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*.

Approved Plans to be On-Site

- C14. A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the Subject Site at all times and shall be readily available for perusal by any officer of the Department, Council or the Certifying Authority.

Site Notice

- C15. A site notice(s) shall be prominently displayed at the boundaries of the Subject Site for the purposes of informing the public of project details including, but not limited to the details of the Builder, Certifying Authority and Structural Engineer. The notice(s) is to satisfy all but not be limited to, the following requirements:
- a) Minimum dimensions of the notice are to measure 841 mm x 594 mm (A1) with any text on the notice to be a minimum of 30 point type size;
 - b) The notice is to be durable and weatherproof and is to be displayed throughout the works period;
 - c) 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, including construction/noise complaint are to be displayed on the site notice; and
 - d) The notice(s) is to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the Subject Site is not permitted.

Protection of Trees

- C16. 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.
- C17. All street trees shall be protected at all times during construction. Any tree on the footpath, which is damaged or removed during construction due to an emergency, shall be replaced, to the satisfaction of Council.

C18. All trees on the Subject Site that are not approved for removal are to be suitably protected by way of tree guards, barriers or other measures as necessary are to be provided to protect root system, trunk and branches during construction.

Safety

C19. To protect the safety of work personnel and the public, the work site shall be adequately secured to prevent access by unauthorised personnel, and work shall be conducted at all times in accordance with relevant Work Cover requirements.

C20. The demolition works shall prevent any falling object from impacting adversely on the Western Distributor or members of the public during the works in accordance with the RMS Work Health and Safety guidelines.

Contamination / Waste

C21. All material in the buildings to be demolished are to be removed in accordance with the guidelines of the WorkCover Authority and the requirements of the EPA.

C22. The requirements of the Protection of the Environment Operations (Waste) Regulation 2014 shall be satisfied, with particular reference to Part 7 'asbestos waste'. In addition, the Applicant shall consult with Safework NSW concerning the handling of any asbestos waste that may be encountered during the course of the project.

C23. All waste generated and any subsurface soils excavated during the demolition shall be assessed, classified and managed in accordance with the Waste Classification Guidelines: Part 1 Classifying Waste NSW DECC, 2009.

C24. A site auditor accredited under the Contamination Land Management Act 1997 shall be engaged for the various stages of the project which involve remediation work.

C25. Prior to the commencement of demolition work, the Applicant shall prepare and implement an appropriate procedure for identifying and dealing with unexpected finds of site contamination.

C26. In the event that unexpected ground contamination is discovered, the site auditor is to review the site contamination assessments and undertake the following actions:

- a) provide an opinion on whether the nature and extent of contamination has been appropriately determined
- b) ensure any necessary remedial work is carried out in accordance with best practice and reporting is to the standards required by the EPA.

C27. Should any new information come to light during demolition works which has the potential to alter previous conclusions about site contamination then the Department must be immediately notified and works must cease. Works must not recommence on site until the consultation is made with the Department.

Waste Control and Management

C28. The body of any vehicle or trailer, used to transport waste or excavation spoil from the site, shall be covered before leaving the site to prevent any spill or escape of dust, waste or spoil from the vehicle or trailer.

C29. Mud splatter, dust and other material likely to fall from or be cast off the wheels, underside or body of any vehicle, trailer or motorised plant leaving the site, shall be removed before the vehicle, trailer or motorised plant leaves the site.

C30. Concrete waste and rinse water shall not be disposed of on the project site and instead that:

- a) waste concrete shall either be returned to the agitator truck(s) to the supplier or directed to a dedicated watertight skip protected from the entry of precipitation
- b) concrete rinse water shall be directed to a dedicated watertight skip protected from the entry of precipitation or a suitable water treatment plant.

Dust Control and Management

- C31. The Applicant shall minimise dust emissions on the site and prevent dust emissions from the site resulting from:
- a) the breaking down of existing structures and structural elements
 - b) excavation, processing and handling of excavation spoil
 - c) wind action on demolition waste and excavation spoil stock piles
 - d) wind action on and plant movement across areas bare of vegetation or other cover.

Demolition

- C32. All demolition is to be carried out in accordance with the requirements of the Australian Standard AS2601-2001.

Cranes over the Western Distributor

- C33. The Applicant must ensure that the use of any crane does not involve the carrying of and 'loads' over or above the Western Distributor, except in the instance when the Western Distributor is closed with the agreement of RMS.

Hoarding/Fencing Requirements

- C34. The following hoarding requirements shall be complied with:
- a) no third party advertising is permitted to be displayed on the subject hoarding/fencing
 - b) the construction site manager shall be responsible for the removal of all graffiti from any construction hoarding/fencing or the like within the construction area within 48 hours of its application.

Impact of Below Ground (sub-surface) Works – Non-Aboriginal Relics

- C35. Demolition works shall be monitored by a suitably qualified and experienced maritime archaeologist who has an understanding of the effects of dredging and reclamation processes on former submerged maritime infrastructure sites.
- C36. If any archaeological relics are uncovered during the course of the work, then all works shall cease immediately in that area and the OEH Heritage Branch shall be contacted. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the NSW Heritage Act 1977 may be required before further works can continue in that area.

Discovery of Aboriginal Heritage

- C37. In the event that surface disturbance identifies a new Aboriginal object, all works shall cease in the immediate area to prevent any further impacts to the object(s). A suitably qualified archaeologist and the registered Aboriginal representatives shall be contacted to determine the significance of the objects. The site is to be registered in the Aboriginal Heritage Information Management System (AHIMS) which is managed by OEH and the management outcome for the site included in the information provided to AHIMS. The Applicant must consult with the Aboriginal community representatives, the archaeologist and OEH to develop and implement management strategies for all identified objects/sites.

Protection of Public Infrastructure

- C38. 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.

END OF PART C

ADVISORY NOTES

Appeals

AN1. The Applicant has the right to appeal to the Land and Environment Court in the manner set out in the Environmental Planning and Assessment Act, 1979 and the Environmental Planning and Assessment Regulation, 2000 (as amended).

Other Approvals and Permits

AN2. The Applicant shall apply to the Council for all necessary permits including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits and/or any other approvals under Section 68 (Approvals) of the Local Government Act, 1993 or Section 138 of the Roads Act, 1993.

Responsibility for Other Consents / Agreements

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

Prescribed Conditions

AN4. The Applicant shall comply with all relevant prescribed conditions of the development consent under Part 6, Division 8A of the Regulation.

Long Service Levy

AN5. For work costing \$25,000 or more, a Long Service Levy shall be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 14 41.

Temporary Structures

AN6. An approval under State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007 must be obtained from the Authority for the erection of the temporary structures. The application must be supported by a report detailing compliance with the provisions of the Building Code of Australia.

AN7. Structural certification from an appropriately qualified practicing structural engineer must be submitted to the Authority with the application under State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007 to certify the structural adequacy of the design of the temporary structures.

Disability Discrimination Act

AN8. 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 and 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

AN9.

- a) The Commonwealth Environment Protection and Biodiversity Conservation Act 1999 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 New South Wales Environmental Planning & Assessment Act, 1979. 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 the Environment and Energy to determine the need or otherwise for Commonwealth approval and you should not construe this grant of approval as notification to you that the Commonwealth Act does not have application. The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

Asbestos Removal

AN10. All excavation works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence and removal must be carried out in accordance with NOHSC: "Code of Practice for the Safe Removal of Asbestos"

APPENDIX 1 WRITTEN INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS

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 A14 or, having given such notification, subsequently forms the view that an incident has not occurred.

WRITTEN INCIDENT NOTIFICATION REQUIREMENTS

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 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.

INCIDENT REPORT REQUIREMENTS

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.

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.