

25 July, 2016

JCDECAUX AUST PTY LTD  
Unit 3 182-190 Euston Rd  
ALEXANDRIA NSW 2015

**SECTION 96 MODIFICATION APPROVAL FOR VARIOUS SITES IN SYDNEY CBD**  
**APPLICATION NO: D/1998/5072/B**

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Dear Sir

I refer to your application dated 15 April 2016 to modify the consent for Development Application No. D/1998/5072 in the following manner:

- Amend Approved Development Description;
- Amend Condition (1) Approved Development;
- Insert Condition (11A) Public Domain Damage Deposit; and
- Insert Condition (11B) Preservation and Reinstatement of Public Assets.

You are advised that your application for modification has been **approved** under Section 96(2) of the Environmental Planning and Assessment Act 1979. A copy of the Notice of Determination of the original development application is attached with the amendments resulting from the modification shown in ***bold italics*** and ~~***strikethroughs***~~.

This approval is limited to only those amendments requested in your Section 96 application dated 15 April 2016. Approval is not granted for any other items which may have been amended on the submitted drawings and for which approval has not been specifically sought.

This approved modification will require an amended Construction Certificate which must be obtained from your Certifying Authority (Council or private accredited certifier). Building work must not commence until an amended Construction Certificate has been approved.

If you require any further information is required I can be contacted on **ph. 9265 9721**, or email [bchamie@cityofsydney.nsw.gov.au](mailto:bchamie@cityofsydney.nsw.gov.au).

Yours faithfully



**BEN CHAMIE**  
Senior Planner

*city of villages*

**Notes:**

Modification of development consent in accordance with Section 96 of the Act shall not be construed as the granting of development consent, but reference to a development consent, is a reference to the development consent so modified.

Section 96(6) of the Act confers on an applicant who is dissatisfied with this determination a right of appeal to the Land and Environment Court and the Court may determine the appeal.

For the reasons for imposing conditions, refer to the Notice of Determination for the original development consent.

Modification of a development consent does not remove the need to obtain any other statutory consent necessary under the Environmental Planning and Assessment Act 1979, or any other Act.

The conditions of consent of the development application have been modified with the consent of the applicant.

**NOTICE OF DETERMINATION - APPROVAL** issued under Section 80(1)(a)  
of the Environmental Planning and Assessment Act 1979

<b>Development Application No.</b>	D/1998/5072/B
<b>Applicant</b>	JCDECAUX AUST PTY LTD
<b>Land to be developed</b>	Various locations in the CBD  KING STREET TO MARKET STREET, PARK STREET TO BATHURST STREET, Lot 7005 DP 1120403, Lot 13 DP 771360, Lot 1 DP 260232, Lot 5 DP 984182
<b>Approved development</b>	Installation of structures for Pay Phones, Emergency Video Phones and Electronic Kiosks, including <b>attached "rolling"</b> illuminated advertising signage.  <b>(As modified by D/1998/5072/B – 25 July 2016)</b>
<b>Cost of development</b>	\$1,600,000
<b>Determination</b>	The application was determined under delegation of Council and was granted consent <b>subject to the attached conditions.</b>  This Section 96 modification application was determined under delegation of Council and was granted consent <b>subject to the attached conditions.</b>
<b>Section 61 Contribution</b>	A Section 61 Contribution (under the City of Sydney Act 1998) does not apply to this development.
<b>Consent is to operate from</b>	<b>27 October 1998</b>
<b>Consent will lapse on</b>	<b>27 October 2000</b>
<b>Date of Section 96(2) Modification</b>	<b>25 July 2016</b>
<b>Reasons for conditions</b>	

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

**Right of Appeal**

If you are dissatisfied with this decision, Section 96(6) of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environmental Court within 6 months after the date of this Notice of Determination.

Alternatively, you may request a review under Section 96AB of the Act within 28 days of the date of this notice (NB section 96AB is not applicable to integrated or designated development).

A handwritten signature in black ink, appearing to be 'GJAHN' with a stylized flourish at the end.

per

**GRAHAM JAHN AM**

Director - City Planning, Development & Transport

## CONDITIONS OF CONSENT

### Schedule 1A

#### APPROVED DEVELOPMENT

1. Development must be in accordance with Development Application D/1998/5072/A No. ~~98-05072~~ dated 26 October 2015 ~~5 August 1998~~ and Statement of Environmental Effects prepared by SJB Planning ~~JBA Urban Planning Consultants~~, dated June 2015 ~~July 1998~~ and the location and design drawings DA01 and DA02 dated 26 October 2015 ~~within the Statement of Environmental Effects~~ and as amended by ~~the following conditions: D/1998/5072/B and drawing numbers S96B-01 and S96B-02; and as amended by the following conditions:~~

(As modified by D/1998/50721A, dated 26 October 2015)

*(As modified by D/1998/5072/B – 25 July 2016)*

#### DELETION OF STREET FURNITURE ITEMS FROM APPROVAL

2. The seven (7) phone structures to be located at sites PP2a, PP2b, PP3, PP38, PP71, PP72 and PP174 are excluded from this approval.

#### PHONE STRUCTURES WITHIN ULTIMO-PYRMONT

3. In order to ensure that there is an equitable distribution of public telephones throughout the City of Sydney, the applicant shall investigate an alternative public telephone structure design that does not contain any advertising signage for installation within the Ultimo-Pyrmont precinct. This investigation shall pay particular attention to ensuring that such structures are closely accessible to residents of public and affordable housing.

#### HYDE PARK PLAN OF MANAGEMENT

4. The items of street furniture proposed around the perimeters of Hyde Park and which are subject to the Hyde Park Plan of Management are to be referred to the Advisory Panel (as defined in the Hyde Park Plan of Management) for approval prior to construction of the individual items.

#### LOCATION OF STREET FURNITURE

5. The payphone structure at Location 18 shall only be installed following widening of the adjacent footpath as part of the George Street improvements in order to ensure that there will be sufficient separation between the structure and the building alignment so as to avoid obstruction to pedestrian movement.
6. The street furniture items shall be located so as not to unnecessarily obstruct pedestrian movement along the public ways or ingress/egress to properties.
7. The street furniture items may have future traffic management signs installed between the kerb and the items.

**DESIGN MODIFICATIONS**

8. The approved design (including an element or detail of that design) or materials, finish or colours of the structure must not be changed so as to affect the external appearance of the structure without the approval of Council.

**(8A) CONTROL OF LIGHT INTO THE ENVIRONMENT**

Lighting installed in the open and/or public spaces must comply with AS1158 series-lighting for roads and public spaces. The design and placement must be so that lighting does not create a nuisance or negatively affect the amenity of the surrounding neighbourhood, for that purpose lighting must comply with AS4282-1997 control of obtrusive effects of outdoor lighting.

(As modified by D/1998/5072/A, dated 26 October 2015)

**(8B) SIGN ILLUMINATION**

- (i) At no time is the intensity, period of intermittency and hours of illumination of the sign to cause objectionable glare or injury to the amenity of the neighbourhood and as such must be designed, installed and used in accordance with AS4282.1997 control of obtrusive effects of outdoor lighting.
- (ii) The sign(s) must not flash.

(As modified by D/1998/5072/A, dated 26 October 2015)

## SCHEDULE 1B

### CONDITIONS TO BE SATISFIED PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

#### PEDESTRIAN AND TRAFFIC MANAGEMENT DURING CONSTRUCTION

9. Details of the proposals for pedestrian and traffic management during the process of installation of the street furniture items, including the use of barricades, are to be submitted to Council and approval obtained prior to the commencement of all associated work on the sites.

#### PUBLIC UTILITY SERVICES

10. To ensure that public utility authorities are advised of the development:
  - (a) A survey is to be carried out of all utility services within the sites including relevant information from public utility authorities and excavation if necessary, to determine the position and level of services.
  - (b) The applicant is to negotiate with the public authorities (e.g. Energy Australia, Sydney Water, Telstra Australia), in connection with the relocation and/or adjustment of the services affected by the construction of the underground structure. Any costs in the relocation, adjustment or support of services are to be the responsibility of the developer.
  - (c) Documentary evidence is to be submitted confirming that all of their requirements have been satisfied, prior to issue of a Construction Certificate under Environmental Planning and Assessment Act 1979.

#### SUBMISSION OF DETAILED PLANS

11. Detailed engineering design and construction plans are to be submitted to Council and approval gained prior to the issue of a Construction Certificate. The plans are to include the location of the items, specifications and design of footings within the footway and the location of all public utility services in the vicinity of the proposed works.

#### **(11A) PUBLIC DOMAIN DAMAGE DEPOSIT**

***A Public Domain Damage Deposit calculated on the basis of 8 lineal metres of stone/concrete/asphalt (whichever applicable to each location) site frontage must be lodged with Council in accordance with the City of Sydney's adopted Schedule of Fees and Charges. The Public Domain Damage Deposit must be submitted as an unconditional bank guarantee in favour of Council as security for repairing any damage to the public domain in the vicinity of the site.***

***The guarantee must be lodged with Council prior to an approval for demolition being granted or a Construction Certificate being issued, whichever is earlier.***

***The Bank Guarantee will be retained in full until the final Occupation Certificate has been issued and any rectification works to the footway and Public Domain are completed to Council's satisfaction.***

*(As inserted by D/1998/5072/B – 25 July 2016)*

**(11B) PRESERVATION AND REINSTATEMENT OF PUBLIC ASSETS**

***The developer must ensure that all existing public assets are retained and preserved for the duration of development works.***

***Any damage caused to public assets as a result of development works, including but not limited to damage to footpath, kerb and gutter, signage, street furniture, utility pit lids, lighting, street trees and adjacent carriageways are to be rectified to Council's satisfaction.***

***Any rectification works must be completed in accordance with Council's specifications and requirements prior to an Occupation Certificate being issued in respect of the development or the use commencing, whichever is earlier.***

*(As inserted by D/1998/5072/B – 25 July 2016)*



## **SCHEDULE 1C**

### **CONDITIONS TO BE COMPLIED WITH DURING CONSTRUCTION, TO THE SATISFACTION OF THE PRINCIPAL CERTIFYING AUTHORITY**

#### **HOURS OF WORK AND NOISE**

12. The hours of construction and work on the development shall be as follows:
- (a) All work, including demolition, excavation and building work in connection with the proposed development must only be carried out between the hours of 7.00 a.m. and 7.00 p.m. on Mondays to Fridays, inclusive, and 7.00 a.m. and 5.00 p.m. on Saturdays, and no work must be carried out on Sundays or public holidays.
  - (b) The applicant must provide to Council a 24 hour per day telephone contact number and must ensure such number is continually attended by a person with authority over the building work during the construction period.
  - (c) The approved hours of work and the 24 hour telephone number must be prominently displayed at all times on the sites and must be visible from a public street or a public place.
  - (d) All work, including demolition, excavation and building work must comply with "The City of Sydney Code of Practice for Construction Hours/Noise 1992" and Australian Standard 2436-1981 'Guide to Noise Control on Construction, Maintenance and Demolition Sites'.

Note: The "City of Sydney Code of Practice for Construction Hours/Noise 1992" allows extended working hours subject to the making of an application in accordance with the Code and under Section 96(2) of the Environmental Planning and Assessment Act 1979, and the granting of approval thereto.

13. No construction shall take place on the sites during the general period of the 2000 Olympics, being from 1 September 2000 to 1 October 2000.

#### **PROTECTION OF STREET TREES DURING CONSTRUCTION**

14. All street trees shall be protected at all times during construction, in accordance with Council's Tree Preservation Order. Any trees on the footpaths, which are damaged or removed during construction, shall be replaced, to the approval of Council and the Principal Certifying Authority.

#### **OBSTRUCTION OF PUBLIC WAY**

15. Other than in the designated construction areas, any materials, vehicles, refuse skips or the like must not obstruct the public way. Contravention of this requirement will result in the issue of a Notice by Council to stop all work on the site.

#### **REINSTATEMENT OF FOOTWAY**

16. Upon completion of the installation of any street furniture item the footway formation and fabric is to be reinstated in accordance with the requirements and to the satisfaction of Council.

**STRUCTURAL PRINCIPAL CERTIFYING AUTHORITY**

17. Structural documentation shall be submitted to the satisfaction of Principal Certifying Authority (PCA) prior to the commencement of any structural work.

Such documentation shall include:-

- (a) Structural drawings in duplicate prepared and signed by an appropriately qualified practising Structural Engineer;
- (b) The Structural Certification form in Attachment 3 prepared by an appropriately qualified practising Structural Engineer and repeated for each revision issued to the Principal Certifying Authority (PCA);
- (c) The nomination of an appropriately qualified Structural Engineer/s to periodically inspect and certify that the final structural works are deemed to comply with the certified structural drawings by submitting completed Section 2 of the Structural Certification form to the Principal Certifying Authority (PCA).

Note:

Council reserves the right to randomly audit any structural documentation submitted and either accept or reject the certification, or part thereof or to randomly inspect the site.

**APPLICATION FOR BARRICADE PERMIT FOR ENCLOSURE OF A PUBLIC PLACE (ROAD AND FOOTPATH) REQUIRED FOR CONSTRUCTION/BUILDING WORKS**

18. Where construction/building works required the use of a public place including a road or footpath, approval under Section 68 of the Local Government Act 1993 for a Barricade Permit is to be obtained from Council prior to the commencement of work. Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.

## **SCHEDULE 1D**

### **CONDITIONS TO BE SATISFIED DURING OPERATION**

#### **REFLECTIVITY INDEX OF EXTERNAL GLASS**

19. The visible light reflectivity from building materials used on the structure shall not exceed 20% and must be otherwise designed so as not to result in glare that causes discomfort or threatens safety of pedestrians or drivers.

#### **~~ILLUMINATION OF SIGNS~~**

- ~~20. The signs shall not flash.~~
- ~~21. At no time is the intensity, period of intermittency and hours of illumination of the sign to cause interfere with the operation of traffic signal lights and cause injury to the amenity of the neighbourhood. If in the opinion of Council interference and injury is likely to be caused, the intensity, period of intermittency and hours of illumination must be varied to the approval of Council.~~

(As modified by D/1998/5072/A, dated 26 October 2015)

#### **MAINTENANCE**

22. All street furniture items shall be maintained at all times in a physically sound and aesthetically acceptable condition to the satisfaction of Council.

#### **SERVICE VEHICLE PARKING**

23. Any vehicles used in association with the servicing of a street furniture item shall be parked legally at all times. No parking on footpaths or pedestrian areas is permitted.

## **SCHEDULE 2**

### **CONDITIONS PRESCRIBED BY THE ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT REGULATION 1998**

#### **COMPLIANCE WITH BUILDING CODE OF AUSTRALIA**

- 24. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 25. This clause does not apply to the extent to which an exemption is in force under clause 80H or 80I, subject to the terms of any condition or requirement referred to in clause 80H (6) or 80I (4) of the Environmental Planning and Assessment Amendment Regulation 1998.

#### **PROTECTION OF PUBLIC PLACES**

- 26.
  - (a) If the work involved in the erection or demolition of a building:
    - (i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
    - (ii) building involves the enclosure of a public place,a hoarding or fence must be erected between the work site and the public place.
  - (b) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
  - (c) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
  - (d) Any such hoarding, fence or awning is to be removed when the work has been completed.

## SCHEDULE 3

### INTEGRATED DEVELOPMENT CONDITIONS

27.

In accordance with the requirements of the Roads and Traffic Authority, all proposed street furniture items having frontage to a State Road (PP130 and structures proposed for Railway Square or other locations if frontage to a State Road exists) shall comply with the following requirements:

- (a) The proposed phone structures shall not interfere or obstruct any traffic signs or traffic controls, either in part or fully or sight lines where traffic and pedestrian conflicts occurs. Signs are regarded as prejudicial to safety of the travelling public if they:
  - (i) obscure or interfere with:
    - a. road traffic signs and signals; and
    - b. the view of a road hazard or oncoming vehicles or any other vehicle or person or the obstruction which should be visible to drivers or other road users;
  - (ii) give instructions to traffic by use of the word 'stop' or other directions, or would be confused with traffic signs;
  - (iii) are of such a design or arrangement that the variable messages or intensity of lighting impair drivers' vision or distract drivers' attention; or
  - (iv) are situated in locations where the demands on drivers' concentration on the road conditions are high such as at major intersections or merging and diverging lane.
- (b) Clear zones shall be maintained. In an urban situation the Roads and Traffic Authority's determined 'Clear Zone' needs to be a minimum of 2.5 metres. The 'Clear Zone' should be kept clear of all fixed objects such as trees greater than 200mm base diameter, pipes culverts headwalls and large solid (ie non frangible) sign supports or structures. Should the lateral clearance from the edge of the travelled way to these proposed phone structures be less than 2.5 metres, and the structures be of a non frangible construction, then the structures will fall within the Authority's determined 'Clear Zone' and where it is not feasible to locate them outside of the clear zone traffic barriers should be provided.
- (c) The Roads and Traffic Authority shall be indemnified against any action that could result in litigation following any accident involving an errant motor vehicle colliding with a phone structure or protecting barrier.