

Relevant Information for Local Planning Panel

FILE: D/2021/1445 **DATE:** 12 October 2022

TO: Local Planning Panel Members

FROM: Andrew Thomas, A/Director City Planning, Development and Transport

SUBJECT: Information Relevant To Item 3 – Development Application: 26-28 and 34 Pirrama Road, Pyrmont – D/2021/1445

For Noting

That the Local Planning Panel note the information contained in this memo.

Background

Following publication of the Local Planning Panel report and relevant attachments, a submission was received from the applicant outlining why determination of D/2021/1445 should be deferred. A copy of the applicant's correspondence was forwarded to Panel members on 7 October 2022 and is included at Attachment B to this memorandum.

The applicant is requesting that determination of D/2021/1445 be deferred on the following basis:

- The applicant is willing to surrender the existing restaurant consent (D/2020/942 as amended) and deferring this matter would allow appropriate conditions, relating to the surrender of the consent, to be formulated.
- The proposed hours of operation and proposed maximum capacity of the proposed function centre use are less than the current restaurant use (D/2020/942 as amended).
- Deferring a decision would allow the applicant an opportunity to provide a technical response to Council's concerns regarding the acoustic assessment and proposed management of the acoustic impacts.

Council Officer's Response

The applicant's grounds for deferment do not address the concerns raised within the assessment report. For the following reasons, it is recommended that the application (D/2021/1445) be determined and not be deferred:

- The applicant has failed to recognise that the function centre and restaurant uses operate very differently. Surrendering of the restaurant use would not address concerns specifically associated with the proposed function centre use (e.g. impacts associated with patrons arriving and leaving the site en masse).
- Surrendering of the restaurant use would allow the proposed function centre use to potentially operate more frequently and therefore may result in greater impacts to surrounding residents.
- While the proposed hours of operation of the function centre use are less, the applicant has failed to demonstrate that the function centre use has comparable acoustic impacts to the already approved restaurant. The acoustic restrictions that apply to the restaurant use (e.g. maximum of number of patrons outdoors) are considered inadequate in controlling the amenity impacts from a function centre.
- While the proposed maximum capacity of the function centre use is less, the proposed management practices would be difficult to carry out and enforce and are not likely to be adequate.
- During the assessment process, the applicant was requested to clarify various management measures within the Plan of Management and to address various concerns with the acoustic assessment. While some changes were made to the Plan of Management (dated July 2022), the applicant showed no commitment to address the significant concerns with the acoustic assessment.

For the reasons given above, the applicant's submission does not alter Council's recommendation of refusal or any of the reasons for the recommendation.

Prepared by: Rebecca Gordon, Specialist Planner

Attachments

Attachment A. Copy of Approved Restaurant Use

Attachment B. Applicant's Submission (Confidential)

Approved

AJT

ANDREW THOMAS

A/Director City Planning, Development and
Transport

Attachment A

Copy of approved restaurant use

NOTICE OF DETERMINATION - APPROVAL issued under Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979

Development Application No.	D/2020/942/A
Applicant	S Barwick
Land to be developed	34 Pirrama Road, PYRMONT NSW 2009 Lot 11 DP 883135
Approved development	Alterations and additions to licensed restaurant with outdoor seating.
Cost of development	\$120,285
Determination	The application was determined under delegation of Council and was granted approval subject to the attached conditions. This Section 4.55 modification application was determined under delegation of Council and was granted approval subject to the attached conditions.
Consent is to operate from	11 December 2020
Consent will lapse on	11 December 2025
<i>Date of Section 4.55(1A) Modification 'A'</i>	<i>5 August 2021</i>

Reasons for conditions

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

Reasons for Approval

1. The development, as modified is considered to be substantially the same as that originally approved; and
2. Appropriate conditions of consent have been imposed to ensure that the development will not result in detrimental environmental impacts.

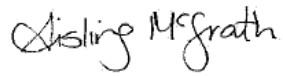
Community Consultation

As a Section 4.55(1A) modification, the application was not notified as by way of scale, character and operation the proposal is likely to have minimal or acceptable impacts.

Right of Appeal

If you are dissatisfied with this decision, Section 8.9 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environmental Court within 6 months of the date of this notification.

Alternatively, you may request a review under Division 8.2 of the Act within 28 days of the date of this notice (NB Division 8.2 is not applicable to integrated or designated development).

A handwritten signature in black ink that reads "Aisling McGrath". The signature is written in a cursive style with a large initial 'A'.

per

GRAHAM JAHN AM

Director - City Planning, Development & Transport

CONDITIONS OF CONSENT

SCHEDULE 1A

APPROVED DEVELOPMENT/DESIGN MODIFICATIONS/COVENANTS AND CONTRIBUTIONS/USE AND OPERATION

Note: Some conditions in Schedule 1A are to be satisfied prior to issue of a Construction Certificate and some are to be satisfied prior to issue of Occupation Certificate, where indicated.

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2020/942 dated 16 September 2020 and the following drawings prepared by Design 5 Architects:

Drawing Number	Drawing Name	Date
DA-11 Rev E	Ground Floor Plan	18/11/2020
DA-12 Rev E	Seating Plan	18/11/2020
DA-13 Rev E	Roof Plan	18/11/2020
DA-14 Rev E	North Elevation	18/11/2020
DA-15 Rev E	West Elevation	18/11/2020
DA-16 Rev E	South Elevation	18/11/2020
DA-17 Rev D	East Elevation	9/9/2020
DA-18 Rev E	Section AA	18/11/2020
DA-19 Rev D	Section BB and CC	9/9/2020
DA-20 Rev D	Windows / Doors Detail	9/9/2020
DA-21 Rev D	Deck and Awning Details	9/9/2020
DA-22 Rev D	Material Board	9/9/2020
SK22	Typical Balustrade Post	7/7/2020

and as amended by the conditions of this consent.

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

(2) LICENSED PREMISES – PRIMARY PURPOSE

The primary purpose of the premises is as a restaurant with the kitchen to be open and substantial food service to be available to patrons at all times during the approved hours of operation. The sale and supply of liquor shall cease when the kitchen ceases to operate. All patrons are to have an allocated seat and the number and location of tables and chairs provided for seated dining must be in accordance with the approved floor plan at all times.

(3) HOURS OF OPERATION - INDOORS

The indoor hours of operation are regulated as follows:

- (a) The hours of operation must be restricted to between 7.00am and 10.00pm Monday to Sunday.

- (b) Notwithstanding (a) above, the use may operate between 7.00am and 12midnight for a trial period of one year from the date of issue of the Occupation Certificate. Council's Health and Building Unit is to be informed in writing of the date of commencement of the trial hours. Email notification is to be sent to liquor@cityofsydney.nsw.gov.au
- (c) A further application may be lodged to continue the operating hours outlined in (b) above not less than 30 days before the end of the trial period. Council's consideration of a proposed continuation and/or extension of the hours permitted by the trial will be based on, among other things, the performance of the operator in relation to the compliance with development consent conditions, any substantiated complaints received and any views expressed by the Police.

(4) HOURS OF OPERATION - OUTDOORS

The outdoor hours of operation are regulated as follows:

- (a) The hours of operation must be restricted to between 7.00am and 8.00pm Monday to Sunday.
- (b) Notwithstanding (a) above, the use may operate between 7.00am and 10.00pm for a trial period of one year from the date of issue of the Occupation Certificate. Council's Health and Building Unit is to be informed in writing of the date of commencement of the trial hours. Email notification is to be sent to liquor@cityofsydney.nsw.gov.au
- (c) A further application may be lodged to continue the operating hours outlined in (b) above not less than 30 days before the end of the trial period. Council's consideration of a proposed continuation and/or extension of the hours permitted by the trial will be based on, among other things, the performance of the operator in relation to the compliance with development consent conditions, any substantiated complaints received and any views expressed by the Police.

(5) CESSATION OF SERVICE

The premises may be open for business only between the operating hours in condition 3 and 4 above. The operator must cease providing food and alcohol at the premises 15 minutes before the required closing time.

(6) MAXIMUM CAPACITY OF PERSONS

- (a) The maximum number of persons permitted in the premises at any one time is 166 persons.
- (b) The maximum patron capacity shall not exceed 102 patrons indoors and 64 patrons outdoors. The capacity for each area shall not exceed the maximum numbers at any given time.
- (c) The manager/licensee is responsible for ensuring the number of persons in the premises does not exceed that specified above.
- (d) A sign in letters not less than 25mm in height must be fixed at the main entry point to the premises alongside the Licensee's name stating the

maximum number of persons, as specified in the development consent, that are permitted in the building. Details are to be provided to the satisfaction of the Accredited Certifier prior to issue of a Construction Certificate and the Principal Certifier is to confirm compliance prior to the issue of an Occupation Certificate.

Note: Clause 98D of the *Environmental Planning and Assessment Regulation 2000* requires a sign specifying maximum number of persons permitted in the building to be displayed in a prominent position for the following types of premises:

- (i) entertainment venue,
- (ii) function centre,
- (iii) pub,
- (iv) registered club,
- (v) restaurant.

(7) PLAN OF MANAGEMENT

The use must always be operated / managed in accordance with the Plan of Management, prepared by SJB Planning dated November 2020 that has been approved by Council. In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.

(8) COPIES OF CONSENTS AND MANAGEMENT PLANS

A full and current copy of all current development consents for the operation of the licensed premises, and the Plan of Management must be kept on-site and made available to Police or Council Officers, or Special Investigator upon request.

(9) INCIDENTS – RECORDING AND NOTIFICATION

The manager/licensee must ensure that all incidents involving staff members (including security personnel) are recorded in the incident register maintained on site, including incidents involving physical contact between staff and patrons, physical restraint of patrons and/or the ejection of patrons from the premises.

(10) SURVEILLANCE CAMERAS

- (a) CCTV surveillance cameras shall be strategically installed, operated and maintained throughout the premises during all trading hours with particular coverage to:
 - (i) principal entrance/s and exits;
 - (ii) all areas within the premise occupied by the public (excluding toilets)
- (b) All CCTV recording equipment and cameras shall be of high grade digital quality capable of establishing the identification of patrons, offenders and incidents within the depth of field view of the cameras.

- (c) CCTV recordings shall have time and date auto recorded and be retained for 28 days before being re-used, destroyed or deleted. A digital copy must be handed to the Council or Police Officer on request.
- (d) All CCTV recording devices and cameras shall be checked daily to ensure the equipment is operating correctly. All reasonable steps must be taken to ensure repairs to the system are completed as soon as practicable within 24 hours.
- (e) The CCTV recording device must be kept in a secured location.

(11) QUEUING

No persons are to be permitted to drink or queue outside the premises at any time. Security officers are to ensure that there is no queue for the premises and take all reasonable steps to ensure compliance with this condition.

(12) NEIGHBOURHOOD AMENITY

- (a) Signs must be placed in clearly visible positions within the premises requesting patrons upon leaving the premises to do so quickly and quietly, having regard to maintaining the amenity of the area. The signage shall be in bold letters not less than 25mm in height on a contrasting background.
- (b) The management/licensee must ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood.

(13) NO SPRUIKING NOISE

No persons (such as those commonly known as spruikers) or recordings or other devices which have the effect of spruiking are to be located on Council owned property. Furthermore, the sound level of any spruiking generated within privately owned land must not be audible on any adjacent property with a shared boundary.

(14) NOISE FROM GLASS REMOVAL

Glass must not be emptied or transferred from one receptacle to another anywhere in a public place. All glass must be emptied / transferred inside of the building on the premises and removed in containers.

(15) REMOVAL OF GLASS

Patrons must be prevented from removing glasses, opened cans, bottles or alcohol from the premises (except from any approved bottle shop area) or approved outdoor dining area included in the boundaries of the licensed premises.

(16) NOISE – COMMERCIAL PLANT / INDUSTRIAL DEVELOPMENT

- (a) Noise from commercial plant and industrial development must not exceed a project amenity/intrusiveness noise level or maximum noise level in accordance with relevant requirements of the NSW EPA [Noise Policy for Industry 2017 \(NPfI\)](#) unless agreed to by the City's Area Planning Manager. Further:

- (i) Background noise monitoring must be carried out in accordance with the long-term methodology in [Fact Sheet B](#) of the NPfI unless otherwise agreed by the City's Area Planning Manager.
 - (ii) Commercial plant is limited to heating, ventilation, air conditioning, refrigeration and energy generation equipment.
- (b) An $L_{Aeq,15\text{ minute}}$ (noise level) emitted from the development must not exceed the $L_{A90, 15\text{ minute}}$ (background noise level) by more than 3dB when assessed inside any habitable room of any affected residence or noise sensitive commercial premises at any time. Further:
- (i) The noise level and the background noise level shall both be measured with all external doors and windows of the affected residence closed.
 - (ii) Background noise measurements must not include noise from the development but may include noise from necessary ventilation at the affected premise.
- (c) Corrections in [Fact Sheet C](#) of the NPfI are applicable to relevant noise from the development measured in accordance with this condition, however duration corrections are excluded from commercial noise.

(17) NOISE LIMITERS

Use of the all amplification equipment must comply with the following:

- (a) At a minimum, all amplification equipment used at the event must be controlled by a Root Mean Square (RMS) noise limiter, set by a suitably qualified acoustic consultant* in accordance with the manufactures specification to ensure that resultant amplified sound complies with the Council's licensed premises noise criteria. The equipment must be tamper proof and only operable by the acoustic consultant.
- (b) The noise limiter must be factory or laboratory calibrated by an accredited instrumentation calibration service provider at the time of installation. The limiter must be checked by an acoustic consultant with a piston phone calibrator at the time of installation and on three subsequent occasions during the first 60 days of monitoring. The checks must correlate with the close of business as per the requirements of Part (b)ii), Additional Noise Conditions for Licensed Premises and not be undertaken before any external noise compliance checks. The proprietor is not to be made aware on what date the calibration checks are to be conducted and will provide the consultant access to the limiter.
- (c) A piston phone check of the noise limiter shall be completed by the consultant every twelve months, the result reported to Council and a copy kept on the premises available at all times.
- (d) Field calibration check results (times and levels), serial numbers and laboratory calibration parameters of all other instrumentation and calibrators used in the process of setting and calibrating the noise limiter shall be reported.

- (e) $L_{Aeq\ 1\ minute}$ 1/1 octave band (31.5Hz to 8kHz centre frequencies inclusive) measurement results internal and external of hand held sound level meters used to assist in setting the noise limiter shall be reported to the satisfaction of council.

Additionally, a white noise signal must be played through the noise amplification system in order to set the maximum permissible broadband level of the noise limiter. The results are to be reported.

- (f) Finally, where necessary and where complex signal processing equipment is used to limit noise, the maximum A-Weighted LAF Sound Pressure Levels which are not to be exceeded in any 1/1 octave band 31.5Hz – 16kHz inclusive, within each of the rooms with noise amplification equipment are to be specified such that the noise control approval conditions cannot be exceeded must be reported.
- (g) All noise amplification equipment must be controlled by the noise limitation device as detailed in (a) above.
- (h) Access to noise limiter settings must be restricted to the Licensee or manager of the premises. The limiter settings/calibration levels must be available to Council officers upon request.
- (i) The Acoustic consultant must submit Certificate of Compliance to the Council to certify that the limiters are installed and calibrated to satisfy of Council's noise criteria for the licensed venues.

Note: Suitably qualified Acoustic Consultant means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member.

(18) NOISE - ENTERTAINMENT

- (a) The $L_{A10, 15\ minute}$ noise level emitted from the use must not exceed the background noise level ($L_{A90, 15\ minute}$) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 5dB between the hours of 7.00am and 12.00 midnight when assessed at the boundary of any affected residence.
- (b) The $L_{A10, 15\ minute}$ noise level emitted from the use must not exceed the background noise level ($L_{A90, 15\ minute}$) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) between the hours of 12.00 midnight and 7.00am when assessed at the boundary of any affected residence.
- (c) Notwithstanding compliance with (a) and (b) above, noise from the use when assessed as an $L_{A10, 15\ minute}$ enters any residential use through an internal to internal transmission path is not to exceed the existing internal $L_{A90, 15\ minute}$ (from external sources excluding the use) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed within a habitable room at any affected residential use between the hours of 7am and 12midnight. Where the $L_{A10, 15\ minute}$ noise level is below the threshold of hearing, T_f at any Octave Band Centre Frequency as defined in Table 1 of International Standard ISO 226 : 2003- Normal Equal-Loudness-Level

Contours then the value of Tf corresponding to that Octave Band Centre Frequency shall be used instead.

- (d) Notwithstanding compliance with (a), (b) and (c) above, the noise from the use must not be audible within any habitable room in any residential use between the hours of 12.00 midnight and 7.00am.
- (e) The $L_{A10, 15 \text{ minute}}$ noise level emitted from the use must not exceed the background noise level ($L_{A90, 15 \text{ minute}}$) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 3dB when assessed indoors at any affected commercial premises.

Note: The $L_{A10, 15 \text{ minute}}$ noise level emitted from the use is as per the definition in the Australian Standard AS1055-1997 Acoustics – Description and measurement of environmental noise. The background noise level $L_{A90, 15 \text{ minute}}$ is to be determined in the absence of noise emitted by the use and be representative of the noise sensitive receiver. Background noise monitoring must be carried out in accordance with the long-term methodology in Fact Sheet B of the NPfl unless otherwise agreed by the City's Area Planning Manager.

(19) COMPLIANCE WITH THE ACOUSTIC REPORT PRIOR TO CONSTRUCTION AND OR OCCUPATION CERTIFICATES

All relevant performance parameters (including but not limited to requirements, engineering assumptions and recommendations) in the DA Acoustic Report prepared by *Acoustic report prepared by Acoustic Logic dated 18 November 2020 Reference 20200872.1/1811A/R1/AR Council reference TRIM 2020/530533* must be implemented in the development prior to the commencement of its use.

- (b) Prior to the issue of any relevant Construction Certificate, the final construction drawings and final construction methodology must be assessed and reported to be in accordance with the requirements of the DA Acoustic Report in (a) above, with reference to relevant documentation. This must be done by a Suitably Qualified Acoustic Consultant* (see definition below). This work will be to the satisfaction of the accredited certifier.
- (c) Prior to the issue of any Occupation Certificate, a Suitably Qualified Acoustic Consultant* is to provide a written Acoustic Verification Report to the satisfaction of the Principal Certifier that the development complies with the requirements set out in the Report and in (a) and (b) above.

Note: *Suitably Qualified Acoustic Consultant* means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member.

- (d) All physical aspects of the building's structure installed in order to meet performance parameters in accordance with this condition must be maintained at all times.

(24) EXTERNAL SIGNAGE STRATEGY

An external signage strategy is to be submitted and prepared with input from the applicant's heritage consultant and approved by Council's Area Planning Manager Council prior to the issue of the Occupation Certificate.

(20) SIGNS - SEPARATE DA REQUIRED

A separate development application for any proposed signs must be submitted to and approved by Council prior to the erection or display of any such signs. The signs are to be in accordance with the approved Signage Strategy.

(21) SIGNS/GOODS IN THE PUBLIC WAY

No signs or goods are to be placed on the footway or roadway adjacent to the property.

(22) BICYCLE PARKING

- (a) The minimum number of bicycle parking spaces to be provided for the development must comply with the table below.

Bicycle Parking Type	Number	Requirements
Non-residential	4	Spaces must be Class 3 bicycle rails

- (b) The layout, design and security of bicycle facilities must comply with the minimum requirements of Australian Standard AS 2890.3 Parking Facilities Part 3: Bicycle Parking Facilities. The details must be submitted to and approved by the Accredited Certifier confirming compliance prior to the Construction Certificate being issued.

SCHEDULE 1B

PRIOR TO CONSTRUCTION CERTIFICATE/COMMENCEMENT OF WORK/HEALTH AND BUILDING

(23) GENERAL HERITAGE

- (a) The proposed works are to be carried out in a manner that minimises demolition, alterations, new penetrations/fixings to the significant fabric of the existing building, including the timber structure, which is listed as a Heritage Item.
- (b) The fabric and features to be retained by the proposal must be properly protected during the process of demolition and construction. The protection measures are to be specified in the construction management plan.
- (c) All conservation and adaption works are to be in accordance with the Articles of the Australia ICOMOS Burra Charter 1999.
- (d) Experienced tradespersons (as appropriate) are to be commissioned who are skilled in traditional building and engineering trades to carry out the proposed scope of works to the building
- (e) New services are to be installed with minimum intervention to significant fabric and spaces.
- (f) Brickwork must not be rendered, painted or coated.
- (g) With the Infilling of openings proposed on the western and northern elevation, where possible salvaged bricks are to be used, with matching recycled pressed bricks used to cover any shortfall.
- (h) The proposed external steel strapping to Pirrama Road elevation is to be painted the same colour the hardwood columns to lessen their visual impact.
- (i) The external steel posts to be installed to strengthen the toilet block are to be painted in the same colour as the background wall to reduce their visual impact.

(24) MAKING GOOD TO EXISTING BUILDING (Amended standard condition)

All new internal and external finishes and works of making good shall match the existing original work adjacent in respect of materials used, detailed execution and finished appearance.

(25) USE OF HERITAGE CONSULTANT (Modified standard condition)

- (a) An experienced heritage consultant is to be commissioned to work with the consultant team throughout the design development, contract documentation and construction stages of the project. The heritage consultant is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The heritage consultant is to be provided with full access to the site and authorised by

the applicant to respond directly to Council where information or clarification is required regarding the resolution of heritage issues throughout the project.

- (b) The heritage consultant is to inspect and advise on managing the implementation of the heritage conditions of the approval during the programme of works.
- (c) Evidence and details of the above commission on the above terms is to be provided to Council prior to the issue of a construction certificate being issued or commencement of work on site, whichever is the earliest.
- (d) The heritage consultant must sign off the completed project and submit a final report for approval by Council's Area Planning Manager, prior to the issue of an Occupation Certificate. This report is to specify how the heritage conditions are satisfied, and outline the heritage advice given throughout the project, the decisions made during the project on heritage matters and on the completed works.

(26) HERITAGE INTERPRETATION PLAN (Modified Standard Condition)

- (a) An interpretation plan for the site must be submitted to and approved by Council's Area Planning Manager, prior to a Construction Certificate being issued.
- (b) The interpretation plan must detail how information on the history and significance of the site will be provided for the public and make recommendations regarding public accessibility, signage and lighting. Public art, details of the heritage design, the display of selected artefacts, early plans and photographs are some of the means that can be used.
- (c) The plan must specify the location, type, materials, finishes and contents of the interpretation device proposed.
- (d) The plan is to be prepared by a suitably experienced heritage consultant or historian
- (e) Prior to an Occupation Certificate being issued the approved interpretation plan must be implemented to the satisfaction of Council's Area Planning Manager

(27) EMISSIONS

- (a) The use of the premises must not give rise to the emission of gases, vapours, dusts or other impurities which are a nuisance, injurious or prejudicial to health.
- (b) Gaseous emissions from the development must comply with the requirements of the *Protection of the Environment Operations Act 1997* and *Protection of the Environment Operations (Clean Air) Regulation 2010*.
- (c) Uses that produce airborne particulate matter must incorporate an effective dust collection system.

(28) CONSTRUCTION AND FITOUT OF FOOD PREMISES

The construction, fitout and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code under the *Food Act 2003* and AS 4674 – 2004 Design, Construction and Fitout of Food Premises.

Note: Copies of AS 4674-2004 may be obtained from the Standards Australia Customer Service on telephone 1300 65 46 46 or by visiting the website www.standards.com.au.

Copies of the Food Standards Code (Australia) may be obtained by contacting the Food Standards Australia and New Zealand Authority on telephone (02) 6271 2222, email info@foodstandards.gov.au or by visiting the website www.foodstandards.gov.au.

(29) COOLROOMS

Coolrooms, refrigerated chambers and strong-rooms must be constructed in accordance with G 1.2 of the *Building Code of Australia*, and:

- (a) The floor of the coolroom must be graded to the door and a floor trapped waste outlet must be located outside the coolroom as near as possible to the door opening.
- (b) All proposed shelving in the coolroom must be free-standing, constructed of galvanised steel angle section or other approved material with the lowest shelf at least 150mm clear of the floor.
- (c) The floor of the coolroom must be constructed of impermeable concrete or coated, topped or otherwise finished with an impervious material to a smooth even surface and coved at the intersections with the walls to a minimum radius of 25mm.
- (d) Must be fitted with a door that can be opened at all times from inside without a key.
- (e) An approved audible alarm device must be located outside the coolroom(s) but controllable only from within the coolroom(s) and must be able to achieve a sound pressure level outside the chamber or coolroom(s) of 90 dB(A) when measured 3 metres from a sounding device.

(30) GREASE AND LIQUID WASTE TRAPS

- (a) A grease trap if required by Sydney Water must be installed in accordance with Sydney Water requirements and:
 - (i) Must be installed by a suitably qualified and licensed plumber in accordance with the *Plumbing Code of Australia*;
 - (ii) The grease trap must not be located in any kitchen, food preparation or food storage area;
 - (iii) Be suitably constructed and installed in a location which allows it to be easily and effectively cleaned and emptied; and

- (iv) Be suitably constructed and located as not to encourage the harbourage of pests and be effectively pest proofed.
- (b) In-sink and in-floor waste bucket traps must be installed in all sinks and floor wastes in all commercial kitchens and food preparation areas and must be carried out by a suitably qualified and licensed plumber in accordance with the *Plumbing Code of Australia*.

(31) HOT WATER SERVICE

The capacity of the hot water service must ensure that a constant supply of hot water is provided to the premises at all times for all sinks and basins including hand wash basin/s. The temperature of the hot water provided to the sinks must be in accordance with *AS4674 – Design, Construction and Fit-out of Food Premises* and the *Australia New Zealand Food Standards Code 3.2.2 - Food Safety Practices* and general requirements.

(32) NOTIFICATION OF CONDUCT OF FOOD BUSINESS

- (a) The use shall not commence until the food business has notified Council with their food business details in accordance with the *Food Act 2003* and *The Australia New Zealand Food Standards Code – 3.2.2 – Food Safety Practices and General Requirements, Clause 4*.
- (b) An Occupation Certificate must not be issued until such notification has been received by Council in accordance with Clause (a) of this condition.

Note: Registration forms are available on Council's website www.cityofsydney.nsw.gov.au.

(33) PERSONAL LOCKERS

Clothing lockers or change rooms for male and female staff must be provided in the premises or a dedicated, separate and isolated space for personal items must be provided in a separate location to the food handling and storage areas, in accordance with *AS4674 - Design, Construction and Fit out of Food Premises*.

(34) SANITARY FACILITIES – FOOD PREMISES

The sanitary facilities must be separated from all food handling areas via an airlock, self-closing door or mechanical ventilation in accordance with the provisions of the *Building Code of Australia*, Part F 3.1, 4.8 and 4.9.

(35) WASTE STORAGE AREA

- (a) To ensure the adequate storage and collection of waste from the food premises, all garbage and recyclable materials emanating from the premises must be stored in a designated waste storage area. The waste storage area must be designed and constructed in accordance with *AS 4674 – Design, Construction and Fit-out of Food Premises, Australia New Zealand Food Standards Code 3.2.3 – Food Premises and Equipment* and comply with the *Council Policy for Waste Minimisation in New Developments*, and must be:

- (i) Provided with a hose tap connected to the water supply.
 - (ii) Paved with impervious floor materials.
 - (iii) Coved at the intersection of the floor and walls.
 - (iv) Graded and drained to a waste disposal system in accordance with the requirements of the relevant regulatory authority (Sydney Water).
 - (v) Adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour or air pollution as defined by the *Protection of the Environment Operations Act 1997* or a nuisance.
 - (vi) Fitted with appropriate interventions to meet fire safety standards in accordance with the *Building Code of Australia*.
 - (vii) Provided with the appropriate number and size of bins adequate for the storage of waste generated by the business, including recycling.
 - (viii) Appropriately managed so that it does not attract pests or create litter.
- (b) Detailed plans and specifications for the construction of the waste storage area must be submitted to and approved by the Accredited Certifier prior to the issue of the Construction Certificate and must be constructed in accordance with such plans and specifications prior to the issuance of any Occupation Certificate.

(36) TOILETS FOR FOOD HANDLERS

- (a) Adequate toilet facilities must be available for food handlers working for the food business. Toilets and associated facilities must be provided in accordance with *AS4674 – Design, Construction and Fit-out of Food Premises* and the *Australia New Zealand Food Standards Code, 3.2.3 - Food Premises and Equipment*.
- (b) Details of the location of toilets which are provided exclusively for the use of food handlers and staff working at the business must be submitted for the approval of the Accredited Certifier prior to the issue of a Construction Certificate.
- (c) The toilet(s) must be provided with a hand wash basin, with hot and cold running water mixed through a common spout, hand wash soap, hygienic hand drying facilities and hands-free taps.

(37) MECHANICAL VENTILATION

- (a) The premises must be ventilated in accordance with the *Building Code of Australia* and *AS1668.1 and AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings - Mechanical Ventilation in Buildings*.
- (b) Details of any mechanical ventilation and/or air conditioning system complying with *AS1668.1 and AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings - Mechanical Ventilation in Buildings*, the *Building*

Code of Australia and relevant Australian Standards must be prepared and certified in accordance with Clause A5.2(1)(e) of the *Building Code of Australia*, to the satisfaction of the Accredited Certifier prior to the issue of a Construction Certificate.

- (c) Prior to issue of any Occupation Certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A5.2(1)(e) of the *Building Code of Australia*, must be submitted to the Principal Certifier.

(38) WASTE AND RECYCLING COLLECTION CONTRACT

Prior to any Occupation Certificate being issued and/or commencement of the use, whichever is earlier, the building owner must ensure that there is a contract with a licensed contractor for the removal of **all waste**. No garbage is to be placed on the public way, e.g. footpaths, roadways, plazas, reserves, at any time.

(39) WASTE AND RECYCLING MANAGEMENT - MINOR

The proposal must comply with the relevant provisions of Council's *Guidelines for Waste Management in New Developments 2018* which requires facilities to minimise and manage waste and recycling generated by the proposal.

(40) WASTE/RECYCLING COLLECTION

- (a) The collection of waste and recycling must only occur during the designated zone collection times as outlined in the City's Waste Policy – Local Approvals Policy for Managing Waste in Public Places 2017.
- (b) Garbage and recycling must not be placed on the street for collection more than half an hour before the scheduled collection time. Bins and containers are to be removed from the street within half an hour of collection.

(41) ASBESTOS REMOVAL WORKS

- (a) All works removing asbestos containing materials must be carried out by a suitably licensed asbestos removalist duly licensed with Safework NSW, holding either a Friable (Class A) or a Non-Friable (Class B) Asbestos Removal Licence which ever applies.

A copy of the relevant licence shall be made available to any authorised Council officer on request within 24 hours.

- (b) Five days prior to the commencement of licensed asbestos removal, Safework NSW must be formally notified of the works. All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification must identify the licensed asbestos removal contractor and include a contact person for the site together with telephone number and email address.

- (c) All work must be carried out in accordance with the *Work Health and Safety Regulation 2017* and the NSW Government and SafeWork NSW document entitled *How to manage and control asbestos in the work place: Code of Practice (Safework NSW) December 2011* and the *City of Sydney Managing Asbestos Policy dated 21 October 2013 and associated guidelines*.
- (d) The asbestos removalist must use signs and barricades to clearly indicate the area where the asbestos removal work is being performed. Signs must be placed in positions so that people are aware of where the asbestos removal work area is and should remain in place until removal is completed and clearance to reoccupy has been granted. Responsibilities for the security and safety of the asbestos removal site and removal must be specified in the asbestos removal control plan (where required). This includes inaccessible areas that are likely to contain asbestos.
- (e) Warning signs must be placed so they inform all people nearby that asbestos removal work is taking place in the area. Signs must be placed at all of the main entry points to the asbestos removal work area where asbestos is present. These signs must be weatherproof, constructed of light-weight material and adequately secured so they remain in prominent locations. The signs must be in accordance with AS 1319 -1994 *Safety Signs for the Occupational Environment* for size, illumination, location and maintenance.
- (f) Asbestos waste must only be transported and disposed of at an EPA licensed waste facility.
- (g) No asbestos products are to be reused on the site (i.e. packing pieces, spacers, formwork or fill etc).
- (h) No asbestos laden skips or bins are to be left in any public place without the written approval of Council.
- (i) A site notice board must be located at the main entrance to the site in a prominent position and must have minimum dimensions of 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size.

The site notice board must include the following:

- (i) contact person for the site;
- (ii) telephone and facsimile numbers and email address; and
- (iii) site activities and time frames.

(42) STRUCTURAL CERTIFICATION FOR EXISTING BUILDING – ALTERATIONS AND ADDITIONS

A qualified practising certified structural engineer must provide structural certification to Council (where Council is the Certifying Authority) verifying that the existing structure can adequately support the proposed new loads and the structural design complies with the Structural Provisions of Part B1 (Vol 1) and Part 2.1 (Vol 2) of the Building Code of Australia prior to a Construction

Certificate being issued. The proposed additional loads and/or alterations must not cause a decrease in the existing structural performance of the building including its performance under earthquake actions (AS1170.4).

(43) BCA COMPLIANCE - ALTERATIONS AND ADDITIONS - UPGRADE OF BUILDING IS REQUIRED

(a) Pursuant to Clause 94 of the Environmental Planning and Assessment Regulation 2000, the existing building must comply with the following provisions of the *Building Code of Australia* (BCA):

- (i) Fire resistance and stability - Part C1;
- (ii) Compartmentation and separation - Part C2;
- (iii) Protection of openings - Part C3;
- (iv) Provision for escape (access and egress) - Part D1;
- (v) Construction of exits - Part D2;
- (vi) Access for people with disabilities - Part D3;
- (vii) Fire fighting equipment - Part E1;
- (viii) Emergency lighting, exit signs and warning systems - Part E4;
- (ix) Damp & Weatherproofing – Part F1
- (x) Sanitary and other facilities - Part F2;
- (xi) Light and ventilation - Part F4;
- ~~(xii) Section J Energy Efficiency~~

Prior to a Construction Certificate being issued the Certifying Authority must ensure that the proposed works and other upgrading works required by this condition satisfy the *Building Code of Australia* by complying with Clause A0.4 of the BCA.

(Amended 5 August 2021 – D/2020/942/A)

(44) BUILDING WORKS TO COMPLY WITH BCA – HERITAGE BUILDINGS OR BUILDINGS WITHIN CONSERVATION AREA

Any building works required to ensure compliance with the BCA or new building standards not specified in the submitted/approved plans must not damage existing fabric and building features. If such upgrading works are likely to have an adverse impact on existing fabric and features, details of the works must be submitted and approved by Council's Area Planning Manager prior to issue of a Construction Certificate.

(45) BRIEFING OF CONTRACTORS AND SUBCONTRACTORS

All contractors and subcontractors involved in the construction works are to be briefed on the heritage significance of the existing building on site prior to the work commencing. This is to form part of the on-site induction programme for all workers on the site.

(46) ACCESS AND FACILITIES FOR PERSONS WITH DISABILITIES

The building must be designed and constructed to provide access and facilities for people with a disability in accordance with the *Building Code of Australia*.

If, in complying with this condition, amendments to the development are required, the design changes must be submitted to and approved by Council prior to a Construction Certificate being issued.

(47) SYDNEY WATER CERTIFICATE (TAP-IN)

- (a) The approved plans must be submitted to Sydney Water's "Tap-in" online service to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Sydney Water's "Tap-in" online service is available at www.sydneywater.com.au, (see Plumbing, Building & Development and then Sydney Water "Tap-in").
- (b) The Consent Authority or a Principal Certifier must ensure that Sydney Water has appropriately stamped the plans before the commencement of work.

SCHEDULE 1C

DURING CONSTRUCTION/PRIOR TO OCCUPATION/COMPLETION

(48) OCCUPATION CERTIFICATE TO BE SUBMITTED

An Occupation Certificate must be obtained from the Principal Certifier and a copy submitted to Council prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.

(49) HOURS OF WORK AND NOISE – OUTSIDE CBD

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

- (a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg. loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.30am and 5.30pm on Mondays to Fridays, inclusive, and 7.30am and 3.30pm on Saturdays, with safety inspections being permitted at 7.00am on work days, and no work must be carried out on Sundays or public holidays.
- (b) All work, including demolition, excavation and building work must comply with the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436 - 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites.
- (c) Notwithstanding the above, the use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes outside of above hours can occur, subject to a permit being issued by Council under Section 68 of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993.

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

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

(50) ANNUAL FIRE SAFETY STATEMENT FORM

An annual Fire Safety Statement must be given to Council and the NSW Fire Brigade commencing within 12 months after the date on which the initial Interim/Final Fire Safety Certificate is issued or the use commencing, whichever is earlier.

(51) ENCROACHMENTS – NEIGHBOURING PROPERTIES

No portion of the proposed structure shall encroach onto the adjoining properties.

(52) ENCROACHMENTS – PUBLIC WAY

No portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach upon Council's footpath area.

(53) LOADING AND UNLOADING DURING CONSTRUCTION

The following requirements apply:

- (a) All loading and unloading associated with construction activity must be accommodated on site, where possible.
- (b) If, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.
- (c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.
- (d) Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate approval under Section 68 of the Local Government Act 1993 and Section 138 of the Roads Act 1993 must be obtained.

(54) NO OBSTRUCTION OF PUBLIC WAY

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by Council to stop all work on site.

SCHEDULE 2

PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 8A of the *Environmental Planning and Assessment Regulation 2000* apply:

- Clause 98 Compliance with *Building Code of Australia* and insurance requirements under the *Home Building Act 1989*
- Clause 98A Erection of signs
- Clause 98B Notification of *Home Building Act 1989* requirements
- Clause 98C Conditions relating to entertainment venues
- Clause 98D Conditions relating to maximum capacity signage
- Clause 98E Conditions relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 8A of the *Environmental Planning and Assessment Regulation 2000*. This can be accessed at: <http://www.legislation.nsw.gov.au>

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