

Attachment A

Recommended Conditions of Consent
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SCHEDULE 1

GENERAL CONDITIONS

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application D/2025/410 lodged on 9 May 2025 and the following drawings prepared by Richards Stanisich that have been stamp approved by Council:

Drawing Number	Drawing Name	Revision
DA-0001	Site Analysis	14/04/2025
DA-0051	Existing & Demolition Plan – Ground Floor	15/08/2025
DA-0052	Existing & Demolition Plan – First Floor	15/08/2025
DA-0053	Existing & Demolition Plan – Roof	15/08/2025
DA-0201	General Arrangement Plan – Ground Floor	15/08/2025
DA-0202	General Arrangement Plan – First Floor	15/08/2025
DA-0203	Roof Plan	15/08/2025
DA-0401	Reflected Ceiling Plan – Ground Floor	15/08/2025
DA-0402	Reflected Ceiling Plan – First Floor	15/08/2025
DA-0501	Elevations	15/08/2025
DA-0502	Elevations	15/08/2025
DA-0601	Section – Sheet 01	15/08/2025
DA-0602	Sections – Sheet 02	15/08/2025
DA-0603	Sections – Sheet 03	15/08/2025
DA-0604	Sections – Sheet 04	15/08/2025
DA-0605	Section Details	15/08/2025
DA-0710	Material Schedule	15/08/2025

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.

Reason

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

(2) HOUSING CONTRIBUTION – RESIDUAL LAND – PAYMENT IN LIEU OF FLOOR SPACE CONTRIBUTION – PRIOR TO CONSTRUCTION CERTIFICATE

- (a) In accordance with the City of Sydney Affordable Housing Program and prior to the issue of a construction certificate, the applicant must provide evidence that a monetary contribution towards the provision of affordable housing has been paid to the City of Sydney Council.

- (b) The contribution is **\$37,712.50** (indexed at 1 March 2025). This is calculated by calculating the average of the last four first quartile sale prices for Strata properties in the City of Sydney LGA and in accordance with Clause 48 of the SEPP (Housing) 2021. The average sale price during the last four quartiles was \$754,200.
- (c) If the contribution is paid after the indexation period in which the consent is granted, the above contribution will be adjusted according to the Sydney LGA median strata sale dwelling price using the following formula:

Contribution payable at Time of Payment = $C \times \text{MDP2} / \text{MDP1}$ where:

- (i) C is the original total contribution amount payable to the City of Sydney as shown above;
- (ii) MDP2 is the Median Strata Dwelling Price in Sydney LGA taken from the most recent NSW Government Rent and Sales Report at time of indexation of the equivalent monetary contribution rate; and
- (iii) MDP1 is the Median Strata Dwelling Price in Sydney LGA taken from the NSW Government Rent and Sales Report used to establish the current equivalent monetary contribution rate.

Contact Council's Planning Assessment Unit for written confirmation of the amount payable, with indexation as necessary, prior to payment at planningsystemsadmin@cityofsydney.nsw.gov.au.

Reason

To ensure development contributions are paid to contribute to the provision of essential affordable rental housing infrastructure.

(3) HOUSING AND PRODUCTIVITY CONTRIBUTION

Before the issue of any Construction Certificate the housing and productivity contribution (HPC) set out in the table below is required to be made.

Housing and productivity contribution	Amount
Housing and productivity contribution (base component)	\$11,566.49
Transport project component	Nil
Total housing and productivity contribution	\$11,566.49

The HPC (indexed at March 2025) must be paid using the NSW planning portal (<https://pp.planningportal.nsw.gov.au/>).

At the time of payment, the amount of the HPC is to be adjusted in accordance with the *Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024* (HPC Order).

The HPC may be made wholly or partly as a non-monetary contribution (apart from any transport project component) if the Minister administering *the Environmental Planning and Assessment Act, 1979* agrees.

The HPC is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the *Environmental Planning and Assessment Act, 1979* to the development, or the HPC Order exempts the development from the contribution.

The amount of the contribution may be reduced under the HPC Order, including if payment is made before 1 July 2026.

Reason

To require contributions towards the provision of regional infrastructure.

(4) GENERAL HERITAGE

- (a) The existing timber pharmacy cabinetry in the front room of 380 Cleveland Street must be retained and remain in its existing location.
- (b) The proposed works are to be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to the original fabric of 380 Cleveland Street which is listed as a heritage item and to the original fabric of external areas of both buildings which are listed as contributory to the heritage conservation area.
- (c) The fabric and features to be retained by the proposal must be properly protected during the process of demolition and construction.
- (d) All conservation and adaptation works to the 380 Cleveland Street portion of the site are to be in accordance with the Articles of the Australian ICOMOS Burra Charter 2013.
- (e) New services on the 380 Cleveland Street portion of the site are to be surface mounted rather than chased-in to existing walls to minimise impact on heritage fabric and where possible, new services must use existing service runs. New fixings should be kept to a minimum with the reuse of existing fixing points where possible.
- (f) Appropriately qualified tradespersons (as appropriate) are to be commissioned who are skilled in traditional building and engineering trades to carry out the proposed scope of works.
- (g) The new windows and doors on the existing building must match the original material, which is timber joinery.
- (h) All proposed works must be carried out on a like-for-like basis unless otherwise approved.
- (i) All new repairs and works for making good, are to match the existing in terms of colours, finishes, sizes, profiles and properties as closely as possible unless otherwise approved.

- (j) Unless shown on the approved plans as being removed, no additional demolition works to the building are approved without being submitted to and approved by Council prior to the issue of a construction certificate.

Reason

To ensure that the development does not result in adverse heritage impacts.

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

(5) COMPLIANCE WITH THE ACOUSTIC REPORT

- (a) All relevant performance parameters (including but not limited to requirements, engineering assumptions and recommendations) in the DA Acoustic Report prepared by PWNA, dated 18 August 2025, ref. 240097 - Revision 5, titled 'The Boxing Bear, Surry Hills', (Council Reference 2025/502228) 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 Registered 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 join the Australian Acoustical Society, Institution of Engineers Australia (grade of member) or the Association of Australasian Acoustical Consultants (grade of member firm).
- (d) All physical aspects of the building's structure installed in order to meet performance parameters in accordance with this condition must be maintained at all times.

Reason

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

(6) HERITAGE ITEMS – WORKS TO BE CONSISTENT WITH CONSERVATION MANAGEMENT PLAN AND HERITAGE IMPACT STATEMENT

- (a) A conservation work schedule detailing methodologies for implementation of the recommendations of the Heritage Impact Statement (dated May 2025) and Addendum to the Heritage Impact Statement (undated) prepared by John Oultram Heritage & Design, must be submitted to and approved by Council, prior to a Construction Certificate being issued.

- (b) The conservation work schedule must detail how the following recommendations will be undertaken as outlined in Section 11.3 and 11.4 of the Addendum to the Heritage Impact Statement and include detailed drawings and outline specifications of works required to support any schedule of conservation works.

The work schedule must be implemented to the satisfaction of Council's Urban Design and Heritage Manager or Area Planning Manager prior to the issue of any Occupation Certificate.

Reason

To ensure the works are carried out in an appropriate manner that protects the heritage of the site and building.

(7) HERITAGE CONSERVATION WORKS SCHEDULE

- (a) Prior to the issue of the Construction Certificate, a schedule of conservation works to be undertaken concurrent with the works is to be submitted to Council's Urban Design and Heritage Manager or Area Planning Manager for approval.
- (b) The schedule is to detail the conservation of all fabric identified as having a heritage significance/ value including but not limited to the following: the internal shop interiors, door and window joinery, stair and balustrade, glazing, ceilings and flooring, hardware, tiles, roof plumbing, roofing and painting.
- (c) A methodology for a non-invasive protection of surfaces within the shop interiors (by means of glass top counters, for example) is to be included as part of the Schedule and is to be implemented into the works for the use of the place as a bar/restaurant.
- (d) The schedule is to be supported by outline specifications, methodologies and detailed architectural sections, elevations and plans at 1:20 and 1:5 scales. The details should incorporate any structural and/or building services design for the building.

Reason

To ensure the carrying out of appropriate heritage conservation works.

(8) HERITAGE INTERPRETATION PLAN

- (a) A heritage interpretation plan for the building at 380 Cleveland Street must be submitted to and approved by Council's Urban Design and Heritage Manager / Area Planning Manager prior to a Construction Certificate being issued. The plan is to be prepared by a suitably qualified and experienced heritage practitioner or historian.

- (b) The interpretation plan must detail how information on the history and significance of the early shop interior 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 are some of the means that can be used.
- (c) The plan must specify the location, type, making materials and contents of the interpretation device being proposed.
- (d) Prior to the issue of an occupation certificate, the approved interpretation plan must be implemented to the satisfaction of Council's Urban Design and Heritage Manager or Area Planning Manager.

Reason

To ensure that the heritage of the site is appropriately interpreted and incorporated into the development.

(9) REDUCTION OF RISING DAMP AND SALT ATTACK IN BUILDINGS CONSTRUCTED PRIOR TO 1920

To avoid potential damage caused by rising damp and migrating salts, the following is to apply to the internal ground floor concrete slab:

- (a) A new damp course, either chemical or physical, must be professionally installed in the course of brickwork immediately above the new reinforced concrete slab that is to be laid directly on a compacted sand base within the building.
- (b) A waterproofing coating must be applied to the face of brickwork prior to installation of the expansion joints, from below top of slab level extending as far down as practicable prior to placement of the compacted sand base.
- (c) Expansion joints must separate the new concrete slab from all internal brick walls.

Advisory note: Where there is evidence of rising damp, it is recommended that any old lime mortar render on the wall is removed, and replaced with new render, to remove salts. Paint should be acrylic and permeable, to permit dampness in the wall to dry. Walls should not be treated with a sealant, as this will force dampness and dissolved salts higher up the wall.

Reason

To avoid potential damage caused by rising damp and migrating salts.

(10) HERITAGE BUILDING WORKS TO COMPLY WITH NCC

Any building works required to ensure compliance with the NCC (previously known as BCA) or new building standards not specified in the submitted/ approved plan must not damage existing fabric and building features. If such upgrading works have impact or potentially have impact on existing fabric and features, details of the works must be submitted and approved by Council's Area Coordinator Planning Assessments / Area Planning Manager prior to issue of any Construction Certificate.

Reason

To ensure an appropriate heritage outcome.

(11) ALLOCATION OF PARKING

The number of car parking spaces to be provided for the development must comply with the table below. Details confirming the parking numbers must be submitted to the satisfaction of the Registered Certifier prior to the issue of a Construction Certificate.

Car Parking Type	Number
Service vehicle spaces (B99 space, existing)	1
Total	1

Reason

To ensure the allocation of parking is in accordance with Council's Development Control Plan.

(12) BICYCLE PARKING AND END OF TRIP FACILITIES

- (a) The minimum number of bicycle parking spaces and end of trip facilities to be provided within the site boundary for the development must comply with the table below.

Bicycle Parking Type	Number	Requirements
Staff / Employee	2	Spaces must be Class 2 bicycle facilities
End of Trip Facility Type	Number	
Showers with change area	2	
Personal lockers	3	

- (b) All bicycle parking spaces and end of trip facilities must be provided on private land. The public domain cannot be used to satisfy this condition.

- (c) 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 Registered Certifier confirming prior to and form part of the Construction Certificate being issued.

Reason

To ensure the allocation of bicycle parking onsite that is in accordance with the Australian Standards and the Council's DCP.

(13) PUBLIC DOMAIN DAMAGE BOND

- (a) A Public Domain Damage Deposit calculated on the basis of 46 square metres of asphalt on Cleveland Street and 84 square metres of asphalt on Marlborough Street must be lodged with Council in accordance with the City of Sydney's adopted Schedule of Fees and Charges. The bond must be provided as security for repairing any damage to the public domain in the vicinity of the site.
- (b) The Council's Public Domain Unit must be contacted to determine the bond amount prior to lodgement. The bond must be lodged with the Council prior to an approval for demolition being granted or any construction certificate being issued, whichever is earlier.
- (c) The bond in this condition will be released in full when the Public Domain Works Security Bond is lodged with Council.

Reason

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

(14) DILAPIDATION REPORT – PUBLIC DOMAIN

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

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

Reason

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

(15) PROTECTION OF STONE KERBS

- (a) The existing stone kerbs on Cleveland Street frontage of the site are to be retained and properly protected during demolition, excavation and construction works.
- (b) To avoid damage to stone kerbs during excavation and construction works for the development, temporary removal and storage of the stone kerbs may be approved by Council. Removed, serviceable stone kerbs (i.e. those that are in good condition as agreed by Council officers) must be re-installed in accordance with the City of Sydney's standard details and specifications after the construction works have been completed. A temporary concrete kerb will need to be constructed to retain the footpath until the stone kerbs can be reinstalled.
- (c) Note the following:
 - (i) all costs associated with the works are to be borne by the developer.
 - (ii) damaged kerbs are to be replaced to match existing to Council's satisfaction or as otherwise advised by Council officers.
 - (iii) where new vehicle crossings or temporary crossings are to be constructed to access the property, the affected kerb stones should be salvaged and reused wherever possible.
 - (iv) all new driveway laybacks and kerbs are to be constructed with stone kerbs to match existing stones or as specified by City officers.
 - (v) Council approval is required before kerbs are removed.
 - (vi) Council approval is required prior to the cutting of existing stone kerbs for stormwater kerb outlets.
 - (vii) stone kerbs and gutters may be bonded in accordance with the City of Sydney's adopted Schedule of Fees and Charges. If so, this will be included with the Public Domain Damage Bond.

Reason

To ensure the protection of stone kerbs.

(16) SWINGING DOORS OVER PUBLIC WAY

Any access doors to enclosures housing building services and facilities, such as hydrant and sprinkler booster assemblies or the like, must not open over the footway/roadway.

Reason

To ensure no element of the development obstructs the use of the public way.

(17) STORMWATER AND DRAINAGE

The drainage system is to be constructed in accordance with Council's standard requirements as detailed in the City of Sydney's Stormwater Drainage Manual. The development is to be designed so that the flow of pollutants from the site due to stormwater is reduced.

Reason

To ensure the drainage system meets relevant Council requirements.

(18) AIR-CONDITIONING CONDENSER UNITS

Any approved A/C condenser units must:

- (a) Not reduce the structural integrity or fire resistance level of the building.
- (b) Be adequately waterproofed if any opening is created to the building or roof.
- (c) Be designed to not operate:
 - (i) During peak time, at a noise level that exceeds 5 dB(A) above the ambient background noise level measured at any property boundary, and
 - (ii) During off peak time, at a noise level that is audible in habitable rooms of adjoining residences.

Reason

To ensure approved A/C condenser units do not cause unacceptable environmental impacts and they accord with relevant legislation, regulations and controls.

(19) PREPARATION OF CONSTRUCTION AND FIT OUT PLANS FOR FOOD AND DRINK PREMISES

Prior to the issue of a Construction Certificate, detailed plans of all food and beverage preparation, serving and storage areas (including for perishable stock, waste, chemicals and personal belongings) must be prepared by a suitably qualified person in accordance with the following and submitted to and approved by Council:

- (a) Food Standards Code (Australia) and Food Safety Standard 3.2.3 – Food Premises and Equipment.
- (b) Food Act 2003 and Food Regulation 2015.
- (c) Australian Standard 4674 - 2004 – Design, Construction and Fit-out of Food Premises.
- (d) Plumbing Code of Australia and Australian Standard/New Zealand Standard AS/NZS 3500 series on Plumbing and Drainage.

- (e) Sydney Water commercial trade wastewater requirements for food premises, and
- (f) Any relevant Water Services Association of Australia codes of practice guidelines, policies and requirements.

Note: Codes, standards, regulations and requirement listed above must refer to editions in force on the date of determination.

Reason

To ensure detailed construction and fit out plans are submitted which comply with the relevant standards prior to the issue of a Construction Certificate.

(20) PREPARATION OF MECHANICAL VENTILATION PLANS

Prior to the issue of a Construction Certificate, detailed plans of the mechanical exhaust ventilation system must be prepared by a suitably qualified person and submitted to and approved by Council. The plans must be in accordance with the following:

- (a) Australian Standard 1668: - The use of ventilation and air conditioning in buildings; and
- (b) Ensure all generate heated air, smoke, fumes, steam or grease vapours do not:
 - (i) cause a nuisance to persons within or nearby to the premises; or
 - (ii) cause air pollution as defined under the NSW Protection of the Environment Operations Act 1997.

Reason

To ensure that detailed professional plans of the approved mechanical ventilation system are submitted prior to the issue of a Construction Certificate.

BEFORE BUILDING WORK COMMENCES

(21) USE OF HERITAGE CONSULTANT – MINOR DEVELOPMENT

- (a) A heritage consultant experienced in heritage restoration and renovation works 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. Evidence and details of the above commission on the above terms are to be submitted to Council's Area Coordinator Planning Assessments / Area Planning Manager prior to commencement of work on site.
- (b) The heritage consultant must sign off the completed project and submit a final report to Council's Area Coordinator Planning Assessments / Area Planning Manager specifying how the heritage conditions are satisfied prior to the issue of any Occupation Certificate or the commencement of the use, whichever is earlier.

Reason

To ensure that the implementation of the approved development is carried out in a manner that does not have adverse heritage impacts.

(22) FLASHINGS TO BOUNDARY WALLS

Stormwater from the property must not flow over the existing boundary walls onto 376 Cleveland Street, Surry Hills. A flashing may be required to prevent this water run-off.

Note: Attachments or connections to party walls may require the consent of the adjoining property owner/s.

Reason

To prevent water entering between the walls of adjoining properties.

(23) ON-SITE LOADING AREAS AND OPERATION

All loading and unloading operations associated with servicing the site must be carried out within the confines of the site, at all times and must not obstruct other properties/units or the public way.

At all times the service vehicle docks, car parking spaces and access driveways must be kept clear of goods and must not be used for storage purposes, including garbage storage.

The on-site service vehicle space must be made available for all servicing and delivery purposes, including removalist vehicles, bulky goods deliveries, and similar activities. The manager of the premises is to ensure delivery/waste vehicles do not frequently arrive simultaneously.

Reason

To maintain the orderly operation of vehicle parking areas and to ensure the public domain is kept free from physical obstructions.

(24) VEHICLE FOOTWAY CROSSING

A separate application is to be made to, and approved by, Council for the construction of any proposed changes to the vehicle footway crossing or for the removal of any existing crossing and any replacement of the footpath formation where any such crossings are no longer required.

All disused or redundant vehicle crossings and laybacks must be removed and footway, kerb, gutter and road restoration reinstated in accordance with Council's standards, to suit the adjacent finished footway and edge treatment materials, levels and details, or as otherwise directed by Council officers. All construction and replacement works are to be completed in accordance with the approved plans prior to the issue of any Occupation Certificate.

Note: In all cases the construction materials should reinforce the priority of pedestrian movement over that of the crossing vehicle.

Reason

To ensure appropriate approval is obtained.

(25) VEHICLE CLEANSING

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

Reason

To ensure sediment is not tracked onto the roadway.

(26) WORKS REQUIRING USE OF A PUBLIC PLACE

Where construction/building works require the use of a public place including a road or footpath, a separate application under Sections 138/139 of the Roads Act, 1993 must be submitted to and approved by Council prior to the commencement of work. Details of any barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.

Reason

To protect the amenity of the public domain and obtain relevant approvals.

(27) APPLICATION FOR HOARDINGS AND SCAFFOLDING INSTALLED ON OR ABOVE A PUBLIC ROAD AND OPERATING HOISTING DEVICES INCLUDING BUILDING MAINTENANCE UNITS OVER A PUBLIC ROAD

- (a) Where a hoarding and/or scaffolding (temporary structures) are proposed to be installed on or above a road reservation (footway and/or roadway), a separate application under Section 68 of the *Local Government Act, 1993* and Sections 138/139 of the *Roads Act, 1993* must be submitted to and approved by Council for such structures.
- (b) Where an approval (Permit) is granted allowing the placement of temporary structures on or above a public road the structures must comply fully with Council's *Hoarding and Scaffolding Policy; Guidelines for Hoardings and Scaffolding*; and the conditions of approval (Permit) granted including:
 - (i) maintaining a current and valid approval for the full duration that the temporary structure/s is in place;
 - (ii) maintaining temporary structure/s in a structurally sound and stable condition for the full duration of installation (Clause 2.11.1);
 - (iii) bill posters and graffiti being removed within 24 hours of their placement (Clause 2.11.2);
 - (iv) maintaining temporary structures and the public place adjoining the work site in a clean and tidy condition including repainting and/or repair of graphics (Clauses 2.11.1, 2.11.4, 2.14.1 and 3.9.3);
 - (v) maintaining a watertight deck (Type B hoardings) to prevent liquids including rainwater, falling onto the footway/roadway surfaces (Clauses 3.9.1 and 3.9.4);
 - (vi) approved site sheds on the decks of a Type B hoarding being fully screened from the public place (Clause 3.9.5);
 - (vii) material and equipment not being placed or stored on the deck of Type B hoardings, unless specifically approved by Council (Clause 3.9.4);
 - (viii) providing and maintaining operational artificial lighting systems under Type B hoardings including at high-bay truck entry points (Clause 3.9.9); and
 - (ix) ensuring all required signage, artwork or historic images are provided and fully maintained to Council's requirements (Clauses 3.4, 3.9.3, 3.9.6, 3.9.8, 3.10.1 and 4.2).

If it is proposed to operate a hoisting device including a building maintenance unit above a public road which swings, hoists material/equipment and/or slews/wind vanes any part of the device over the public road, a separate application under Section 68 of the *Local Government Act, 1993* and Sections 138/139 of the *Roads Act, 1993* must be made to Council to obtain approval.

Note: 'Building maintenance unit' means a power-operated suspended platform and associated equipment on a building specifically designed to provide permanent access to the faces of the building for maintenance (*Work Health and Safety Regulation, 2017*).

Reason

To ensure relevant applications are made for construction works.

(28) SURVEY

All footings, walls and floor slabs adjacent to a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report, prepared by a Registered Surveyor, must be submitted to the Principal Certifier indicating the position of external walls in relation to the boundaries of the allotment. Any encroachments by the subject building over adjoining boundaries or roads must be removed prior to continuation of building construction work.

Reason

To ensure all proposed works are contained within the property boundaries of the subject site.

DURING BUILDING WORK

(29) ASBESTOS REMOVAL WORKS

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 must be made available to any authorised Council officer on request within 24 hours.

Reason

To ensure that the handling and removal of asbestos from the site is appropriately managed.

(30) 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 application under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993 must be submitted to and approved by Council.

Reason

To protect the amenity of the public domain.

(31) COVERING OF LOADS

All vehicles involved in the excavation and/or demolition process and departing the property with demolition materials, spoil or loose matter must have their loads fully covered before entering the public roadway.

Reason

To ensure loads are managed appropriately and do not impact local amenity.

(32) HAZARDOUS AND INDUSTRIAL WASTE

Hazardous and/or industrial waste arising from the demolition/operational activities must be removed and/or transported in accordance with the requirements of the NSW Work Cover Authority pursuant to the provisions of the following:

- (a) *Protection of the Environment Operations Act 1997*
- (b) *Protection of the Environment Operations (Waste) Regulation 2005*
- (c) *Waste Avoidance and Resource Recovery Act 2001*
- (d) *Work Health and Safety Act 2011*
- (e) *Work Health and Safety Regulation 2017.*

Reason

To ensure hazardous/ industrial waste is managed appropriately.

(33) NO OBSTRUCTION OF PUBLIC WAY

Unless otherwise approved by Council, the public way must not be obstructed by any materials, vehicles, waste receptacles, skip-bins or the like. Non-compliance with this requirement may result in the issue of a notice by Council to stop all work on the site. If services are required to be relocated to clear paths of travel then this must be undertaken at the developer's expense. All obstructions are to be removed prior to the issue of any type of Occupation Certificate.

Reason

To protect the amenity of the public domain.

(34) 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 (e.g. loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.30am and 5.30pm on Mondays to Fridays, inclusive, and 7.30am and 3.30pm on Saturdays, with safety inspections being permitted at 7.00am on work days, and no work must be carried out on Sundays or public holidays.

- (b) All work, including demolition, excavation and building work must comply with the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436 - 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites.
- (c) Notwithstanding the above, the use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on-site tower cranes which warrant the on-street use of mobile cranes outside of above hours can occur, subject to a separate application being submitted to and approved by Council under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993.

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

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

Reason

To protect the amenity of the surrounding area.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

(35) NOTIFICATION OF CONDUCT OF FOOD BUSINESS

Prior to the issue of an Occupation Certificate, Council must be notified of the food business in accordance with the NSW Food Act 2003 and the Australia New Zealand Food Standards Code – 3.2.2 – Food Safety Practices and General Requirements.

Reason

To enable Council to ensure compliance with the consent when the business is operating.

(36) SURVEY CERTIFICATE AT COMPLETION

A Survey Certificate prepared by a Registered Surveyor must be submitted to the Principal Certifier at the completion of the building work certifying the location of the building in relation to the boundaries of the allotment.

Reason

To ensure all proposed works are contained within the property boundaries of the subject site and to verify the property boundaries.

OCCUPATION AND ONGOING USE

(37) 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.

Reason

To ensure the site is authorised for occupation.

(38) COMPLIANCE WITH THE PLAN OF MANAGEMENT

- (a) The use must always be operated / managed in accordance with the Plan of Management titled 'Boxing Bear – Operational Plan of Management' dated 15 August 2025 (Council Reference: 2025/502242).
- (b) The trading hours that have been approved are stipulated under the "Trading Hours" condition of this consent.
- (c) The approved Plan of Management can be updated at any time by submitting a revised Plan of Management to Council for endorsement by Council's Area Planning Manager without the need for a Section 4.55 modification application.

Reason

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

(39) COMPLIANCE WITH THE WASTE MANAGEMENT PLAN - COMMERCIAL

The Operational Waste Management Plan prepared by Waste Audit & Consultancy Services (Council Reference: 2025/274684) accompanying the development application has been approved by this consent which is responsive to the architectural plans.

Reason

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

(40) COPIES OF CONSENTS AND MANAGEMENT PLANS

A copy of the current development consent(s) for the operation of the licensed premises, and any approved Plan of Management must be kept on-site and made available to Authorised Officers.

Reason

To ensure all relevant approved documents are available on-site upon request.

(41) TRADING HOURS

- (a) The permitted trading hours are restricted to between 12:00 noon and 10:00pm Monday to Sunday.
- (b) Notwithstanding (a) above, the premises may trade between 10:00pm and 12:00 midnight Monday to Sunday for a trial period of 2 years from the date of this consent.
- (c) Should the operator seek to continue the extended operating hours outlined in (b) above, an application must be lodged with Council at least 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 NSW Police and Liquor & Gaming.
- (d) The glazed operable skylight must be kept shut after 8:00pm, Monday to Sunday.

Reason

To ensure the premises trades within the approved trading hours to mitigate noise and other amenity impacts for surrounding properties.

(42) MAXIMUM CAPACITY OF PERSONS

- (a) The maximum number of persons (including staff, patrons and performers) permitted in the premises at any one time is 186 (comprising 156 patrons and 30 staff).
- (b) The manager is responsible for ensuring the number of persons in the premises does not exceed that specified above.
- (c) A sign in-letters not less than 25mm in height must be fixed at the main entry point to the premises stating the maximum number of persons, as specified in the development consent, that are permitted in the premises.

Reason

To ensure the premises can safely accommodate patrons, staff and performers and safeguard the amenity of the surrounding neighbourhood.

(43) NO MUSIC OR SPEAKERS OUTSIDE

Speakers and/or noise amplification equipment must not be installed and music must not be played in any of the outdoor areas associated with the premises including the public domain. Speakers located within the premises must not be placed so as to direct the playing of music towards the outdoor areas associated with the premises.

Reason

To safeguard the amenity of the surrounding neighbourhood.

(44) GLASS CRUSHER

All glass bottles and other glass waste must be reduced to glass shards (by way of a glass crusher located inside the premises) prior to the removal of such waste from the premises.

Reason

To safeguard the amenity of the surrounding neighbourhood.

(45) SIGNAGE NOT PROPOSED - SEPARATE DA REQUIRED

A separate development application for any proposed signs (other than exempt or complying signs) must be submitted to and approved by Council prior to the erection or display of any such signs.

Reason

To require separate consent to be obtained for any additional signs.

(46) CONTROL OF LIGHT INTO THE ENVIRONMENT

Any 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 AS/NZS 4828.

Reason

To ensure external lighting is designed in accordance with the Australian Standards.

(47) SERVICE VEHICLE SIZE LIMIT

The size of vehicles servicing the property must be a maximum length of 5.2 metres.

Reason

To maintain the orderly operation of vehicle parking and loading areas.

(48) NOISE FROM ENTERTAINMENT ACTIVITIES

During ongoing use of the premises, the cumulative emission of noise from any entertainment activities must comply with Requirement 3, NOISE FROM ENTERTAINMENT ACTIVITIES, as specified in the City of Sydney – Environmental Noise Technical Requirements, dated October 2025.

Reason

To protect the acoustic amenity of surrounding properties.

(49) WASTE AND RECYCLING MANAGEMENT - GENERAL

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

Reason

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

(50) SCHEDULE WASTE COLLECTION - COMMERCIAL

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

Reason

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

(51) STORAGE AND DISPOSAL OF WASTE MATERIALS DURING ONGOING USE

During the ongoing use of the premises:

- (a) An adequate number of bins must be put on the premises for the storage of any waste that is generated (including for recycling).
- (b) All waste and recyclable materials generated from the premises must be stored wholly within any approved storage area and must not be stored outside the premises (including any public place) at any time.
- (c) Arrangements must be implemented for the separation of recyclable materials from waste.
- (d) Any approved waste storage area must be appropriately maintained to prevent litter and the entry of pests.

- (e) Liquid waste shall be stored within a building or in a covered and banded area in appropriate containers.
- (f) Where Council does not provide commercial garbage and recyclable materials collection services:
 - (i) a contract must be entered into with a licensed contractor to provide these services for the premises; and
 - (ii) a copy of the contract must be kept on premises and provided to relevant authorities including council officers on request.

Reason

To ensure proper handling of waste, garbage and recyclable materials generated during operation of the premises.

(52) MECHANICAL VENTILATION – ONGOING MAINTENANCE AND CLEANING

- (a) A written Maintenance and Cleaning Plan of Management must be kept on the premises and be available to an officer of Council upon request. This plan must be produced detailing the methods and procedures required to maintain the filtration and odour control system(s) in accordance with manufacturer's specifications, in a clean condition, and in satisfactory working order. The maintenance and cleaning management plan must include the following:
 - (i) What type of maintenance and cleaning procedures are to be followed, and at what frequency; and
 - (ii) Emergency maintenance and risk management associated with a failure in the system; and
 - (iii) The contact person/s details for emergency maintenance.
- (b) A service log that shows compliance with the written Maintenance and Cleaning Plan of Management in (a) above regarding the cleaning and maintenance of the filtration and odour control system(s) must be produced and completed accordingly when maintenance and servicing occurs. This service log must be kept updated and kept on the premises at all times and be available to an officer of Council upon request.

Reason

To protect the amenity of the surrounding area.

(53) NO CHARCOAL OR SOLID FUEL COOKING

No charcoal or solid fuel cooking is approved as part of this application.

For the purpose of this condition, solid fuel cooking should be defined as any solid material used as a fuel to produce energy and provide heating through combustion for the purpose of cooking. Solid fuels will include but are not limited to wood, charcoal, peat, coal, etc.

Reason

To restrict the provision of charcoal or solid fuel cooking on the premises.

(54) ENCROACHMENTS – NEIGHBOURING PROPERTIES

No portion of the proposed works can encroach onto the adjoining properties.

Reason

To ensure the proposed works do not encroach onto neighbouring properties.

(55) ENCROACHMENTS – PUBLIC WAY

No portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach over the public way.

Reason

To ensure the proposed works do not encroach onto the public way.

SCHEDULE 2

PRESCRIBED CONDITIONS

The applicant must comply with all relevant conditions contained in Part 4, Division 2, Subdivision 1 of the *Environmental Planning and Assessment Regulation, 2021* which apply to the development.

Refer to the New South Wales State legislation for full text of the clauses under Part 4, Division 2, Subdivision 1 of the *Environmental Planning and Assessment Regulation, 2021*. This can be accessed at: <http://www.legislation.nsw.gov.au>.