

Attachment D

**Development Consent D/1999/303/C
(as modified)**

3 August, 2021

CORONA PROJECTS PTY LTD

Dear Sir/Madam

SECTION 4.55 MODIFICATION APPROVAL FOR 43 ALBION STREET, SURRY HILLS NSW 2010
APPLICATION NO: D/1999/303/C

I refer to your application dated 24 June 2021 to amend current consent D/1999/303.

You are advised that your application for modification has been approved under Section 4.55(2) of the Environmental Planning and Assessment Act 1979. A copy of the Notice of Determination of the original development application is attached with the amendments resulting from the modification shown in ***bold italics***.

This approval is limited to only those amendments requested in your Section 4.55 application dated 24 June 2021. Approval is not granted for any other items which may have been amended on the submitted drawings and for which approval has not been specifically sought.

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

The Council officer dealing with this application is **Derek Smyth ph. 02 9246 7269, email dsmyth@cityofsydney.nsw.gov.au**.

Yours faithfully



Chris Corradi
Area Planning Manager

Notes:

Modification of development consent in accordance with Section 4.55 of the Act shall not be construed as the granting of development consent, but reference to a development consent, is a reference to the development consent so modified.

Section 8.9 of the Act confers on an applicant who is dissatisfied with this determination a right of appeal to the Land and Environment Court and the Court may determine the appeal.

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

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

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

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

Development Application No.	D/1999/303/C
Applicant	CORONA PROJECTS PTY LTD
Land to be developed	43 Albion Street, SURRY HILLS NSW 2010 Lot 1 DP 780913
Approved development	Continued use of premises as a brothel operating between 10am - 5am daily.
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	28 July 1999
Consent will lapse on	28 July 2004
<i>Date of Section 4.55(2) Modification</i>	3 August 2021

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

No submissions were received.

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, appearing to read 'G. Jahn', with a stylized flourish at the end.

per
GRAHAM JAHN AM
Director - City Planning, Development & Transport

CONDITIONS OF CONSENT

SCHEDULE 1A

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

PRIOR TO COMMENCEMENT OF WORK/HEALTH AND BUILDING

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/1999/303:

Drawing Number	Drawn By	Date
Approved plans	Peter Banfield	28/7/99

and as amended by the conditions of this consent and the following plans:

Drawing Number	Drawing Name	Date
00	Site Plan Rev B	August 2020 20/7/21
01	Ground Floor Plan Rev B	August 2020 20/7/21
02	First Floor Plan Rev B	August 2020 20/7/21
03	Attic Plan Rev B	August 2020 20/7/21
04	Elevations Rev B	20/7/21
05	Section	20/7/21

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

(As amended D/1999/303/A – 15 October 2020)

(As amended D/1999/303/C – 3 August 2021)

(2) PLAN OF MANAGEMENT

~~That the final Plan of Management shall be fully complied with at all times, and all strategies included therein, to the satisfaction of Council, the Surry Hills Police, and the Sex Workers Outreach Program (SWOP).~~

The operation of the premises must be conducted in accordance with the Plan of Management that has been approved by Council. Should there be any

additional or altered activities/procedures to those specified in the approved plan of management that remain within the scope of the development consent, the plan of management must be appropriately reviewed and submitted to and approved by Council.

(As amended D/1999/303/A – 15 October 2020)

(3) COMPLIANCE WITH CONDITIONS

That the proprietor shall be held responsible for ensuring that the premises is run in accordance with the conditions of consent, including the approved Plan of Management and the strategies included therein;

(4) HOURS OF OPERATION

That the hours of operation shall be restricted to between 10.00a.m and 5.00 a.m daily;

(5) SCOPE OF CONSENT

~~That a maximum of two (2) sex workers and one (1) receptionist shall work on the premises at any time;~~

This approval is based on the following:

- (a) *No more than eight sex workers employed on the site at any one time.*
- (b) *Six client service rooms.*

(As amended D/1999/303/A – 15 October 2020)

(6) PREVIOUS APPROVALS

The use, occupation and management of the subject premises shall be in accordance with the previously approved development application U99-00303 and the conditions of consent contained within the Notice of Determination dated 28 July 1999 and as amended by the conditions of this consent.

(As amended D/1999/303/A – 15 October 2020)

(7) RESTRICTIONS ON REAR ACCESS

The rear access shall be used by staff only between the hours of 10.00pm and 10.00am. Customers shall use the front access only and there shall be no waiting by customers at the rear of the ground floor level.

(As amended D/1999/303/A – 15 October 2020)

(8) CAR PARKING

~~That a minimum of two (2) off street car parking spaces shall be provided and each space shall be a minimum of 5.4m x 2.6m or 5.5m x 2.5m;~~

(As amended D/1999/303/A – 15 October 2020)

(9) NO FLASHING

That no flashing, moving or intermittent lighting, visible from the public way shall be installed on the premises.

(10) NO SIGNS

That no signs shall be erected on the premises.

(11) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA

All proposed work must comply with the *Building Code of Australia* (BCA).

~~That the premises shall be ventilated in accordance with the requirements of the Building Code of Australia and Council's Ventilation Code;~~

~~That all internal bathrooms and toilets where not naturally ventilated shall be mechanically ventilated in accordance with the requirements of the Building Code of Australia;~~

~~That a garbage receptacle storage area shall be provided within the site in an approved position constructed in accordance with the requirements of Council's Code for the Construction of Garbage Handling Systems;~~

~~That the applicant shall enter into a commercial contract for the removal of trade waste;~~

~~That the premises shall comply with the requirements of Council's Brothels Policy.~~

~~That linen shall be commercially laundered or a commercial washing machine be installed on the premises;~~

~~That receptacles shall be provided for the separate storage of clean and used linen;~~

~~That an adequate supply of condoms, dental dams and matter based lubricants shall be available to staff and clients on the premises;~~

~~That written information regarding sexually transmitted diseases shall be made available to staff in a variety of languages;~~

~~That all liquid wastes other than stormwater arising on the premises shall be discharged to the sewer in accordance with the requirements of Sydney Water;~~

~~That plans and specifications showing details of: (i) all required mechanical ventilation systems; (ii) the garbage room or garbage receptacle storage area shall be submitted and approved by Council or an accredited certifier before installation is commenced;~~

~~That the use of the premises shall not give rise to: a sound level at any point on the boundary of the site greater than the background levels specified in Australian Standard 1055, "Acoustic – Description and Measurement of Environmental Noise" or an "offensive noise" as defined in the Noise Control Act, 1975.~~

(As amended D/1999/303/A – 15 October 2020)

(12) NOISE – GENERAL

- (a) The $L_{Aeq, 15minutes}$ noise level emitted from the use must not exceed 5dB above the background (L_{90}) noise level in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) between the hours of 7.00am and 12.00 midnight when assessed at the boundary of any affected receiver. The background noise level must be measured in the absence of noise emitted from the use in accordance with Australian Standard AS1055.*
- (b) The $L_{Aeq, 15minutes}$ noise level emitted from the use must not exceed the background (L_{90}) noise level 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 receiver. The background noise level must be measured in the absence of noise emitted from the use in accordance with Australian Standard AS1055.*
- (c) The use of the premise shall be controlled so that any emitted noise is at a level so as not to create an “offensive noise” as defined in the Protection of the Environment Operations Act 1997 to any affected receiver.*

(As amended D/1999/303/A – 15 October 2020)

(13) MECHANICAL VENTILATION

The premises must be ventilated in accordance with the Building Code of Australia and AS1668.1-1998 and AS1668.2-1991.

(As amended D/1999/303/A – 15 October 2020)

(14) EMISSIONS

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.

(As amended D/1999/303/A – 15 October 2020)

(15) UPON LEAVING THE PREMISES

Signs must be placed in clearly visible positions within the premises requesting clients upon leaving the premises to do so quickly and quietly, having regard to maintaining the amenity of the area.

(As amended D/1999/303/A – 15 October 2020)

(16) NEIGHBOURHOOD AMENITY/ MANAGEMENT OF CLIENT BEHAVIOUR

The management must ensure that the behaviour of clients entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood. In this regard, the management must be responsible for the control of noise and litter generated by clients of the premises and must ensure that clients leave the vicinity of the premises in an orderly manner to the satisfaction of Council.

If so directed by Council, the management is to employ additional licensed security staff to ensure that this condition is complied with.

(As amended D/1999/303/A – 15 October 2020)

(17) SIGNS – BROTHEL PREMISES IN CONSERVATION AREA

No signs or advertising on the building are to be erected or displayed without approval from the Council. All signs and advertising must comply with the provisions contained within the Council's relevant signage and advertising structures DCP.

(As amended D/1999/303/A – 15 October 2020)

(18) NO PUBLIC ENTERTAINMENT

Any use of the premises (or subject part) for the provision of "Public Entertainment" must not commence until such time development consent has been granted by Council.

(As amended D/1999/303/A – 15 October 2020)

(19) NO DISPLAY OR SOLICITING

No display or soliciting shall take place outside the premises.

(As amended D/1999/303/A – 15 October 2020)

(20) CARE OF BUILDING SURROUNDS

In addition to Council's daily street sweeping and cleansing operations, the owner/manager of the building shall ensure that the forecourt and the surrounds of the building including pavements and gutters are to be kept clean and free of litter at all times.

(As amended D/1999/303/A – 15 October 2020)

(21) NO SPRUIKING/AMPLIFIED 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 or amplified noise generated within privately owned land must not be audible on Council's footpath adjoining the subject property.

(As amended D/1999/303/A – 15 October 2020)

(22) SEX INDUSTRY DCP COMPLIANCE

The premises must comply with the health provisions contained in the City of Sydney Adult Entertainment and Sex Industry Premises DCP 2012.

(As amended D/1999/303/A – 15 October 2020)

(23) SEX INDUSTRY PREMISES - LIGHTING

(a) *All workrooms in sex service premises must be provided with an adequate level of lighting to allow sex workers to conduct health checks of their*

clients for any visible signs of sexually transmitted diseases, and/or a lamp is to be provided specifically for this.

(As amended D/1999/303/A – 15 October 2020)

(24) SEX INDUSTRY SEXUAL HEALTH INFORMATION

- (a) Current written information such as pamphlets, brochures and notice board displays, in a variety of languages, on sexually transmitted infectious diseases and occupational health and safety material must be made available to all sex workers and clients. Sex workers must be given access to health service providers for information and educational activities on disease transmission issues.*
- (b) All sex workers must receive appropriate induction, be adequately trained and continually be provided with updated information about how to examine clients for any visible evidence of sexually transmitted diseases. Examination of clients must be conducted before any sexual contact.*
- (c) Current written information such as pamphlets, brochures and notice board displays on sexually transmitted infectious diseases must be made available to all patrons.*

(As amended D/1999/303/A – 15 October 2020)

(25) SEX INDUSTRY/SEX ON PREMISES – DENTAL DAMS

The proprietor shall supply an adequate supply of dental dams for the request of clients. Signage indicating availability is to be effectively displayed at the front counter area.

(As amended D/1999/303/A – 15 October 2020)

(26) SEX SERVICE PREMISES - SHARPS WASTE DISPOSAL EQUIPMENT

Sex service premises with staff facilities separated from areas accessed by clients, must also have in a common area accessible to staff:

- (a) a second one litre sharps disposal (located preferably in the staff toilet), and;*
- (b) be secured preferably by being fixed to the wall.*

(As amended D/1999/303/A – 15 October 2020)

(27) SEX SERVICE PREMISES DATABASE

Prior to the issue of an Occupation Certificate, Councils Health Unit must be notified that the premises is being used for the purposes of a 'sex service premises' and the business registered on Council's database. The premises should then be inspected by Council regularly.

(As amended D/1999/303/A – 15 October 2020)

(28) SEX SERVICE PREMISES STAFF FACILITIES

Staff facilities must be provided within the premises, in an area which is not accessible by clients and is adjacent to and accessible from work areas. The facilities must have controlled access and appropriate facilities including: a rest area with seating; fully equipped bathroom (shower, toilet and hand basin); sink with running water, water boiling facilities and fridge; food and drink preparation areas; staff lockers and health information noticeboard.

(As amended D/1999/303/A – 15 October 2020)

(29) HEALTH SERVICES ACCESS

The proprietor must give access to health service providers to provide information and educational activities on disease transmission issues.

(As amended D/1999/303/A – 15 October 2020)

(30) MANAGEMENT AND OPERATION OF SEX SERVICE PREMISES

- (a) The premises must be maintained in a clean, sanitary condition and kept in a satisfactory state of repair at all times.*
- (b) Clean linen and towels must be provided for the use of each client.*
- (c) Separate receptacles with fitting lids must be provided for the storage of used and clean linen.*
- (d) All linen, towelling and other bed coverings which come into contact with clients must be changed immediately after each use. While the premises are operating, coverings used on beds, furnishings or the like must be regularly changed.*
- (e) Used linen must be stored separately to clean linen and if laundering is carried out on site, adequate, sealable receptacles are to be used.*
- (f) All mattresses used for sex must be fitted with washable mattress covers. It is recommended that covers are made from a water proof material. Mattresses with minimal linen cover must be water proof. While the premises is operating all coverings used on beds, furnishing or the like that are visibly stained with body fluids must be immediately changed.*
- (g) Evidence of a commercial contract to launder linen must be provided to Council upon request. Alternatively a commercial washing machine capable of washing at a temperature of not less than 70 degrees Celsius must be installed on the premises and provided with hot water at all times.*
- (h) An adequate supply of condoms (in a variety of three sizes), dental dams and water based lubricant must be supplied free of charge for sex workers and their clients.*
- (i) All hazardous waste including sharps waste must be stored in an appropriate container and disposed of in accordance with the Department of Environment and Conservation's requirements. A sharps container is to be provided and kept on the premises at all times. The container(s) are to comply with the requirements of AS 4261:1994 and/or AS 4031:1992.*

- (j) *The premises must be provided with artificial lighting to provide a level of illumination appropriate to the function or use of the building/spaces to enable safe use and movement of occupants in accordance with Part F4 of the BCA.*
- (k) *Adequate sanitary facilities must be provided for the use of both sex workers and clients. Each room in which sex services are provided should contain its own sanitary facilities including a toilet, shower and hand basin. Alternatively in existing terrace semi detached or similar buildings, one bathroom with full facilities every three workrooms or part there of must be provided. Each room in which sex services are provided is to have direct access to these sanitary facilities.*
- (l) *Adequate waste disposal facilities must be provided for the disposal of used condoms, soiled paper and other waste products of sexual activity in all rooms, cubicles, booths or the like where sexual activity occurs.*

Note 1: *Adequate waste disposal facilities are defined as water-proof waste bins fitted with removable plastic liners.*

Note 2: *Waste bins must be attached in a permanent and convenient position above the floor of the booth or cubicle.*

- (m) *Condoms are to be worn for any sexual service provided by a sex worker.*

(As amended D/1999/303/A – 15 October 2020)

(31) 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 Building Sites Noise Code and Australian Standard 2436 - 1981 "Guide to Noise Control on Construction, Maintenance and Demolition Sites".*

(As amended D/1999/303/A – 15 October 2020)

(32) WASTE/RECYCLING COLLECTION

- (a) *All general waste is appropriately contained and secured and the operator must adhere to the Waste Management in Sex Service Premises Operators Guide and make this resource available to premises management.*

- (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.*

(As amended D/1999/303/A – 15 October 2020)