

Attachment A

Recommended Conditions of Consent
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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

Development must be in accordance with Development Application No. D/2018/89 dated 7 February 2018 and as amended by the conditions of this consent.

(2) HOURS OF OPERATION - MINOR DEVELOPMENT

The hours of operation are restricted to between 10.00am and 12.00 midnight Monday to Sunday.

(3) MAXIMUM CAPACITY OF PERSONS

The maximum number of sex workers permitted in the premises at any one time is seven.

(4) MANAGEMENT OF PREMISES

- (a) The premises are not to be used to provide escort services. The use of the premises as an escort service or any other sex industry use other than sex on premises, requires separate development consent.
- (b) No food is to be prepared and / or cooked on the premises for the purposes of sale to clients.
- (c) The premises must be maintained in a clean, sanitary condition and kept in a satisfactory state of repair at all times.
- (d) Clean linen and towels must be provided for the use of each client.
- (e) All linen and towels and other bed coverings which come into contact with clients must be changed immediately after reach use. While the premises are operating, coverings used on beds, furnishings or the like must be regularly changed.
- (f) Used linen must be stored separately to clean linen and if laundering is carried out on site, adequate, sealable receptacles are to be used.
- (g) All mattresses used for sex must be fitted with washable mattress covers. It is recommended that covers are made from a water proof material. While the premises is operating all coverings used on the beds, furnishings or the like that are visibly stained with body fluids must be immediately changed.

- (h) 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 reaching 70 degrees Celsius at all times.
- (i) 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.
- (j) 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 thereof must be provided. Each room in which sex services are provided is to have direct access to these sanitary facilities.
- (k) Adequate waste disposal procedures or facilities must be provided for the disposal of used condoms, soiled paper and other waste products of sexual activity for all work rooms.

(5) SEX ON PREMISES VENUE - CLEANING

- (a) The premises, including any booths, cubicles, walls, floors and 'glory holes' must be constructed of durable, impervious materials with smooth finishes that are able to be cleaned easily.
- (b) A cleaning register is to be kept on the premises at all times and must be available for inspection by authorised officers on demand. The register must include but not be restricted to: date/time of all cleaning activities; printed name and signature of the employee(s) conducting the cleaning; and notation of specific areas requiring spot cleaning attention.
- (c) Spot cleaning must be conducted on as a minimum hourly basis or more frequently if needed and during peak periods.
- (d) There must be a minimum of 2 staff available at all times at the premises so as cleaning and security can be maintained.
- (e) All booths and/or cubicles must be cleaned on a daily basis and should also be assessed for cleanliness after each use with spot cleaning occurring as necessary and as frequently as possible.
- (f) The viewing screen installation(s) is/are to be fitted so as body fluid does not accumulate and easy cleaning can occur.

(6) 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.

- (b) All sex on premises cubicles, booths and sexual activity areas must be fitted with a local lighting system that achieves an adequate level of luminance for the purpose of allowing patrons to conduct examination of each other for visible evidence of sexual transmitted disease and to assist safe sexual practices. User adjustable dimmer switches may be installed to achieve this.
- (c) All sex on premises cubicles, booths and sexual activity areas must be fitted with lighting that achieves a minimum luminance of 80lx for the purpose of spot cleaning. This must be achieved either through the provision of a separate zoned lighting system or incorporated into the design of the local lighting system for sexual transmitted infection examination by patrons.
- (d) The premises must be capable of being illuminated with an adequate level of lighting so that the premises can be thoroughly cleaned when patrons are not on the premises.
- (e) 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.

(7) SEX SERVICES PREMISES DATABASE

Prior to using the premises as a sex premise, Council's 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.

(8) PLAN OF MANAGEMENT

- (a) The use must always be operated / managed in accordance with the Plan of Management, prepared by Frank Johnson signed and dated 7 February 2018 that has been approved by Council. In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management. 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, then the plan of management must be appropriately reviewed and submitted to and approved by Council.

(9) COPIES OF CONSENTS AND MANAGEMENT PLANS

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

(10) NOISE

Only background music to be played while premises is open for business.

(11) SEX INDUSTRY DCP COMPLIANCE

The premises must comply with the health provisions contained in the Sydney Development Control Plan 2012.

(12) HEALTH SERVICES ACCESS

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

(13) SEX INDUSTRY SEXUAL HEALTH INFORMATION

- (a) Current written information such as pamphlets, brochures and notice board displays, in a variety of languages including all those spoken by staff, on sexually transmitted infectious diseases and occupational health and safety material must be made available and easily accessible to all sex workers and clients.
- (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.

A staff notice board specifically for occupational health and safety information, sexually transmitted infection information and contact details for health service providers must be provided in the staff room.

(14) SEX SERVICE PREMISES - SHARPS WASTE DISPOSAL EQUIPMENT

A least one sharps container of a one litre or more capacity is to be provided and kept on premises at all times for use by clients or staff as required.

The container(s) are to comply with the requirements of AS4261:1994 and/or AS4031:1992 and be disposed of in accordance with the Department of Environment and Conservation's requirements.

(15) 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.

(16) INCIDENTS – RECORDING AND NOTIFICATION

The manager/licensee must ensure that all incidents involving staff members 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.

(17) SURVEILLANCE CAMERAS

- (a) CCTV surveillance cameras shall be strategically installed, operated and maintained throughout the premises with particular coverage to:

- (i) principal entrance/s and exits;
 - (ii) all areas within the premise occupied by the public (excluding toilets);
 - (iii) staircases in multilevel premises; and
 - (iv) the area within a 10m radius external to the public entrance(s) to the premise.
- (b) Suitable and clearly visible signage shall be displayed at the principal entrance(s) to the premise and in a prominent position on each floor accessible to the public, in lettering not less than 50mm in height with the words "Closed Circuit Television in use on these premises".
- (c) All CCTV recording equipment and cameras shall be of high grade digital quality capable of establishing the population and identification of patrons, offenders and incidents within the depth of field view of the cameras. In this respect each surveillance camera shall be capable of recording a minimum rate of 10 frames per second and at high resolution.
- (d) CCTV recording discs or hard drive recordings shall be retained for 30 days before being re-used, destroyed or deleted. Time and date shall be auto recorded on the disc or hard drive. The CCTV recording equipment shall be capable of reproducing a CD, DVD or other appropriate digital copy of recorded footage on demand of Council or Police Officers either immediately or within 12 hours of the request being made. Copy discs must be handed to Council, Police Officer or Special Inspectors as required.
- (e) All CCTV recording devices and cameras shall be checked daily to ensure the equipment is operating correctly. The Licensee shall record this daily checking activity in the security/incident register book that meets the standards required by the Police and Council. If it is discovered at any time that the equipment is not in full operating order all reasonable steps must be taken to repair the system as soon as practicable. Where the system will not be functioning in full operating order for a period of longer than 24 hours the manager/licensee is to notify the relevant Local Area Commander of the NSW Police.
- (f) All CCTV recording devices and cameras shall be operated at all times when the premises are open to the public and, where premises do not operate 24 hours a day, continuously for at least 1 hour prior to opening and closing times of the premises.
- (g) The CCTV recording device shall be secured within the premises and only be accessible to senior management personnel so as to maintain the integrity of the recorded footage. When the premises is operating there must be at least one staff member present at the premises who is authorised to access the CCTV system and able to immediately review recordings and produce copies.
- (h) Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.

(18) NO SPEAKERS OR MUSIC 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.

(19) 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.

(20) NEIGHBOURHOOD AMENITY

- (a) Signs must be placed in clearly visible positions within the sex premise 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.

(21) SECURITY

The following security measures must be implemented during the fitout and use of the development:

- (a) High quality door and window locks must be fitted to all openings that are accessible by the public. The locks must comply with the Building Code of Australia.
- (b) The premises must have a secure entry and controlled internal and external access, preferably with remote door release mechanisms.
- (c) A security gate system must be fitted to the end/s of the main reception counter to assist in restricting unauthorised entry to the 'staff only' area.
- (d) Staff must be provided with a secure and safe place to leave their belongings (e.g. lockers) whilst at work.
- (e) The cash register must be regularly cleared to keep the total cash held in the register under \$250 or as minimal as practicable and the cleared cash must be directly placed into a safe.
- (f) The installation and specifications of the safe needs to be in accordance with the relevant Australian Standards.

- (g) Staff working after 1.00am should be trained to respond to intoxicated and aggressive behaviours.
- (h) Immediately after the person in charge of shift becomes aware of an incident involving an act of violence causing an injury to a person on the premises, the person must:
 - (i) Take all practical steps to preserve and keep intact the area where the act of violence occurred, retain all material and implements associated with the act of violence in accordance with the Crime Scene Preservation Guidelines issued by the NSW Police; and
 - (ii) Make direct and personal contact with the Local Area Commander or his/her delegate and advise the Commander or delegate of the incident; and
 - (iii) Comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.
 - (iv) Secure and produce a copy of all CCTV footage upon request of any Police Officer.

(22) SIGNS/GOODS IN THE PUBLIC WAY

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

(23) SIGNS - SEPARATE DA REQUIRED

A separate development application for any proposed signs additional to those approved as part of this consent (other than exempt or complying signs under Council's exempt and complying DCPs) must be submitted to and approved by Council prior to the erection or display of any such signs.

(24) SIGNS - RESTRICTED PREMISES

A sign may only be erected, displayed or exhibited at the restricted premises where:

- (a) The sign does not exceed 600 millimetres in height or width, and an area of 0.36sq.m, does not contain neon illumination, does not flash, and contains only:
 - (i) the words 'RESTRICTED PREMISES' in capital letters, 50 millimetres in height; and
 - (ii) the name of the operator of the restricted premises or the registered name of the business.
- (b) Not more than one such sign is to be erected, displayed or exhibited.

(25) 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 \(NPfl\)](#) 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 NPfl 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 NPfl are applicable to relevant noise from the development measured in accordance with this condition, however duration corrections are excluded from commercial noise.

SCHEDULE 1B

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

(26) AIR CONDITIONERS GENERALLY

No air-conditioning equipment is to be visible from the public domain. Equipment and associated wiring shall:

- (a) Not be located on awnings or attached to the face of the building
- (b) Not be located on roofs in such a way that it is visible from any street, footpath or park
- (c) Be visually screened if located 1.8 metres above ground level in other locations
- (d) Wiring shall be fully concealed.

(27) VENTILATION MINOR WORKS

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

(28) FIRST AID KIT

Premises must provide a designated storage space for sharps waste disposal equipment which:

- (a) Contains, at least anti-septic and band aids;
- (b) Is located in a staff area, and;
- (c) Is accessible to staff.

(29) WASTE AND RECYCLING MANAGEMENT - MINOR

The proposal must comply with the relevant provisions of Council's *Policy for Waste Minimisation in New Developments 2005* which requires facilities to minimise and manage waste and recycling generated by the proposal.

(30) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA

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

SCHEDULE 1C

DURING CONSTRUCTION/PRIOR TO OCCUPATION/COMPLETION

(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 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*.

(32) OCCUPATION LETTER TO BE SUBMITTED

Council's Health and Building Unit is to be informed in writing of the date of commencement of the use. Email notification is to be sent to council@cityofsydney.nsw.gov.au

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>