

# **Attachment A**

<b>Recommended Conditions of Consent</b>
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## CONDITIONS OF CONSENT

### (1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2019/1242, dated 5 November 2019 and the following drawings prepared by Cadence & Co Design:

Drawing Number	Drawing Name	Date
A03	Proposed Ground Floor Plan	4/11/19
A04	Proposed Basement Plan	4/11/19
A06	Proposed First Floor Plan	4/11/19
A07	Proposed Roof Plan	4/11/19
A08	Southeast & Northwest Elevation	4/11/19
A09	Northeast & Southwest Elevations	4/11/19
A10	Sections	4/11/19
A11	Sections	4/11/19
A12	External Window and Door Schedule	4/11/19

and as amended by the conditions of this consent.

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

### (2) MODIFICATION OF DEVELOPMENT CONSENT D/2018/681

- (a) The existing base development consent D/2018/681 (as amended), dated 21 August 2018, must be modified pursuant to Section 4.17(1)(b) and (c) of the *Environmental Planning and Assessment Act, 1979*.
- (b) The drawings by Cadence & Co Design set out in the following schedule must be modified by the approved drawings nominated at Condition 1 (Approved Development) of this consent:

<b>Drawing Number</b>	<b>Drawing Name</b>	<b>Date</b>
A04	Proposed Roof Plan	22/2/2019
A02	Proposed Ground Floor Plan	22/2/2019
A03	Proposed First Floor Plan	22/2/2019
A07	Proposed Sections	22/2/2019
A08	Proposed Sections	22/2/2019
A05	Southwest & Northwest Elevations	22/2/2019
A06	Northeast & Southeast Elevations	22/2/2019
A09	External Window & Door Schedule	22/2/2019

- (c) The following conditions of the existing development consent D/2018/681 (as amended) in the left column of the table below must be amended to be replaced with the conditions specified in the right column of the table below, which appear in this development consent:

<b>Condition Number and Title – D/2018/681</b>	<b>Condition Number and Title – D/2019/1242</b>
(12) Dilapidation Report - Minor	(6) Dilapidation Report – Major Excavation
(15) Erosion and Sediment Control – Less Than 250sqm	(7) Erosion and Sediment Control – Between 250 and 2500sqm

- (d) Notice of such modifications must be given to Council in accordance with Section 97 of *Environmental Planning and Assessment Regulations, 2000*, prior to the issue of any Construction Certificate for this development consent.

**(3) RELIANCE ON PREVIOUS DEVELOPMENT CONSENT D/2018/681, AS AMENDED**

- (a) This development consent relies on, and must be read in conjunction with, the existing development consent D/2018/681 (as amended).
- (b) This consent is subject to compliance with conditions of consent contained in D/2018/681 (as amended), in particular:
  - (i) (1A) Design Modifications;
  - (ii) (2) Parking Design;
  - (iii) (3) Cost of Signposting;
  - (iv) (4) Associated Roadway Costs;
  - (v) (5) Swimming Pool Pumps in Class 1 Residential Premises;
  - (vi) (6) No Air Conditioning Units to Façade or Balconies of Building;
  - (vii) (7) Asbestos Removal Works;
  - (viii) (9) Building Works to Comply with BCA – Heritage Buildings or Buildings Within Conservation Area;
  - (ix) (10) Materials for Making Good;
  - (x) (11) Flashing to Boundary Walls
  - (xi) (13) Construction Traffic Management Plan
  - (xii) (14) Classification of Waste
  - (xiii) (16) Ventilation Minor Works
  - (xiv) (17) Alignment Levels - Major Development
  - (xv) (18) Photographic Record – Dilapidation Report – Public Domain
  - (xvi) (19) Public Domain Plan
  - (xvii) (20) Public Domain Works – Hold Points and Handover
  - (xviii) (21) Stormwater and Drainage – Minor Development
  - (xix) (22) Defects Liability Period – Public Domain Works
  - (xx) (23) Protection of Stone Kerbs
  - (xxi) (24) Public Domain Damage Deposit
  - (xxii) (25) Minimise Impact of Pool on Neighbouring Properties
  - (xxiii) (26) Swimming Pool – Consultation with Energy Australia
  - (xxiv) (27) Swimming Pool - Waste and Overflow Waters

- (xxv) (28) Swimming Pool/Spa
- (xxvi) (29) Advanced Tree Planting
- (xxvii) (30) Protection of Street Trees During Construction
- (xxviii) (31) Sydney Water Certificate (Tap In)

**(4) BASIX CERTIFICATE - DETAILS TO BE LODGED WITH A CC**

A copy of the required completed BASIX certificate accepted as part of this Development Consent with respect to the proposed residential building works, must be lodged with an application for a construction certificate and the items nominated as part of the subject BASIX certificate must be specified on the plans submitted with the construction certificate application. – See Note.

All commitments listed in the BASIX Certificate for the development must be fulfilled prior to an Occupation Certificate being issued.

**IMPORTANT NOTE:**

Any requirement detailed in the accompanying BASIX Certificate, MUST be included as a specific notation or inclusion on any future Construction Certificate plans and specification in accordance with Part 3 of Schedule 1 of the EP&A Regulation, 2000.

**(5) DILAPIDATION REPORT – MAJOR EXCAVATION**

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of No. 10 and No. 14 Toxteth Road, Glebe are to be prepared by an appropriately qualified structural engineer prior to commencement of demolition/excavation works. A copy of the dilapidation report/s together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Accredited Certifier and the Council prior to the issue of a Construction Certificate.

**UPON COMPLETION OF EXCAVATION/DEMOLITION**

- (b) A second Dilapidation Report/s, including a photographic survey must then be submitted at least one month after the completion of demolition/excavation works. A copy of the second dilapidation report/s, together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Principal Certifier and the Council prior to the issue of any Occupation Certificate.

Any damage to buildings, structures, lawns, trees, sheds, gardens and the like must be fully rectified by the applicant or owner, at no cost to the affected property owner.

Note: Prior to the commencement of the building surveys, the applicant/owner must advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making a claim regarding property damage. A copy of this information must be submitted to Council.

**(7) EROSION AND SEDIMENT CONTROL - BETWEEN 250 AND 2,500SQM**

Prior to the commencement of demolition/excavation/construction work, an Erosion and Sediment Control Plan (ESCP) must be submitted to and be approved by the Principal Certifier. The ESCP must:

- (a) Conform to the specifications and standards contained in *Managing Urban Stormwater: Soils and Construction* (Landcom, 2004); the *Guidelines for Erosion and Sediment Control on Building Sites* (City of Sydney, 2004); and the *NSW Protection of the Environment Operations Act 1997*.
- (b) Include a drawing(s) that clearly shows:
  - (i) location of site boundaries and adjoining roads
  - (ii) approximate grades and indications of direction(s) of fall
  - (iii) approximate location of trees and other vegetation, showing items for removal or retention
  - (iv) location of site access, proposed roads and other impervious areas
  - (v) existing and proposed drainage patterns with stormwater discharge points
  - (vi) north point and scale
- (c) Specify how soil conservation measures will be conducted on site including:
  - (i) timing of works
  - (ii) locations of lands where a protective ground cover will, as far as is practicable, be maintained
  - (iii) access protection measures
  - (iv) nature and extent of earthworks, including the amount of any cut and fill
  - (v) where applicable, the diversion of runoff from upslope lands around the disturbed areas
  - (vi) location of all soil and other material stockpiles including topsoil storage, protection and reuse methodology
  - (vii) procedures by which stormwater is to be collected and treated prior to discharge including details of any proposed pollution control device(s)
  - (viii) frequency and nature of any maintenance program
  - (ix) other site-specific soil or water conservation structures.

**(8) STRUCTURAL CERTIFICATION FOR EXISTING BUILDING – ALTERATIONS AND ADDITIONS**

A qualified practising registered structural engineer must provide structural certification to Council (where Council is the Accredited Certifier) 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).

**(9) NOISE – GENERAL**

- (a) The emission of noise associated with the use of the premises including the cumulative operation of any mechanical plant and equipment, and air conditioning shall comply with the following:
- (i) The LAeq, 15 minute noise level emitted from the use must not exceed the project specific noise level for that receiver as determined in accordance with the NSW EPA Industrial Noise Policy. Noise must be measured in accordance with the Industrial Noise Policy and relevant requirements of Australian Standard AS 1055-1997 Acoustics – Description and measurement of environmental noise.
  - (ii) Project specific noise levels shall be determined by establishing the existing environmental noise levels, in complete accordance with the assessment LA90, 15 minute / rating LA90, 15 minute process to be in accordance with the requirements for noise monitoring listed in the NSW EPA Industrial Noise Policy and relevant requirements of Australian Standard AS1055-1997 Standard AS 1055-1997 Acoustics – Description and measurement of environmental noise.
  - (iii) Modifying factors in Table 4.1 of the NSW EPA Industrial Noise Policy are applicable.
- (b) An LAeq, 15 minute noise level emitted from the use must not exceed the LA90, 15 minute noise level by more than 3dB in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed inside any habitable room of any affected residence or noise sensitive commercial premises provided that;
- (i) Where the LA90, 15 minute noise level is below the threshold of hearing, Tf 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.
  - (ii) The LAeq, 15 minute noise level and the LA90, 15 minute noise level shall both be measured with all external doors and windows of the affected residence closed;
  - (iii) The relevant background noise level (LA90, 15 minute) is taken to mean the day, evening or night rating background noise level

determined in complete accordance with the methodology outlined in the NSW EPA Industrial Noise Policy and Australian Standard AS1055.1997 Acoustics – Description and measurement of environmental noise.

- (iv) Background noise shall be established in the absence of all noise emitted from the use but with the ventilation equipment normally servicing the affected residence operating. Background noise measurements are to be representative of the environmental noise levels at the affected location.
- (v) Modifying factors in Table 4.1 of the NSW EPA Industrial Noise Policy are applicable. Internal Noise measurements are not to be corrected for duration.

#### **(10) DEMOLITION, EXCAVATION AND CONSTRUCTION MANAGEMENT**

- (a) Prior to the commencement of demolition work the following details must be submitted to and be approved by the Principal Certifier:
  - (i) Plans and elevations showing distances of the subject building from the location of adjoining and common/party walls, and (where applicable) the proposed method of facade retention.
  - (ii) A Demolition Work Method Statement prepared by a licensed demolisher who is registered with the Work Cover Authority. (The demolition by induced collapse, the use of explosives or on-site burning is not permitted.)
  - (iii) An Excavation Work Method Statement prepared by an appropriately qualified person.
  - (iv) A Waste Management Plan for the demolition and or excavation of the proposed development.
- (v) Plans and elevations showing the location, construction and installation of temporary site fencing and any temporary structures used in connection with the construction of the development.

Note: Temporary structures, including hoardings and scaffolding, proposed for erection on City-owned and controlled land (footways and roadways), must comply with the City's *Guidelines for Hoardings and Scaffolding* and be approved by Council under the provisions of the Local Government Act 1993 and the Roads Act 1993 prior to installation.

- (b) Such statements must, where applicable, be in compliance with AS2601-2001 Demolition of Structures, the *Work, Health and Safety Act 2011* and Regulation; Council's *Policy for Waste Minimisation in New Developments 2005*, the *Waste Avoidance and Resource Recovery Act 2001*, and all other relevant acts and regulations and must include provisions for:
  - (i) A Materials Handling Statement for the removal of refuse from the site in accordance with the *Waste Avoidance and Resource Recovery Act 2001*.



- (ii) The name and address of the company/contractor undertaking demolition/excavation works.
- (iii) The name and address of the company/contractor undertaking off site remediation/disposal of excavated materials.
- (iv) The name and address of the transport contractor.
- (v) The type and quantity of material to be removed from site.
- (vi) Location and method of waste disposal and recycling.
- (vii) Proposed truck routes, in accordance with this development consent.
- (viii) Procedures to be adopted for the prevention of loose or contaminated material, spoil, dust and litter from being deposited onto the public way from trucks and associated equipment and the proposed method of cleaning surrounding roadways from such deposits. (Note: With regard to demolition of buildings, dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site).
- (ix) Measures to control noise emissions from the site.
- (x) Measures to suppress odours.
- (xi) Enclosing and making the site safe.
- (xii) Induction training for on-site personnel.
- (xiii) Written confirmation that an appropriately qualified Occupational Hygiene Consultant has inspected the building/site for asbestos, contamination and other hazardous materials, in accordance with the procedures acceptable to SafeWork NSW.
- (xiv) An Asbestos and Hazardous Materials Clearance Certificate by a person approved by the SafeWork NSW.
- (xv) Disconnection of utilities.
- (xvi) Fire Fighting. (Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed).
- (xvii) Access and egress. (Demolition and excavation activity must not cause damage to or adversely affect the safe access and egress of the subject building or any adjacent buildings).
- (xviii) Waterproofing of any exposed surfaces of adjoining buildings.

- (xix) Control of water pollution and leachate and cleaning of vehicles tyres (proposals must be in accordance with the *Protection of the Environmental Operations Act 1997*).
  - (xx) Working hours, in accordance with this development consent.
  - (xxi) Any SafeWork NSW requirements.
- (c) The approved work method statements and a waste management plan as required by this condition must be implemented in full during the period of construction.

**(11) NOTIFICATION OF EXCAVATION WORKS OR USE OF HIGH NOISE EMISSION APPLIANCES/PLANT**

The immediately adjoining neighbours must be given a minimum of 48 hours notice that excavation, shoring or underpinning works or use of high noise emission appliances / plant are about to commence.

**(12) USE OF HIGH NOISE EMISSION APPLIANCES / PLANT**

- (a) The operation of high noise emission appliances, plant and/or machinery such as pile – drivers, rock breakers and hydraulic hammers and those which are not listed in Groups B, C, D, E or F of Schedule 1 of 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* is restricted to the hours of (EHO to specify hours)
- (b) All reasonable and feasible steps must be undertaken to ensure that the work, including demolition, excavation and building complies 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*.

**(13) ARCHAEOLOGICAL DISCOVERY DURING EXCAVATION**

- (a) Should any relics be unexpectedly discovered on the site during excavation, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with section 146 of the Heritage Act 1977.
- (b) Should any Aboriginal objects be unexpectedly discovered then all excavation or disturbance of the area is to stop immediately and NSW Government Office of Environment and Heritage is to be informed in accordance with Section 89A of the *National Parks and Wildlife Act 1974*
- (c) Should any archaeological remains or Aboriginal objects be discovered, a copy of recording of the finds and the final archaeological summary report is to be submitted to Council prior to the issue of any Occupational Certificate;
- (d) if the discovery is on Council's land, Council must be informed.

**(14) BASIX**

All commitments listed in each relevant BASIX Certificate for the development must be fulfilled prior to any Occupation Certificate being issued.

**(15) 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.

**(16) 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 - 1981 *Guide to Noise Control on Construction, Maintenance and Demolition Sites*.

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

**(17) ENCROACHMENTS – NEIGHBOURING PROPERTIES**

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

**(18) 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.

**(19) SURVEY**

All footings and walls adjacent to a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be submitted to the Principal Certifier indicating the position of external walls in relation to the boundaries of the allotment.

**(20) SURVEY CERTIFICATE AT COMPLETION**

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

**(21) 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.

**(22) 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, during excavation, 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) In addition to any approved construction zone, provision must be made for loading and unloading to be accommodated on site once the development has reached ground level.
- (e) The structural design of the building must allow the basement and/or the ground floor to be used as a loading and unloading area for the construction of the remainder of the development.
- (f) 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 must be obtained.

**(23) 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.

**(24) BARRICADE PERMIT**

Where construction/building works require the use of a public place including a road or footpath, approval under Section 138 of the *Roads Act 1993* for a Barricade Permit is to be obtained from Council prior to the commencement of

work. Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.

**(25) ROAD OPENING PERMIT**

A separate Road Opening Permit under Section 138 of the *Roads Act 1993* must be obtained from Council prior to the commencement of any:

- (a) Excavation in or disturbance of a public way, or
- (b) Excavation on land that, if shoring were not provided, may disturb the surface of a public road (including footpath).

**(26) APPLICATION FOR HOARDINGS AND SCAFFOLDING ON A PUBLIC PLACE**

- (a) A separate application under Section 138 of the *Roads Act 1993* is to be made to Council to erect a hoarding and/or scaffolding (temporary structures) in a public place.
- (b) Where a consent is granted allowing the placement of temporary structures in a public place the structures must comply fully with Council's *Policy for the Design of Construction Hoardings* and the conditions of any consent granted including:
  - (i) maintaining a current and valid consent for the full duration that the temporary structures are installed in the public place (Section 139, *Roads Act 1993*);
  - (ii) bill posters and graffiti being removed within 24 hours of their placement (Clause 3.1);
  - (iii) maintaining temporary structures in a clean and tidy condition including repainting where directed by an authorised officer of Council (Clause 3.1);
  - (iv) hoarding site fences complying with Clause 3.3 - Element 3;
  - (v) site sheds on decks of Type B hoardings being fully screened from the public place (Clause 3.3 - Element 5); and
  - (vi) providing and maintaining operational artificial lighting systems under Type B hoardings (Clause 3.3 – Element 9).

**(27) TEMPORARY GROUND ANCHORS, TEMPORARY SHORING AND PERMANENT BASEMENT/RETAINING WALLS AFFECTING THE ROAD RESERVE**

For temporary shoring including ground anchors affecting the road reserve, a separate application under Section 138 of the *Roads Act 1993* must be lodged with Council.

**(28) PHOTOVOLTAIC PANELS**

- (a) The solar panels must be positioned parallel to the roof plane; and

- (b) The solar panels must be installed so that they can be removable without significant damage to the roof.

## 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>