

# **Attachment A**

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

### SCHEDULE 1A

#### (1) MODIFICATION OF DEVELOPMENT CONSENT D/2020/1072

- (a) Development consent D/2020/1072 (as modified), must be modified pursuant to Section 4.17(1)(b) of the *Environmental Planning and Assessment Act 1979* as detailed in the following items (b) – (g).
- (b) The drawings set out Condition (1) ‘Approved Development’ of the existing development consent D/2020/1072 (as modified) must be replaced by the approved drawings nominated at Condition (3) ‘Approved Development’ of this consent
- (c) The description of the approved development must be replaced with: Use of the existing building as a mixed use development and associated alterations and additions, and signage strategy. The uses include commercial, retail premises, food and drink premises, and tenancies for cultural and creative uses on the lower ground and ground levels.
- (d) The cost of development must be replaced with: \$15,224,224.00
- (e) The following conditions of the existing development consent D/2020/1072 (as modified), must be replaced by the conditions set out in Schedule 1B of this consent:

Condition under (D/2020/1072)	Replacement Condition Schedule 1B
(1) Approved Development	(3) Approved Development
(3) Operational Conditions – Hotel Accommodation	(4) Operational Conditions
(5) Restriction of Cultural and Creative Floor Space	(5) Restriction of Cultural and Creative Floor Space
(10) Floor Space Ratio – All Other Areas	(6) Floor Space Ratio – All Other Areas
(12) Amended Drawings	(7) Amended Drawings
(31) Compliance With Voluntary Planning Agreement	(8) Compliance With Voluntary Planning Agreement

(34) Hours of Operation	(9) Hours of Operation
(49) Compliance with the Acoustic Report Prior to Construction and or Occupation Certificates	(10) Compliance with the Acoustic Report Prior to Construction and or Occupation Certificates
(81) Signage Strategy	(11) Signage Strategy
(82) Strategy for Future Tenancies	(12) Strategy for Future Tenancies
(101) Energy Efficiency of Buildings	(13) Energy Efficiency of Buildings
(123) Waste and Recycling Management - Commercial	(14) Waste and Recycling Management - Commercial

- (f) The following conditions set out in Schedule 1C of this consent must be inserted into the existing development consent D/2020/1072 (as modified):
- (i) (15) Bicycle parking
  - (ii) (16) Affordable housing contribution
- (g) The following conditions must be deleted from the existing development consent D/2020/1072 (as modified):
- (i) (4) Visitor and Tourist Accommodation – Use and Operation
  - (ii) (5) Plan of Management – Hotel Accommodation
  - (iii) (6) Accommodation – Registration and Manager
  - (iv) (36) Surveillance Cameras
  - (v) (45) Glass Crusher
  - (vi) (46) Noise From Glass Removal
  - (vii) (85) Restriction On Strata Subdivision
  - (viii) (152) Minimise Impact of Pool on Neighbouring Properties
  - (ix) (153) Swimming Pool – Consultation With Ausgrid

- (x) (154) Swimming Pool – Waste and Overflow Waters
- (xi) (155) Swimming Pool/Spa
- (h) Notice of such modifications shall be given to Council in accordance with Section 67 of the *Environmental Planning and Assessment Regulation 2021*, prior to commencement of any works pursuant to this consent.
- (i) The notice of modifications shall be submitted to and approved by Council prior to a Stage 3 Construction Certificate being issued as referenced in Condition (2) Staged Construction Certificates of D/2020/1072 (as amended) to be able to take effect.

**(2) RELATION TO DEVELOPMENT CONSENT D/2020/1072**

- (a) This development consent relates to, and should be read in conjunction with, the existing development consent D/2020/1072 (as modified).
- (b) This consent is subject to compliance with all conditions of consent contained in existing development consent D/2020/1072 (as modified, except as amended by this development consent).

## SCHEDULE 1B

**Note:** Some conditions in Schedule 1B 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.

### (3) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application Number D/2020/1072 and D/2022/810 dated 9 August 2022 including the following drawings prepared by FJMT Studio:

Group 3 – 110-122 Oxford Street		
Drawing Number	Drawing Name	Date
A-12003 Rev 01	Site Plan	3/08/22
A-23001 Rev	Proposed Plan – Lower Ground	
A-23002 Rev 05	Proposed Plan – Ground Floor	31/07/22
A-23003 Rev 04	Proposed Plan – Level 1	31/07/22
A-23004 Rev 04	Proposed Plan – Level 2 & Mezzanine	31/07/22
A-23005 Rev 04	Proposed Plan – Level 3	31/07/22
A-23006 Rev 05	Proposed Plan – Level 4	31/07/22
A-23007 Rev 04	Proposed Plan - Roof	31/07/22
A-23051 Rev 03	Proposed Reflected Ceiling Plans Proposed Plan – Lower Ground	31/07/22
A-23052 Rev 03	Proposed Reflected Ceiling Plans Proposed Plan –Ground Level	31/07/22
A-23053 Rev 03	Proposed Reflected Ceiling Plans Proposed Plan – Level 1	31/07/22

Group 3 – 110-122 Oxford Street		
Drawing Number	Drawing Name	Date
A-23054 Rev 03	Proposed Reflected Ceiling Plans Proposed Plan – Level 2	31/07/22
A-23101 Rev 02	Demolition Plan – Lower Ground	3/08/22
A-23102 Rev 02	Demolition Plan – Ground	3/08/22
A-23103 Rev 02	Demolition Plan – Level 1	3/08/22
A-23104 Rev 02	Demolition Plan – Level 2	3/08/22
A-23105 Rev 02	Demolition Plan – Roof	3/08/22
A-23601 Rev 02	Demolition RCP – Lower Ground	3/08/22
A-23602 Rev 02	Demolition RCP –Ground	3/08/22
A-23603 Rev 02	Demolition RCP – Level 1	3/08/22
A-23604 Rev 02	Demolition RCP – Level 2	3/08/22
A-32301 Rev 04	Elevations	3/08/22
A-43011 Rev 04	Sections	3/08/22

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.

**(4) OPERATIONAL CONDITIONS**

The following operational conditions apply to the use of the buildings at all times:

- (a) The Foley Street entrances must not be used by building occupants between the hours of 10.00pm and 7.00am the following day. The Oxford Street entrance may be used during these hours.

**(5) RESTRICTION OF CULTURAL AND CREATIVE FLOOR SPACE**

Prior to any Occupation Certificate being issued or the use commencing, whichever is earlier, a documentary Restriction on the Use of Land must be registered on the Title of the development site pursuant to section 88E of the *Conveyancing Act, 1919*. The Restriction on the Use of Land must be to the effect that the amount of 265sqm of Gross Floor Area of the building has been approved as 'cultural and creative' floor space only and must not be used for any other purpose. The Restriction is to be created appurtenant to Council and at no cost to Council.

**(6) FLOOR SPACE RATIO - ALL OTHER AREAS**

The following applies to Floor Space Ratio (FSR):

- (a) The FSR for Group 3 must not exceed 4.38:1 (including end of journey space) calculated in accordance with the Sydney Local Environmental Plan 2012. For the purposes of the calculation of FSR, the Gross Floor Area for Group 3 is 2,646.8 square metres.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification of the total and component Gross Floor Areas (by use) in the development, utilising the definition under Sydney Local Environmental Plan 2012, applicable at the time of development consent, to the satisfaction of the Principal Certifier.

**(7) AMENDED DRAWINGS**

- (a) A consolidated set of demolition drawings, structural and proposed architectural drawings must be submitted that address all of the design modification Conditions 13, 14, 15, 16, 17, 18, 19, 19A, 20, 21, 22, 23, 24, 25, 26, 27, 28 and deferred commencement Condition 4 of consent (D/2020/1072 as modified) and approved amending plans.
- (b) The addresses of each building within Group 3 must be indicated on the drawings.

This information must be submitted to and approved by Council's Area Planning Manager prior to the issue of an amended Stage 3 Construction Certificate.

**(8) COMPLIANCE WITH VOLUNTARY PLANNING AGREEMENT**

The terms of the executed Planning Agreement between the Council of the City of Sydney and AM Darlinghurst Investment Ltd dated 14 July 2022 must be complied with.

In accordance with the Planning Agreement:

- (a) The completion of the developer's works are required prior to the issue of any Occupation Certificate.

**(9) HOURS OF OPERATION**

- (a) The hours of operation for commercial tenancies are restricted to between 7.00am and 10.00pm, Monday to Sunday.

- (b) The hours of use of the Level 4 outdoor terrace are restricted to between 7.00am and 10.00pm Monday to Sunday.

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

- (a) All relevant performance parameters (including but not limited to requirements, engineering assumptions and recommendations) in the DA Acoustic Report prepared by Acoustic Logic, dated 18/11/2022, Ref 20200569.2/1811A/R3/KBZZ Revision 3, titled 'Darlinghurst Collection Building 3 – 110-122 Oxford Street, Revised Noise Impact Assessment', (Council Ref: 2022/596301) must be implemented in the development prior to the commencement of its use.
- (b) Prior to the issue of any relevant Construction Certificate, the final construction drawings and final construction methodology must be assessed and reported to be in accordance with the requirements of the DA Acoustic Report in (a) above, with reference to relevant documentation. This must be done by a Suitably Qualified Acoustic Consultant\* (see definition below). This work will be to the satisfaction of the accredited certifier.
- (c) Prior to the issue of any Occupation Certificate, a Suitably Qualified Acoustic Consultant\* is to provide a written Acoustic Verification Report to the satisfaction of the Principal Certifier that the development complies with the requirements set out in the Report and in (a) and (b) above.

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

- (d) All physical aspects of the building's structure installed in order to meet performance parameters in accordance with this condition must be maintained at all times. The acoustic report states the below noise mitigation measures are required as a minimum:-
  - (i) Minimum 6.38mm laminated glazing with a minimum Rw rating of 31 or existing glazing with 6mm jockey sash for all windows on the Oxford Street elevation;
  - (ii) Minimum 6mm float glazing with minimum Rw rating of 29 for all windows on the northern facades facing Foley Street;
  - (iii) Q-Ion type acoustic seals to be fitted on all external windows and doors. Mohair Seals will not be acceptable.
  - (iv) Acoustic seals will be required around the full perimeter of openable frames, with the frames being sealed into the building using an acoustic grade flexible sealant.

If alternative/additional noise mitigation measures are proposed all amendments must be summarised and submitted to the City's Area Planning Manager for review and approval prior to the issue of the Stage 4 Construction Certificate.



## **(11) SIGNAGE STRATEGY**

- (a) No signage or signage zones are approved as part of this consent.
- (b) The proposed signage strategy prepared by FJMT Studio dated 3/08/22 must be amended to interpret traditional forms of signage according to the period and style of the buildings, use high quality materials, utilise low voltage indirect light sources. The size of signage must be limited to avoid large structural members, fixing plates and fixings. Suspended under awning and cantilevered light boxes must be slim line, and the area of the sign illuminated must be limited to cut outs in a predominantly solid background.
- (c) The following proposed signage zones are not approved:
  - (i) SZF - Building façade signage.
- (d) The following proposed signage zones must be amended as follows:
  - (i) SZH Signage Zone – The proposed horizontal signage installations above the shopfronts must be amended to vary according to the shopfront design and date and period of the shopfront. They are to comprise hand painted signage and are based upon photographic evidence.
  - (ii) SZC Signage Zone – The proposed retail blade signs cantilevered perpendicular to shopfront Foley Street must be amended as follows:
    - a. The size 400 x 400 mm is supported but the maximum thickness of the signs must be 70mm.
    - b. The square projecting wall signs must be made of a sandwich of two high quality metal panels such as dark painted steel, brass or bronze with cut-outs in the metal to reveal the illuminated surface within a predominantly solid background. The blades must be expressed on all edges. The entire sign is must not be illuminated. (An example is the current projecting walls signs of the COS tenancy at 5 Martin Place.)
  - (iii) SZS Signage Zone –The proposed rectangular signage lightboxes fixed below the awnings must be amended as follows:
    - a. The fixing points are to accord with the location of existing structural awning components.
    - b. The proposed size must be reduced to a maximum of 1800 x 400mm. The maximum thickness of the signs must be 100mm.
    - c. The signs are to comprise of a sandwich of two high quality metal panels with cut-outs in the unilluminated metal panels to reveal the illuminated surface within a predominantly solid background. The blades must be expressed on all edges. The entire sign must not be illuminated.
    - d. The signs are to have a minimum height of 2700mm above the footpath from underside of the sign.

- (iv) Additional signage zones of signage may be considered that interpret the original style, type and location of signage including on glazing, provided the areas are limited to those typical of the period of construction of the buildings and are based upon photographic evidence.
- (e) A revised Signage Strategy must be submitted based upon the above parameters and modifications outlined above and must be approved by Council's Area Planning Manager prior to the issue of the Stage 4 Construction Certificate. The signage strategy must include information and scale drawings of the location, type, construction, materials and total number of signs appropriate for the building.

## **(12) STRATEGY FOR FUTURE TENANCIES**

- (a) A Tenancy Strategy must be developed to inform and to provide a set of guidelines for future tenants of the buildings at Nos 110-122 Oxford Street Darlinghurst to ensure the protection of the significant heritage fabric, and the significant heritage character of the exterior and interior of the heritage listed buildings as follows:
  - (b) Retail tenancies and cultural and creative spaces: The strategy is to ensure that future tenancy fitouts and cultural and creative spaces are designed to:
    - (i) Respond sympathetically to the significant external and internal heritage character of the buildings,
    - (ii) Retain and conserve significant fabric and do not negatively impact on the original shopfronts, and floors, ceilings and wall plaster of the interiors, and limit fixings into significant fabric,
    - (iii) Retain fabric installed as part of this consent such as shopfronts and external linings to piers and stallboards,
    - (iv) Maintain a visual consistency along all street frontages,
    - (v) Maintain a consistency of approach to signage design and internal lighting design,
    - (vi) Do not conceal the shopfronts and the clear glazing, and
    - (vii) Maintain visibility into the Lower Ground floor, and Ground Floor from Oxford and Foley Streets.
    - (viii) That cleaning operations are designed and specified to be consistent with the fabric and components being cleaned, and do not result in damage to the fabric.
    - (ix) Retain and maintain interpretation devices and initiatives that are to be installed as part of the approved works.
- (c) Commercial operation: The strategy is to ensure that the future commercial operator ensures that:
  - (i) Conserves the significant character of the interiors,

- (ii) Conserves the significant components and fabric including floors, ceilings, wall plaster internal joinery and trim and stairs of the interiors, and
  - (iii) That significant fabric is protected and remains exposed to view,
  - (iv) Avoid fixings into significant fabric, and
  - (v) The historic decorative paint finishes on the eastern wall of No 114 Oxford Street on Level 2 are retained and conserved, as a feature and are not painted over.
  - (vi) All other interpretation devices and initiatives that are to be installed as part of the approved works are retained and maintained.
  - (vii) That cleaning and maintenance operations are designed and specified to be consistent with the fabric and components being cleaned, and do not result in damage to the fabric.
- (d) The guidelines are to include specific recommendations relating to the retention of visibility into the buildings, appropriate finishes, retention of party and dividing walls, ceilings, floors, internal wall finishes, joinery trim, visual clutter, partitioning, additional requirements for mechanical servicing, lighting, security and signage and cleaning operations.
  - (e) The strategy must be submitted to and approved by Council's Area Planning Manager prior to the Stage 4 Construction Certificate being issued.

### **(13) ENERGY EFFICIENCY OF BUILDINGS**

The design of the building and its services must achieve a Base Building National Australian Built Environment Rating System (NABERS) Energy Commitment Agreement of 4.5 Stars as per the Department of Planning, Industry and Environment (DPIE). This is to be demonstrated by:

- (a) Entering into a Commitment Agreement with DPIE, to deliver this star rating for the base building;
- (b) The applicant must provide a copy of the signed Commitment Agreement contract with the Stage 4 Construction Certificate application; and
- (c) Providing a copy of the independent energy assessment report to NABERS administration and submitting the same report with the Stage 4 Construction Certificate application. This report must be based on the same design documents as that submitted with the Stage 4 Construction Certificate.

Note: Definitions referred to above are as follows:

- (i) Commitment Agreement means an agreement that is set out in accordance with DPIE. The NABERS Commitment Agreement, which is signed between DPIE and the applicant/building owner/building manager, to design, build and commission the premises to achieve an agreed star rating.

- (ii) Star rating refers to the benchmarking system applied by DPIE for measuring the energy efficiency of a building and known as NABERS the National Australian Built Environment Rating System.
- (iii) Base Building means central services and common areas of a building, as defined under NABERS.

**(14) WASTE AND RECYCLING MANAGEMENT – COMMERCIAL**

- (a) The Waste and Recycling Management Plan accompanying this Development Application has not been approved by this consent.
- (b) A Waste and Recycling Management Plan, which meets the requirements as set out in Council's *Guidelines for Waste Management in New Developments 2018*, is to be approved by Council's Area Planning Manager prior to a Construction Certificate being issued. The plan is to specify that only residents have access to the residential bin area. All requirements of the approved Building Waste and Recycling Management Plan must be implemented during construction of the development.

**UPON COMPLETION OF THE DEVELOPMENT**

- (c) Prior to any Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifier must ensure that waste handling works have been completed in accordance with: the Waste and Recycling Management Plan; other relevant development consent conditions; and Council's *Guidelines for Waste Management in New Developments 2018*.

## SCHEDULE 1C

### (15) BICYCLE PARKING AND END OF TRIP FACILITIES

The minimum number of bicycle parking spaces and end of trip facilities to be provided for the development must comply with the table below.

Bicycle Parking Type	Number	Requirements
Group 3		Class B/C bicycle parking facility in accordance with AS2890.3
Staff	18	
Visitors	6	
End of Trip Facility Type		
Showers with change area	1	
Personal lockers	18	

The layout, design and security of bicycle facilities must comply with *Australian Standard AS 2890.3:2015 Parking Facilities Part 3: Bicycle Parking Facilities*. The details must be submitted to and approved by Council's Area Planning Manager prior to the Stage 4 Construction Certificate being issued.

### (16) AFFORDABLE HOUSING CONTRIBUTION – RESIDUAL LAND OR CENTRAL SYDNEY – 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 \$147,780.69 (indexed at 16 November 2022). This is calculated by establishing the sum of the equivalent monetary contribution \$11,599.74 multiplied by 1% of the total floor area for non-residential development (1,274sqm).
- (c) If the contribution is paid after the indexation period in which the consent is granted, being 1 March 2022 to 28 February 2023), the above contribution will be adjusted according to the Sydney LGA median strata dwelling price ('MDP') using the following formula.
- (d) 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 the 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, being 1 March 2022 to 28 February 2023.

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

**Reason**

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