

Attachment A

Recommended Conditions of Consent
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PART A – DEFERRED COMMENCEMENT CONDITIONS (CONDITIONS TO BE SATISFIED PRIOR TO CONSENT OPERATING)

SCHEDULE 1

The following deferred commencement conditions must be satisfied prior to the consent becoming operative:

(1) CONSERVATION MANAGEMENT PLAN

- (a) Condition No. 119(a), under Consent No. D/2016/476 (as amended), in so far it requires NSW Heritage Council's endorsement of a Conservation Management Plan and the approval of a schedule of conservation works must be satisfied prior to activation of this consent.
- (b) Evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement conditions, as indicated above, must be submitted to Council within 12 months of the date of determination of this deferred commencement consent failing which, this deferred development consent will lapse pursuant to section 4.53(6) of the *Environmental Planning and Assessment Act, 1979*.
- (c) The consent will not operate until such time that the Council notifies the Applicant in writing that deferred commencement consent conditions, as indicated above, have been satisfied.
- (d) Upon Council giving written notification to the Applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of that written notification, subject to the conditions of consent, as detailed in Part B - Conditions of Consent (Once the Consent is Operational).

PART B – CONDITIONS OF CONSENT (ONCE THE CONSENT IS OPERATIONAL)

SCHEDULE 1

PART A - GENERAL

(2) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2022/425 dated 10 May 2022 and the following drawings prepared by Integrate Design Group:

Drawing Number	Drawing Name	Date
DA-0100 Rev E	Site Plan	07-03-2022
DA-1100 Rev D	Ground Floor Envelope	07-03-2022
DA-1101 Rev F	Ground Floor Plan	07-03-2022
DA-1102 Rev E	Bin Location (NTS)	07-03-2022
DA-2000 Rev E	South Elevation	19-07-2022
DA-2001 Rev E	East Elevation	23-03-2022
DA-3000 Rev D	Section B	07-03-2022
DA-3001 Rev E	Section A & C	07-03-2022

and as amended by the conditions of this consent.

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

Reason

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

(3) SECTION 7.11 CONTRIBUTIONS PAYABLE - CONTRIBUTION TOWARDS PUBLIC AMENITIES – CITY OF SYDNEY DEVELOPMENT CONTRIBUTIONS PLAN 2015 – EAST PRECINCT

Council has identified the development will increase demand for public amenities and facilities. Pursuant to Section 7.11 of the Environmental Planning and Assessment Act, 1979 (as amended), and the City of Sydney Development Contributions Plan 2015 the following monetary contributions are required towards the cost of public amenities.

<u>Contribution Category</u>	<u>Amount</u>
Open Space	\$1,183.46
Community Facilities	\$1,115.11
Traffic and Transport	\$185.53
Stormwater Drainage	\$0.00
Total	\$2,484.10

The City of Sydney will index the above contribution for inflation at the time of payment using the following formula.

$$C_{\text{payment}} = C_{\text{consent}} \times (CPI_{\text{payment}} \div CPI_{\text{consent}})$$

Where:

C_{payment} = Is the contribution at time of payment;

C_{consent} = Is the contribution at the time of consent, as shown above;

CPI_{payment} = Is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment; and

CPI_{consent} = Is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being – 125.7 for the June 2022 quarter.

The contribution must be paid prior to the issue of any Construction Certificate in relation to this development.

Please contact Council's Planning Administration staff at planningsystemsadmin@cityofsydney.nsw.gov.au to request a letter confirming the indexed contribution amount payable.

Once the letter confirming the indexed contribution is obtained, payment may be made at any of the City's Neighbourhood Service Centres or the One Stop Shop at Town Hall House. Acceptable payment methods are EFTPOS (debit card only), cash (up to 10K only), Credit Card (up to 50K only) or a bank cheque made payable to the City of Sydney. Personal or company cheques will not be accepted.

Reason

To ensure development contributions are paid to address the increased demand for public amenities and services resulting from the approved development.

(4) DESIGN MODIFICATIONS

The following design modifications must be made:

- (a) Unless otherwise agreed to by Council, the existing fixed louvres above the windows and doors to the tenancy are not to be permanently blocked and must be available at any given time for airflow and ventilation use. This must be clearly depicted on the plans.
- (b) The following is to be adhered to and clearly depicted on detailed signage plans:
 - (i) The signage must be in accordance with the Signage Strategy for the building approved under D/2018/426,
 - (ii) Signage plans must clearly show each new proposed sign with respect to the building, including proposed dimension, materials, colours, finishes and means of fixture;
 - (iii) Window signs must be clearly depicted in accordance with the Sydney DCP 2012 3.16.6.8 (3) requirements.
- (c) All window glazing must be clearly depicted on the plans, including dimensions, confirming no more than 30% of the windows are opaque glazed, in accordance with Sydney DCP 2012 section 3.2.3.

The modifications are to be submitted to and approved by Council's Area Coordinator Planning Assessments / Area Planning Manager prior to the issue of a Construction Certificate.

Reason

To require amendments to the approved plans and supporting documentation following assessment of the development.

(5) PARTITION WALLS

Where internal partitions meet external walls they must abut window mullions, columns or other such building elements and not glazing.

Reason

To ensure an appropriate design outcome.

(6) SIGNAGE GENERAL REQUIREMENTS

The design of the approved signage must comply with the following:

- (a) The signage is not to contain highly reflective materials, colours and finishes.

- (b) The signage is not to incorporate sound, vibration, odour and other emissions.

Reason

To ensure signage is designed in accordance with Council's DCP.

(7) WASTE AND RECYCLING MANAGEMENT - GENERAL

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

Reason

To ensure that waste and recycling is appropriately managed.

(8) WASTE AND RECYCLING COLLECTION CONTRACT

Prior to commencement of the use the building owner must ensure that there is a contract with a licensed contractor for the removal of all waste. No garbage is to be placed on the public way, e.g. footpaths, roadways, plazas, reserves, at any time.

Reason

To ensure that waste and recycling is appropriately managed.

(9) WASTE/RECYCLING COLLECTION

- (a) The collection of waste and recycling must only occur during the designated zone collection times as outlined in the City's Waste Policy – Local Approvals Policy for Managing Waste in Public Places.
- (b) Waste and recycling bins must not be placed on the street for collection, services must be conducted within the property boundary or as wheel-out/wheel back service.

Reason

To ensure that waste and recycling is appropriately managed.

PART B – BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

(10) COOKING EQUIPMENT – NO MECHANICAL VENTILATION

- (a) Cooking must not commence until an air handling system, which complies with the requirements of Part F4.12 of the *National Construction Code (previously known as Building Code of Australia)* and *AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings – Mechanical Ventilation in Buildings* is approved, installed and operational.

Cooking is defined as the process of changing any food from raw to cooked by applying heat, and also includes the preparation of food using heat.

- (b) Use of a microwave, a sandwich press, a toaster or similar is permitted in accordance with the exemptions contained within *AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings – Mechanical Ventilation in Buildings*.
- (c) The use of such equipment in (b) of this condition must not generate heated air, smoke, fumes, steam or grease vapours that is deemed by an enforcement and/or authorised officer of Council to be:
- (i) Causing a nuisance to persons within or nearby the premises and/or building;
 - (ii) Causing air pollution as defined under the *Protection of the Environment Operations Act 1997* or,
 - (iii) Not effectively removed from the food premises in accordance with the requirements of the *Australia New Zealand Food Standards Code*.

Reason

To ensure the cooking equipment complies with relevant standards and does not cause a nuisance or air pollution affecting neighbouring properties.

(11) INSTALLATION OF WATER EFFICIENT TAPS

All taps and shower heads installed must be water efficient with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS). The details are to be submitted for the approval of the Principal Certifier, prior to any Occupation Certificate being issued.

Reason

To ensure the provision of water efficient taps.

(12) WASTE AND RECYCLING MANAGEMENT - COMMERCIAL

- (a) The Waste and Recycling Management Plan accompanying this Development Application has been approved by this consent, which is in accordance with condition 8 *Ground level tenancy servicing arrangements* of development consent D/2016/476.

- (b) All requirements of the approved Waste and Recycling Management Plan must be implemented during construction and operation of the development.

UPON COMPLETION OF THE DEVELOPMENT

- (d) 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*.

Reason

To ensure that waste and recycling is appropriately managed.

(13) PLAN OF MANAGEMENT TO BE SUBMITTED AND APPROVED

- (a) The revised Plan of Management accompanying this Development Application has not been approved by this consent.
- (b) A revised Plan of Management must be prepared to address all operation and management procedures to be employed, including steps to manage and mitigate public disturbances, to ensure that the premises can operate without causing unreasonable impacts to the surrounding locality and aged care facility. The plan must address the whole of the premise operations and reflect the matters contained within Schedule 3 of the Sydney Development Control Plan 2012.
- (c) The plan must include but not be restricted to; compliance with all other operational conditions of this consent; hours of operation; noise; security management including CCTV operations; and handling complaints.
- (d) The plan must specify a minimum of two (2) staff at all times in relation to the community facility facing Victoria Street, Darlinghurst.
- (e) The plan must be submitted to and approved by Council's Area Planning Manager prior to any Construction Certificate being issued.
- (f) The use of the premise must always be operated / managed in accordance with the approved Plan of Management.

Reason

To ensure appropriate management of the premise, safety, and minimise any potential impacts to the local area.

PART C – BEFORE THE COMMENCEMENT OF BUILDING WORK

(14) SYDNEY WATER CERTIFICATE (TAP-IN)

- (a) The approved plans must be submitted to Sydney Water's "Tap-in" online service to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Sydney Water's "Tap-in" online service is available at www.sydneywater.com.au, (see Plumbing, Building & Development and then Sydney Water "Tap-in").
- (b) The Consent Authority or a Principal Certifier must ensure that Sydney Water has appropriately stamped the plans before the commencement of work.

Reason

To ensure the development satisfies Sydney Waters requirements.

PART D – WHILE BUILDING WORK IS BEING CARRIED OUT

(15) HOURS OF WORK AND NOISE

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 separate application being submitted to and approved by Council under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993.

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

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

Reason

To protect the amenity of the surrounding area.

(16) NO OBSTRUCTION OF PUBLIC WAY

Unless otherwise approved by Council, the public way must not be obstructed by any materials, vehicles, waste receptacles, skip-bins or the like. Non-compliance with this requirement may result in the issue of a notice by Council to stop all work on the site.

Reason

To protect the amenity of the public domain.

(17) LOADING AND UNLOADING DURING CONSTRUCTION

The following requirements apply:

- (a) All loading and unloading associated with construction activity must be accommodated on site, where possible.
- (b) If, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.
- (c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.
- (d) Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate application under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993 must be submitted to and approved by Council.

Reason

To protect the amenity of the public domain.

PART E – BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE

No conditions are applicable to this section.

PART F – OCCUPATION AND ONGOING USE

(18) OCCUPATION CERTIFICATE TO BE SUBMITTED

An Occupation Certificate must be obtained from the Principal Certifier and a copy submitted to Council prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.

Reason

To ensure the site is authorised for occupation.

(19) CONSERVATION WORKS

The urgent conservation works approved by the NSW Heritage Council under Condition 119 'Conservation Management Plan and Conservation Works' in Schedule 3 of the substantive development consent D/2016/476 (as amended) must be completed prior to issue of any Occupation Certificate for the subject tenancy.

(20) ANNUAL FIRE SAFETY STATEMENT FORM

An annual Fire Safety Statement must be given to Council and Rescue NSW commencing within 12 months after the date on which the initial Interim/Final Fire Safety Certificate is issued or the use commencing, whichever is earlier.

Reason

To ensure annual checks on fire safety measures.

(21) HOT WATER SERVICE

The capacity of the hot water service must ensure that a constant supply of hot water is provided to the premises at all times for all sinks and basins including hand wash basin/s. The temperature of the hot water provided to the sinks must be in accordance with *AS4674 – Design, Construction and Fit-out of Food Premises* and the *Australia New Zealand Food Standards Code 3.2.2 - Food Safety Practices* and general requirements.

Reason

To ensure the food premises has a constant supply of hot water in accordance with relevant standards.

(22) HOURS OF OPERATION - MINOR DEVELOPMENT

The hours of operation are restricted to between 6:00am and 10:00pm Monday to Sunday.

Reason

To ensure the premises operates within the approved hours of operation.

(23) 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.

Reason

To safeguard the amenity of the surrounding neighbourhood.

(24) SURVEILLANCE CAMERAS

- (a) CCTV surveillance cameras must 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 10 metre radius external to the public entrance(s) to the premise.
- (b) Suitable and clearly visible signage must 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 must 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 must be capable of recording a minimum rate of 10 frames per second and at high resolution.
- (d) CCTV recording discs or hard drive recordings must be retained for 28 days before being re-used, destroyed or deleted. Time and date must be auto recorded on the disc or hard drive. The CCTV recording equipment must be capable of reproducing a CD, DVD, USB 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. Stored digital copies of CCTV recordings must be handed to Council, Police Officer or Special Inspectors as required.
- (e) All CCTV recording devices and cameras must be checked daily to ensure the equipment is operating correctly. The manager must 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 is to notify the relevant Local Area Commander of the NSW Police.

- (f) All CCTV recording devices and cameras must 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 must 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.

Reason

To ensure the safety and security of staff, patrons and the surrounding neighbourhood is adequately monitored and maintained.

SCHEDULE 2

PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 8A of the *Environmental Planning and Assessment Regulation 2021* apply:

- Clause 69 Compliance with *National Construction Code (previously known as Building Code of Australia)* and insurance requirements under the *Home Building Act, 1989*
- Clause 70 Erection of signs
- Clause 71 Notification of *Home Building Act, 1989* requirements
- Clause 72 Conditions relating to entertainment venues
- Clause 73 Conditions relating to maximum capacity signage
- Clause 74 Conditions relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 2 conditions of development consent of the *Environmental Planning and Assessment Regulation, 2021*.

This can be accessed at: <http://www.legislation.nsw.gov.au>