

Attachment A

Recommended Conditions of Consent
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SCHEDULE 1

CONDITIONS OF CONSENT

PART A - GENERAL

(1) APPROVED DEVELOPMENT

Development must be in accordance with Development Application No. D/2022/397 dated 4 May 2023 and the following drawing prepared by ARCHISPECTRUM:

Drawing Number	Drawing Name	Date
DA03 Rev B	Floor Plan – Proposed	23.12.2022

Reason

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

(2) NO PHYSICAL WORKS APPROVED

No physical works are approved by this development, except to comply with the recommendations of the acoustic report referenced in Condition 7 below.

Reason

To ensure clarify the scope of work.

(3) CHANGES TO KERB SIDE PARKING RESTRICTIONS

A separate submission must be made to the Local Pedestrian, Cycling and Traffic Calming Committee via the City Infrastructure and Traffic Operations Unit seeking the City's approval for changes to kerb side parking arrangements. There is no guarantee kerb side parking will be changed, or that any change will remain in place for the duration of the development use.

The submission must include two plans. One showing the existing kerb side parking restriction signs and stems, the second showing the proposed kerb side parking restriction signs and stems. Both plans must include chainages to all signs and stems from the kerb line of the nearest intersection.

All costs associated with the parking proposal will be borne by the developer.

Reason

To require separate consent to be obtained for changes to kerb side parking arrangements.

(4) VEHICLE FOOTWAY CROSSING

A separate application is to be made to, and approved by, Council for removal of the existing crossings that are no longer required and replacement of the footpath

formation prior to the commencement of extended hours and increased patron capacity.

All disused or redundant vehicle crossings and laybacks must be removed and footway, kerb, gutter and road restoration reinstated in accordance with Council's standards, to suit the adjacent finished footway and edge treatment materials, levels and details, or as otherwise directed by Council officers.

Reason

To ensure all relevant approvals for traffic and parking works are obtained and designed in accordance with Council requirements.

(5) ASSOCIATED ROADWAY COSTS

All costs associated with the construction of any new road works including kerb and gutter, road pavement, drainage system and footway shall be borne by the developer. The new road works must be designed and constructed in accordance with the City's "Sydney Streets Technical Specification" including amendments and "Sydney Streets Design Code".

Reason

To ensure all roadway works are designed and constructed in accordance with Council requirements.

(6) COST OF SIGNPOSTING

All costs associated with signposting for any kerbside parking restrictions and traffic management measures associated with the development shall be borne by the developer.

Reason

To ensure all associated roadway works costs are borne by the developer.

(7) COMPLIANCE WITH THE ACOUSTIC REPORT PRIOR TO THE COMMENCEMENT OF EXTENDED HOURS AND INCREASED PATRON CAPACITY

(a) All relevant performance parameters (including but not limited to requirements, engineering assumptions and recommendations) in the DA Acoustic Report (job no. 2254/7, file no. 22383, issue C, dated 8 December 2022, prepared by Joel West of West and Associates. Pty Ltd) (council ref. 2023/005834-04) must be implemented prior to the commencement of extended hours and increased patron capacity.

(b) Prior to the commencement of any necessary works to comply with the Acoustic Report referenced in (a) above, 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 commencement of extended hours and increased patron capacity, 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 join the Australian Acoustical Society, Institution of Engineers Australia (grade of member) or the Association of Australasian Acoustical Consultants (grade of member firm).

- (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.

Reason

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

(8) 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.

(9) WASTE AND RECYCLING COLLECTION CONTRACT

The operator/manager must ensure that there is a contract with a licensed contractor for the removal of **all waste**. Waste is to be stored and collected from within the curtilage of the site at all times.

Reason

To ensure that waste and recycling is appropriately managed.

PART B – BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

There are no conditions relevant to Part B.

PART C – BEFORE THE COMMENCEMENT OF BUILDING WORK

There are no conditions relevant to Part C.

PART D – WHILE BUILDING WORK IS BEING CARRIED OUT

There are no conditions relevant to Part D.

PART E – BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE

There are no conditions relevant to Part E.

PART F – OCCUPATION AND ONGOING USE

(10) HOURS OF OPERATION

The hours of operation are regulated as follows:

- (a) The hours of operation must be restricted to between 10.00am and 10.00pm Monday to Sunday.
- (b) Notwithstanding (a) above, the use may operate between 7.00am and 12.00 midnight Monday to Sunday for a trial period of 1 year from the date of this consent. Council's Health and Building Unit is to be informed in writing of the date of commencement of the trial hours.

Email notification is to be sent to liquor@cityofsydney.nsw.gov.au

- (c) Should the operator seek to continue the extended operating hours outlined in (b) above, an application must be lodged with Council not less than 30 days before the end of the trial period. Council's consideration of a proposed continuation and/or extension of the hours permitted by the trial will be based on, among other things, the performance of the operator in relation to the compliance with development consent conditions, any substantiated complaints received and any views expressed by the Police.

Reason

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

(11) MAXIMUM CAPACITY OF PERSONS

- (a) The maximum number of persons permitted in the premises at any one time is 225 patrons and 25 staff (including all staff and any performers).
- (b) The manager/licensee is responsible for ensuring the number of persons in the premises does not exceed that specified above.
- (c) A sign in letters not less than 50mm in height on a contrasting background must be displayed in a conspicuous location adjacent to the entrance to the licensed area and worded as follows:

APPROVED PATRON CAPACITY LICENSED AREA – 225 PERSONS

Reason

To ensure the premises can safely accommodate patrons, staff and performers and safeguard the amenity of the surrounding neighbourhood.

(12) PLAN OF MANAGEMENT

The use must always be operated / managed in accordance with the Plan of Management - 8-10 Danks Street, Waterloo (revision 6, dated 19 December 2022) that has been approved by Council (council ref: 2023/005834-05).

In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.

Reason

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

(13) COPIES OF CONSENTS AND MANAGEMENT PLANS

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

Reason

To ensure all relevant approved documents are available on-site upon request.

(14) NOISE - ENTERTAINMENT

- (a) The $L_{Aeq, 15 \text{ minute}}$ noise level from the use must not exceed the background noise level ($L_{A90, 15 \text{ minute}}$) in any octave band (reference frequency 31.5 Hz to 8 kHz inclusive) by more than 5dB between 7.00am and 12.00 midnight when assessed at the boundary of any residential accommodation or tourist and visitor accommodation.
- (b) The $L_{Aeq, 15 \text{ minute}}$ noise level from the use must not exceed the background noise level ($L_{A90, 15 \text{ minute}}$) in any octave band (reference frequency 31.5 Hz to 8 kHz inclusive) between 12.00 midnight and 7.00am when assessed at the boundary of any residential accommodation or tourist and visitor accommodation.
- (c) Notwithstanding (a) above, the $L_{Aeq, 15 \text{ minute}}$ noise level from the use must not exceed the greater of the following levels between 7am and 12 midnight inside any habitable room of a residential accommodation or tourist and visitor accommodation, or at any time in an affected commercial premises:
 - (i) The existing internal $L_{A90, 15 \text{ minute}}$ (from external sources excluding the use) in any octave band (reference frequency 31.5 Hz to 8 kHz inclusive). Or,
 - (ii) If the $L_{Z90, 15 \text{ minute}}$ background level is below the hearing threshold curve (Tf - Table 1 of ISO 226 : 2003) in an above octave band, the lowest audible sound level (Lp) of the Tf curve in that octave band shall become that octave's $L_{Zeq 15 \text{ minute}}$ noise criteria level.
- (d) Notwithstanding (b) above, the $L_{A1 15 \text{ minute}}$ noise level from the use must not exceed the greater of the following sound pressure levels inside any

habitable room between 12 midnight and 7am inside any habitable room of an affected residential accommodation or tourist and visitor accommodation:

- (i) The existing internal $L_{A90, 15 \text{ minute}}$ (from external sources excluding the use) minus 10 dB in any octave band (reference frequency 31.5 Hz to 8 kHz inclusive) inside a habitable room of an affected residential accommodation or tourist and visitor accommodation. Or,
- (ii) If the $L_{Z90, 15 \text{ minute}}$ minus 10 dB level is below the hearing threshold curve (Tf - Table 1 of ISO 226 : 2003) in an above octave band, the lowest audible sound level (L_p) of the Tf curve in that octave band shall become that octave's $L_{Z1 15 \text{ minute}}$ noise criteria level.

Note: L_{eq} , L_{01} , and L_{90} , metrics and 'A' (weightings) are as per the definitions in the standard AS1055-20148. 'Z' means unweighted noise. An internal L_{A90} level must be determined in the absence of noise emitted by the use and be sufficiently representative of the receiver in a low noise level quiet state. External L_{A90} levels for planning must be established as per the long-term methodology in Fact Sheet B of the NPfl unless otherwise agreed by the City's Area Planning Manager.

Reason

To protect the acoustic amenity of surrounding properties.

(15) NOISE – INSTALLATION, SETUP, TESTING AND CALIBRATION OF LIMITER/S, PRIOR TO AN OCCUPATION CERTIFICATE

Prior to the commencement of extended hours and increased patron capacity, a Suitably Qualified Acoustic Consultant* is to provide a Noise Limiter/s Verification Report to the written satisfaction of Council's Area Planning Manager that the development complies with the requirements set out as follows, and any relevant requirement in the COMPLIANCE WITH THE ACOUSTIC REPORT CONDITION PRIOR TO THE COMMENCEMENT OF EXTENDED HOURS AND INCREASED PATRON CAPACITY condition:

- (a) All sound amplification equipment in the premises must be controlled by a Root Mean Square (RMS) noise limiter with an attack time constant not exceeding 0.5 seconds, release time constant not less than 1 second and a compression ratio equal of at least 20:1. The limiter shall be set by a suitably qualified acoustic consultant* as per the manufacturer's specification. The consultant must ensure that resultant amplified sound complies with the Council's criteria for entertainment noise.
- (b) All Limiters and all post-limiter equipment including power amplifiers must be tamper proof and only operable by the acoustic consultant, a licensee and business owner who must keep a completed report on the premises.
- (c) This report must certify that limiter/s were installed, tested and calibrated so amplified noise will comply with the NOISE – ENTERTAINMENT Condition. The report will be prepared in accordance with and provide detail on the following requirements:
 - (i) An initial calibration of the operation of the limiter with the sound amplification equipment is to be undertaken. This assessment must include setting of the amplification system in addition to a documented

overview of the system so that compliance is achieved with the noise criteria as referenced in parts (a) to (c) above.

- (ii) Limiter settings and subsequent equipment must be benchmarked at the time of the above operational assessment. Pink noise and a swept sine wave signal must be fed into the amplification system and the level of the noise increased until the limiter operates continuously to comply with criteria. The L_{Aeq} , L_{A1} , L_{Ceq} and L_{C1} (1/1 octave bands - 31.5 Hz to 8 kHz centre frequencies) levels must be measured at suitable relevant reference location/s in the premises, with the premises empty other than essential staff. Correlating L_{Aeq}/L_{A1} and L_{Ceq}/L_{C1} measurements must be taken at identified nearby noise sensitive receivers during this process.
- (iii) Music must then be played through the sound system(s) with the limiter(s) in continuous operation to verify the limiters work correctly and meet noise criteria at the locations detailed above.
- (iv) The report will address the limiter installed within the premises (including but not limited to its brand, type specifications and location) including the noise control levels the limiter was set to (including a copy of the software configuration file for any digital signal processing device used). Furthermore, all post limiter equipment will be photographed, documented and catalogued in the report including location on a layout drawing.

Note: Suitably Qualified Acoustic Consultant means a consultant who possesses the qualifications to join the Australian Acoustical Society, Institution of Engineers Australia (grade of member) or the Association of Australasian Acoustical Consultants (grade of member firm).

Reason

To protect the acoustic amenity of surrounding properties.

(16) NOISE – AMPLIFIED SOUND AND THE UPKEEP AND OPERATION OF LIMITER/S

Following receipt of the report as per part (b) of the NOISE - INSTALLATION, SETUP, TESTING & CALIBRATION OF LIMITER/S, PRIOR TO THE COMMENCEMENT OF EXTENDED HOURS AND INCREASED PATRON CAPACITY condition, the report is to be kept on the premises at all times, signed and dated by the licensee and business owner. From this point forward the licensee and business owner must ensure the following:

- (a) The limiter/s and sound amplification system must be maintained and not tampered with. That unauthorised modifications are not made which are contrary to the report. Repairs and replacements may be made to the system as necessary with any like component but must not be capable of increasing the permitted noise amplification levels outlined in the report.
- (b) That additional amplification equipment must not be brought onsite which if used could cause cumulative entertainment noise (including amplified sound) from the development to exceed controls in this consent. This does not apply to:

- (i) Equipment that is only used when routed through and controlled by the limiter/s, i.e. the limiters and amplified sound system on the premises are capable of receiving and controlling that equipment, and
- (ii) Such that use of the equipment must not cause amplified sound which exceeds the cumulative entertainment noise controls in this consent.

Reason

To protect the acoustic amenity of surrounding properties.

(17) DELIVERY VEHICLES AND WASTE COLLECTION

Deliveries and waste collection associated with the site that involve the movement of vehicles, must only occur between the hours of 8.30am and 6.00pm Monday to Friday, and 8.30am and 12.30pm Saturday.

Reason

To ensure deliveries and waste collection for the site do not adversely impact on local traffic movements.

(18) WASTE/RECYCLING COLLECTION - COMMERCIAL

- (a) Waste and recycling bins must not be placed on the street for collection. Services must be conducted within the property boundary or as a wheel-out/wheel-back service.
- (b) Unimpeded access must be provided for collection vehicles to set down within 10 metres of waste storage areas during zone collection times on collection days.

Reason

To ensure that waste and recycling is appropriately managed.

(19) 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);
- (b) 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.
- (c) CCTV recordings shall have time and date auto recorded and be retained for 28 days before being re-used, destroyed or deleted. A digital copy must be handed to the Council or Police Officer on request.
- (d) All CCTV recording devices and cameras shall be checked daily to ensure the equipment is operating correctly. All reasonable steps must be taken to

ensure repairs to the system are completed as soon as practicable within 24 hours.

- (e) The CCTV recording device must be kept in a secured location.
- (f) 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.

(20) QUEUING

No persons are to be permitted to drink or queue outside the premises at any time. Security officers are to ensure that there is no queue for the premises and take all reasonable steps to ensure compliance with this condition.

Reason

To safeguard the amenity of the surrounding neighbourhood.

(21) NO SPRUICKING NOISE

No persons (such as those commonly known as spruikers) or recordings or other devices which have the effect of spruicking are to be located on Council owned property. Furthermore, the sound level of any spruicking generated within privately owned land must not be audible on any adjacent property with a shared boundary.

Reason

To safeguard the amenity of the surrounding neighbourhood.

(22) 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.

(23) NEIGHBOURHOOD AMENITY

- (a) Signs must be placed in clearly visible positions within the licensed premises requesting patrons upon leaving the premises to do so quickly and quietly, having regard to maintaining the amenity of the area. The signage must 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.

Reason

To safeguard the amenity of the surrounding neighbourhood.

(24) NOISE FROM GLASS REMOVAL

Glass must not be emptied or transferred from one receptacle to another anywhere in a public place. All glass must be emptied / transferred inside of the building on the premises and removed in containers.

Reason

To safeguard the amenity of the surrounding neighbourhood.

(25) REMOVAL OF GLASS

Patrons must be prevented from removing glasses, opened cans, bottles or alcohol from the premises (except from any approved bottle shop area) or approved outdoor dining area included in the boundaries of the licensed premises.

Reason

To reduce waste generation within the public domain and to safeguard the amenity of the surrounding neighbourhood.

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 the *Environmental Planning and Assessment Regulation 2021*. This can be accessed at: <http://www.legislation.nsw.gov.au>