

Attachment A

**Updated Recommended Conditions of
Consent**

SCHEDULE 1 - DEFERRED COMMENCEMENT CONDITIONS (CONDITIONS TO BE SATISFIED PRIOR TO CONSENT OPERATING)

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

(A) PART A - DEFERRED COMMENCEMENT CONDITIONS

(CONDITIONS TO BE SATISFIED PRIOR TO CONSENT OPERATING)

The consent is not to operate until the following condition is satisfied, within **24 months** of the date of this determination:

(1) PLANNING AGREEMENT

(a) The Voluntary Planning Agreement between the COUNCIL OF THE CITY OF SYDNEY and PG WEALTH PTY LTD and JC DECAUX AUSTRALIA TRADING PTY LTD shall be executed and submitted to Council; and

~~(b) The Voluntary Planning Agreement, as executed, must be registered on the title of the land.~~

Reason

To ensure the community benefit, approved as part of the consent, continues to be delivered.

~~(c)~~

- (2) 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 24 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*.
- (3) 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.
- (4) 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 Operation) of the subject Notice of Determination.

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

SCHEDULE 1A

APPROVED DEVELOPMENT/DESIGN MODIFICATIONS/COVENANTS AND CONTRIBUTIONS/USE AND OPERATION

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application Number D/2022/911 dated 5 September 2022 and the following drawings:

Drawing Number	Drawing Name	Date
DA02 (Issue E)	Proposed digital sign, general arrangement & site plan	31.08.2022
SY075761.000.1.2	Plan of premise lease area	15.02.2023

and as amended by the conditions of this consent.

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

Reason

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

(2) SURRENDER OF EXISTING DEVELOPMENT CONSENTS

In accordance with Section 4.17(1)(b) and Section 4.17(5) of the *Environmental Planning and Assessment Act, 1979*, a notice of surrender of the following development consents must be provided to Council in writing by the owner of the land prior to the issue of any Occupation Certificate or prior to the installation of any new signage, whichever is the earlier. The notice of surrender of consent must be made in accordance with Section 67 of the *Environmental Planning and Assessment Regulation 2021*:

- (a) Development consent U91/00189.
(b) Development consent D/2011/2123, as modified by D/2011/2123/A.

Reason

To require the surrender of historic development consents which will be superseded by the subject development consent.

(3) SIGNAGE – TIME LIMITED CONSENT

The sign and any associated structure must be removed and the site reinstated, within a period of 10 years from the date of consent. The use must cease after that time and the building made good accordingly. If the sign is to be retained after this period, a new development application must be lodged with Council before the expiration of the consent for Council's consideration of the continuation of the use.

ReasonTo restrict the time roof signs are displayed in accordance with the State Environmental Planning Policy (Industry and Employment) 2021.

(4) COMPLIANCE WITH VOLUNTARY PLANNING AGREEMENT

- (a) The terms of the Planning Agreement between the Council of the City of Sydney and PG Wealth Pty Ltd and JC Decaux Australia Trading Pty Ltd are to be complied with.
- (b) In accordance with the Planning Agreement, the developer must enter into the Advertising Deed prior to the issue of any Occupation Certificate.

Reason

To ensure the community benefit approved as part of the consent is continuously used for the approved purpose.

(5) ~~POSITIVE COVENANT AND ADVERTISING DEED~~

~~Prior to any Occupation Certificate being issued, a positive covenant, in the form specified in the Planning Agreement, is to be registered on title of the land to which this consent relates requiring all **the** operators of the advertisement to enter into an Advertising Deed with the Council **in the form specified in the Planning Agreement**. The covenant must be created at no cost to Council.~~

Reason

To ensure the community benefit approved as part of the consent continuously used for the approved purpose.

(6) LOCATION OF CERTAIN NAMES AND LOGOS

- (a) The name or logo of the person who owns or leases an advertisement or advertising structure may appear only within the advertising display area.
- (b) If the advertising display area has no border or surrounds, any such name or logo is to be located:
 - (i) Within the advertisement; or
 - (ii) Within a strip below the advertisement.
- (c) The area of any such name or logo must not be greater than 0.25 square metres.
- (d) The area of any such strip is to be included in calculating the size of the advertising display area.

Reason

To ensure signage is designed in accordance with Section 3.16 of the Sydney Development Control Plan 2012.

(7) SIGNAGE GENERAL REQUIREMENTS

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

- (a) Each advertisement must be displayed statically, for a minimum of 45 seconds.
- (b) The signage is not to contain reflective materials, colours and finishes.
- (c) The signage is not to incorporate sound, vibration, odour and other emissions.
- (d) The transition time between advertisements must not be less than 0.1 seconds;
- (e) In the event of the advertising sign display malfunctioning, freezing or having no content being transmitted, the display should revert to a default black screen automatically.
- (f) An electronic log of activity shall be maintained by the operator for the duration of the development consent and be available to the consent authority or Transport for New South Wales to monitor compliance with any conditions.
- (g) The display must be completely static from its first appearance to the commencement of a change to another display.
- (h) No advertisement displayed must be dominated by red, yellow, white, green or any shape or pattern, so as to result in it being readily mistaken for a rail or traffic or road sign or signal.

ReasonTo ensure signage is designed in accordance with Section 3.16 of the Sydney Development Control Plan 2012.

(8) PLAN OF MANAGEMENT

The use must always be operated / managed in accordance with the Plan of Management, prepared by URBIS dated 30 August 2022 that has been approved by Council. 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.

(9) TRANSITION FROM DAY-TIME TO NIGHT-TIME

- (a) The approved advertising structure shall have a multi-directional light sensor (to at least three areas with different ambient light conditions) that automatically adjust to brightness of the advertising display area to prevailing light conditions as required by Section 3.16.7.2 (4) of the Sydney Development Control Plan 2012.
- (b) The change in maximum luminance between day time hours, twilight hours and night time hours is to be programmed automatically to make a gradual transition starting at 45 minutes prior to sunset and reaching night-time mode at 45 minutes after sunset.
- (c) A timing device is to be fitted to the approved advertising structure to ensure compliance with the requirements stipulated in Conditions (a) and (b) above.

Reason

To ensure signage is designed in accordance with Section 3.16 of the Sydney Development Control Plan 2012.

(10) ROADS AND MARITIME SERVICES CONCURRENCE

The proposed sign must not contain/use:

- (a) Flashing or flickering lights or content.
- (b) Animated displays, moving parts or simulated movement.
- (c) Complex displays including text and information that hold a driver's attention beyond "glance appreciation".
- (d) Displays resembling traffic control devices by use of colour, shape or words that can be construed as giving instruction to traffic for example, red, amber, or green circles, octagons, crosses, triangles and words such as 'stop' or 'halt'.

- (e) A method of illumination that distracts or dazzles.
- (f) Dominant use of colours red or green.

Dwell times between displays shall be no shorter than 45 seconds consistent with the existing digital sign.

A Road Occupancy Licence (ROL) must be obtained from Transport Management Centre for any works that may impact on traffic flows during construction activities. A ROL can be obtained through:

<https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>

All works associated with the proposed sign, including maintenance activities, shall be at no cost to Roads and Maritime.

Reason

To ensure the safety of surrounding vehicles and pedestrians.

(11) SIGN ILLUMINATION

- (a) At no time is the intensity, period of intermittency and hours of illumination of the sign to cause objectionable glare or injury to the amenity of the neighbourhood and as such must be designed, installed and used in accordance with AS4282-1997 Control of Obtrusive Effects of Outdoor Lighting.
- (b) The sign(s) must not flash. Signs with flashing, chasing, pulsating or flickering lights are not permitted.
- (c) The maximum night time luminance of any sign is not to exceed 200 cd/sqm.
- (d) The maximum horizontal viewing angle of 160 degrees (+80 degrees and -80 degrees) and a maximum vertical viewing angle of 70 degrees (+25 degrees and -45 degrees), as shown in Section 3.16.7.2 (4) of the Sydney Development Control Plan 2012.

Reason

To ensure signage illumination is designed in accordance with the Australian Standards and Section 3.16 of the Sydney Development Control Plan 2012

(12) CONTROL OF LIGHT INTO THE ENVIRONMENT

- (a) Lighting installed in the open and/or public spaces must comply with AS1158 series-lighting for roads and public spaces. The design and placement must be so that lighting does not create a nuisance or negatively affect the amenity of the surrounding neighbourhood, for that purpose lighting must comply with AS4282-1997 Control of Obtrusive Effects of Outdoor Lighting.
- (b) Before it is put on display on the approved sign, each image must be certified at no cost to Council by a Chartered Professional Engineer with expertise in lighting that the image, when displayed on the approved sign will comply with AS4282-1997. Every such certificate must be kept in a register for 12 months and be produced for Council's inspection on request.

Reason

To ensure signage illumination is designed in accordance with the Australian Standards.

(13) ILLUMINATED BILLBOARD SIGNS

- (a) The proposed illuminated billboard sign must be powered by a renewable energy source, either through:
 - (i) The provision of infrastructure to generate renewable energy (subject to development consent); or
 - (ii) The purchase of a renewable energy product offered by an electricity supplier equivalent to the estimated amount of electricity used for the period of consent of ten years.
- (b) Prior to a Construction Certificate being issued, proof of the purchase of a renewable energy production in the form of a contract or payment receipt is to be supplied to the Certifying Authority and included in the Construction Certificate documentation referred to Council. The applicant is to retain proof of the continuation of the renewable energy contract for the duration of the period during which the sign is in place.

Reason

To ensure signage illumination is designed in accordance with Section 3.16 of the Sydney Development Control Plan 2012.

(14) SAFETY AUDIT AND RISK ANALYSIS ON THE FIRST ANNIVERSARY

The applicant shall have a Safety Audit and Risk Analysis undertaken by an independent Transport for New South Wales accredited road safety auditor and professional lighting engineer within 12 months of operation and submitted to the consent authority to confirm the operational effect, with recommendations for necessary action to be taken where unacceptable glare, negative safety outcomes for road users or loss of amenity for accommodation land uses are identified.

Reason

To ensure the safety of vehicles and pedestrians.

SCHEDULE 1B

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

(15) WASTE AND RECYCLING MANAGEMENT

The proposal must comply with the relevant provisions of Council's *Guidelines for Waste Management in New Developments 2018*, which requires facilities to minimise and manage waste and recycling generated by the proposal.

Reason

To ensure that waste and recycling is appropriately managed.

(16) STRUCTURAL CERTIFICATION FOR DESIGN – NATIONAL CONSTRUCTION CODE (ALL BUILDING CLASSES)

Prior to the issue of a Construction Certificate, structural details and a Structural Certificate for Design by a qualified practising structural engineer and in accordance with Clause A2.2(a)(iii) of the National Construction Code (applicable to Class 2-9 buildings) and Clause 1.2.2(iii) of Volume 2 of the National Construction Code (applicable to Class 1 and 10 buildings) must be submitted to the satisfaction of the Principal Certifier.

Reason

To ensure structural certification is undertaken.

(17) WORKS REQUIRING USE OF A PUBLIC PLACE

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* is to be obtained from Council prior to the commencement of work. Details of any barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.

Reason

To ensure relevant approvals for public domain work are obtained.

SCHEDULE 1C

DURING CONSTRUCTION/PRIOR TO OCCUPATION/COMPLETION

(18) 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 (e.g. loading and unloading of goods, transferring of tools etc.) in connection with the proposed development must only be carried out between the hours of 7.30am and 5.30pm on Mondays to Fridays, inclusive, and 7.30am and 3.30pm on Saturdays, with safety inspections being permitted at 7.00am on work days, and no work must be carried out on Sundays or public holidays.
- (b) All work, including demolition, excavation and building work must comply with the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436 - 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites.
- (c) Notwithstanding the above, the use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes outside of above hours can occur, subject to a permit being issued by Council under Section 68 of the *Local Government Act, 1993* and/or Section 138 of the *Roads Act, 1993*.

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

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

Reason

To protect the amenity of the surrounding area

(19) SITE NOTICE OF PROJECTS DETAILS AND APPROVALS

A site notice is to be prominently displayed at the boundary to each frontage of the site for the purposes of informing the public of appropriate project details and relevant approvals. The notice(s) is to satisfy all of the following requirements:

- (a) Minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
- (b) The notice is to be durable and weatherproof and is to be displayed throughout the construction period;
- (c) A copy of the first page of the development approval, building approval (including any modifications to those approvals) and any civic works approvals is to be posted alongside the notice in weatherproof casing;

- (d) The approved hours of work, the Principal Certifier including contact address and certification details, the name of the site manager, the responsible managing company, its address and 24 hour contact phone number for any enquiries, including construction/noise complaint, and the estimated date of completion of the project are to be displayed on the site notice;
- (e) The notice(s) is to be mounted at eye level on the perimeter hoardings and is also to state that unauthorised entry to the site is not permitted.
- (f) All notices and signs must be displayed in locations as specified in the City's Guidelines for Hoardings and Scaffolding.

Reason

Prescribed condition under Section 70 of the Environmental Planning and Assessment Regulation, 2021.

(20) ENCROACHMENTS – NEIGHBOURING PROPERTIES

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

Reason

To ensure the development does not encroach onto neighbouring properties.

(21) 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.

Reason

To ensure the development does not encroach onto the public way.

(22) 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.

(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.

Reason

To protect the public way.

(24) 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.

Reason

To ensure the development does not encroach onto neighbouring properties.

(25) LOADING AND UNLOADING DURING CONSTRUCTION

The following requirements apply:

- (a) 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.
- (b) 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.
- (c) 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* and/or Section 138 of the *Roads Act, 1993* must be obtained.

Reason

To protect the amenity of the surrounding area.

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>.

IMPORTANT ADDITIONAL INFORMATION

Advisory notes:

1. It is advised that the City of Sydney Neighbourhood Parking Policy may apply to this development. Eligibility for parking permits for residents or users of the development will be determined by the terms of this policy or subsequent future policies.

The Environmental Planning and Assessment Act 1979 requires you to:

1. Obtain a **Construction Certificate** prior to the commencement of any works. An application may be lodged with Council, or you may apply to a private accredited certifier for a Construction Certificate. An accredited certifier **must obtain Council's approval** to certain conditions of this development consent, where indicated before issuing the Construction Certificate.
2. ***It is compulsory to lodge digital copies of applications, including plans and documentation if lodging an application with Council. Please refer to Council's website for any further information about digital requirements and electronic files.***

Note: All applications must be lodged via the NSW Planning Portal.

3. Nominate a **Principal Certifier** which may be either Council or a registered certifier and notify Council of that appointment. You **cannot lawfully** commence works without complying with this requirement. Appointment must be made through the Planning Portal <https://www.planningportal.nsw.gov.au/>
4. Give Council at least two days notice of your intention to commence the erection of a building **before** commencing construction works. You cannot lawfully commence works without complying with this requirement.
5. Obtain an **Occupation Certificate** before commencing occupation or commencing to use the building or on the completion of other works including the erection of a sign. You cannot lawfully commence occupation or the use of a building without complying with this requirement.

You may also need to:

6. Obtain approval through the lodgement of an application under Section 68 of the *Local Government Act 1993* and Section 138 of the *Roads Act 1993* for an activity which is proposed to be undertaken in, on or above a road reservation (including footways). Such activities include:
 - (a) building elements/façade features;
 - (b) installation of hoardings/scaffolding;
 - (c) installation and/or alterations to advertising/business signs and street awnings;
 - (d) crane operation and other hoisting activities;
 - (e) temporary works (e.g.: barricading, road openings, mobile hoisting devices);
 - (f) works zone (for loading and unloading from the roadway); and
 - (g) temporary ground anchoring and shoring to support a roadway when excavating.

Application forms are available on the City's website.

7. Lodge an **Application for Subdivision** to obtain a **Subdivision Certificate** if a land (including stratum) subdivision is proposed and an **Application for Subdivision** to obtain **Strata Title Subdivision** under the relevant Strata Titles Act if strata title of the development is proposed.
8. Comply with the Food Act 2003, the Australia New Zealand Food Standards Code, Australian Standard 4674 – 2004, and register the business with Council if the premises is used for the manufacture, preparation, packing, storing, conveying or delivering of food or beverage for sale.
9. Contact Sydney Water regarding the water and sewerage services to this development. For further information go to www.sydneywater.com.au.

10. Carry out critical stage inspections in accordance with Section 6.5 of the EP&A Act 1979 and clauses 61, 63 and 65 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

