

# **Attachment A**

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

### SCHEDULE 1

**Note:** The conditions in this Schedule are to be satisfied prior to certification being provided for the works, pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979 (EP&A ACT 1979).

#### (1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2023/995 dated 31 October 2023 and the following drawings prepared by DTB Architects Pty Ltd:

Drawing Number	Drawing Name	Date
02, revision P2	Seating Plan	09/01/2024

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) LIFT TO OBSERVATION DECK TO BE INSTALLED PRIOR TO USE COMMENCING

The lift shown on the seating plan approved by condition 1 between courtyard and the observation deck is to be installed prior to the use under this consent commencing. **Reason**

To ensure the lift is installed as shown on the plans before the use commences.

#### (3) HOURS OF OPERATION

The hours of operation are regulated as follows:

- (a) The internal hours of operation must be restricted to between 12pm to 12am midnight, Monday to Sunday.
- (b) The external hours of operation must be restricted to between 12pm and 10pm, Monday to Sunday.
- (c) Notwithstanding (b) above, the use may operate between 10pm and 12am midnight Monday to Sunday for a trial period of 1 year from the date of issue of the Liquor License. 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](mailto:liquor@cityofsydney.nsw.gov.au)

- (d) Notwithstanding (a) and (b), the premises may operate until 2am on 1 January each year.
- (e) Should the operator seek to continue the extended operating hours outlined in (c) 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.

**(4) MAXIMUM CAPACITY OF PERSONS**

- (a) The maximum number of persons (including staff, patrons and performers) permitted in the premises at any one time is 320 persons.
- (b) The manager/licensee is responsible for ensuring the number of persons in the premises does not exceed that specified above.
- (d) A sign in letters not less than 25mm in height must be fixed at the main entry point to the premises alongside the Licensee's name stating the maximum number of persons, as specified in the development consent, that are permitted in the building. This sign is to be in place prior to the commencement of use.

Note: Clause 73 of the *Environmental Planning and Assessment Regulation 2021* requires a sign specifying maximum number of persons permitted in the building to be displayed in a prominent position for the following types of premises:

- (i) entertainment venue,
- (ii) function centre,
- (iii) pub,
- (iv) registered club,
- (v) restaurant.

**Reason**

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

**(5) PLAN OF MANAGEMENT**

The use must always be operated / managed in accordance with the Plan of Management, prepared by The State Library of New South Wales, signed by Mr Philip Barter and dated 31 January 2024 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.

**(6) 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 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.

**(7) LIGHTING OF PREMISES**

The premises must operate in accordance with the recommendations in the SLNSW – Library Bar Light Spill Report, prepared for SLNSW in Feb 2024, version 1, prepared by Lehr Consultants International (Australia) Pty Ltd and dated February 2024. **Reason**

To protect the amenity of surrounding properties. **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.

**(9) 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.

**(10) 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.

**(11) 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.

**(12) QUEUING**

No persons are permitted to drink whilst queuing outside the premises at any time. The queue for the premises is to be within the paved area and no further than 20m from the building entry point. Security officers are to take all reasonable steps to ensure compliance with this condition.

**Reason**

To safeguard the amenity of the surrounding neighbourhood.

**(13) SECURITY**

Security is to be provided at any time and in any manner specified in the Plan of Management prepared by the State Library of New South Wales, signed by Mr Philip Barter and dated 31 January 2024 that has been approved by Council.

**(14) 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 10m 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 Licensee must record this daily checking activity in the security/incident register book that meets the standards required by the Licensing 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/licensee 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.

**(15) WASTE/RECYCLING COLLECTION - COMMERCIAL**

- (a) Waste storage and 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 2017.
- (b) 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.
- (c) 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.

**(16) EXTERNAL LIGHTING**

Illumination from any external lighting, when measured from any place in the public domain, must comply with the following:

- (a) The intensity, colour, period of intermittency and hours of illumination must be varied if, at any time in the opinion of the Council, adverse impact or Obtrusive Light in accordance with the definition in Australian Standard AS4282-1997 *Control of the obtrusive effects of outdoor lighting* is being caused to the amenity of the area;
- (b) Where nearby residents are located above the level of the external lighting, light must not be directed upwards toward such residences prior to the commencement of the use; and
- (c) Batten type fluorescent lighting is not permitted to be used for external lighting.

**(17) COMPLIANCE WITH THE ACOUSTIC REPORT PRIOR TO CROWN CERTIFICATION**

- (a) All relevant performance parameters (including but not limited to requirements, engineering assumptions and recommendations) in the DA Acoustic Report prepared by Acoustic Studio, dated 25 October 2023, revision issue 3, titled Rooftop Bar Extension, State Library NSW, Acoustic Assessment for Development Application, Council Ref 2023/624338 must be implemented in the development prior to the commencement of its use.

- (b) Prior to the commencement of use, 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) 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).

- (c) 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.

## **(18) 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 ( $L_p$ ) 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  $LA1 15 \text{ minute}$  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.

- (e) Condition (d) above does not apply on 1 January each year.

### Reason

To protect the acoustic amenity of surrounding properties.

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

Prior to the commencement of use, a Suitably Qualified Acoustic Consultant\* is to provide a Noise Limiter/s Verification Report to Council 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 CROWN CERTIFICATION 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.

### **(20) NOISE – COMMERCIAL PLANT / INDUSTRIAL DEVELOPMENT**

- (a) Noise from commercial plant and industrial development must not exceed a project amenity/intrusiveness noise level or maximum noise level in accordance with relevant requirements of the NSW EPA [Noise Policy for Industry 2017 \(NPfI\)](#) unless agreed to by the City's Area Planning Manager. Further:
  - (i) Background noise monitoring must be carried out in accordance with the long-term methodology in [Fact Sheet B](#) of the NPfI unless otherwise agreed by the City's Area Planning Manager.
  - (ii) Commercial plant is limited to heating, ventilation, air conditioning, refrigeration and energy generation equipment.
- (b) An  $L_{Aeq,15 \text{ minute}}$  (noise level) emitted from the development must not exceed the  $L_{A90, 15 \text{ minute}}$  (background noise level) by more than 3dB when assessed inside any habitable room of any affected residence or noise sensitive commercial premises at any time. Further:
  - (i) The noise level and the background noise level must both be measured with all external doors and windows of the affected residence closed.

- (ii) Background noise measurements must not include noise from the development but may include noise from necessary ventilation at the affected premises.
- (c) Corrections in [Fact Sheet C](#) of the NPfl are applicable to relevant noise from the development measured in accordance with this condition, however duration corrections are excluded from commercial noise.

**Reason**

To protect the acoustic amenity of surrounding properties.

**(21) ACCESS AND FACILITIES FOR PERSONS WITH DISABILITIES**

The building must be designed and constructed to provide access and facilities for people with a disability in accordance with the *Building Code of Australia*.

If, in complying with this condition, amendments to the development are required, the design changes must be submitted to and approved by Council prior to any Crown certification being provided for the works, pursuant to Section 6.28 of the *Environmental Planning and Assessment Act, 1979*.

**Reason**

To ensure the development meets the requirements of the Building Code of Australia.

**(22) NO PHYSICAL WORKS APPROVED BY THIS CONSENT**

No physical works are approved under this consent. Any physical works, including those carried out to achieve compliance with the NCC/BCA and other building regulation requirements need separate development consent, unless they are exempt under the Heritage Act and relevant planning instruments.

**Reason**

To ensure the heritage value of the site is considered in any assessment.

**(23) PRIOR TO OCCUPATION OR USE**

Prior to occupation or use, certification is to be obtained certifying that the approved building works are suitable for occupation or use in accordance with their classification under the BCA and that Certification has been issued under 6.28 of the EP&A Act 1979 and BCA 2016.

**Reason**

To ensure required certification is obtained.

## SCHEDULE 2

### PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Part 4, Division 2 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>