

Attachment A

Recommended Conditions of Consent

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2024/395 dated 23 May 2024 and the following drawings prepared by RFA Architects:

Drawing Number	Drawing Name	Date
A2101 – Rev 2	As-Built Floor Plans	21/08/2024
A2102 – Rev 2	As-Built Floor Plans	21/08/2024
A3001 – Rev 1	As-Built Street Elevation	26/06/2024

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) APPROVED USE

The premise as shown in the approved plans referenced in Condition (1) above is approved as a sex services premises (brothel) as defined in the *Sydney Local Environmental Plan 2012* and *Section 4.4.6 of Sydney Development Control Plan 2012*.

The premise must not be used for any other land use or adult entertainment premises as defined in *Section 4.4.6 of Sydney Development Control Plan 2012*.

Reason

To restrict the use of the premises.

(3) HOURS OF OPERATION - SENSITIVE USES

The hours of operation hours of operation are regulated as follows:

- (a) The hours of operation must be restricted to between 10.00am and 2.00am the following day, Monday to Sunday.
- (b) Notwithstanding (a) above, the use may operate between 2.00am and 4.00am, Monday to Sunday, for a trial period of 5 years from the date of this consent, being from 25 September 2024.
- (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.

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

(4) MANAGEMENT OF PREMISES

- (a) No more than 6 sex working rooms shall be provided at the premises.
- (b) There must be a receptionist and manager on the premises at all times during operating hours.
- (c) No display or soliciting shall take place outside the premises.
- (d) Clients are required to wait inside the building and are not permitted to wait outside the premises or in passageways associated with the premises.

Reason

To ensure appropriate operation of the premises.

(5) PHYSICAL WORKS

No approval or consent is granted for any physical works to the building, with the exception of the installation of CCTV and duress alarms in work rooms.

Reason

To ensure all parties are aware that no physical works are approved or granted as part of this consent.

(6) SEX SERVICE PREMISES STAFF FACILITIES

Staff facilities must be provided within the premises, in an area which is not accessible by clients and is adjacent to and accessible from work areas. The facilities must have controlled access and appropriate facilities including: a rest area with seating; fully equipped bathroom (shower, toilet and hand basin); sink with running water, water boiling facilities and fridge; food and drink preparation areas; staff lockers and health information noticeboard.

Reason

To ensure appropriate staff facilities are provided on the premises.

(7) SEX INDUSTRY PREMISES - LIGHTING

- (a) All workrooms in sex service premises must be provided with an adequate level of lighting to allow sex workers to conduct health checks of their clients for any visible signs of sexually transmitted diseases, and/or a lamp is to be provided specifically for this.
- (b) All sex on premises cubicles, booths and sexual activity areas must be fitted with a local lighting system that achieves an adequate level of luminance for the purpose of allowing patrons to conduct examination of each other for visible evidence of sexual transmitted disease and to assist safe sexual practices. User adjustable dimmer switches may be installed to achieve this.
- (c) All sex on premises cubicles, booths and sexual activity areas must be fitted with lighting that achieves a minimum luminance of 80lx for the purpose of spot cleaning. This must be achieved either through the provision of a separate zoned lighting system or incorporated into the design of the local lighting system for sexual transmitted infection examination by patrons.
- (d) The premises must be capable of being illuminated with an adequate level of lighting so that the premises can be thoroughly cleaned when patrons are not on the premises.

Reason

To protect the health and safety of sex workers.

(8) WASTE AND RECYCLING MANAGEMENT - GENERAL

The proposal must comply with the relevant provisions of the Sydney Development Control Plan 2012 and Council's *Guidelines for Waste Management in New Developments 2018*, which requires facilities to promote the safe and efficient storage, separation, collection and handling of waste to maximise resource recovery.

Reason

To ensure that waste and recycling is appropriately managed throughout all phases of the development.

(9) SEX SERVICE PREMISES DATABASE

Prior to the issue of any Occupation Certificate, Councils Health and Building Unit must be renotified that the premises is being used for the purposes of a 'sex service premises' and the business registered on Council's database. The premises will then be subject to Council inspection.

Reason

To ensure the premises is registered on Council's database to allow appropriate inspections.

(10) WASTE AND RECYCLING COLLECTION CONTRACT

Prior to any Occupation Certificate being issued, the building owner 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.

(11) 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.

(12) PLAN OF MANAGEMENT – SEX SERVICES PREMISES

The operation of the premises must be conducted in accordance with a Plan of Management (Council ref: 2024/384858) that has been approved by Council. Should there be any additional or altered activities/procedures to those specified in the approved plan of management that remain within the scope of the development consent, or change of ownership or management, then the plan of management must be appropriately reviewed and submitted to and approved by Council.

Reason

To ensure appropriate management of the premises.

(13) SEX ON PREMISES VENUE - CLEANING

- (a) The premises must be maintained in a clean, sanitary condition and kept in a satisfactory state of repair at all times.
- (b) The premises, including any booths, cubicles, walls, floors and 'glory holes' must be constructed of durable, impervious materials with smooth finishes that are able to be cleaned easily.
- (c) All performance/working rooms must be cleaned on a daily basis and should also be assessed for cleaning after every performance/ service with spot cleaning occurring as necessary and as frequently as possible.

- (d) All linen, towelling and other bed coverings which come into contact with clients must be changed immediately after each use. While the premises are operating, coverings used on beds, furnishings or the like must be regularly changed. Clean linen and towels must be provided for the use of each client.
- (e) Used linen must be stored separately to clean linen and if laundering is carried out on site, adequate, sealable receptacles are to be used.
- (f) All mattresses used for sex must be fitted with washable mattress covers. It is recommended that covers are made from a waterproof material. While the premises is operating all coverings used on beds, furnishing or the like that are visibly stained with body fluids must be immediately changed.
- (g) Evidence of a commercial contract to launder linen must be provided to Council upon request. Alternatively, a commercial washing machine capable of washing at a temperature of not less than 70 degrees Celsius must be installed on the premises and provided with hot water reaching 70 degrees Celsius at all times.
- (h) A cleaning register is to be kept on the premises at all times and must be available for inspection by authorised officers on demand. The register must include but not be restricted to: date/time of all cleaning activities; printed name and signature of the employee(s) conducting the cleaning; and notation of specific areas requiring spot cleaning attention.
- (i) Spot cleaning must be conducted on as a minimum hourly basis or more frequently if needed and during peak periods.
- (j) There must be a minimum of 2 staff available at all times at the premises so as cleaning and security can be maintained.

Reason

To ensure adequate cleaning is undertaken within the premises.

(14) SEX SERVICE PREMISES - SHARPS WASTE DISPOSAL EQUIPMENT

A least one sharps container of a one litre or more capacity is to be provided and kept on premises at all times for use by clients or staff as required.

The container(s) are to comply with the requirements of AS4261:1994 and/or AS4031:1992 and be disposed of in accordance with the Department of Environment and Conservation's requirements.

Reason

To ensure sharps waste can be disposed of appropriately.

(15) 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.

(16) NO FOOD FOR SALE

No food is to be prepared, cooked or supplied onsite for the purposes for sale to clients.

Reason

To ensure no food is prepared, cooked or sold to clients on the premises.

(17) LIQUOR

At no times is liquor, or any product purported to be or contain liquor, is to be served, supplied or sold on the premises.

Reason

To no liquor is severed, supplied or sold on the premises.

(18) DISCRETION

- (a) The premises must not display sex-related products, sex workers, performers, or nude or semi-dressed staff from windows, doors or outside of their premises.
- (b) The interior of the premises must not be visible from any place in the public domain.
- (c) Where the interior of an adult entertainment or sex industry premises maybe visible from neighbouring buildings, adequate measures should be taken to screen the interior of the building, for example using blinds, screens etc.

Reason

To ensure appropriate discretion for the premises and not attract undue attention to the sensitive use within the site locality.

(19) MANAGEMENT AND OPERATION OF SEX SERVICE PREMISES

- (a) All working rooms and staff areas must be provided with intercoms or duress alarm systems linked to a central base and monitored at all times.
- (b) An adequate supply of condoms (in a variety of three sizes), dental dams and water based lubricant must be supplied free of charge for sex workers and their clients.

- (c) The premises must be provided with artificial lighting to provide a level of illumination appropriate to the function or use of the building/spaces to enable safe use and movement of occupants in accordance with Part F4 of the BCA.
- (d) Adequate sanitary facilities must be provided for the use of both sex workers and clients. Each room in which sex services are provided should contain its own sanitary facilities including a toilet, shower and hand basin. Alternatively in existing terrace semi detached or similar buildings, one bathroom with full facilities every three workrooms or part there of must be provided. Each room in which sex services are provided is to have direct access to these sanitary facilities.
- (e) Condoms are to be worn for any sexual service provided by a sex worker.
- (f) Adequate waste disposal procedures or facilities must be provided for the disposal of used condoms, soiled paper and other waste products of sexual activity for all work rooms.

Reason

To ensure appropriate management and operation of the premise.

(20) SEX INDUSTRY SEXUAL HEALTH INFORMATION

- (a) Current written information such as pamphlets, brochures, and notice board displays, in a variety of languages including all those spoken by staff, on sexually transmitted infectious diseases and occupational health and safety material must be made available and easily accessible to all sex workers and clients.
- (b) All sex workers must receive appropriate induction, be adequately trained and continually be provided with updated information about how to examine clients for any visible evidence of sexually transmitted infections. Examination of clients must be conducted before any sexual contact.
- (c) A staff notice board specifically for occupational health and safety information, sexually transmitted infection information and contact details for health service providers must be provided in the staff room.

Reason

To ensure current sex health information is readily available at the premises for sex workers and clients.

(21) HEALTH SERVICES ACCESS

The proprietor must give access to health service providers to provide information and educational activities on sexually transmitted infections issues and any other issues.

Reason

To ensure access to health service providers is provided.

(22) 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.

(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) COPIES OF CONSENTS AND MANAGEMENT PLANS

A full and current copy of all current development consents for the operation of the sex services premises including the endorsed 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.

(25) NOISE

- (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 $L_{A1 15 \text{ minute}}$ 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.

(26) NEIGHBOURHOOD AMENITY

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

General advisory notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation. Some of these additional obligations are set out in the [Conditions of development consent: advisory notes](https://www.planning.nsw.gov.au/sites/default/files/2023-07/condition-of-consent-advisory-note.pdf). <https://www.planning.nsw.gov.au/sites/default/files/2023-07/condition-of-consent-advisory-note.pdf> The consent should be read together with the *Conditions of development consent advisory notes* to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

Building work or subdivision work must not be carried out until a construction certificate or subdivision works certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.

Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

Approved plans and documents means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

AS means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

Building work means any physical activity involved in the erection of a building.

Certifier means a council or a person that is registered to carry out certification work under the *Building and Development Certifiers Act 2018*.

Construction certificate means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

Council means the City of Sydney.

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

EP&A Act means the *Environmental Planning and Assessment Act 1979*.

EP&A Regulation means the *Environmental Planning and Assessment Regulation 2021*.

Independent Planning Commission means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

Local planning panel means the City of Sydney Local Planning Panel.

Occupation certificate means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

Principal certifier means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

Stormwater drainage system means all works and facilities relating to:
the collection of stormwater,
the reuse of stormwater,
the detention of stormwater,
the controlled release of stormwater, and
connections to easements and public stormwater systems.

Strata certificate means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

Subdivision certificate means a certificate that authorises the registration of a plan of subdivision under Part 23 of the *Conveyancing Act 1919*.

Subdivision works certificate means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the EP&A Regulation.