

# **Attachment A**

<b>Recommended Conditions of Consent</b>
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## 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/2024/520 dated 1 July 2024 and the following drawings:

Drawing Number	Drawing Name	Date
DA000.GF – Rev 2	Existing & Demolition Plan – Ground Level	21/02/2024
DA001.GF – Rev 3	General Arrangement Plan – Ground Level	28/08/2024
DA002.GF – Rev 1	Reflected Ceiling Plan – Ground Level	28/08/2024
DA003.GF – Rev 1	Finishes Plan – Ground Level	28/08/2024
DA000.GF – Rev 3	Existing & Demolition Plan – Basement	28/08/2024
DA.001.BL – Rev 6	General Arrangement Plan – Basement	30/09/2024
DA002.BL – Rev 1	Reflected Ceiling Plan – Basement	28/08/2024
DA003.BL – Rev 2	Finishes Plan – Basement	30/09/2024
DA100.EL – Rev 3	External Elevation – York St	18/10/2024
DA200.Details.Project ed Signage – Rev 1	External Elevation – York Street	18/10/2024
DA101.EL – Rev 4	Internal Elevation	30/09/2024
DA102.EL – Rev 2	Internal Elevation – York St	21/02/2024

Drawing Number	Drawing Name	Date
DA103.EL – Rev 1	Internal Elevation – York St	21/02/2024

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) SECTION 7.12 CONTRIBUTIONS PAYABLE – SUBMITTED AND VERIFIED PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

A monetary contribution is payable to the City of Sydney pursuant to Section 7.12 of the *Environmental Planning and Assessment Act 1979* and the *Central Sydney Development Contributions Plan 2020*.

The Section 7.12 levy is determined by the development cost, as per the following table:

Development cost *	Levy
* Refer to Section 2.3 of the <i>Central Sydney Development Contributions Plan 2020</i> for information on determining the development cost.	
Up to and including \$250,000	NIL
More than \$250,000, up to and including \$500,000	1%
More than \$500,000, up to and including \$1,000,000	2%
More than \$1,000,000	3%

The Section 7.12 levy is payable to the City of Sydney in accordance with the following:

- (a) Prior to a Construction Certificate being issued, evidence must be provided of Council's written verification of the amount of the contribution as required in (b) below, and that the levy has been paid to the Council in accordance with this condition. Payment may be by EFTPOS (debit card only), CASH or a BANK CHEQUE made payable to the City of Sydney. Direct debit, personal or company cheques will not be accepted.
- (b) The contribution must not be paid to the City of Sydney until it is accompanied by separate written verification by the City of Sydney of the specific amount payable. In order to obtain such verification, one of the following must be submitted:
  - (i) **For development between \$250,000 and \$3,000,000** – the City of Sydney *Cost Summary Report* must be completed by a suitably qualified person such as the Project Architect or Project Manager and submitted to the City of Sydney together with the copies of the plans the subject of the application for the Construction Certificate. An electronic copy of the *Cost Summary Report* is available from the City's website at [www.cityofsydney.nsw.gov.au](http://www.cityofsydney.nsw.gov.au); or
  - (ii) **For development more than \$3,000,000** – The City of Sydney *Registered Quantity Surveyor's Detailed Cost Report* must be completed by a Quantity Surveyor registered with the Australian Institute of Quantity Surveyors or a person who can demonstrate an equivalent qualification and submitted to the City of Sydney together with the copies of the plans the subject of the application for the Construction Certificate. An electronic copy of the *Registered Quantity Surveyor's Detailed Cost Report* is available from the City's website at [www.cityofsydney.nsw.gov.au](http://www.cityofsydney.nsw.gov.au).
- (c) The Council will consider the documentation submitted under subclause (b) and determine the cost of the proposed development having regard to the information submitted and to such other matters as it considers appropriate and will notify the Registered Certifier accordingly.
- (d) The development cost is to be determined in accordance with Section 2.3 of the Central Sydney Development Contributions Plan 2020, located in the version in force at the date of the grant of this consent.

Please contact Council's Planning Administration staff at [Planningsystemsadmin@cityofsydney.nsw.gov.au](mailto:Planningsystemsadmin@cityofsydney.nsw.gov.au) to request a written Statement of Contributions Owing, prior to payment.

### **Reason**

To ensure development contributions are paid to support the provision of public facilities, amenities, and services in Central Sydney.

### **(3) HOUSING AND PRODUCTIVITY CONTRIBUTION**

Before the issue of any Construction Certificate the housing and productivity contribution (HPC) set out in the table below is required to be made.

<b>Housing and productivity contribution</b>	<b>Amount</b>
Housing and productivity contribution (base component)	\$379.33
Transport project component	-
<b>Total housing and productivity contribution</b>	<b>\$379.33</b>

The HPC must be paid using the NSW planning portal.

At the time of payment, the amount of the HPC is to be adjusted in accordance with the *Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024* (HPC Order).

The HPC may be made wholly or partly as a non-monetary contribution (apart from any transport project component) if the Minister administering the *Environmental Planning and Assessment Act 1979* agrees.

The HPC is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the *Environmental Planning and Assessment Act 1979* to the development, or the HPC Order exempts the development from the contribution.

The amount of the contribution may be reduced under the HPC Order, including if payment is made before 1 July 2025.

**Reason**

To require contributions towards the provision of regional infrastructure.

**(4) LICENSED PREMISES – PRIMARY PURPOSE**

The primary purpose of the premises is as a restaurant with the kitchen to be open and substantial food service to be available to patrons at all times during the approved hours of operation. The sale and supply of liquor must cease when the kitchen ceases to operate. All patrons are to have an allocated seat and the number and location of tables and chairs provided for seated dining must be in accordance with the approved floor plan at all times.

**Reason**

To ensure the premises operates in accordance with the relevant liquor license.

**(5) HERTIAGE DETAILS - DESIGN MODIFICATIONS**

The design of the building must be modified as follows:

- (a) The proposed new entry door opening between the ramp and basement is to be a maximum width of 1200mm as is indicated on the approved drawings. Architectural details of the proposed beam and the brick reveals, and the threshold at a minimum of 1:20 scale, including elevations, plans and sections, are to be submitted with the amendment.

- (b) The proposed new landings either side of the new entrance to the basement must not be constructed in concrete or masonry. Both landings are to be framed in either timber or steel so as to be reversible, avoid exacerbating issue of rising damp in the brick wall, and avoid disturbance of earlier cartway pavements and archaeology. The associated footings must be designed so as to cause minimal disturbance of earlier cartway pavements and archaeology.
- (c) The proposed illuminated neon signage fixed to face of the original timber panelled transom above the cartway is not approved and is to be deleted from the plans.
- (d) The proposed projecting wall sign is not approved. An amended design may be submitted for review, with consideration to the heritage significance of the building and nearby approved signs on the street.
- (e) The proposed wall tiling to be applied to the sandstone walls of the basement in the Kegg Room, in the Kitchen Preparation area, in the Bin Store and in the Bar area is not approved as it will exacerbate salt attack and rising damp. All tiling is to be applied to wall sheeting that is spaced off the sandstone walls to provide a cavity, by 100mm thick studwork. The cavity is to be ventilated. (refer NSW Heritage Council publication '***Salt Attack and Rising Damp: A Guide to Salt Damp in Historic and Older Buildings***' available on line at <https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Heritage/salt-attack-and-rising-damp-guide.pdf>)

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

**Reason**

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

**(6) GENERAL HERITAGE**

- (a) The proposed works are to be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to the significant fabric of the existing building which is listed as a Heritage Item.
- (b) Appropriately qualified tradespersons (as appropriate) are to be commissioned who are skilled in traditional building and engineering trades to carry out the proposed scope of works.

**Reason**

To ensure that the development does not result in adverse heritage impacts.

**(7) MATERIALS FOR MAKING GOOD**

New materials for making good and repairs, are to match the existing in terms of colours, finishes, sizes, profile and properties.

**Reason**

To ensure appropriate materials and finishes are used.

**(8) SIGNAGE GENERAL REQUIREMENTS**

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

- (a) The signage is not to contain highly reflective materials, colours and finishes.
- (b) The signage is not to incorporate sound, vibration, odour and other emissions.
- (c) 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 the latest edition of AS/NZS 4828.

**Reason**

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

**(9) ERECTION OF SIGN**

Signage is to be erected in a secure manner to ensure safety and its installation is not to involve measures that would cause irreversible damage to the building.

**Reason**

To ensure signage installed does not cause irreversible damage to the building.

**(10) SIGNS/GOODS IN THE PUBLIC WAY**

No signs or goods are to be placed on the footway or roadway adjacent to the property.

**Reason**

To ensure the public domain is kept free from physical obstructions.

**(11) 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.

# **BUILDING WORK**

## **BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

### **(12) COMPLIANCE WITH THE ACOUSTIC REPORT PRIOR TO CONSTRUCTION AND OR OCCUPATION CERTIFICATES**

- (a) All relevant performance parameters (including but not limited to requirements, engineering assumptions and recommendations) in the DA Acoustic Report prepared by Acoustic Dynamics, dated 15 May 2024, ref 3364R009.LM.240515, titled Operational Noise Emission Assessment Licenced Premises - Proposed Modifications 18-20 York Street, Sydney, NSW, Council Ref 2024/386221 must be implemented in the development prior to the commencement of its use.
- (b) Prior to the issue of any relevant Construction Certificate, 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 Registered Certifier.
- (c) Prior to the issue of any Occupation Certificate, 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.

### **(13) HERITAGE INTERPRETAION PLAN**

- (a) The existing heritage interpretation within the building is to be retained and be made visible to the users of the building. The locations of the existing heritage interpretation within the building may be amended to suit the new fitout. Alternatively, a new interpretation plan for the building may be proposed.



- (b) Details of the amendments to the existing heritage interpretation or the proposed new interpretation plan for the building, must be submitted to and approved by Council's Area Planning Manager prior to a Construction Certificate being issued. The details are to be prepared by a suitably qualified and experienced heritage practitioner or historian and include information on the history and significance of the building and site will be provided for the public and make recommendations regarding public accessibility, signage and lighting.
- (c) The plan must specify the location, type, making materials and contents of the interpretation device being proposed.
- (d) Prior to occupation certificate being issued, the approved interpretation plan must be implemented to the satisfaction of Council's Area Planning Manager.

**Reason**

To ensure that the heritage of the site is appropriately interpreted and incorporated into the development.

**(14) BUILDING WORKS TO COMPLY WITH NATIONAL CONSTRUCTION CODE BCA – HERITAGE BUILDINGS OR BUILDINGS WITHIN CONSERVATION AREA**

Any building works required to ensure compliance with the NCC (previously known as BCA) or new building standards not specified in the submitted/approved plan must not damage existing fabric and building features. If such upgrading works have impact or potentially have impact on existing fabric and features, details of the works must be submitted and approved by Council's Area Coordinator Planning Assessments / Area Planning Manager prior to issue of any Construction Certificate.

**Reason**

To ensure an appropriate heritage outcome.

**(15) FOOD PREMISES – DETAILED PLANS**

- (a) Detailed and scaled plans of all kitchen, bar, food preparation, waste and storage areas, food handler toilets and all areas associated with the food business must be prepared in accordance with the *Australia New Zealand Food Standards Code – 3.2.3 – Food Premises and Equipment* under the *Food Act 2003* and *AS 4674 - Design, Construction and Fit-out of Food Premises*.
- (b) Prior to the issue of a Construction Certificate the plans required by (a) of this condition must be submitted to and approved in writing by the Registered Certifier.

**Reason**

To ensure all areas associated with the food business comply with relevant standards.

## **(16) CONSTRUCTION AND FITOUT OF FOOD PREMISES**

The construction, fit-out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code under the *Food Act 2003* and AS 4674 – 2004 Design, Construction and Fit-out of Food Premises.

Note: Copies of AS 4674-2004 may be obtained from the Standards Australia Customer Service on telephone 1300 65 46 46 or by visiting the website [www.standards.com.au](http://www.standards.com.au).

Copies of the Food Standards Code (Australia) may be obtained by contacting the Food Standards Australia and New Zealand Authority on telephone (02) 6271 2222, email [info@foodstandards.gov.au](mailto:info@foodstandards.gov.au) or by visiting the website [www.foodstandards.gov.au](http://www.foodstandards.gov.au)

### **Reason**

To ensure the construction, fitout and finishes of the food premises comply with relevant standards.

## **(17) SANITARY FACILITIES – FOOD PREMISES**

The sanitary facilities must be separated from all food handling areas via an airlock, self-closing door or mechanical ventilation in accordance with the provisions of the *National Construction Code (previously known as Building Code of Australia)*, Part F 3.1, 4.8 and 4.9.

### **Reason**

To ensure sanitary facilities comply with relevant standards to protect food handling areas.

## **(18) PERSONAL LOCKERS**

Clothing lockers or change rooms for staff must be provided in the premises or a dedicated, separate and isolated space for personal items must be provided in a separate location to the food handling and storage areas, in accordance with *AS4674 - Design, Construction and Fit out of Food Premises*.

### **Reason**

To ensure appropriate personal lockers are provided for staff.

## **(19) COOLROOMS**

Coolrooms, refrigerated chambers and strong-rooms must be constructed in accordance with G 1.2 of the *National Construction Code (previously known as Building Code of Australia)*, and:(a) The floor of the coolroom must be graded to the door and a floor trapped waste outlet must be located outside the coolroom as near as possible to the door opening.

(b) All proposed shelving in the coolroom must be free-standing, constructed of galvanised steel angle section or other approved material with the lowest shelf at least 150mm clear of the floor.

- (c) The floor of the coolroom must be constructed of impermeable concrete or coated, topped or otherwise finished with an impervious material to a smooth even surface and coved at the intersections with the walls to a minimum radius of 25mm.
- (d) Must be fitted with a door that can be opened at all times from inside without a key.
- (e) An approved audible alarm device must be located outside the coolroom(s) but controllable only from within the coolroom(s) and must be able to achieve a sound pressure level outside the chamber or coolroom(s) of 90 dB(A) when measured 3 metres from a sounding device.

**Reason**

To ensure coolrooms are constructed appropriately in accordance with relevant standards.

**(20) GREASE AND LIQUID WASTE TRAPS**

- (a) A grease trap as required by Sydney Water must be installed in accordance with the relevant Sydney Water requirements.
- (b) Prior to the issue of a Construction Certificate, plans and details are to be submitted to and approved by the Registered Certifier showing the following:
  - (i) The grease trap is constructed and installed in a location which allows it to be easily and effectively cleaned and emptied; and
  - (ii) The grease trap is constructed and located as not to encourage the harbourage of pests and be effectively pest proofed.
- (c) The grease trap is not located in any kitchen, food preparation or food storage areas;
  - (i) The grease trap is constructed and installed in a location which allows it to be easily and effectively cleaned and emptied; and
  - (ii) The grease trap is constructed and located as not to encourage the harbourage of pests and be effectively pest proofed.

Note: In-sink and in-floor waste bucket traps must be installed in all sinks and floor wastes in all commercial kitchens and food preparation areas. The installation of any grease traps and treatment equipment must be carried out by a suitably qualified and licensed plumber in accordance with the *Plumbing Code of Australia*.

**Reason**

To ensure grease and liquid waste traps are installed in accordance with relevant requirements.

**(21) TOILETS FOR FOOD HANDLERS**

- (a) Adequate toilet facilities must be available for food handlers working for the food business. Toilets and associated facilities must be provided in accordance with *AS4674 – Design, Construction and Fit-out of Food Premises* and the *Australia New Zealand Food Standards Code, 3.2.3 - Food Premises and Equipment*.

- (b) Details of the location of toilets which are provided exclusively for the use of food handlers and staff working at the business must be submitted for the approval of the Registered Certifier prior to the issue of a Construction Certificate.
- (c) The toilet(s) must be provided with a hand wash basin, with hot and cold running water mixed through a common spout, hand wash soap, hygienic hand drying facilities and hands-free taps.

**Reason**

To ensure food handlers have access to adequate toilet facilities.

**(22) WASTE STORAGE AREA**

- (a) To ensure the adequate storage and collection of waste from the food premises, all garbage and recyclable materials emanating from the premises must be stored in a designated waste storage area. The waste storage area must be designed and constructed in accordance with *AS 4674 – Design, Construction and Fit-out of Food Premises, Australia New Zealand Food Standards Code 3.2.3 – Food Premises and Equipment* and comply with the *Council Policy for Waste Minimisation in New Developments*, and must be:
  - (i) Provided with a hose tap connected to the water supply.
  - (ii) Paved with impervious floor materials.
  - (iii) Coved at the intersection of the floor and walls.
  - (iv) Graded and drained to a waste disposal system in accordance with the requirements of the relevant regulatory authority (Sydney Water).
  - (v) Adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour or air pollution as defined by the *Protection of the Environment Operations Act 1997* or a nuisance.
  - (vi) Provided with the appropriate number and size of bins adequate for the storage of waste generated by the business, including recycling.
  - (vii) Appropriately managed to Council's satisfaction so that it does not attract pests or create litter.
  - (viii) Waste and recycling stream(s) storage area(s) to be designed and constructed in accordance with Reference D of Council's Guidelines for Waste Management in New Developments. Floors to be waterproofed across all intersections that extend a minimum 1200mm high on the walls.

Note: Fitted with appropriate interventions to meet fire safety standards in accordance with the *Building Code of Australia*.

- (b) Detailed plans and specifications for the construction of the waste storage area must be submitted to Council's City Cleansing & Resource Recovery Unit, and approved by Council's Area Planning Manager prior to the issue of the Construction Certificate and must be constructed in accordance with such plans and specifications prior to the issuance of any Occupation Certificate.

**Reason**

To ensure the adequate storage and collection of waste from the food premises.

**(23) IWASTE AND RECYLCING MANAGEMENT – COMMERCIAL**

The Operational Waste Management Plan dated August 2024 (Council ref: 2024/575020) accompanying the Development Application has been approved by this consent responsive to architectural plans revision 6 and dated 30 September 2024. Should the architectural plans be updated, an updated Operational Waste Management Plan is to be submitted to Council's City Cleansing & Resource Recovery Unit and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate.

**Reason**

To document agreed waste management facilities and arrangements and ensure good waste management outcomes.

**(24) MECHANICAL VENTILATION**

- (a) The premises must be ventilated in accordance with the *Building Code of Australia* and *AS1668.1 and AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings - Mechanical Ventilation in Buildings*.
- (b) Details of any mechanical ventilation and/or air conditioning system complying with *AS1668.1 and AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings - Mechanical Ventilation in Buildings*, the *Building Code of Australia* and relevant Australian Standards must be prepared and certified in accordance with Clause A5.2(1)(e) of the *Building Code of Australia*, to the satisfaction of the Registered Certifier prior to the issue of a Construction Certificate.
- (c) Prior to issue of any Occupation Certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A5.2(1)(e) of the *Building Code of Australia*, must be submitted to the Principal Certifier.

**Reason**

To ensure the ventilation complies with relevant standards.

**(25) NATIONAL CONSTRUCTION CODE COMPLIANCE - ALTERATIONS AND ADDITIONS - UPGRADE OF THE BUILDING IS REQUIRED**

Pursuant to Section 64 of the Environmental Planning and Assessment Regulation 2021, the basement and ground floor levels must comply with the Building Code of Australia through the prescribed compliance pathways addressing the following matter prior to the issuing of a construction certificate:

- (a) Access and egress - Part D1;
- (b) Provision of escape - Part D2;
- (c) Construction of exits - Part D3;
- (d) Fire fighting equipment - Part E1;
- (e) Smoke hazard management (Performance Requirements) - Part E2;

**Reason**

To ensure the works comply with relevant regulations.

**DURING BUILDING WORK**

**(26) ASBESTOS REMOVAL WORKS**

- (a) All works removing asbestos containing materials must be carried out by a suitably licensed asbestos removalist duly licensed with Safework NSW, holding either a Friable (Class A) or a Non-Friable (Class B) Asbestos Removal Licence which ever applies.

A copy of the relevant licence must be made available to any authorised Council officer on request within 24 hours.

- (b) Five days prior to the commencement of licensed asbestos removal, Safework NSW must be formally notified of the works. All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification must identify the licensed asbestos removal contractor and include a contact person for the site together with telephone number and email address.
- (c) All work must be carried out in accordance with the *Work Health and Safety Regulation 2017* and the NSW Government and SafeWork NSW document entitled *How to manage and control asbestos in the work place: Code of Practice (Safework NSW) December 2011* and the *City of Sydney Managing Asbestos Policy dated 21 October 2013 and associated guidelines*.

- (d) The asbestos removalist must use signs and barricades to clearly indicate the area where the asbestos removal work is being performed. Signs must be placed in positions so that people are aware of where the asbestos removal work area is and should remain in place until removal is completed and clearance to reoccupy has been granted. Responsibilities for the security and safety of the asbestos removal site and removal must be specified in the asbestos removal control plan (where required). This includes inaccessible areas that are likely to contain asbestos.
- (e) Warning signs must be placed so they inform all people nearby that asbestos removal work is taking place in the area. Signs must be placed at all of the main entry points to the asbestos removal work area where asbestos is present. These signs must be weatherproof, constructed of light-weight material and adequately secured so they remain in prominent locations. The signs must be in accordance with AS 1319 -1994 *Safety Signs for the Occupational Environment* for size, illumination, location and maintenance.
- (f) Asbestos waste must only be transported and disposed of at an EPA licensed waste facility.
- (g) No asbestos products are to be reused on the site (i.e. packing pieces, spacers, formwork or fill etc).
- (h) No asbestos laden skips or bins are to be left in any public place without the written approval of Council.
- (i) A site notice board must be located at the main entrance to the site in a prominent position and must have minimum dimensions of 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size.

The site notice board must include the following:

- (i) contact person for the site;
- (ii) telephone and facsimile numbers and email address; and
- (iii) site activities and time frames.

### **Reason**

To ensure that the handling and removal of asbestos from the site is appropriately managed.

## **(27) HOURS OF WORK AND NOISE – CBD**

The hours of construction and work on the development must be as follows:

- (a) All work, including demolition, excavation and building work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.00am and 7.00pm on Mondays to Fridays, inclusive, and 7.00am and 5.00pm on Saturdays, and no work must be carried out on Sundays or public holidays.
- (b) All work, including demolition, excavation and building work must comply with the *City of Sydney Code of Practice for Construction Hours/Noise 1992* and Australian Standard 2436-2010 *Guide to Noise Control on Construction, Maintenance and Demolition Sites*.
- (c) Notwithstanding the above, the use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes outside of above hours can occur, subject to a separate application being submitted to and approved by Council under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993.

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

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

### **Reason**

To protect the amenity of the surrounding area.

## **(28) COVERING OF LOADS**

All vehicles involved in the excavation and/or demolition process and departing the property with demolition materials, spoil or loose matter must have their loads fully covered before entering the public roadway.

### **Reason**

To ensure loads are managed appropriately and do not impact local amenity.



**(29) USE OF HERITAGE CONSULTANT**

- (a) A heritage consultant experienced in heritage restoration and renovation works is to be commissioned to work with the consultant team throughout the design development, contract documentation and construction stages of the project. The heritage consultant is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The heritage consultant is to be provided with full access to the site and authorised by the applicant to respond directly to Council where information or clarification is required regarding the resolution of heritage issues throughout the project. Evidence and details of the above commission on the above terms are to be submitted to Council's Area Coordinator Planning Assessments / Area Planning Manager prior to commencement of work on site.
- (b) The heritage consultant must sign off the completed project and submit a final report to Council's Area Coordinator Planning Assessments / Area Planning Manager specifying how the heritage conditions are satisfied prior to the issue of any Occupation Certificate or the commencement of the use, whichever is earlier.

**Reason**

To ensure that the implementation of the approved development is carried out in a manner that does not have adverse heritage impacts.

**(30) LOADING AND UNLOADING DURING CONSTRUCTION**

The following requirements apply:

- (a) 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.

**Reason**

To protect the amenity of the public domain.

**(31) NO OBSTRUCTION OF PUBLIC WAY**

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

**Reason**

To protect the amenity of the public domain.

## **BEFORE ISSUE OF AN OCCUPATION CERTIFICATE**

### **(32) WASTE AND RECYCLING COLLECTION CONTRACT - COMMERCIAL**

Prior to the issue of an Occupation Certificate or commencement of the use, whichever is earlier, the building owner/tenant is to enter into a contract with a licensed waste service provider for the removal of all waste and recycling stream(s). A copy of the commercial waste and recycling contract and invoices are to be made available upon request by an authorised Council officer at any time.

#### **Reason**

To ensure arrangements are in place to manage commercial waste without reliance on public place or residential waste bins.

### **(33) WASTE AND RECYCLING MANAGEMENT - COMMERCIAL**

Prior to the issue of an Occupation Certificate, the Principal Certifier is to ensure all waste management, collection, loading and supporting infrastructure is provided in accordance with the stamped plans, approved Operational Waste Management Plan and specifications approved at the Construction Certificate.

#### **Reason**

To ensure all on-site infrastructure has been provided to support scheduled collections responsive to the Council endorsed OWMP and requirements of the Guidelines for waste management in new developments 2018.

## **OCCUPATION AND ONGOING USE**

### **(34) HOURS OF OPERATION**

The hours of operation of both the ground floor level and basement level are regulated as follows:

- (a) The hours of operation must be restricted to between 10.00am and 12.00am midnight, Monday to Sunday.
- (b) Notwithstanding (a) above, the use of both the ground floor level and basement level may operate between 12.00am midnight and 4.00am, Monday to Sunday, for a trial period of two years from the date of issue of the Occupation Certificate. 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).

- (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.

**(35) MAXIMUM CAPACITY OF PERSONS**

- (a) The maximum number of persons (including staff, patrons and performers) permitted in each area must not exceed the following:
  - (i) Basement level – live music venue: 260 persons
  - (ii) Ground level – restaurant: 111 persons
- (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 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. Details are to be provided to the satisfaction of the Accredited Certifier prior to issue of a Construction Certificate and the Principal Certifier is to confirm compliance prior to the issue of an Occupation Certificate.

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.

**(36) PLAN OF MANAGEMENT**

The use must always be operated / managed in accordance with the Plan of Management dated August 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.

**(37) 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.

**(38) SURVEILLANCE CAMERAS – HIGH RISK**

- (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.

**(39) NEIGHBOURHOOD AMENITY**

- (a) Signs must be placed in clearly visible positions within the restaurant and live music venue 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.

#### **(40) 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  $L_{A1 15 \text{ minute}}$  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.

#### **(41) 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 NPfI 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.

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

Prior to the issue of an Occupation Certificate, a Suitably Qualified Acoustic Consultant\* is to provide a Noise Limiter/s Verification Report to the written satisfaction of the Principal certifying Authority 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 CONSTRUCTION OR OCCUPATION CERTIFICATES 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.



**(43) 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 AN OCCUPATION CERTIFICATE condition (and receipt of the a relevant occupation certificate, 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.

**(44) GLASS CRUSHER**

All glass bottles and other glass waste must be reduced to glass shards (by way of a glass crusher located inside the premises) prior to the removal of such waste from the premises.

**Reason**

To safeguard the amenity of the surrounding neighbourhood.

**(45) SCHEDULED COLLECTIONS – COMMERCIAL**

- (a) Commercial waste collection arrangement(s) are to be conducted in accordance with the approved Operational Waste Management Plan, Council's *Guidelines for Waste Management in New Developments*, the City of Sydney's DCP, the developments Conditions of Consent and Local Approvals Policy for *Managing Waste in Public Places*.

(b) **On-street collection**

Waste and recycling stream(s) bins must not be placed at the nominated collection point more than half an hour before the scheduled collection time. Bins and containers are to be removed from the street within half an hour of collection occurring.

**Reason**

To minimise the impacts on amenity and safety caused by the presentation and collection of commercial waste.

**(46) MECHANICAL VENTILATION – ONGOING MAINTENANCE AND CLEANING**

(a) A written Maintenance and Cleaning Plan of Management must be kept on the premises and be available to an officer of Council upon request. This plan must be produced detailing the methods and procedures required to maintain the filtration and odour control system(s) in accordance with manufacturer's specifications, in a clean condition, and in satisfactory working order. The maintenance and cleaning management plan must include the following:

- (i) What type of maintenance and cleaning procedures are to be followed, and at what frequency;
- (ii) Emergency maintenance and risk management associated with a failure in the system; and
- (iii) The contact person/s details for emergency maintenance;

(b) A service log that shows compliance with the written Maintenance and Cleaning Plan of Management in (a) above regarding the cleaning and maintenance of the filtration and odour control system(s) must be produced and completed accordingly when maintenance and servicing occurs. This service log must be kept updated and kept on the premises at all times and be available to an officer of Council upon request.

**Reason**

To ensure the mechanical ventilation is maintained and cleaned appropriately.

**(47) 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.