

Attachment A

Recommended Conditions of Consent

SCHEDULE 1 – CONDITIONS OF CONSENT

GENERAL CONDITIONS

(1) APPROVED DEVELOPMENT

- (a) The approved use of the premises must be in accordance with Development Application No. D/2024/847 dated 2 October 2024 and is approved to operate in the tenancy illustrated on the following drawing:

Drawing Number	Drawing Name	Date
A200D	Barangaroo Rooftop	12/05/2016

and as amended by the conditions of this consent.

- (b) No physical works, fit-out of the tenancy or signage are approved as part of this development consent.
- (c) 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) 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.

(3) SURRENDER DEVELOPMENT CONSENT D/2016/1025

In accordance with Section 4.17(1)(b) and Section 4.17(5) of the Environmental Planning and Assessment Act 1979, a notice of surrender of the development consent D/2016/1025 (as modified) must be provided to Council in writing by the owner of the land in accordance with Clause 67 of the Environmental Planning and Assessment Regulation 2021, prior to the issue of any Occupation Certificate or commencement of pub (with hotel general bar licence).

Reason

To ensure that the approved use operates under a consolidated consent.

(4) ON-GOING COMPLIANCE WITH APPROVED OPERATIONAL PLANS

The approved use must continue to operate in accordance with following approved operational management plans on an ongoing basis being: Odour Management Plan prepared by Wilkinson Murray and dated 17 August 2016 (Council ref: 2017/041956)

- (b) Mechanical Ventilation - Cleaning and Maintenance Schedule prepared by Air and Odour Management Australia and dated January 2017 (Council ref: 2017/039060)
- (c) Barangaroo South Operational Waste Management Plan prepared by Lendlease and dated December 2016 (Council ref: 2016/502623-07)
- (d) Barangaroo South Including One Sydney Harbour Masterplan Noise Assessment (The Masterplan Report) RWDI#2201933, Version E, 24 May 2024 (Council ref: 2024/359387)

Reason

To ensure that the approved use operates in accordance with the relevant operational plans.

CHANGE OF USE

ONGOING USE

(5) HOURS OF OPERATION - INDOOR

The indoor hours of operation are restricted to between 10.00am and 12 midnight, Monday to Sunday.

Reason

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

(6) HOURS OF OPERATION - OUTDOOR

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

- (a) The hours of operation must be restricted to between 10.00am and 8.00pm, Monday to Sunday.
- (b) Notwithstanding (a) above, the use may operate between 8.00pm and 12 midnight for a trial period of two years from the date of this consent.
- (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.

(7) PLAN OF MANAGEMENT

If a Plan of Management is approved, the use must always be operated / managed in accordance with the approved Plan of Management. In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.

The approved Plan of Management can be updated at any time by submitting a revised Plan of Management and subject to approval by Council's Area Planning Manager.

Reason

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

(8) COPIES OF CONSENTS AND MANAGEMENT PLANS

A copy of the current development consent(s) for the operation of the licensed premises, and any approved Plan of Management must be kept on-site and made available to Authorised Officers .

Reason

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

(9) MAXIMUM CAPACITY OF PERSONS

(a) The maximum number of persons (including staff and patrons) permitted in the premises at any one time is 270 persons.

(b) The following areas of the premises must not exceed the specified patron capacities at any given time:

(i) Northwest outdoor area – 200 patrons

(ii) Southwest outdoor area – 40 patrons

(b) The manager is responsible for ensuring that 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(s) to the premises stating the maximum number of persons, as specified in the development consent, that are permitted in the premises.

Reason

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

(10) NEIGHBOURHOOD AMENITY

Management 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.

(11) SPEAKERS OR MUSIC OUTSIDE

External and or outdoor speakers and music must be for background level music and sound only and must be:

(a) Operated as per any relevant requirement in this consent such as the *Compliance with the Acoustic Report Condition*; and

(b) Located under solid awnings, directed towards the opening of the shop facade and have the front of the speaker orientated downwards by an angle of at least 45 degrees from horizontal.

(c) Speakers must not be directed towards the public domain.

Reason

To safeguard the amenity of the surrounding neighbourhood.

(12) COMPLIANCE WITH THE ACOUSTIC REPORT PRIOR TO OCCUPATION CERTIFICATE

All relevant performance parameters (including but not limited to requirements, engineering assumptions and recommendations) in the DA Acoustic Report prepared by Renzo Tonin & Associates, dated 15 November 2024, ref TP093-01D02 Acoustic Assessment for DA (r4), titled UNTIED BARANGAROO S4.55 Acoustic Assessment - Extension of Hours, Council Ref 2024/670348 must be implemented in the development prior to the commencement of its use.

Reason

To ensure that the use operates in accordance with the approved Acoustic Report.

(13) 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.

(14) 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 \(NPfl\)](#) 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 NPfl 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.

(15) SURVEILLANCE CAMERAS

- (a) CCTV surveillance cameras must be strategically installed, operated and maintained throughout the premises with coverage to:
 - (i) All entrance/s and exits used by the public including a 10m radius of these entrance/s and exits
 - (ii) all areas within the premise occupied by the public (excluding toilets).
- (b) All CCTV recording equipment and cameras must be of high-grade digital quality capable of establishing the population and identification of patrons, offenders and incidents within the depth of field view of the cameras.
- (c) CCTV recordings must be retained for 28 days before they may be re-used, destroyed or deleted. Time and date must be automatically recorded. The CCTV recording equipment must be capable of reproducing digital copy.
- (d) All CCTV recording devices and cameras must be checked daily to ensure the equipment is operating correctly.
- (e) 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.

Reason

To ensure the safety and security of staff, patrons and the surrounding neighbourhood is adequately monitored and maintained.

(16) 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.

(17) INCIDENTS – RECORDING AND NOTIFICATION

The manager/licensee must ensure that all incidents involving staff members (including security personnel) are recorded in the incident register maintained on site, including incidents involving physical contact between staff and patrons, physical restraint of patrons and/or the ejection of patrons from the premises.

Reason

To safeguard the amenity of staff, patrons and the surrounding neighbourhood.

(18) 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.

(19) ONGOING WASTE MANAGEMENT – COMMERCIAL

- (a) The ongoing use of development/tenancy must be in accordance with the approved Operational Waste Management Plan, Council's *Guidelines for Waste Management in New Developments*, the City of Sydney's DCP, and the developments Conditions of Consent.
- (b) All general waste and recycling materials emanating from the premises must be stored in the designated waste storage area(s), must not be stored outside the premises (including the public domain) at any time.
- (c) All waste and recycling stream(s) storage area(s) are to only be used for the purposes of storing waste and recycling from the premises in accordance with the Barangaroo South Operational Waste Management Plan.
- (d) Scheduled collections and waste management arrangements of the development/tenancy is the responsibility of the business owner or property manager and are to be conducted in accordance with the stamped plans, approved Operational Waste Management Plan and this consent. These arrangements include:
 - (i) arranging an adequate number of bins and the servicing regime matched to the needs of the premises.
 - (ii) actively managing waste streams and supporting infrastructure to ensure bins are not overflowing, damaged or leaking and lids are fully closed at all times.
 - (iii) routine cleaning and maintenance of waste storage area(s) to inhibit the permeation of odour and prevent litter and pests.
 - (iv) the installation and maintenance of all education signage for the respective waste stream(s) as requested by the City of Sydney.

Reason

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

(20) WASTE/RECYCLING COLLECTION

- (a) The collection of waste and recycling must only occur between 7.00am and 8.00pm weekdays and 9.00am and 5.00pm weekends and public holidays, to avoid noise disruption to the surrounding area.
- (b) Garbage and recycling must not be placed on the street for collection 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.

Reason

To protect the amenity of the surrounding area.

(21) COMPLIANCE WITH APPROVED ODOUR MANAGEMENT PLAN

The Odour Management Plan approved by condition satisfied under consent D/2016/1025 must remain onsite and be available on request by Council. All operational and maintenance specifications must be implemented in accordance with the approved Odour Management Plan. Any changes to the Odour Management Plan must be approved by Council in writing prior to implementation.

Reason

To ensure that odour is appropriately managed.

(22) OCCUPATION CERTIFICATE TO BE SUBMITTED

An Occupation Certificate must be obtained from the Principal Certifier and a copy submitted to Council prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.

Reason

To ensure the site is authorised for occupation.

(23) 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.

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

Reason

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

(24) 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.

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 or by visiting the website www.foodstandards.gov.au.

Reason

To ensure the food premises comply with relevant standards.

(25) 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

(26) SANITARY FACILITIES AND EGRESS (EXISTING)

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.

(27) 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: 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.

(28) EMISSIONS

- (a) The use of the premises must not give rise to the emission of gases, vapours, dusts or other impurities which are a nuisance, injurious or prejudicial to health.
- (b) Gaseous emissions from the development must comply with the requirements of the *Protection of the Environment Operations Act 1997* and *Protection of the Environment Operations (Clean Air) Regulation 2010*.
- (c) Uses that produce airborne particulate matter must incorporate an effective dust collection system.

Reason

To protect the amenity of the surrounding area.