

Attachment C2

Current Development Consents

D/2022/1055 (as modified)

NOTICE OF DETERMINATION FOR MODIFICATION OF DEVELOPMENT CONSENT

Application number D/2022/1055/A
PAN-487264

Applicant	The Trustee for Cirillo Planning Trust
Description of approved development	Application to modify the approved trading hours approved as part of D/2016/810, as modified IC to allow one additional hour of trading between 2.00am and 3.00am Monday to Sunday, inclusive on a trial period basis. The venue provides live entertainment including musical performances. Amended 19 December 2024 - D/2022/1055/A

Property	37-41 Oxford Street, Surry Hills Lot 1 DP 79320
Determination	Approved Consent Authority - Council
Date of determination	16 December 2022
Date on which the consent lapses	16 December 2027
Date of Section 4.55(2) application	19 December 2024

Under Section 4.55(2) of the EP&A Act, notice is given that the above application to modify D/2022/1055 has been approved, subject to the conditions specified in this notice and as described in the Modification Summary.

Reasons for approval

Unrestricted consent may affect the environmental amenity of the area and heritage significance of the item.

Right of appeal / request a review of the determination

If you are dissatisfied with this determination:

Request a review

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 28 days from the date that you received this notice provided that an appeal under section 8.9 of the EP&A Act has not been disposed of by the Court.

Rights to appeal

You have a right under section 8.9 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

The Dictionary at the end of this consent defines words and expressions for the purposes of this determination.



per

GRAHAM JAHN AM

Director - City Planning, Development & Transport

Person on behalf of the consent authority

For further information, please contact **Costa Dantos** ph. 02 9246 7731, email **cdantos@cityofsydney.nsw.gov.au**.

Modification Summary

Application Number (PAN#)	Determination Date	Modification Description
D/2022/1055/A PAN-487264	18 December 2024	a) Condition 14 - Update acoustic report. b) Condition 22 - Change of trading hours to operate until 5am for a trial period. c) Condition 29 – Reference approved Plan of Management.

Terms and Reasons for Conditions

Under section 118(3)(a) 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

SCHEDULE 1

CONDITIONS OF CONSENT

PART A - GENERAL

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2022/1055 dated 12 October 2022 and the following drawings prepared by Benson McCormack Architecture:

Drawing Number	Drawing Name	Date
PDA-0100 (Rev 01)	Ground Floor Plan	24 May 2021
PDA-0102 (Rev 01)	Proposed Mezzanine Plan	24 May 2021

and as amended by the conditions of this consent.

- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the plans 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 premises may only be used for the purposes of a Restricted Premises as defined in the Sydney Local Environmental Plan 2012, and specifically as a striptease club as defined in Sydney Development Control Plan 2012.

A restricted premises is defined in the Sydney LEP 2012 as follows:

Restricted premises means premises that, due to their nature, restrict access to patrons or customers over 18 years of age, and includes sex shops and similar premises but does not include a pub, hotel or motel accommodation, home occupation (sex services) or sex services premises.

A striptease club is defined in the Sydney DCP 2012 as follows:

Striptease club means premises providing striptease acts, erotic dancing (including pole dancing) tabletop, or podium performances, private dancing, peepshops, or nude or semi-nude bar or waiting staff but where sex services do not take place on site.

Reason

To restrict the use of the premises.

(3) NO APPROVAL FOR SEX SERVICES

Sex services as defined in the Sydney Development Control Plan 2012 4.4.6 are not to be provided on the premises.

Sex services are defined in the Sydney LEP 2012 as follows:

Sex services means sexual acts or sexual services in exchange for payment.

Sex services are defined in the Sydney DCP 2012 as follows:

Sex services as defined in the Sydney LEP 2012, means sexual acts or sexual services in exchange for payment. For the purposes of these provisions, sexual acts or sexual services include acts of prostitution, including sexual intercourse as defined in s61A of the Crimes Act 1900, being:

(a) sexual connection occasioned by the penetration to any extent of the genitalia, including surgically constructed vagina or a female person or the anus of any person by:

(i) any part of the body of another person, or

(ii) any object manipulated by another person except where the penetration is carried out for proper medical purposes, or

(b) sexual connection occasioned by the introduction of any part of the penis of a person into the mouth of another person, or

(c) cunnilingus, or

(d) the continuation of sexual intercourse as defined above.

Reason

To restrict the use of the premises.

(4) SEX INDUSTRY/ADULT ENTERTAINMENT/STRIP CLUBS CLEANING

All performance areas must be cleaned on a daily basis and should also be assessed for cleaning after every performance with spot cleaning occurring as necessary and as frequently as possible.

Reason

To ensure safety and cleanliness within performance areas.

(5) USE TO BE IN ACCORDANCE WITH D/2016/810 (AS AMENDED)

No consent is granted or implied for the fitout or specific use of the premises. The use is to be in accordance with D/2016/810 (as amended) with the exception of the hours of operation and live music.

Reason

To require separate consent to be obtained for a use.

(6) SIGNS - SEPARATE DA REQUIRED

Approval for signage is restricted to the updating of the content of the existing signage to reflect the new venue name.

A separate development application for any proposed signs additional to those approved as part of this consent (other than exempt or complying signs) must be submitted to and approved by Council prior to the erection or display of any such signs.

Reason

To require separate consent to be obtained for any additional signs.

(7) SIGNS - RESTRICTED PREMISES

A sign may only be erected, displayed or exhibited at the restricted premises where:

- (a) The sign does not exceed 600 millimetres in height or width, and an area of 0.36sq.m, does not contain neon illumination, does not flash, and contains only:

- (i) the words 'RESTRICTED PREMISES' in capital letters, 50 millimetres in height; and
- (ii) the name of the operator of the restricted premises or the registered name of the business.

(b) Not more than one such sign is to be erected, displayed or exhibited.

Reason

To ensure all required information associated with the restricted premises is displayed.

(8) WASTE AND RECYCLING MANAGEMENT - GENERAL

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

Reason

To ensure that waste and recycling is appropriately managed.

(9) 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.

(10) SYDNEY DCP COMPLIANCE

The premises must comply with the health provisions contained in *Sydney DCP 2012 4.4.6*

Reason

To ensure relevant health provisions are complied with.

(11) RESTRICTIONS ON, AND DESIGN OF, LEVELS 1 AND 2

No customers are permitted to access Level 1 or Level 2 of the building at any time.

No bed of any kind shall be installed at Level 1 and Level 2.

CCTV surveillance cameras complying with the design criteria in Condition 32 below shall be installed at the doorway to the stairway giving access to Levels 1 and 2 and within the stairwell between ground floor and Level 1 and between Level 1 and Level 2.

Windows to Levels 1 and 2 of the building shall have fixed blinds on the inside of the windows attached to the window frames in a reversible manner.

(12) EXTERNAL LIGHTING

A separate development application is required to be lodged and approved prior to any external floodlighting or illumination of the building or site landscaping.

Reason

To clarify that consent has not been granted for the external floodlighting or illumination of the development.

(13) HEALTH SERVICES ACCESS

The proprietor must give access to health services providers to provide information and educational activities on disease transmission issues and any other issues.

PART B – BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

(14) NOISE – ACOUSTIC DESIGN AND CONTINUED INTEGRITY, ONGOING CONTROL OF NOISE EMISSIONS

- (a) The development must not compromise any existing acoustic integrity of the premises in relation to the emission/release of noise.
- (b) The approved use must not cause any increase in noise emissions from the premises over any noise criteria established in accordance with any the following relevant 'noise' and 'noise - compliance with the acoustic report' titled ***Men's Gallery, 37-41 Oxford Street, Surry Hills – Acoustic Assessment' report number 230486, Acoustic Assessment – Revision 1, dated 26 October 2023, prepared by Pulse White Noise Acoustics Pty Ltd.***

Reason

To ensure the acoustic amenity of surrounding developments is maintained as a result of the development.

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(15) 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 construction, fitout and finishes of the food premises comply with relevant standards.

(16) 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.

(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) 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.

Reason

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

(19) 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) 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.

(20) MECHANICAL VENTILATION

- (a) The premises must be ventilated in accordance with the *National Construction Code (previously known as Building Code of Australia)* and *AS1668.1 and AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings - Mechanical Ventilation in Buildings*.

Reason

To ensure the ventilation complies with relevant standards.

PART C – BEFORE THE COMMENCEMENT OF BUILDING WORK

There are no conditions relevant to Part C.

PART D – WHILE BUILDING WORK IS BEING CARRIED OUT

(21) HOURS OF WORK AND NOISE – OUTSIDE CBD

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

- (a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (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 7.30am and 5.30pm on Mondays to Fridays, inclusive, and 7.30am and 3.30pm on Saturdays, with safety inspections being permitted at 7.00am on work days, and no work must be carried out on Sundays or public holidays.
- (b) All work, including demolition, excavation and building work must comply with the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436 - 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites.
- (c) Notwithstanding the above, the use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on-site tower cranes which warrant the on-street use of mobile cranes outside of above hours can occur, subject to a 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.

PART E – BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE

There are no conditions relevant to Part E.

PART F – OCCUPATION AND ONGOING USE

(22) HOURS OF OPERATION - SENSITIVE USES

The hours of operation are regulated as follows:

- (a) The hours of operation must be restricted to between 12.00pm (midday) and 12.00am (midnight) Monday to Sunday.
- (b) Notwithstanding (a) above, the use may operate between 12.00am (midnight) and **5.00am** for a trial period of **1 year** from **19 December 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.

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(23) CESSATION OF SERVICE

The premises may be open for business only between the operating hours in Condition 22 above. The operator must cease providing food/alcohol/entertainment at the premises 15 minutes before the required closing time.

Reason

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

(24) MAXIMUM CAPACITY OF PERSONS

- (a) The maximum number of persons (including staff, patrons and performers) permitted in the premises at any one time is 319 persons.
- (b) The capacity for each area must not exceed the maximum numbers at any given time:
 - (i) 249 patrons on the ground floor
 - (ii) 27 patrons on the mezzanine floor
- (c) The manager/licensee is responsible for ensuring the number of persons in the premises does not exceed that specified above.
- (d) A sign in letters not less than 25mm in height must be fixed at the main entry point to the premises alongside the Licensee's name stating the maximum number of persons, as specified in the development consent, that are permitted in the building. 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.

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

(25) 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.

(26) 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.

(27) 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. 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.

(28) 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.

(29) PLAN OF MANAGEMENT

The use must always be operated / managed in accordance with the Plan of Management, prepared by Planning Lab signed and dated **22 November 2024 (2024/681357)** 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.

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(30) 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.

(31) REMOVAL OF GLASS

Patrons must be prevented from removing glasses, opened cans, bottles or alcohol from the premises (except from any approved bottle shop area) or approved outdoor dining area included in the boundaries of the licensed premises.

Reason

To reduce waste generation within the public domain and to safeguard the amenity of the surrounding neighbourhood.

(32) 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.

(33) 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.

(34) SECURITY – CATEGORY A LICENSED PREMISES

Security is to be provided at any time and in any manner specified in the Plan of Management prepared by Planning Lab, signed and dated 20 October 2022 that has been approved by Council.

Reason

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

(35) 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.

(36) 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.

(37) 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 premise.
- (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.

SCHEDULE 2

PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 8A of the *Environmental Planning and Assessment Regulation 2021* apply:

- Clause 69 Compliance with *National Construction Code (previously known as Building Code of Australia)* and insurance requirements under the *Home Building Act 1989*
- Clause 70 Erection of signs
- Clause 71 Notification of *Home Building Act 1989* requirements
- Clause 72 Conditions relating to entertainment venues
- Clause 73 Conditions relating to maximum capacity signage
- Clause 74 Conditions relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 2 conditions of the *Environmental Planning and Assessment Regulation 2021*. This can be accessed at: <http://www.legislation.nsw.gov.au>

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.