

Attachment A

Recommended Conditions of Consent
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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 in Schedules 1 and 2.

SCHEDULE 1

GENERAL CONDITIONS

(1) APPROVED USE

- (a) Development must be in accordance with Development Application No. D/2025/399 dated 8 May 2025 and the following drawings prepared by Design Collaborative:

Drawing Number	Drawing Name	Date
DA 01 01 REV C	Cover and Location Plan	29/07/2025
DA 02 02 REV C	Ground Site Plan	29/07/2025
DA 02 02 REV C	Basement Site Plan	29/07/2025
DA 04 01 REV C	Basement General Arrangement	29/07/2025

and as amended by the conditions of this consent.

- (b) No consent is given or implied for any physical building works.

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.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

(3) NOTIFICATION OF CONDUCT OF FOOD BUSINESS

Prior to the issue of an Occupation Certificate, Council must be notified of the food business in accordance with the NSW Food Act 2003 and the Australia New Zealand Food Standards Code – 3.2.2 – Food Safety Practices and General Requirements.

Reason

To enable Council to ensure compliance with the consent when the business is operating.

(4) PREPARATION OF PLANS FOR FOOD AND DRINK PREMISES

- (a) All food and beverage preparation, serving and storage areas (including for perishable stock, waste, chemicals and personal belongings) must be in accordance with the following standards:
 - (i) Food Standards Code (Australia) and Food Safety Standard 3.2.3 – Food Premises and Equipment.
 - (ii) Food Act 2003 and Food Regulation 2015.
 - (iii) Australian Standard 4674 - 2004 – Design, Construction and Fit-out of Food Premises.
 - (iv) Plumbing Code of Australia and Australian Standard/New Zealand Standard AS/NZS 3500 series on Plumbing and Drainage.
 - (v) Sydney Water commercial trade wastewater requirements for food premises, and
 - (vi) Any relevant Water Services Association of Australia codes of practice guidelines, policies and requirements.

Note: Codes, standards, regulations and requirement listed above must refer to editions in force on the date of determination.

Reason

To ensure detailed plans are submitted which comply with the relevant standards prior to the issue of a Occupation Certificate.

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

- (a) All relevant performance parameters (including but not limited to requirements, engineering assumptions and recommendations) in the Acoustic Report prepared by Acoustic Logic, dated 8 February 2023 (REF:20221603.1/0802A/R0/RG) and Acoustic Addendum Statement prepared by Acoustic Logic, dated 23 April 2025 (REF: 20221603.3/0408A/R2/SJ) must be implemented in the development prior to the commencement of its use.

- (b) The development must not compromise any existing acoustic integrity of the premises in relation to the emission/release of noise.
- (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.

OCCUPATION AND ONGOING USE

(6) TRADING HOURS - SENSITIVE USES

The trading hours are regulated as follows:

- (a) The permitted trading hours are restricted to between 6am and 12am (midnight) Monday to Sunday.
- (b) Notwithstanding (a) above, the premises may trade between 12am (midnight) and 4am for a trial period of 2 years from the date of the issue of the approved variation of the Liquor License.
- (c) Should the operator seek to continue the extended operating hours outlined in (b) above, an application must be lodged with Council within 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 NSW Police and Liquor & Gaming.

Reason

To ensure the premises trades within the approved trading hours.

(7) MAXIMUM CAPACITY OF PERSONS

- (a) The maximum number of persons (including staff, patrons and performers) permitted in the premises at any one time must not exceed 249 persons.
- (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 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.

(8) PLAN OF MANAGEMENT

- (a) The Plan of Management submitted with this application has not been endorsed. Prior to the issue of an occupation certificate, an updated Plan of Management must be submitted and endorsed by Council's Area Planning Manager.
- (b) The Plan of Management must be prepared in accordance with Schedule 3 of the Sydney Development Control Plan and address the relevant provisions and detailed requirements of Section 3.2 including:
 - (i) Site and locality details

- (ii) Operational details
- (iii) Hours of Operation
- (iv) Noise
- (v) Security and safety
- (vi) Management Measures
- (vii) Performance, creative or cultural uses (where applicable)
- (b) The use must always be managed in accordance with the Plan of Management submitted to satisfy Condition (8)(a) above.
- (c) The endorsed Plan of Management can be updated at any time by submitting a revised Plan of Management and subject to endorsement by Council's Area Planning Manager.

Reason

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

(9) 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 being re-used, destroyed or deleted. Time and date must be automatically recorded. The CCTV recording equipment must be capable of reproducing a digital copy.
- (d) All CCTV recording devices and cameras must be checked 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.

(10) COPIES OF CONSENTS AND MANAGEMENT PLANS

A copy of the current development consent(s) for the operation of the licensed premises, and the 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.

(11) 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.

(12) CESSATION OF SERVICE

The premises may be open for business only between the approved trading hours. The operator must cease providing food and/or alcohol at the premises 15 minutes before the required closing time.

Reason

To ensure the development operates within the approved trading hours.

(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 T_f 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 (T_f - Table 1 of ISO 226 : 2003) in an above octave band, the lowest audible sound level (L_p) of the T_f 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 NPfI 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 \(NPfI\)](#) 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.

(15) 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.

(16) 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:

- (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.

(17) 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 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.

(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) 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 use with regard to the increase in population and compliance with the BCA with regard to building classification, fire safety measures, paths of travels, fire egress widths, sanitary facilities and mechanical ventilation etc.

Reason

To ensure the site is authorised for occupation.

SCHEDULE 2

PRESCRIBED CONDITIONS

The applicant must comply with all relevant conditions contained in Part 4, Division 2, Subdivision 1 of the *Environmental Planning and Assessment Regulation 2021* which apply to the development:

Refer to the NSW State legislation for full text of the clauses under Part 4, Division 2, Subdivision 1 of the *Environmental Planning and Assessment Regulation 2021*. This can be accessed at: <http://www.legislation.nsw.gov.au>

General advisory notes

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

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

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

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

Dictionary

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

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

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

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

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

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

Council means the City of Sydney.

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

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

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

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

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

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

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

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

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

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

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

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