

Modification of Development Consent

Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning and Public Spaces, I approve the modification of the development consent referred to in Schedule 1, subject to the conditions in Schedule 2.



Cameron Sargent
Acting Director
Key Sites Assessments

Sydney

8 September 2023

SCHEDULE 1

Development consent:	MP 06_0265 granted by the Minister for Planning on 23 January 2008
For the following:	Construction of a youth hostel building 3-4 storeys in height with accommodation for 106 ensuite bedrooms and 354 beds with ground floor retail space, single storey Archaeological Education Centre, metal interpretive screens, and associated infrastructure works,
Applicant:	YHA Ltd
Consent Authority:	Minister for Planning and Public Spaces
The Land:	110-128 Cumberland Street, The Rocks (Lot 2 DP 777656)
Modification 4:	Amendments to the consent to permit: • bar-related areas on level 1 and level 3 to permit the serving of alcohol • extended operating hours on level 1 and 3 terraces • change to sound levels to allow amplified music on the level 3 terrace

SCHEDULE 2

1. Schedule 2 Part A – Administrative Conditions – Condition A3 and A6 are amended by the deletion of ~~strike through~~ text and inclusion of **bold and underlined** text as follows, and new Conditions A7 to A12 are imposed shown **bold and underlined**:

DEVELOPMENT IN ACCORDANCE WITH DOCUMENTS

A3. The development will be undertaken in accordance with the following documents:

- (1) *Environmental Assessment Report* prepared by Design Collaborative Pty Limited on behalf of the YHA NSW LTD July 2007;
- (2) Architectural Plans prepared by Tzannes Associates dated 30 November 2007;
- (3) Architectural Design Statement prepared by Tzannes Associates, undated
- (4) Heritage Assessment and Heritage Impact Statement prepared by Godden Mackay Logan dated June 2007;
- (5) *Recommendations for Protection of Archaeological Remains During Construction, June 2007 and Proposed Conservation Works to the Archaeological remains during Development, July 2007* prepared by International Conservation Services;
- (6) Tree Report prepared by Treescan Urban Forest Management, dated November 2007;
- (7) Traffic & Parking Report prepared by Terraffic Pty Ltd dated June 2007;
- (8) Assessment of Noise Impacts prepared by Acoustic Logic Consultancy dated June 2007 and as amended by the Noise Emission Assessment – YHA, The Rocks Proposed Extension of Hours of Use of Level 3 Roof Top Terrace prepared by Acoustic Logic, dated 20 March 2015;
- (9) ESD Report prepared by Team Catalyst Pty Ltd dated July 2007;
- (10) Report on Access and DD Issues prepared by WHP Architects dated June 2007;
- (11) Waste Management Plan prepared by McNally Management dated June 2007;
- (12) Operations and Management Plan prepared by YHA NSW Ltd, undated;
- (13) Fire Report prepared by Fire Engineering Design Pty Ltd dated June 2007;
- (14) BCA Assessment Report prepared by Steve Watson & Partners dated August 2007;
- (15) Construction Management Plan prepared by McNally Management dated June 2007;
- (16) Structural Design Report prepared by Taylor Thomson Whitting dated June 2007;
- (17) Building Services reverse Brief prepared by ITC Group Pty Ltd dated June 2007;
- (18) Sydney Harbour YHA – External Finishes Board.
- (19) Preferred Project Report prepared by Design Collaborative Pty Limited dated 30 November 2007 titled 'Response to Submissions' and 'Preferred Project Report'.
- (20) The report prepared by Design Collaborative Pty Ltd dated January 2010 entitled 'Submission Seeking a Variation to the Sydney Cove Redevelopment Authority (SCRA) Scheme'.
- (21) **Modification Report for Youth Hostel and Archaeological Education Centre prepared by UniPLAN Australia, dated 09 November 2022;**
- (22) **Submissions Report prepared by UniPLAN Australia, dated 19 April 2023;**
- (23) **Noise Assessment YHA2, 110 Cumberland Street, the Rocks prepared by Acoustic Logic dated 9 March 2023;**
- (24) **Plan of Management for licenced premises – YHA Sydney Harbour – v1.3 dated 28 February 2023.**

PRESCRIBED CONDITIONS

A6. The Proponent shall comply with the prescribed conditions of development approval under clause ~~98 of~~ the **Part 4, Division 2 of the EP&A Regulation 2021.**

EVIDENCE OF CONSULTATION

- A7. Where conditions of this consent require consultation with an identified party, the Applicant must:
- (a) consult with the relevant party prior to submitting the subject document to the Planning Secretary for approval; and
 - (b) provide details of the consultation undertaken including:
 - (i) the outcome of that consultation, matters resolved and unresolved; and
 - (ii) details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.

MONITORING

- A8. Any condition of this consent that requires the carrying out of monitoring, whether directly or by way of a plan, strategy or program, is taken to be a condition requiring monitoring under Division 9.4 of Part 9 of the EP&A Act. This includes conditions in respect of incident notification, reporting and response, non-compliance notification and independent environmental auditing.

Note: For the purposes of this condition, as set out in the EP&A Act, “monitoring” is monitoring of the development to provide data on compliance with the consent or on the environmental impact of the development.

REVISION OF STRATEGIES, PLANS AND PROGRAMS

- A9. If necessary to either improve the environmental performance of the development, cater for a modification or comply with a direction, the strategies, plans and programs required under this consent must be revised, and endorsed by the Planning Secretary. Where revisions are required, the revised document must be submitted to the Planning Secretary for approval within six weeks of the review.

LIMITS ON CONSENT

- A10. This consent does not approve any fit-out works for any bar-related areas and separate development application(s) must be lodged, and consent obtained, for the works from City of Sydney Council as the relevant consent authority (except where exempt and complying development applies).
- Within 3 months after any approval for the fit-out works for the bar areas, the approved plans and documents must be submitted to the Planning Secretary for information.
- A11. The use of the bar-related areas on levels 1 and 3 must not result in a change of use of the building as tourist and visitor accommodation (backpackers’ accommodation).

LIQUOR LICENSING REQUIREMENTS

- A12. The service of alcohol on the premises will be subject to the issue of a separate liquor licence from NSW Liquor and Gaming and any associated conditions. The issue of any liquor licence must comply with the conditions in this consent.

2. Schedule 2 Part F – Prior to occupation or commencement of use – Condition F4 is amended by the inclusion of **bold and underlined** text; Conditions G1 and F5 are deleted in their entirety shown in ~~strikethrough~~ text; and Condition F5 is amended by the deletion of ~~strikethrough~~ text and inclusion of **bold and underlined** text. New Conditions F12 to F18 are imposed shown in **bold and underlined** text.

FIRE SAFETY CERTIFICATE

F4. A Fire Safety Certificate shall be furnished to the PCA for all the Essential Fire or Other Safety Measures forming part of this approval prior to issue of the final Occupation Certificate **or commencement of use**. A copy of the Fire Safety certificate must be submitted to the relevant authority and Council **and be prominently displayed in the building.**

~~G1. Noise associated with the operation of any plant, machinery or other equipment on the site, shall not give rise to any one or more of the following:~~

- ~~(1) Transmission of “offensive noise” as defined in the Protection of the Environment Operations Act 1997 to any place of different occupancy.~~
- ~~(2) A sound pressure level at any affected residential property that exceeds the background (LA90, 15 minute) noise level by more than 5dB(A). The background noise level must be measured in the absence of noise emitted from the premises. The source noise level must be assessed as a LAeq, 15 minute.~~
- ~~(3) Notwithstanding compliance with (1) and (2) above, the noise from mechanical plant associated with the premises must not be audible in any habitable room in any residential property between the hours of 12.00 midnight and 7.00am.~~

~~Prior to issue of any Occupation Certificate a report is to be prepared and submitted by a qualified acoustic engineer confirming that the development has been constructed in accordance with the recommendations in Section 5.4 of the Acoustic Assessment Report (Acoustic Logic Consultancy, 26 June 2007).~~

ANNUAL FIRE SAFETY STATEMENT

~~F5. For any essential fire safety equipment, An Annual Fire Safety Statement must be provided to Council and the NSW Fire Brigade commencing within 12 months after the date on which the relevant authority initial Fire Safety Certificate is received. **This must ensure that the essential services installed in the building for the purpose of fire safety have been inspected and at the time of inspection are capable of operating to the required minimum standard.**~~

NOISE – INSTALLATION OF LIMITER(S)

- F12. **Prior to the commencement of the bar use (internal areas and external level 1 and 3 terraces facing Gloucester Street) and/or extended hours of operation until 12 midnight, a Suitably Qualified Acoustic Consultant* is to provide a Noise Limiter/s Verification Report for the endorsement of the consent authority that the development complies with the requirements set out as follows, and any relevant requirement in the Acoustic Report, prepared by Acoustic Logic dated 9 March 2023, Document Reference: 20220606.1/0903A/R2/PF titled Noise Assessment YHA2, 110 Cumberland Street, The Rocks:**
- (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 Conditions G8 and G10.**
 - (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) The report must certify that limiter/s were installed, tested and calibrated so amplified noise will comply with Conditions G8 and G10. 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 an experienced and independent acoustic consultant whose appointment has been endorsed by the Planning Secretary.

SURVEILLANCE CAMERAS

- F13. The following requirements regarding surveillance must be put in place prior to the commencement of the bar use (internal areas and external level 1 and 3 terraces facing Gloucester Street) and/or extended hours of operation until 12 midnight:
- (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 level 1 and level 3 licenced areas occupied by the public (excluding toilets)
 - (iii) staircases to access the licenced areas in multilevel premises
 - (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.

ACOUSTIC COMPLIANCE

F14. The following requirements must be complied with prior to the commencement of the bar use (internal areas and external level 1 and 3 terraces facing Gloucester Street) and/or extended hours of operation until 12 midnight:

- (a) All recommendations in the DA Acoustic Report prepared by Acoustic Logic dated 9 March 2023 reference 20220606.1/0903A/R2/PF titled Noise Assessment YHA2, 110 Cumberland Street, The Rocks (Council Ref: 2023/207619) must be implemented in the development prior to the commencement of its use.
- (b) Prior to the commencement of use, a Suitably Qualified Acoustic Consultant* is to provide a written Acoustic Verification Report for the approval of the Planning Secretary that the development complies with the recommendations set out in the Report and in (a) above.
- (c) 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.

Note: Suitably Qualified Acoustic Consultant means an experienced and independent acoustic consultant whose appointment has been endorsed by the Planning Secretary.

OPERATIONAL PLAN OF MANAGEMENT

F15. Prior to commencement of the bar use (internal and external level 1 and 3 terraces facing Gloucester Street) and/or extended hours of operation until 12 midnight, a final plan of management must be prepared in consultation with Council and submitted via the NSW Planning Portal to, and approved by, the Planning Secretary. A copy of the plan of management must be kept on-site and made available to any government authorities upon request.

The plan must include as a minimum:

- (a) an overview of the organisation/owner/operator of the site
- (b) the matters listed in Schedule 3.2 – Plan of Management Requirements of the City of Sydney Development Control Plan 2012
- (c) operational details in accordance with any liquor license approved for the development
- (d) safety and security measures for the patrons, including provision of security in accordance with City of Sydney and NSW Police requirements
- (e) patron management practices to ensure patron limits for the terraces are enforced including signage
- (f) managing CCTV and storing footage
- (g) capacity limits for each space within the primary service authorisation areas
- (h) protocols to ensure that no queuing or disorderly exit from the venue occurs and the service of alcohol and entertainment ceases 15 minutes before the required closing time
- (i) protocols around disposal of waste and bottles to prevent impacts to the surrounds
- (j) management protocols for any functions or events, including maintaining records of patron numbers and provision of staff and security
- (k) protocols to ensure responsible service of alcohol including measures to prevent removal of alcohol from licensed areas, second hand supply and underage service
- (l) maintaining a complaints and incident register
- (m) commitment to joining the local liquor accord

- (n) noise management practices including:
- (i) the noise management framework for the development, including any details of live performances
 - (ii) details of all noise and vibration management and attenuation measures, including any monitoring or volume limiting measures/devices and collection of noise data related to the operation of the premises
 - (iii) details of the complaints handling procedure, including maintaining complaints register, management and handling procedures and resolution of substantiated complaints
 - (iv) the location of any external speakers permitted on the level 3 terrace and their maximum sound pressure levels
 - (v) any other operational recommendations outlined in the Acoustic Report, prepared by Acoustic Logic dated 9 March 2023, Document Reference: 20220606.1/0903A/R2/PF titled Noise Assessment YHA2, 110 Cumberland Street, The Rocks
- (o) compliance with all other operational conditions of this consent.

LOCAL LIQUOR ACCORD

- F16. Prior to the commencement of the use of the bar areas (internal areas and external level 1 and 3 terraces facing Gloucester Street), the Applicant is to join the relevant local liquor accord.

SIGNAGE – PERSONS CAPACITY

- F17. Prior to the commencement of the use of the bar areas (internal areas and external level 1 and 3 terraces facing Gloucester Street) and/or extended hours of operation until 12 midnight, 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 (including staff, patrons, and performers), that are permitted in each of the licensed areas of the building (refer to Condition G5).

NOTICE OF COMMENCEMENT FOR EXTENDED HOURS OF OPERATION FOR TERRACES

- F18. The Department must be notified in writing 7 days prior to the date of commencement of the bar use (internal areas and external level 1 and 3 terraces facing Gloucester Street) and/or extended hours of operation until 12 midnight.

The use of the bars and extended hours of operation until 12 midnight are not to commence until the requirements outlined in Conditions F12 to F17 are met.

4. Schedule 2 Part G – Post Occupation and Ongoing Operational Conditions – Condition G3 is deleted in its entirety shown in ~~strikethrough~~ text and new Condition G3 has been imposed shown **bold and underlined** text. Condition G4 is amended shown in ~~strikethrough~~ text and the inclusion of **bold and underlined** text. New Conditions G5 to G24 are imposed shown in **bold and underlined** text:

LEVEL 1 AND 3 TERRACE AREAS

G3.

- (1) ~~Music on the Level 1 Terrace area is to cease at 6.00PM and background music is to cease by 10.00PM. The Level 1 Terrace area is not to be used after 10.00PM.~~
- (2) ~~The Level 3 Terrace area is not to be used before 5:00AM and after 11:00pm 10.00PM, and only background music is permitted on this terrace level.~~
- (3) ~~The use of the Level 3 terrace is subject to the following requirements:~~
 - (i) ~~The use of the terrace must comply with the Site Specific Plan of Management For The Level 3 Rooftop Terrace – Sydney Harbour YHA (The Big Dig Site) dated 16 July 2015.~~
 - (ii) ~~Only background music is permitted (not exceeding 60dB(a)_{L10} when measured at the eastern or southern edges of the terrace) and no live entertainment or amplified music without prior approval from SHFA.~~
 - (iii) ~~No more than 200 patrons are to be on the terrace between 7:00am and 11:00pm.~~
 - (iv) ~~No more than 40 patrons are to be on the terrace between 5:00am and 7:00am.~~
 - (v) ~~Any activities between 5:00am and 7:00am are restricted to passive activities such as viewing the sunrise and photography.~~
 - (vi) ~~Noisy behaviour (shouting or similar) is prohibited on the terrace. A sign is to be installed on the terrace to this effect and management protocols in place to remove noisy patrons.~~
 - (vii) ~~At 10.45pm staff must turn off background music and request patrons to take any bottles and glasses with them so that the terrace is vacant by 11:00pm, including staff.~~
 - (viii) ~~No cleaning is to be undertaken after 11:00pm or before 7:00am the following day.~~
- (4) ~~A maximum of 6 special events per calendar year, including Christmas and New Year, are permitted at which time access to and use of both terrace areas may be extended until 1.00PM. Any additional events to this are to be subject to a separate approval by SHFA.~~

INTERNAL BAR AREAS AND TERRACES – HOURS OF OPERATION

G3. **The hours of operation are regulated as follows:**

- (a) **The hours of operation for the internal bar areas on level 1 and level 3 are between 10 am and 12 midnight Monday to Saturday, and between 10 am and 10 pm Sunday.**
- (b) **The hours of operation for the level 1 terrace is between 7 am and 10 pm Monday to Sunday, and for the level 3 terrace between 7 am to 11 pm Monday to Sunday.**
- (c) **The level 3 terrace is permitted to be used when the licensed areas are not operating for passive activities such as viewing the sunrise or photography between 5 am and 7 am Monday to Sunday.**
- (d) **No patrons are permitted on the terraces after the hours cited above.**
- (e) **Notwithstanding, (b) above, the use of the level 3 terrace may operate between 11 pm and 12 midnight Monday to Sunday for a trial period of 12 months from the commencement of the use of the licensed areas.**
- (f) **Notwithstanding, (a) to (e) above, the use of all areas on New Year's Eve (special event and special event quests) is permitted from 7 am to 1 am (the following day).**
- (g) **Should the operator seek to continue the extended trial operating hours, a modification application must be lodged no less than 30 days before the end of the trial period. 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 and the City of Sydney.**
- (h) **Provided that any application to continue a trial period is lodged no earlier than 60 days before the end of the trial period; and the Applicant provides any additional information that the consent authority reasonably requests to assess the application within 14 days of**

receipt of the request, then the activity the subject of the application for extension of trial hours may continue until such time as the application is determined.

ANNUAL FIRE SAFETY CERTIFICATION

- G4. For any essential fire safety equipment, An Annual Fire Safety Statement must be provided to Council and the NSW Fire Brigade commencing within 12 months after the date on which the relevant authority initial Fire Safety Certificate is received. This must ensure that the essential services installed in the building for the purpose of fire safety have been inspected and at the time of inspection are capable of operating to the required minimum standard.

INTERNAL AREAS AND TERRACES – CAPACITY LIMITS

- G5. The maximum number of persons (including staff, patrons, and performers) for the level 1 and level 3 areas (internal and terraces) as shown in the approved plans is 354 persons.

The maximum number of persons permitted in the terrace areas:

	<u>Level 1</u>	<u>Level 3</u>
<u>5:00am to 7:00am</u>	<u>Level 1 (terrace)</u> No patrons	<u>Level 3 (terrace)</u> 40
<u>7:00am to close</u>	<u>Level 1 (terrace)</u> 25	<u>Level 3 (terrace)</u> 200

NOISE CONTROL – PLANT AND MACHINERY

- G6. Noise associated with the operation of any plant, machinery or other equipment on the site:
- (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):
 - (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 LAeq,15 minute (noise level) emitted from the development must not exceed the LA90, 15 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.

TERRACES – MUSIC AND ACOUSTICS

- G7. Noise associated with music is restricted as follows:

	<u>Level 1 Terrace</u>	<u>Level 3 Terrace</u>
<u>7:00am to 6:00pm</u>	<u>Only background music is permitted.</u>	<u>Background music is allowed and is not to exceed spatially averaged sound pressure level of 60dB(A) L₁₀, measured at the eastern and southern edges of the terrace.</u> <u>No live music or amplified music.</u>

<u>6:00pm to 10:45pm</u>	<u>No music allowed.</u>	<u>Background music is allowed and is not to exceed spatially averaged sound pressure level of 60dB(A) L₁₀, measured at the eastern and southern edges of the terrace.</u> <u>No live music or amplified music</u>
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G8. **Noise – Music – trial period**

- (a) Notwithstanding, Condition G7 above, music is permitted to operate for a 12-month trial period subject to the following requirements:

	<u>Level 1 Terrace</u>	<u>Level 3 Terrace</u>
<u>7:00am to 10:00pm</u>	<u>No music allowed.</u>	<u>Amplified live music is allowed through installed speakers and is not to exceed spatially averaged sound pressure level of 60dB(A) L₁₀ measured at any boundary of the rooftop terrace.</u> <u>No drumkits (or similar percussive instruments) are allowed.</u>
<u>10:00pm to 11:45pm</u>	<u>No music allowed</u>	<u>Background music is allowed and is not to exceed spatially averaged sound pressure level of 60dB(A) L₁₀, measured at any boundary of the rooftop terrace.</u>

- (b) Should the operator seek to continue the extended trial operating hours, a modification application must be lodged no less than 30 days before the end of the trial period. 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 and the City of Sydney.
- (c) Provided that any application to continue a trial period is lodged no earlier than 60 days before the end of the trial period; and the Applicant provides any additional information that the consent authority reasonably requests to assess the application within 7 days of receipt of the request, then the activity the subject of the application for extension of trial hours may continue until such time as the application is determined.

NOISE – ENTERTAINMENT

G9. **The development must function in accordance with the following requirements:**

- (a) The L_{Aeq, 15 minute} noise level from the use must not exceed the background noise level (L_{A90, 15minute}) 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 minute} noise level from the use must not exceed the background noise level (L_{A90, 15minute}) 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 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 Department.

NOISE – AMPLIFIED SOUND AND THE UPKEEP AND OPERATION OF LIMITER(S)

- G10. Following receipt of the noise limiter verification report as per Condition F12 (b), 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.

NOISE – ACOUSTIC MONITORING AFTER COMMENCEMENT OF USE

- G11. The Applicant shall nominate an independent and suitably qualified acoustic consultant for the endorsement of the Planning Secretary within 3 months of the commencement of the bar-related uses and/or the extended hours of operation for the terraces (until 12 midnight), as per Condition F18.

The endorsed acoustic consultant must undertake noise monitoring during the first three months of operation as follows:

- (a) Noise measurements must be taken on at least three different occasions on three different days of the week (excluding Monday to Wednesday) and including at least one event or function. The measurements must determine if noise levels from the terraces, including any speakers, complies with the noise requirements under Conditions G8 and G10.
- (b) Measurements must include those taken from a habitable room facing Gloucester Street, at the nearest residential receiver, to determine compliance with Condition G10.
- (c) Measurements must include noise levels taken after 10pm

A report documenting the noise measurements, compliance with Conditions G8 and G10 including compliance with noise levels after 10pm, and any recommendations or necessary changes to the management and use of the terraces, shall be submitted to the Department within four months of the commencement of extended hours of operation for the terraces.

If the noise measurements identify any non-compliance, the acoustic consultant shall propose and the Applicant must implement further mitigation and management measures until full compliance is achieved.

TERRACES – NOISE AND BEHAVIOUR MANAGEMENT

- G12. Noisy and anti-social behaviour (shouting or similar) is prohibited on the terraces. Signs are to be installed on the terrace to this effect and management protocols be put in place to remove any noisy or disruptive patrons.

RESTRICTION ON PATRONS

- G13. The use of bar-related areas on level 1 and level 3, including the outdoor terraces, shall be restricted to YHA guests and special event guests only.
- G14. The manager/licensee is responsible for ensuring the number of persons in the bar areas does not exceed the limits specified in Condition G5.

REMOVAL OF GLASS

- G15. Patrons must be prevented from removing glasses, opened cans, bottles or alcohol from the boundaries of the licenced areas of the premises.

NOISE FROM GLASS REMOVAL

- G16. 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.

PATRON MANAGEMENT AT VENUE ENTRY AND EXIT

- G17. The following requirements are to be adhered to:
- (a) The management/licensee must ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood. Signs must be placed in clearly visible positions within the licensed premises requesting patrons upon leaving the premises to do so quickly and quietly.
 - (b) No persons are to be permitted to drink or queue outside the premises at any time. Security officers and staff are to ensure that there is no queue for the premises and take all reasonable steps to ensure compliance with this condition.

CONSUMPTION OF ALCOHOL

- G18. The consumption and service of alcohol is restricted to the licenced areas of the development. No alcohol is to be removed from licenced areas to any other part of the premises. The sale and consumption of alcohol is to be in accordance with the relevant liquor licence and must comply with the relevant conditions of this consent.

NO SPRUICKING NOISE

- G19. 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.

SECURITY – CATEGORY B LICENCED PREMISES

- G20. Security is to be provided when required and in any manner specified in the Plan of Management required by Condition F15.

CESSATION OF SERVICE – GENERAL

- G21. The operator must cease providing alcohol and entertainment at the premises 15 minutes before the required closing time.

INCIDENTS – RECORDING AND NOTIFICATION

- G22. 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.

PLAN OF MANAGEMENT

- G23. The use must always be operated/managed in accordance with the Plan of Management required by Condition F15. In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management. The Plan of Management must be reviewed and updated as required.

COPIES OF CONSENT AND MANAGEMENT PLANS

- G24. 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 any relevant authorities upon request.

**End of modification
(MP 06_0265 MOD 4)**