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22 September 2015

File No: 2015/495125
Our Ref: R/2015/20/A

Amy Watson, Team Leader, Metropolitan Projects
NSW Department of Planning and Environment
22-33 Bridge Street
SYDNEY NSW 2000

Attention: Brendon Roberts
Brendon.roberts@planning.nsw.gov.au

Dear Brendon,

RE: SSD 6831, Fit-out, external lighting, and subdivision of the approved International Convention Centre (ICC) Hotel in the Sydney International Convention Exhibition, Entertainment, Centre Precinct (SICEEP) – Response to submissions

I write in relation to the Department's email dated 3 September 2015 which referred to Response to Submissions regarding State Significant Development Application SSD 66831.

Attachment A is a table summarising the City's review of the Response to Submissions. The table nominates the issues raised within the City's original submission, outlines the applicant's response to the issues raised, and discusses the City's sustained contention in relation to the project where applicable.

Attachment B includes recommended conditions of consent, should the Consent Authority grant approval to the proposal.

Should you wish to speak with a Council officer about the above, please contact Christopher Ashworth, Specialist Planner, on 9246 7757 or at cashworth@cityofsydney.nsw.gov.au.

Yours sincerely,

CHRISTOPHER CORRADI
Area Planning Manager

city of villages

ATTACHMENT A

REVIEW OF RESPONSE TO SUBMISSIONS

Issue	Applicant's Response	Issue Addressed?	City's Contention
Insufficient fit-out details			
The submitted drawings do not provide any details of fit-out works, and merely illustrate the spatial layout of the various hotel functions. Detail is required to assess the proposal against the BCA, Food Standards Codes, and Australian Standards, and to determine if the proposed fit-out is fit for the intended purpose. To assist the Department, the following aspects are noted as deficient: • Detail showing kitchen and service areas, cool stores, servicing arrangements, mechanical ventilation, and the like must be included to ensure compliance with the BCA, Food Standards Codes, and relevant Australian Standards. • The maximum capacity configuration of each area where food and beverages are served must be illustrated to demonstrate compliance with the Building Code of Australia. • Maximum capacities must be nominated for all licensed areas, including restaurants, cafes, the pre-function area,	Compliance with the BCA, Food Standards Codes, and relevant Australian Standards can be ensured through appropriate conditions of consent. Licensing and other statutory requirements will be satisfied through separate future processes. The level of detail provided in the architectural fit-out drawings is consistent with similar SSDA applications. Indicative room fit-out drawings have been provided at Attachment B to provide an indication of the potential fit-out options. These drawings are provided for information purposes and are not intended to form any part of an approval for the SSDA.	No	The submitted documentation does not allow for a proposer assessment of the application. The City's original comments remain unchanged.

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ballroom, club lounge, general bar, pool bar, and the like. • Details showing the number of pans, basins, urinals, showers, and lockers in each bathroom/change room are required to demonstrate compliance with the Building Code of Australia. • Details showing the general furniture layout, reception, concierge, seating areas in the Ground Floor lobby are required. • General furniture layouts of the Level 1 Meeting Centre are required. • Rooms located in the southern portion of the podium on Level 1B are colour coded as voids; however the doors and partitions shown on the drawings suggest these areas may be floor space. The use of these rooms should be identified and detailed fit-out drawings provided accordingly. • A furniture layout should be provided to ensure the Level 2 employee facilities are appropriate for the estimated number of employees. It is recommended that secure personal lockers for staff be included in this area. • General furniture layouts for the Level 2 offices are required.			

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• Details showing reception desk, gym equipment, showers, and the general furniture layout of the Level 4 gym are required. • Detailed fit-out drawings for the hotel guest rooms and suites are required. As a minimum, layouts for each room type should be provided.			
Hours of Operation of Licensed Areas			
The applicant needs to specify proposed hours of operation of the licensed areas of the Hotel. The City notes hours of operation for the licensed areas have not been proposed and development consent SSD 6116 did not approve hours of operation.	All areas in the Hotel will be operated by the Hotel Operator and designed principally for the use of hotel guests and their visitors for a period of 24 hours, seven days a week. This approach is consistent with standard practices of hotels and is critical in achieving international competitiveness for the ICC Hotel and surrounding core exhibition and entertainment infrastructure. Some areas will also be available to members of the public, such as the restaurants, bars and cafés. Certain areas of the Hotel will be able to be used by both Hotel guests and the general public. The Hotel operator will manage access to these areas depending on guest requirements,	No	The applicant did not seek consent for hours of operation under SSD 6116. Moreover there is nothing in the request for SEARs, or the documentation submitted with this application, that indicated approval for 24 hour trading in the publicly accessible licensed areas was being sought. In the Response to Submissions, the applicant has clarified that the licensed areas within the hotel are proposed to operate 24 hours per day, seven days a week. This includes bars and restaurants that will be accessible to the general public and not just hotel guests.

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	bookings, meetings and events. This will change regularly depending on Hotel demand. The ICC Hotel operator will be seeking a 24 hour operating licence, with licensing and other statutory regulations to be gained via separate future processes.		The proposed 24 hour operations will have a significantly greater environmental impact than the development that was advertised, being solely a 'fit-out' application. Of particular concern, an acoustic report has not been submitted to enable an assessment of the potential impacts of 24 hours trading and there is no Plan of Management. In the interests of transparency, and accordance with Clause 89F (4) of the EP&A Act, the Consent Authority should re-notify the application accordingly. An Acoustic Report should also be submitted, which identifies nearby sensitive receivers and demonstrates how compliance with relevant acoustic criteria will be achieved. A Plan of Management should also be prepared, and this is discussed in further detail below.

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			Alternatively, the Consent Authority may elect not to approve the hours of operation. A condition specifying that hours of operation for publicly accessible licensed areas are not approved can be imposed. A separate DA specifically seeking development consent for the hours of operation may then be submitted to the relevant consent authority at a later date. A draft condition to this effect is included in Attachment B.
If the consent authority was to grant approval for hours of operation for the licensed areas, it should be noted that the site is in a 'City Living Area'. Indoor and outdoor hours of operation must only be granted in accordance with Table 3.7: 'late night trading hours' provided in the Sydney DCP 2012. Any hours beyond base hours must be subject to a trial period to enable ongoing review of the operational management of the premises. The initial trial period should be for one year only, and not exceed two hours beyond the base.	The Sydney DCP 2012 does not apply to the proposed development and therefore generic restrictions on the hours of operation or trial period recommendations are not relevant or necessary.	No	It is acknowledged that the DCP does not apply due to the proposal, which is a SSD DA. However, had the request for SEARs specified that 24 hour trading was proposed, the City would have insisted that the application have regard to the Late Night Trading provisions of the DCP, as has been the case for other SSD applications involving hours of operation of licensed premises.

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If hours of operation for the licensed areas are not to be approved under this application, a separate DA will be required.			Notwithstanding this, controls that are specifically aimed at preserving residential amenity should not be dismissed as irrelevant. The community has a reasonable expectation that controls relating to late night hours of operation will be a matter for consideration for the relevant consent authority, and in our experience the community has a particular interest in these controls due to the direct impact they can have on their quality of life. To assist the Department, the applicable maximum hours of operation for the site are summarised below. The various licensed areas throughout the hotel may be independently classified as Category A 'High Impact' premises, or Category B 'Low Impact' premises. For Category A 'High Impact Premises', indoor trading between 7am and 11pm, and outdoor

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			trading between 10am and 8pm, may be considered for approval on a permanent basis. For Category B 'Low Impact Premises', indoor trading between 7am and 1am, and outdoor trading between 9am and 8pm, may be considered for approval on a permanent basis. Indoor trading until 5am and outdoor trading until 12 midnight may be permissible, subject to a trial. However, the first trial should only allow an additional two hours of extended trading, and should be for no more than one year. Development consent should not be granted for trading hours beyond the extended hours permissible by the DCP without there having first been a successful trial. The NSW Land & Environment Court has found that the City has been highly consistent in applying these controls, and that the trial system is an appropriate test of ongoing good management (see Amazonia Hotels Pty Ltd v

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			Council if the City of Sydney [2014] NSWLEC 1247 at paras 57-67). This long established approach ensures operators are accountable and are incentivised to ensure good management on an ongoing basis. This should be upheld by the Department when assessing this application. The City notes that the NSW Government's 2014 amendments to the Liquor Act 2007, commonly referred to as the 'lock-out laws' aim to reduce intoxication and consequential alcohol related violence by, amongst other things, prohibiting access to licensed premises within the 'Sydney CBD Entertainment Precinct' between the hours of 1.30am and 5.00am. This site, and the nearby Star City Casino is located just outside the 'Sydney CBD Entertainment Precinct'. Recent BOSCAR data indicates increased alcohol related violence around the nearby Star City Casino which, as proposed in this application, is able to admit

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			patrons during the 1.30am and 5.00am 'lock out'. The City is of the view that granting approval for 24 hour trading at this site is likely to result in a similar outcome, and would therefore be contrary to the achieving the aim of the lock out laws.
24 hour operations in line with the accommodation component of the hotel are not to be assumed, and are unlikely to be supported.	As above, the Sydney DCP 2012 does not apply and the City of Sydney Council is not the consent authority for the subject SSDA.	No	For the reasons outlined above, the proposed hours of operation should not be approved. If approval was to be granted for hours of operation, those hours must be in accordance with the maximum permitted by the DCP.
Plan of Management			
Hours of operation for the licensed areas after 10.00pm require a detailed Plan of Management to be prepared and submitted for approval.	It is noted that the Sydney Development Control Plan 2012 (Sydney DCP 2012) does not apply to the proposed development. The management of licenced areas will fall under the wider ICC Hotel management procedures. No specific plan of management for these uses is required.	No	The City's original comments remain unchanged. It is not sufficient to state that the DCP does not apply and therefore a Plan of Management is not required. The importance of Plans of Management has been acknowledged by the NSW Land

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			and Environment Court through the establishment a Planning Principle relating to Plans of Management. A Plan of Management is crucial in ensuring the ongoing good management of the premises and every licensed premises within the City of Sydney is required to prepare one. There is no basis for the consent authority to allow a dispensation from that requirement. Any Plan of Management prepared for this site should be reviewed by Council and NSW Police, prior to its endorsement.
The proposed operational details of the gym need to be confirmed. A Plan of Management may be required for the gym if it is publicly accessible after 10.00pm.	The gym included within the ICC Hotel will be directly associated with the hotel operations and will not be open to the general public. As such, no plan of management is required to regulate the operation of the gym as the management of the facility will fall within the wider management procedures of the ICC Hotel.	Yes	If the gym is only accessible by hotel guests, the City agrees that a Plan on Management is not required.

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Compliance with any relevant Plan of Management must be required as a condition of consent.	No response	No	A Plan of Management should be prepared prior to granting development consent. However, should the Department grant development consent to the proposal in its current format, a condition of consent is recommended requiring a Plan of Management to be prepared prior to the issue of an Occupation Certificate. A further condition is recommended requiring the premises always to be operated in accordance with that Plan of Management. Refer to Attachment B.
External Lighting			
The accompanying lighting report from ARUP does not consider the proposal's potential contribution to 'sky glow', which could result in adverse effects to astronomical observations.	The Australian Standards do not specify a benchmark to compare sky glow, which is cumbersome to accurately measure the impact on the existing environment. Despite this, Arup has calculated the sky glow and the results are included in the façade lighting addendum letter (refer to Attachment C). The analysis of sky glow confirms that the proposed façade lighting will have a peak 12 lux	No	The City's original comments remain unchanged. Sydney Observatory should be consulted to determine the potential impact of the proposal.

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	(sky glow) and will therefore not adversely impact upon the current conditions.		
It is understood that Sydney Observatory has in the past expressed strong objections to luminaires with blue colour light sources, and these should be avoided. In consideration of these issues, the proposal should be referred to Sydney Observatory for comment.	The Sydney Observatory is not a statutory referral body and had an opportunity to comment on the proposal during the exhibition period of the SSDA. The ICC Hotel is located in Darling Harbour, approximately 1.5 kilometres from the Sydney Observatory. The facade display is not in direct line of sight from the Observatory, with buildings at Millers Point and Barangaroo in between. Furthermore, Sydney Observatory is also located in close proximity to one of the greatest light sources in Sydney, being the Sydney Harbour Bridge. As such, it is not considered that there will be any adverse impact on the operations of the Sydney Observatory.	No	The City's original comments remain unchanged. Sydney Observatory should be consulted to determine the potential impact of the proposal.
It is considered that animated lighting will have an adverse impact on residential amenity and the appreciation of vistas by visitors. Moving lights are not supported.	The peak of 12 lux (sky glow) is low and in reference to the nearest residential buildings (Peak Apartments, 318 Harris St, Bullecourt Apartments, 18-20 Allen St and Oaks Goldsbrough Apartments), the	No	The City's original comments remain unchanged.

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	conclusion of Arup is that there will be no adverse impacts to these buildings. It is a common practice internationally for entertainment precincts to use curated lighting and animation to create vibrancy and heighten ambiance. Darling Harbour is one of the Australia's most visited precincts and is key tourist destination in the city. In consideration of this and the fact that the ICC Hotel is located in Darling Harbour, Sydney's premier tourist and entertainment precinct, the proposed approach to lighting and animation is considered appropriate and complementary. As noted in the Arup Façade Lighting Review Report submitted with the exhibited EIS, on Sunday to Thursday, the lighting will be monochromatic, gentle, subtle colour and movement.		
Luminaires should be fitted with dimming control systems so that intensity of luminaires can be reduced on request by council. It is noted that the calculated vertical luminance of 22.2 lux at 100m from the hotel site appears	The external Façade is controlled via a DMX control system. The DMX system is able to both dim and change colour of the light source (RGB LED). RGB lights contain three primary colour source LEDs (Red, Green & Blue)	No	The City's original comments remain unchanged.

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close to 25 lux maximum permitted under AS4282.	being each addressed/controlled individually. Combinations of these three colours (variations in intensity) provide black, white and any colour in between (16.7 million colours in total). DMX controllers have the ability to create 256 different steps or levels of colour (intensity/dimming steps). The levels vary from 0 to 255, which is black (the light is off) to full intensity or pure red, green or blue. This provides an extensive level of dimming control to enable the lighting to respond appropriately to different occasions. Light emittance and lux levels have been addressed in detail in the façade lighting addendum letter prepared by Arup (refer to Attachment C).		
Vertical luminance calculations along the boundaries of the adjacent residential properties must be undertaken and the calculation assumptions confirmed by site measurement of prototypes and/or actual luminaires installations. The certified measurements must be submitted for Council review.	Arup has undertaken a supplementary illuminance calculation in the façade lighting addendum letter (refer to Attachment C). The intent of these calculations is to clarify in further detail the potential worst case illuminance that may reach residential properties. Given the large scale of the site, it is has been appropriate to investigate the	Yes	No further comment.

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	illuminance delivered at a typical distance of 100m. Furthermore, the same residential buildings included in the photomontages submitted with exhibited EIS have been utilised in the updated calculations to provide consistency. The schematic calculation model results show that in each case the vertical illuminance that may reach a residential building is well below the maximum permissible during curfew (refer to Attachment C). Whilst the ICC Hotel facade lighting is visible from a small number of residential buildings, the analysis detailed in this report demonstrates that the intensity from the fixtures and the resultant illuminance reaching these buildings is lower than the recommended limits as stated within the relevant Australian Standard.		
Subdivision The lot being created that will contain the hotel does not appear to have any formal access to a public road. Even though it appears that new roads and access ways will be created and built in the future, it is considered that an easement	It is the standard practice of SHFA to not create easements on any lots given that long-term leases are provided to tenants and SHFA remains the freehold landowner. As such, this	No	The City's original comments remain unchanged. In addition, the City is of the view that it would be prudent to locate

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should be created as part of this subdivision plan providing such access, even if it is of a temporary nature.	practice is not proposed to be altered. Further discussion on this issue is provided in the covering Response to Submission Letter.		all services in terms of horizontal position and a reduced Level related to AHD (Australian Height Datum) at each change of direction, and create appropriate easements by Section 88B of the Conveyancing Act, as part of the subdivision creating Lot 2014. It will be far more difficult, costly and time consuming to create these easements at a later date, when the services for the ICC Hotel are covered by paving, roads and possibly other structures. There is also possibility that under a future restructure the authority may be amalgamated with another Department, and therefore possible in future that the assets held are rationalised. A hotel standing on its own allotment may be considered for sale, and at this time the easements for access and services would be essential for the sale to progress. There will never be a more cost effective time to create these easements than in conjunction with the construction of

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			the hotel and the registration of the plan creating Lot 2014.
Conclusion Based on the supporting documentation provided, it is difficult for the City to comment and for the Department to assess and determine the application. The City is unable to recommend conditions of consent in relation to the fit-out at this time. The Applicant's intentions regarding fit-out detail and operational aspects should be confirmed. Further comments, for example from the City's Licenced Premises and Health and Building Units, can only be made once additional detail has been provided. It is recommended that the application be re-exhibited following receipt of the appropriate and necessary information. NSW Police (Sydney City Local Area Command) must be provided an opportunity to review any Plan of Management.	As outlined above and in the covering Response to Submissions Letter, sufficient details have been provided and re-exhibition is unnecessary.	No	The City's original comments remain unchanged. In the response to submissions the applicant has effectively amended the application to seek approval for 24 hours trading for the licensed areas. This aspect of the proposal has not been disclosed in exhibition documents and the public has not had an opportunity to comment. If the Consent Authority is to consider granting approval to hours of operation, the application must first be re-notified.

ATTACHMENT B

RECOMMENDED CONDITIONS OF CONSENT

(1) HOURS OF OPERATION NOT APPROVED – SEPARATE DA REQUIRED

Consent is not granted for the hours of operation of any publicly accessible licensed areas, including bars, restaurants, cafes, function rooms, and the like. A separate application for hours of operation must be submitted to the relevant consent authority prior to the commencement of the use of those areas.

(2) SIGNAGE STRATEGY

A separate development application is to be submitted seeking approval of a signage strategy for the building. The signage strategy development application must include information and scale drawings of the location, type, construction, materials and total number of signs appropriate for the building.

(3) INDOOR HOURS OF OPERATION – CATEGORY A ‘HIGH IMPACT’ AREAS – AMEND CONDITION TO REFER TO SPECIFIC LICENSED AREAS (ONLY IF HOURS ARE APPROVED)

The hours of operation are regulated as follows:

- (a) The hours of operation must be restricted to between 7.00 and 11.00pm Monday to Sunday inclusive.
- (b) Notwithstanding (a) above, the use may operate between 11.00pm and 1.00am the following day, Monday to Sunday inclusive, for a trial period of one (1) year from the date of issue of the Occupation Certificate. Council's Health and Building Unit is to be informed in writing of the date of commencement of the trial hours. Email notification is to be sent to liquor@cityofsydney.nsw.gov.au.
- (c) A further application may be lodged to continue the operating hours outlined in (b) above 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.

(4) OUTDOOR HOURS OF OPERATION – CATEGORY A ‘HIGH IMPACT’ AREAS – AMEND CONDITION TO REFER TO SPECIFIC LICENSED AREAS (ONLY IF HOURS ARE APPROVED)

The hours of operation are regulated as follows:

- (a) The hours of operation must be restricted to between 10.00am and 8.00pm Monday to Sunday inclusive.
- (b) Notwithstanding (a) above, the use may operate between 8.00pm and 10.00pm, Monday to Sunday inclusive, for a trial period of one (1) year from the date of issue of the Occupation Certificate. Council's Health and Building Unit is to be informed in writing of the date of commencement of the trial hours. Email notification is to be sent to liquor@cityofsydney.nsw.gov.au.
- (c) A further application may be lodged to continue the operating hours outlined in (b) above 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.

(5) INDOOR HOURS OF OPERATION – CATEGORY B 'LOW IMPACT' AREAS – AMEND CONDITION TO REFER TO SPECIFIC LICENSED AREAS (ONLY IF HOURS ARE APPROVED)

The hours of operation are regulated as follows:

- (a) The hours of operation must be restricted to between 7.00am and 1.00am the following day Monday to Sunday inclusive.
- (b) Notwithstanding (a) above, the use may operate between 1.00am and 3.00am, Monday to Sunday inclusive, for a trial period of one (1) year from the date of issue of the Occupation Certificate. Council's Health and Building Unit is to be informed in writing of the date of commencement of the trial hours. Email notification is to be sent to liquor@cityofsydney.nsw.gov.au.
- (c) A further application may be lodged to continue the operating hours outlined in (b) above 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.

(6) OUTDOOR HOURS OF OPERATION – CATEGORY B 'LOW IMPACT' AREAS – AMEND CONDITION TO REFER TO SPECIFIC LICENSED AREAS (ONLY IF HOURS ARE APPROVED)

The hours of operation are regulated as follows:

- (a) The hours of operation must be restricted to between 9.00am and 8.00pm Monday to Sunday inclusive.
- (b) Notwithstanding (a) above, the use may operate between 8.00pm and 12 midnight, Monday to Sunday inclusive, for a trial period of one (1) year from the date of issue of the Occupation Certificate. Council's Health and Building Unit is to be informed in writing of the

date of commencement of the trial hours. Email notification is to be sent to liquor@cityofsydney.nsw.gov.au.

- (c) A further application may be lodged to continue the operating hours outlined in (b) above 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.

(7) CESSATION OF SERVICE

The premises may be open for business only between the operating hours in condition [number] above. The operator must cease providing food and or alcohol at the premises 30 minutes before the required closing time.

(8) MAXIMUM CAPACITY OF PERSONS – TO BE REPLICATED FOR EACH SEPARATE LICENSED AREA – DEPT TO AMEND CONDITION TO SPECIFY

- (a) The maximum number of persons (including staff, patrons and performers) permitted in the premises at any one time is [number] persons.
- (b) [Where appropriate specify maximum number of persons for each part of the premises at any one time]. The capacity for each area shall not exceed the maximum numbers at any given time.
- (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 of the sign are to be submitted to Council's Health and Building Unit for approval prior to issue of a Construction Certificate.

Note: Clause 98D of the *Environmental Planning and Assessment Regulation 2000* 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.

(9) COPIES OF CONSENTS AND MANAGEMENT PLANS

- (a) A Plan of Management must be submitted to and approved by Council's Area Planning Manager prior to the issue of an Occupation Certificate.
- (b) 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.

(10) PLAN OF MANAGEMENT

The use must always be operated / managed in accordance with the Plan of Management approved by Condition (x) above.

(11) 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.

(12) SURVEILLANCE CAMERAS

- (a) CCTV surveillance cameras shall 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 shall 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 shall 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 shall be capable of recording a minimum rate of 10 frames per second and at high resolution.
- (d) CCTV recording discs or hard drive recordings shall be retained for 28 days before being re-used, destroyed or deleted. Time and date

shall be auto recorded on the disc or hard drive. The CCTV recording equipment shall be capable of reproducing a CD, DVD 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. Copy discs must be handed to Council, Police Officer or Special Inspectors as required.

- (e) All CCTV recording devices and cameras shall be checked daily to ensure the equipment is operating correctly. The Licensee shall 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 shall 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 shall 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.

(13) NOISE - ENTERTAINMENT VENUES

- (a) The $L_{A10, 15 \text{ minute}}$ noise level emitted from the use must not exceed the background noise level ($L_{A90, 15 \text{ minute}}$) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 5dB between the hours of 7.00am and 12.00 midnight when assessed at the boundary of any affected residence.
- (b) The $L_{A10, 15 \text{ minute}}$ noise level emitted from the use must not exceed the background noise level ($L_{A90, 15 \text{ minute}}$) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) between the hours of 12.00 midnight and 7.00am when assessed at the boundary of any affected residence.
- (c) Notwithstanding compliance with (a) and (b) above, noise from the use when assessed as an $L_{A10, 15 \text{ minute}}$ enters any residential use through an internal to internal transmission path is not to exceed the existing internal $L_{A90, 15 \text{ minute}}$ (from external sources excluding the use) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed within a habitable room at any affected residential use between the hours of 7am and 12midnight. Where the $L_{A10, 15 \text{ minute}}$ noise level is below the threshold of hearing, Tf at

any Octave Band Centre Frequency as defined in Table 1 of International Standard ISO 226 : 2003- Normal Equal-Loudness-Level Contours then the value of T_f corresponding to that Octave Band Centre Frequency shall be used instead.

- (d) Notwithstanding compliance with (a), (b) and (c) above, the noise from the use must not be audible within any habitable room in any residential use between the hours of 12.00 midnight and 7.00am.
- (e) The $L_{A10, 15 \text{ minute}}$ noise level emitted from the use must not exceed the background noise level ($L_{A90, 15 \text{ minute}}$) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 3dB when assessed indoors at any affected commercial premises.

Note: The $L_{A10, 15 \text{ minute}}$ noise level emitted from the use is as per the definition in the Australian Standard AS1055-1997 Acoustics – Description and measurement of environmental noise. The background noise level $L_{A90, 15 \text{ minute}}$ is to be determined in the absence of noise emitted by the use and be representative of the noise sensitive receiver. It is to be determined from the assessment L_{A90} / rating L_{A90} methodology in complete accordance with the process listed in the NSW EPA Industrial Noise Policy and relevant requirements of AS1055.1997.

(14) NOISE - GENERAL

- (a) The emission of noise associated with the use of the premises including the cumulative operation of any mechanical plant and equipment, and air conditioning shall comply with the following:
 - (i) The $L_{Aeq, 15 \text{ minute}}$ noise level emitted from the use must not exceed the project specific noise level for that receiver as determined in accordance with the *NSW EPA Industrial Noise Policy*. Noise must be measured in accordance with the Industrial Noise Policy and relevant requirements of Australian Standard AS 1055-1997 Acoustics – Description and measurement of environmental noise.
 - (ii) Project specific noise levels shall be determined by establishing the existing environmental noise levels, in complete accordance with the assessment $L_{A90, 15 \text{ minute}}$ / rating $L_{A90, 15 \text{ minute}}$ process to be in accordance with the requirements for noise monitoring listed in the *NSW EPA Industrial Noise Policy* and relevant requirements of Australian Standard AS1055-1997 Standard AS 1055-1997 Acoustics – Description and measurement of environmental noise.
 - (iii) Modifying factors in Table 4.1 of the *NSW EPA Industrial Noise Policy* are applicable.
- (b) An $L_{Aeq, 15 \text{ minute}}$ noise level emitted from the use must not exceed the $L_{A90, 15 \text{ minute}}$ noise level by more than 3dB in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed inside any habitable room of any affected residence or noise sensitive commercial premises provided that;

- (i) Where the $L_{A90, 15 \text{ minute}}$ noise level is below the threshold of hearing, T_f at any Octave Band Centre Frequency as defined in Table 1 of International Standard ISO 226 : 2003- Normal Equal-Loudness-Level Contours then the value of T_f corresponding to that Octave Band Centre Frequency shall be used instead.
- (ii) The $L_{Aeq, 15 \text{ minute}}$ noise level and the $L_{A90, 15 \text{ minute}}$ noise level shall both be measured with all external doors and windows of the affected residence closed;
- (iii) The relevant background noise level ($L_{A90, 15 \text{ minute}}$) is taken to mean the day, evening or night rating background noise level determined in complete accordance with the methodology outlined in the *NSW EPA Industrial Noise Policy* and Australian Standard AS1055.1997 Acoustics – Description and measurement of environmental noise.
- (iv) Background noise shall be established in the absence of all noise emitted from the use but with the ventilation equipment normally servicing the affected residence operating. Background noise measurements are to be representative of the environmental noise levels at the affected location.
- (v) Modifying factors in Table 4.1 of the *NSW EPA Industrial Noise Policy* are applicable. Internal Noise measurements are not to be corrected for duration.

(15) COMPLIANCE WITH THE ACOUSTIC CRITERIA

Prior to the issue of an Occupation Certificate, a suitably qualified acoustic consultant is to provide a written Acoustic Verification Report to the satisfaction of the consent authority and council that the development complies with the requirements of the NOISE – GENERAL and NOISE – ENTERTAINMENT VENUES conditions.

Note: Suitably qualified Acoustic Consultant means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member.

(16) NEIGHBOURHOOD AMENITY

- (a) Signs must be placed in clearly visible positions within the licenced premises requesting patrons upon leaving the premises to do so quickly and quietly, having regard to maintaining the amenity of the area. The signage shall 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.

(17) 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.

(18) 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.

(19) 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.

(20) GLASS CRUSHER

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

(21) 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.

(22) NEIGHBOURHOOD AMENITY

- (a) Signs must be placed in clearly visible positions within the restaurant requesting patrons upon leaving the premises to do so quickly and quietly, having regard to maintaining the amenity of the area. The signage shall 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.

(23) ANNUAL FIRE SAFETY STATEMENT FORM

An annual Fire Safety Statement must be given to Council and the NSW Fire Brigade commencing within 12 months after the date on which the

initial Interim/Final Fire Safety Certificate is issued or the use commencing, whichever is earlier.

(24) STRUCTURAL CERTIFICATION FOR DESIGN - BCA (ALL BUILDING CLASSES)

Prior to the issue of a Construction Certificate, structural details and a Structural Certificate for Design by a qualified practising structural engineer and in accordance with Clause A2.2(a)(iii) of the Building Code of Australia (applicable to class 2-9 building) and Clause 1.2.2(iii) of Volume 2 of the BCA (applicable to Class 1 and 10 buildings) must be submitted to the satisfaction of Council (where Council is the Certifying Authority).

(25) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA

The proposed work must comply with the *Building Code of Australia* (BCA).

(26) SANITARY FACILITIES

Sanitary facilities are required to comply with the deemed-to-satisfy provisions of the BCA or an alternative building solution in accordance with Part A0 of the BCA must be prepared by a suitably qualified and accredited person and be submitted to Certifying Authority demonstrating how the relevant performance requirements of the BCA are to be satisfied.

(27) ACCESSIBLE SANITARY FACILITIES

Accessible facilities for people with disabilities shall be provided comply with the requirements of F2.4 of the BCA. If compliance with the deemed-to-satisfy provisions of the BCA cannot be achieved, an alternative building solution in accordance with Part A0 of the BCA must be prepared by a suitably qualified and accredited person and be submitted to the Certifying Authority demonstrating how the relevant performance requirements of the BCA are to be satisfied.

(28) ACCESS AND FACILITIES FOR PERSONS WITH DISABILITIES

The building must be designed and constructed to provide access and facilities for people with a disability in accordance with the *Building Code of Australia*.

If, in complying with this condition, amendments to the development are required, the design changes must be submitted to and approved by Council prior to a Construction Certificate being issued.

(29) ACCESS FOR PERSONS WITH DISABILITIES - OFFICE / SHOP FITOUTS

In accordance with the *Building Code of Australia* the proposed office / shop layout and design must comply with Australian Standard 1428.1: General requirements for access - New building works.

(30) FUTURE FOOD USE - MECHANICAL VENTILATION PROVISION

The approved mechanical exhaust systems are to be designed to be capable of accommodating exhaust requirements for all ground floor retail tenancies in accordance with relevant Australia Standards, in order to allow for the event that any of the tenancies are approved for future use by food premises or other uses which require mechanical exhaust. Any exhaust system servicing an area where food is being cooked must discharge exhaust air at roof level.

(31) MECHANICAL VENTILATION

- (a) The premises must be ventilated in accordance with the *Building Code of Australia* and AS1668.1 and AS1668.2.
- (b) Details of any mechanical ventilation and/or air conditioning system complying with AS1668.1 and AS1668.2, the *Building Code of Australia* and relevant Australian Standards must be prepared by a suitably qualified person certified and certified in accordance with Clause A2.2(a)(iii) of the *Building Code of Australia*, to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.
- (c) Prior to issue of an Occupation Certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A2.2(a)(iii) of the *Building Code of Australia*, must be submitted to the Principal Certifying Authority.

(32) MINIMISE IMPACT OF POOL ON NEIGHBOURING PROPERTIES

- (a) To minimise the impact of the pool on adjoining properties and to ensure the safety of the pool/spa area, the design and construction of the swimming pool/spa and associated equipment and fencing must comply with the following requirements:
 - (i) The *Swimming Pools Act 1992* and Regulations.
 - (ii) The swimming pool must have safety barriers installed in accordance with the requirements of AS 1926.1 - 2007 - 'Safety barriers for swimming pools' and AS 1926.2 - 2007 'Location of safety barriers for swimming pools'.
 - (iii) Australian Standards 1926.3 - Water Recirculation and Filtration; and

(iv) *Protection of the Environment Operations Act 1997***(33) SWIMMING POOL - WASTE AND OVERFLOW WATERS**

Swimming pool waste and overflow waters must be collected and directed to the sewer in accordance with the requirements of Sydney Water, and details are to be submitted with the application for a Construction Certificate to the satisfaction of Council or the accredited certifier and approved by the Certifying Authority.

(34) SWIMMING POOL/SPA

Swimming and/or spa pool/s and pool surrounds must be maintained in accordance with the *Public Health (General) Regulation 2012*. Note: Guidance may also be obtained from the NSW Health Department's *Public Swimming Pool and Spa Pool Guidelines*.

(35) STREET TREE PROTECTION

Street trees must be protected in accordance with the Australian Standard 4970 Protection of Trees on Development Sites. All street trees must be protected during the construction works as follows:

- (a) Tree trunk and major limb protection must be undertaken prior to or during the installation of any hoarding or scaffoldings. The protection must be installed by a qualified Arborist (AFQ 2 or 3) and must include:
 - (i) An adequate clearance, minimum 250mm, must be provided between the structure and tree branches, limbs and trunk at all times;
 - (ii) Tree trunk/s and/or major branches, located within 500mm of any hoarding or scaffolding structure, must be protected by wrapped hessian or similar material to limit damage, and
 - (iii) Timber planks (50mm x 100mm or similar) must be placed around tree trunk/s. The timber planks must be spaced at 100mm intervals, and must be fixed against the trunk with tie wire, or strapping. The hessian and timber planks must not be fixed to the tree in any instance, or in any fashion,
 - (iv) Tree trunk and major branch protection is to remain in place for the duration of construction and development works, and must be removed at the completion of the project.
- (b) All hoarding support columns are to be placed a minimum of 300mm from the edge of the existing tree pits/setts, so that no sinking or damage occurs to the existing tree setts. Supporting columns must not be placed on any tree roots that are exposed.
- (c) Materials or goods, including site sheds, must not be stored or placed:

- (i) around or under the tree canopy; or
- (ii) within two (2) metres of tree trunks or branches of any street trees.
- (d) Protective fencing (1.8 metre chain wire mesh fencing) must be erected on top of the hoarding [Tree Management Team to insert location of hoarding and affected trees] to protect branches during the construction works.
- (e) Any damage sustained to street tree/s as a result of the erection of hoardings, scaffolding, or due to the loading/unloading of vehicles adjacent the site, must be immediately reported to the Council's Street Tree Contract Coordinator on 9265 9333, in order to determine the appropriate action for maintaining the health and structural integrity of any damaged street tree.

(36) SYDNEY WATER CERTIFICATE (QUICK CHECK)

- (a) The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped. For Quick Check agent details please refer to the web site www.sydneywater.com.au, (see Building Developing and Plumbing then Quick Check) or telephone 13 20 92.
- (b) The Consent Authority or a Certifying Authority must ensure that a Quick Check agent/Sydney Water has appropriately stamped the plans before the commencement of work.

(37) WASTE AND RECYCLING MANAGEMENT - COMMERCIAL

- (a) The Waste Management Plan accompanying this Development Application has not been approved by this consent.
- (b) A Waste Management Plan is to be approved by the Certifying Authority prior to a Construction Certificate being issued. The plan must comply with the Council's *Policy for Waste Minimisation in New Developments 2005*. All requirements of the approved Building Waste Management Plan must be implemented during construction of the development.

UPON COMPLETION OF THE DEVELOPMENT

- (c) Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifying Authority must ensure that waste handling works have been completed in accordance with: the Waste Management Plan; other relevant development consent conditions; and Council's *Policy for Waste Minimisation in New Developments 2005*.

(38) WASTE AND RECYCLING COLLECTION CONTRACT

Prior to an Occupation Certificate being issued and/or commencement of the use, whichever is earlier, the building owner must ensure that there is a contract with a licensed contractor for the removal of **all waste**. No garbage is to be placed on the public way, e.g. footpaths, roadways, plazas, reserves, at any time.

(39) EASEMENTS FOR ACCESS

An appropriate Easement for Access, or similar, is to be created over Lot 2015 in the Plan of Subdivision, pursuant to Section 88B of the *Conveyancing Act 1919*, appurtenant to Lot 2014, in terms granting vehicular and pedestrian access to Lot 2014 from a public road. The Easement is to be created to the satisfaction of Council or the Certifier.

(40) ENCROACHING AND/OR SHARED SERVICES

Any pipes, service lines or the like servicing each lot shall be contained within their respective lots or, if service lines encroach upon adjoining lots within the subdivision, or are shared by more than one lot, appropriate easements must be created, pursuant to Section 88B of the *Conveyancing Act 1919*, over the service lines where any such encroachment occurs.

(41) ADDITIONAL EASEMENTS AND COVENANTS

Aside from Easements mentioned in the above conditions, any further Easements and/or Covenants required as a consequence of the subdivision are to be created via Section 88B of the *Conveyancing Act 1919* and to Council's satisfaction.

(42) CONSTRUCTION NOISE AND VIBRATION MANAGEMENT PLAN

A site specific noise management plan shall be submitted for approval.

The Plan must be prepared by a suitably qualified person who possesses the qualifications to render them eligible for membership of the Australian Acoustic Society, Institution of Engineers Australia or the Australian Association of Acoustic Consultants.

The plan must include but not be limited to the following:-

- (a) identification of noise sensitive receivers near to the site.
- (b) A prediction as to the level of noise impact likely to affect the nearest noise sensitive receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite. A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the *City of Sydney Construction Hours /Noise Code of Practice 1992* for the typical construction hours of 07.00am to 7.00pm. Where resultant site noise levels are likely to be in exceedance of this noise criteria then a suitable proposal must be given as to the duration and

frequency of respite periods that will be afforded to the occupiers of neighbouring property.

- (c) A representative background noise measurement ($L_{A90, 15 \text{ minute}}$) should be submitted, assessed in the vicinity of any potentially affected receiver locations and measured in accordance with AS 1055:1.2.1997.
- (d) Confirmation of the level of community consultation that has/is and will be undertaken with Building Managers/ occupiers of the main adjoining noise sensitive properties likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.
- (e) Confirmation of noise monitoring methodology that is to be undertaken during the main stages of work at neighbouring noise sensitive properties in order to keep complaints to a minimum and to ensure that noise from site works complies with the noise criteria contained within City's Construction Noise Code.
- (f) What course of action will be undertaken following receipt of a complaint concerning offensive noise.
- (g) Details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupiers of neighbouring noise sensitive property to a minimum.
- (h) What plant and equipment is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on the occupiers of neighbouring property and other less intrusive technologies available.

(43) COMPLIANCE WITH CONSTRUCTION NOISE AND VIBRATION MANAGEMENT PLAN

- (a) All works conducted on site which form part of this development must be carried out in accordance with an approved Demolition, Excavation and Construction Management Plan.
- (b) Where all such control measures have been implemented and the resultant noise and/ or vibration levels at any sensitive receiver still exceed the council's applicable criteria stated in the Construction Hours/Noise Code 1992 and are giving rise to sustained complaints then the contractor must provide regular, appropriate and sustained periods of respite in consultation with Council's Health and Building unit. Approval to vary the authorised noise and vibration levels must be received in writing by the proponent from Council prior to activities being undertaken that exceed sanctioned emission levels. (Use where respite periods not specified under the approved DEC NMP)

Such periods must be set and agreed to by Council's Health and Building Unit.

(44) CONSTRUCTION AND FITOUT OF FOOD PREMISES

The construction, fitout 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 Fitout 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.

(45) COOLROOMS

Cool room(s), refrigerated chambers and strong-rooms are to be constructed in accordance with G 1.2 of the *Building Code of Australia*:

- (a) The floor of the coolroom must be graded to the door and a floor trapped waste outlet must be located outside the coolroom as near as possible to the door opening.
- (b) All proposed shelving in the coolroom must be free-standing, constructed of galvanised steel angle section or other approved material with the lowest shelf at least 150mm clear of the floor.
- (c) The floor of the coolroom must be constructed of impermeable concrete or coated, topped or otherwise finished with an impervious material to a smooth even surface and coved at the intersections with the walls to a minimum radius of 25mm.
- (d) A door which can be opened at all times from inside without a key.
- (e) An approved audible alarm device must be located outside the coolroom(s) but controllable only from within the coolroom(s) and be able to achieve a sound pressure level outside the chamber or coolroom(s) of 90 d B (A) when measured 3 metres from the sounding device.

(46) FOOD PREMISES - HEALTH DATABASE REGISTRATION

The business is to be registered with Council's Health and Building Unit prior to the issue of an Occupation Certificate or occupation with an Interim Occupation Certificate (whichever is earlier).

Note: Registration forms are available on Council's website www.cityofsydney.nsw.gov.au.

(47) GREASE TRAPS

A grease trap (if required by Sydney Water) must not be installed in any kitchen, food preparation or food storage area. The grease trap room must have a piped connection to the boundary so that it can be emptied. **Note:** Sydney Water Authority also have requirements for grease arrestors that you need to comply with.

(48) INSTALLATION OF WATERLESS WOKS

Where one or more commercial wok stove(s) are to be installed as part of the development only the use of air-cooled (waterless) wok stove(s) are permitted.

(49) PERSONAL LOCKERS

Clothing lockers or change rooms for male and female 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.

(50) 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 *Building Code of Australia*, Part F 3.1, 4.8 and 4.9.

(51) WASTE ROOMS

- (a) To ensure the adequate storage and collection of waste from the occupation or the use of the food premises, all garbage and recyclable materials emanating from the premises must be stored in a designated waste storage area. The waste storage area must be designed and constructed in accordance with AS 4674 – Design, Construction and Fitout of Food Premises, and must be:
 - (i) Provided with a hose tap connected to the water supply;
 - (ii) Paved with impervious floor materials;
 - (iii) Coved at the intersection of the floor and walls;
 - (iv) Graded and drained to a waste disposal system in accordance with the relevant regulatory authority (Sydney Water);
 - (v) Adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour as defined by the *Protection of the Environment Operations Act 1997*;
 - (vi) Fitted with appropriate interventions to meet fire safety standards in accordance with the *Building Code of Australia*.

(52) COMMERCIAL KITCHEN EXHAUST MECHANICAL VENTILATION

- (a) Commercial kitchen exhaust mechanical ventilation shall be designed and installed in accordance with AS 1668.2 – 2012
- (b) Commercial kitchen exhaust air shall be discharged from at least as high as level 4 of the building and in an upward direction at an angle of 45 degrees.
- (c) Commercial kitchen exhaust air shall be discharged at a maximum velocity that provides best dispersal of exhaust air and also causes exhaust air to be adequately filtered.
- (d) The commercial kitchen exhaust mechanical ventilation system shall be designed and installed so that enhanced filtration and odour control systems may be provided and adequately installed at a later date should exhaust air discharges cause a nuisance.

(53) MECHANICAL VENTILATION

- (a) The premises must be ventilated in accordance with the *Building Code of Australia* and AS1668.1 and AS1668.2.
- (b) Details of any mechanical ventilation and/or air conditioning system complying with AS1668.1 and AS1668.2, the *Building Code of Australia* and relevant Australian Standards must be prepared by a suitably qualified person certified and certified in accordance with Clause A2.2(a)(iii) of the *Building Code of Australia* and condition of consent, COMMERCIAL KITCHEN EXHAUST MECHANICAL VENTILATION to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.
- (c) Prior to issue of an Occupation Certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A2.2(a)(iii) of the *Building Code of Australia*, must be submitted to the Principal Certifying Authority.
- (d) Prior to the issue of an Occupation Certificate the commercial kitchen exhaust mechanical ventilation system shall be certified by an appropriately qualified person indicating that compliance with condition of consent; COMMERCIAL KITCHEN EXHAUST MECHANICAL VENTILATION has been achieved.

(54) COOKING EQUIPMENT AND VENTILATION

Cooking must not commence until an air handling system, in accordance with Part F4.12 of the BCA is approved, installed and operational. Cooking is defined as the process of changing any food from raw to cooked by applying heat, and also includes the preparation of food by heating it. This definition does not include heating food in a microwave, a sandwich press, a toaster or similar, unless the kW or MJ combined or separate exceed that specified in the BCA, or if the use of such equipment generates

excessive heat, condensation or grease. Cooking equipment that requires an air handling system is specified in AS1668.2 and BCA F4.12.

(55) VENTILATION REQUIRED (MECHANICAL) - VERTICAL DISCHARGE

The cooking appliances that require an approved air handling system shall be designed and installed in accordance with AS1668.1-1998 and AS1668.2-1991 or AS1668.2 – 2012 and the discharge point is to be vertical at roof top level or an alternative solution satisfying the performance objectives of the *Building Code of Australia*. Low level horizontal exhaust discharge is not permitted. No approval is granted for the burning of charcoal and solid fuel.

(56) MICROBIAL CONTROL IN WATER SYSTEMS

- (a) Prior to the issue of a Construction Certificate detailed plans of any water cooling system (including cooling towers) as defined under the *Public Health Act 2010* must be prepared by a suitably qualified person and certified in accordance with AS3666: 1: 2011 Air handling and water systems of buildings – Microbial Control – Design, installation and commissioning and must be submitted to and approved by Council.
- (b) Water cooling system operation and maintenance manuals and maintenance service records shall be readily available at the premises for inspection by an authorised officer upon request. Such records must be kept on the premises in accordance with Clause 2.6 to AS/NZS 3666:2:2011 Air handling and water systems of buildings – Microbial control, operation and maintenance.
- (c) The installation, operation and maintenance of warm water systems and water cooling systems (as defined under the *Public Health Act 2010*) must comply with the following:
 - (i) *Public Health Act 2010*, Public Health Regulation 2012 and Parts 1 and 2 (or part 3 if a Performance-based water cooling system) of AS3666:2011 Air handling and water systems of buildings – Microbial Control and the NSW Health Code of Practice for the Control of Legionnaires Disease.
 - (ii) Prior to the issue of an Occupation Certificate or if non applicable, prior to commencement of the use, the owner or occupier of the premises at which any warm water system and/or water cooling system is installed must cause notice of such installation(s) by providing to Council's Environmental Health department, written notification by way of the prescribed form under Clause 12 to the Public Health Regulation 2012. Any changes to these particulars must be notified to Council's Environmental Health department in writing within 7 days of the change(s). Copies of the notification forms are available on the City of Sydney website.

(57) 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.

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 Unit, 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 96 of the *Environmental Planning and Assessment Act 1979*.

(58) HAZARDOUS AND INDUSTRIAL WASTE

Hazardous and/or industrial waste arising from the demolition/operational activities must be removed and/or transported in accordance with the requirements of the NSW Work Cover Authority pursuant to the provisions of the following:

- (a) *Protection of the Environment Operations Act 1997*
- (b) *Protection of the Environment Operations (Waste) Regulation 2005*
- (c) *Waste Avoidance and Resource Recovery Act 2001*
- (d) *Work Health and Safety Act 2011*
- (e) *Work Health and Safety Regulation 2011*.

(59) VEHICLE CLEANSING

Prior to the commencement of work, suitable measures are to be implemented to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site. It is an offence to allow, permit or cause materials to pollute or be placed in a position from which they may pollute waters.

(60) CONNECTION TO SEWERS OF SYDNEY WATER CORPORATION

Waste water arising from the use must be directed to the sewers of the Sydney Water Corporation (SWC) under a Trade Waste License Agreement. The pre-treatment of wastewater may be a requirement of the Corporation prior to discharge to the sewer. Details of the Corporation's requirements should be obtained prior to the commencement of construction work.

(61) OCCUPATION CERTIFICATE TO BE SUBMITTED

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

(62) ENCROACHMENTS – NEIGHBOURING PROPERTIES

No portion of the proposed structure shall encroach onto the adjoining properties.

(63) ENCROACHMENTS – PUBLIC WAY

No portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach upon Council's footpath area.

(64) SURVEY

All footings and walls adjacent to a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be submitted to the Principal Certifying Authority indicating the position of external walls in relation to the boundaries of the allotment.

(65) SURVEY CERTIFICATE AT COMPLETION

A Survey Certificate prepared by a Registered Surveyor must be submitted at the completion of the building work certifying the location of the building in relation to the boundaries of the allotment.

(66) COVERING OF LOADS

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

(67) LOADING AND UNLOADING DURING CONSTRUCTION

The following requirements apply:

- (a) All loading and unloading associated with construction activity must be accommodated on site.
- (b) If it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.
- (c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.
- (d) Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate approval under Section 68 of the Local Government Act 1993 must be obtained.

(68) NO OBSTRUCTION OF PUBLIC WAY

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by Council to stop all work on site.

(69) USE OF MOBILE CRANES

The following requirements apply:

- (a) Mobile cranes operating from the road must not be used as a method of demolishing or constructing a building.
- (b) 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, permits must be obtained from Council for the use of a mobile crane. The permits must be obtained 48 hours beforehand for partial road closures which, in the opinion of Council will create minimal traffic disruptions and 4 weeks beforehand in the case of full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.
- (c) Special operations and the use of mobile cranes must comply with the approved hours of construction. Mobile cranes must not be delivered to the site prior to 7.30am without the prior approval of Council.