

Annexure A

DETERMINATION OF APPLICATION FOR MODIFICATION OF DEVELOPMENT CONSENT

Modification Application No:	DA/437/2021/A
Development Consent modified:	DA/437/2021
Description of development to be carried out under the consent (as previously modified):	Demolition of buildings, works to the Coogee Bay Hotel, including refurbishment to provide for 18 hotel rooms, a new 3 storey building to the southern side of the beer garden with 13 new hotel rooms, construction of a 5/6 storey shop top housing comprising 58 dwellings, 11 retail premises, internal laneway from Coogee Bay Road, basement parking for 159 spaces, subdivision, landscaping and associated works (Local Heritage Item, variations to FSR and height of buildings of the RLEP 2012, Integrated Development).
Address and particulars of title of land on which development to be carried out:	212 Arden Street, Coogee (legally described as Lot 1 in DP 872553), 227-233 Coogee Bay Road, Coogee (legally described as Lot A in DP 437308), 5-7 Vicar Street Coogee (legally described as Lot B in DP 437308), 15A Vicar Street Coogee (legally described as Lot A in DP 337724).
Description of modification to the development consent:	Application to modify development consent DA/437/2021 to allow the site to be used in accordance with the proposed 'Precinct Noise Management Plan' and 'Acoustic Masterplan', deletion of the deferred commencement condition and amending any further conditions referencing the Noise Masterplan. A minor amendment to basement level 01 is also proposed.

Determination: The development consent is modified as follows:

1. On the first page of the notice of determination delete the following text:

Cotton Developments
Angel Place

Level 8, 123 Pitt St
SYDNEY NSW 2000

and instead insert the following text:

Any reference to the “applicant” means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.

2. On the first page of the notice of determination delete the following text that appears after ‘Consent to operate from’:

DEFERRED COMMENCEMENT

and instead insert the following:

On the approval of DA/437/2021/A

3. On the first page of the notice of determination delete the following text that appears after ‘Consent to operate from’:

DEFERRED COMMENCEMENT

4. On the first page of the notice of determination delete the following text:

Consent to lapse on: [12 months from the date of determination]

5. On the first page of the notice of determination delete the following text:

DEFERRED COMMENCEMENT CONDITIONS

The consent is not to operate until the following material has been submitted to the Council’s Director of City Planning and Council’s Director of City Planning has notified the Applicant, in writing, that the deferred commencement condition has been satisfied.

6. Delete the following text prior to condition A1:

COOGEE BAY HOTEL NOISE MASTERPLAN (Noise Masterplan)

7. Delete condition A1.

8. Delete the following text that follows condition A1:

Evidence required to satisfy the above conditions must be submitted to Council within 12 months of the date of this consent.

Subject to compliance with the deferred commencement conditions, to the satisfaction of the Director of City Planning, development consent is granted under Sections 4.16 and 4.17 of the *Environmental Planning and Assessment Act 1979* subject to the following conditions:

9. Immediately prior to the words ‘The conditions of consent are as follows’ insert the text:

This consent is an operational consent.

10. In condition 1 delete the following entry in the table:

Basement Level 01	DA099	15	Fender Katsalidis	17.06.0021 [sic]	1 March 2024
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and instead insert the following text:

Basement Level 01	DA099	17	Fender Katsalidis	16.12.2024	19 December 2024
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11. In condition 1 delete the following entry in the table:

Elevation – Selinas Laneway N/S	DA204	12	Fender Katsalidis	17.06.0021 [sic]	1 March 2024
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and instead insert the following text:

Elevation – Selinas Laneway N/S	DA204	14	Fender Katsalidis	2.10.2025	9 October 2025
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12. In condition 1 delete the following entry in the table:

Section AA (Vicar St)	DA250	12	Fender Katsalidis	19.07.2023	1 March 2024
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and instead insert the following text:

Section AA (Vicar St)	DA250	14	Fender Katsalidis	02.10.2025	9 October 2025
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13. In condition 1 delete the following entry in the table:

Public Laneway Plan of Management	N/A	N/A	Urbis	Undated	1 March 2024
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and instead insert the following text:

Public Laneway Plan of Management	3455-0883-2319 v.1	N/A	Urbis	Undated	9 October 2025
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14. In condition 1 insert the following entries into the table as the last entries under the heading ‘Other supporting documentation’:

Coogee Bay Hotel Proposed Works - Modification Application for DA437/2021 - Acoustic Masterplan	TM638-08F01 CBH Acoustic Masterplan (r9)	9	Renzo Tonin & Associates	07.12.2025	8 December 2025
Precinct Noise Management Plan DP872553, DP437308,	TM638-09F04 Precinct	6	Renzo Tonin	07.12.2025	8 December

DP337724	Noise Management Plan (r6)		& Associates		2025
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15. In condition 1 insert '1' in front of '7 October 2023' under the heading 'Dated' in the table for the the BASIX Certificate.

16. Insert the text above the last table under condition 1:

(Modified by DA/437/2021/A)

17. Insert a new condition 1A as follows:

In this consent, a reference to:

- The Acoustic Master Plan is a reference to the document listed in condition 1 or otherwise approved under this consent.
- The Precinct Noise Management Plan is a reference to the document listed in condition 1 or otherwise approved under this consent. The Precinct Noise Management Plan includes two subplans:
 - Coogee Bay Hotel Noise Management Plan; and
 - Mixed Use Development Noise Management Plan.

(Modified by DA/437/2021/A)

18. In condition 3 insert the following text after paragraph (e):

Acoustic Masterplan and the Precinct Noise Management

f. The Acoustic Masterplan and Precinct Noise Management (referred to in condition 1 above) must be amended to delete the management control for the residential air conditioning condensers set out in:

- Acoustic Masterplan, page 72, entry 3 in the table on that page (last paragraph in the third column only).
- Appendix B of the Precinct Noise Management Plan, page 7, section 4.2.

(Modified by DA/437/2021/A)

19. In condition 26:

- a. Delete the date '22 February 2023' and replace it with '20 February 2024';
- b. Delete the revision number '5' and replace it with '7';
- c. Delete the following text:

The maximum capacity specified in the approved Noise Masterplan; Or
- d. Delete the following text:

A specific condition contained in this consent.
- e. Insert the following text after the existing text:

(Modified by DA/437/2021/A)

20. Insert a new condition 26A as follows:

ACOUSTIC REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The development shall be designed and certified by a competent acoustic consultant (refer definition below) in accordance with the approved Acoustic Masterplan and the relevant subplan (ie Appendix A 'Coogee Bay Hotel Noise Management Plan' or Appendix B 'Mixed Use Development Noise Management Plan') of the approved Precinct Noise Management Plan. In addition:

- a) Prior to the issue of a construction certificate for any tenancy-specific fit out of the commercial tenancies in the Mixed Use site, the proponent of any business premises or retail premises use of a commercial tenancy in the Mixed Use site must submit to Council a noise emission assessment prepared by a competent acoustic consultant outlining the treatments and management controls for ongoing compliance with the 'Mixed Use development Noise Management Plan' in Appendix B of the approved Precinct Noise Management Plan.
- b) Prior to the issue of any relevant construction certificate, a noise emission assessment prepared by a competent acoustic consultant (refer definition below) must be submitted to Council outlining the treatments for ongoing compliance with relevant subplan of the approved Precinct Noise Management Plan.
- c) That assessment shall ensure that all acoustical constructions and treatments identified in the Acoustic Masterplan report by Renzo Tonin and Associates dated 7th Dec 2025 with reference number TM638-08F01 CBH Acoustic Masterplan (r9) have been implemented in the design or substituted with alternative constructions that provide acoustic performance equivalent to that than stated in the report.
- d) The report shall confirm that the noise-levels at on-site residential receivers produced by all mechanical plant will comply with noise criteria stated in the Acoustic Masterplan R9. The assessment shall be based on the finalised mechanical design.
- e) Any recommendations and requirements included in the Acoustic Masterplan report and/or as may be specified by Council are to be included in the Construction Certificate accordingly. The report shall be prepared by a competent acoustic consultant (refer to condition 26B).

(Modified by DA/437/2021/A)

21. Insert a new condition 26B as follows:

COMPETENT CONSULTANT

The acoustic assessments and services required by this consent must be undertaken by a competent person who is appropriately qualified and

experienced in the relevant area of acoustics to a standard sufficient to enable that person to accurately interpret and apply the advice set out in relevant acoustics standards, guidelines and policies and satisfies each of the following:

- undertake the duties of an acoustic consultant on behalf of a consultancy firm that is a member of the Association of Australasian Acoustical Consultants (AAAC)
- have recognised tertiary qualifications and relevant experience sufficient to fulfil the requirements of 'member' grade of the Australian Acoustical Society (AAS).

(Modified by DA437/2021/A)

22. Insert a new condition 26C as follows:

NOISE MASKING SYSTEM FOR ENTERTAINMENT NOISE SOURCES

a) Reason

To ensure that any approved electronic noise masking system that is used to mitigate entertainment noise impacts in new residential apartments and the Hotel rooms in the southern building is:

- i. designed and validated by appropriately qualified acoustical specialists;
- ii. installed, commissioned and calibrated prior to occupation;
- iii. maintained, operated and governed effectively for the life of the building;
- iv. transparently disclosed to prospective owners and occupants, including any long-term obligations and costs.
- v. the installation is mandated in a by-law for the future strata.

b) System Requirement and Scope

- i. The noise masking system must be provided as part of the base building works and installed in all bedrooms and other nominated habitable rooms within the development such as living rooms and study rooms.
- ii. The system must remain capable of providing a stable, continuous masking spectrum appropriate for controlling perceptibility of entertainment noise, particularly low-frequency components, having regard to the variability in internal background noise levels post-midnight.
- iii. The noise-masking system shall shape a pink noise signal to reproduce the sound in the room over the frequency range of 31 Hz to 10 kHz with the sound pressure levels in octave bands stated in the table below. The spectrum of the noise shall have a smooth continuous interpolation of levels from one octave and band to the next.

Description	dBA	Octave Band Centre Frequency (Hz) dBZ							
		31.5	63	125	250	500	1000	2000	4000
Required level in bedrooms dBZ <small>Leq,1min</small>	35	65	55	44	35	30	25	20	18
Required level in Living Rooms and Hotel Rooms dBZ <small>Leq,1min</small>	40	70	55	44	35	30	25	20	18

iv. The system shall utilise i) a number of small loudspeakers which are flush mounted in the ceiling of apartments to reproduce the frequency range of 125 Hz to 10 kHz, and ii) at least two subwoofers per room that are fed with separate pink noise signals that are not phase coherent.

The subwoofers shall have a low profile allowing them to be flush mounted into the ceiling cavity.

c) Acoustic Design Report

Prior to the issue of a Construction Certificate, a report describing the design of the proposed noise masking system must be submitted to and approved by Council. The report must:

- (i) be prepared by an independent acoustic consultant with demonstrated experience in the design and commissioning of electronic masking systems;
- (ii) detail the design rationale for the system and how the required levels relate to predicted post-construction internal background noise levels;
- (iii) confirm that masking is compatible with and supplementary to the façade design, ventilation strategy, and compliance with State Environmental Planning Policy (Housing) 2021 and the Apartment Design Guide;
- (iv) consider perceptibility, individual threshold variance, low-frequency sensitivity, health impacts, and occupants who may find masking intrusive;
- (v) provide evidence that the proposed system does not conflict with any statutory entertainment noise criteria applicable to the Coogee Bay Hotel or other licensed premises;
- (vi) demonstrate how the system will remain effective despite variations in ambient noise, and resident behaviour.

Council may require amendments where insufficient evidence or uncertainty is identified.

(Modified by 437/2021/A)

23. In condition 32:

- a. delete the words ‘suitably qualified’ and replace with ‘competent’;
- b. delete the words ‘the approved Noise Masterplan’ and replace with ‘the approved Acoustic Master Plan and the approved Precinct Noise Management Plan’;

- c. delete paragraph (iii) and insert the text '[Delete]';
- d. delete the following words under the 'Notes' subheading 'A 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' and replace with 'Refer to Condition 26B for definition of a Competent Acoustic Consultant'.
- e. Insert the following text after the existing text:
(Modified by DA/437/2021/A)

24. In condition 33:

- a. Delete the words 'the approved Noise Masterplan' and instead replace with 'the approved Acoustic Master Plan and the approved Precinct Noise Management Plan (including, where the tenancy-specific fit out works are the subject of a construction certificate, any tenancy-specific acoustic report/s for Selina's Laneway and Coogee Bay Road retail/commercial tenancies west of Selina's Laneway)'.
- b. Delete the words 'Suitably qualified' and instead replace with 'competent'.
- c. Insert the following text after the existing text:
(Modified by DA/437/2021/A)

25. In condition 70:

- a. Delete the words 'Suitably qualified' and instead replace with 'competent'.
- b. Insert the following words after 'competent acoustic consultant':
(refer to definition in condition 26B)
- c. Delete the words 'to the satisfaction of the Certifier'.
- d. Insert the following words after the second paragraph:
The plan shall consider the likely noise and vibration levels impinging upon neighbouring residences and the recommended methods for the mitigation of noise and vibration levels including liaison with nearby residents to manage that noise. The report shall be submitted to the Principal Certifier and Council for approval prior to any works commencing on site (including demolition works).
- e. Insert the following text after the existing text:
(Modified by DA/437/2021/A)

26. In condition 127:

- a. Delete the words 'suitably qualified and experienced consultant in acoustics' and replace with 'competent acoustic consultant'.
- b. Delete the words 'the approved Noise Masterplan' and replace with 'the approved Acoustic Master Plan and the approved Precinct Noise Management Plan';
- c. Insert the following text after the existing text:

(Modified by DA/437/2021/A)

27. In condition 129:

- a. Delete the words 'Suitably Qualified' and replace with 'Competent'.
- b. Delete the following text 'acoustic condition requirements set out in this development consent and the approved Noise Masterplan' and replace with 'noise criteria and acoustic condition requirements set out in this development consent and the approved Acoustic Master Plan and the approved Precinct Noise Management Plan'.
- c. Delete the words 'Project Acoustic Consultant' and replace with 'Competent Acoustic Consultant'.
- d. Delete the words 'Suitably qualified' in the note and replace with 'Competent'.
- e. Delete the words in the note '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' and replace with 'is defined in Condition 26B'.
- f. Insert the following text after the existing text:

(Modified by DA/437/2021/A)

28. In condition 130:

- a. Insert the following text after the words 'plan of management':
for each stratum lot created under this consent
- b. Insert the following text after the words 'occupation certificate':
for each of the relevant stratum lots.
- c. Delete the following text 'approved acoustic reports, in particular the approved Noise Masterplan' and replace with 'the approved Acoustic Master Plan and the approved Precinct Noise Management Plan'.
- d. Delete the following text 'Comply with the relevant noise criteria and minimise noise emissions and associated disturbances'.

- e. Insert the following text after the existing text:

(Modified by DA/437/2021/A)

29. Insert a new condition 132A as follows:

ACOUSTIC REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

Prior to the issue of any relevant Occupation Certificate, a noise-compliance report shall be prepared by a competent acoustic consultant confirming the following items have been implemented:

- a. Construction of the built forms (or acoustical equivalent to the satisfaction of Council /certifier), and acoustical treatments outlined in the acoustic assessment for the use of the tenancy resulting from condition 133A, the approved Acoustic Masterplan and the relevant subplan of the approved Precinct Noise Management Plan.
- b. Noise emissions from services plant and equipment comply with the relevant subplan of the approved Precinct Noise Management Plan.
- c. Calibration of music sound limiters in accordance with the relevant subplan of the approved Precinct Noise Management Plan.
- d. For the Coogee Bay Hotel, calibration in accordance with the 'Coogee Bay Hotel Noise Management Plan' shall be undertaken within the following spaces:
 - (i) Beer Garden, outdoor dining, and patron balconies
 - (ii) Diner Bar (formerly Beach Bar / Marra)
 - (iii) Sports Bar
 - (iv) Bistro
 - (v) Lounge / Foyer / Arden Bar (West of Beer Garden)
 - (vi) Pre-Function
 - (vii) Function
 - (viii) Wine Bar
 - (ix) Gaming Room
- e. Calibration of the sound-masking system in the Mixed-Use Apartments and new Hotel Rooms has been undertaken in accordance with the Precinct Noise Management Plan.

(Modified by DA/437/2021/A)

30. Insert a new condition 132B as follows:

INSTALLATION, COMMISSIONING AND VALIDATION OF NOISE MASKING SYSTEM

Prior to the issue of an Occupation Certificate for the residential apartments or new hotel rooms, the following items must be completed:

- a) System Installation
- The noise masking system must be installed throughout all nominated habitable rooms, with concealed wiring and control interfaces accessible to the occupants (allowing them to adjust to preset levels or switch off).
- b) Commissioning and Calibration
- A post-installation commissioning and calibration report must be prepared by a competent acoustic consultant.
- The report must verify:
- (i) installed masking levels achieve the validated design intent;
 - (ii) state the variation of the level in each octave band over the habitable area of each room (+/- dB)
 - (iii) commissioning accounts for actual internal ambient noise levels (measured) after the building is completed but before occupation;
 - (iv) that masking efficacy is demonstrated under real operational conditions for music sound;
 - (v) that masking does not introduce intrusive or harmful noise.
- c) Certification
- A compliance certificate confirming the system meets the approved Acoustic Masterplan and relevant subplan of the Precinct Noise Management Plan and the conditions of this consent must be submitted to Council.

(Modified by DA/437/2021/A)

31. Insert a new condition 132C as follows:

MIXED USE NOISE MANAGEMENT PLAN

Prior to the issue of the Occupation Certificate, the Mixed Use Noise Management Plan shall be appended with a report by a competent acoustic consultant to and submitted to Council and endorsed to:

- a) Define governance responsibilities such that:
- The Owners Corporation is solely responsible for operation, calibration, maintenance, record-keeping, and ongoing costs.
 - Individual owners or residents must not be responsible for calibration or technical maintenance; and
- b) Establish Maintenance and Calibration Protocols by either:
- i) Minimum biennial inspection and recalibration, plus recalibration after any system failure, renovation, or internal building modification affecting acoustics, or at the request of the occupant or Council acting reasonably (for example, in

- response to a complaint) including compliance with the following:
- o Document retention for at least 10 years.
 - o Requirement for a competent acoustic consultant to conduct all recalibration work
 - o The Council at its discretion may dispense with the requirement for regular schedule calibration; or
- ii) Failure Response Procedure including compliance with the following:
- o The system must include automatic failure or calibration alerts to the Owners Corporation or its appointed Strata manager.
 - o System failures must be rectified within 72 hours.
 - o Any period of non-operation must be recorded, reported to the Strata manager, Owners Corporation, and notified to impacted owners; and
- c) Resident Information and Use
- Clear instructions must be included in all occupant manuals regarding system purpose, operation and limitations.
 - Residents must be informed that turning off the system may compromise amenity; and
- d) Review and Update
- This appendix to the Mixed Use Noise Management Plan must be reviewed every three (3) years, and any amendments must be submitted to Council for approval prior to any changes being made to the plan.

(Modified by DA/437/2021/A)

32. Insert a new condition 133A as follows:

EAT STREET TENANCIES

Eat Street tenancies (on the eastern and western side of Selina's Laneway, as well as the tenancies fronting Coogee Bay Road west of Selina's Laneway) are to be operated in accordance with:

- Appendix B 'Mixed Use Development Noise Management Plan' of the approved Precinct Noise Management Plan; and
- individual tenancy criteria required under the that subplan; and
- the relevant L&GNSW Criteria if applicable; and
- Non-licenced tenancies must also comply with the Protection of the Environment Operations Act 1997.

(Modified by DA/437/2021/A)

33. Insert a new condition 133B as follows:

COVENANT FOR ACOUSTIC REQUIREMENTS

The proposed plan of subdivision that is the subject of an application for a subdivision certificate must include an instrument for the imposition of a restrictive covenant on title of the relevant lots under s88B of the Conveyancing Act. The covenant must benefit the Council (and may only be released or varied with the Consent of the Council and the relevant landowner).

The terms of the covenant must provide for the following:

- a. The operation of the Eat Street tenancies (on the eastern and western side of Selina's Laneway, as well as the tenancies fronting Coogee Bay Road west of Selina's Laneway) are to comply with the requirements of condition 133A.
- b. If a complying development certificate is issued for a subject tenancy — a letter from Council confirming Council's satisfaction that the tenancy will operate in accordance with Appendix B 'Mixed Use development Noise Management Plan' of the approved Precinct Noise Management Plan is required prior to the tenancy commencing trading. The letter from Council may also require the undertaking of a noise validation assessment by a competent acoustic consultant (as defined in Condition 26B) within 6 months of issuance of the Occupation Certificate which demonstrates and confirms that the tenancy is operating in accordance with Appendix B 'Mixed Use development Noise Management Plan' of the approved Precinct Noise Management Plan.
- c. If a complying development certificate is not issued for a subject tenancy — a development application for the use of the tenancy must be submitted and a development consent obtained prior to the tenancy commencing trading. As part of that development application, the applicant must propose suitable noise management measures for the tenancy, in accordance Appendix B 'Mixed Use development Noise Management Plan' of the approved Precinct Noise Management Plan'.
- d. The Owners Corporation must make any future retail tenancy owner or occupier aware of the obligations of the noise budget as set out in the Acoustic Master Plan and the Mixed Use Noise Management Plan.

The terms of the covenant must otherwise be to the satisfaction of the Council.

(Modified by DA/437/2021/A)

34. Insert a new condition 133C as follows:

The by-laws accompanying any strata plan must include a by-law that sets out:

- (a) the Owner Corporation's and individual lot owner's responsibilities in relation to noise masking for the residential apartments;

- (b) that the Owner's Corporation must make any future retail tenancy owner or occupier aware of the terms of the covenant on title, imposed under Condition 133A, such that the matters required by the covenant are addressed by and complied with by the owner or occupier of the retail tenancies.

This by-law will include a provision that it cannot be modified or deleted without the consent of the Council.

(Modified by DA/437/2021/A)

35. Delete all the text in condition 143 (including the note) and instead insert the following:

Noise from commercial plant and industrial equipment must not exceed the criteria set out in the approved Acoustic Master Plan and the approved Precinct Noise Management Plan.

(Modified by DA/437/2021/A)

36. Delete the text of condition 144 and instead insert the following:

Any modifications to the approved Acoustic Master Plan or the approved Precinct Noise Management Plan (or the Appendix A 'Coogee Bay Hotel Noise Management Plan' or Appendix B 'Mixed Use development Noise Management Plan' of the latter) must be confirmed as satisfactory to the Council's Director of City Planning prior to implementation. Once such approval is provided, the revised approved document becomes the prevailing approved document for the purposes of this consent and must be complied with at all times as per the terms of this consent.

(Modified by DA/437/2021/A)

37. Delete condition 145 and its associated heading and insert the following text:

[Delete]

(Modified by DA/437/2021/A)

38. Delete condition 146 and replace with the following text:

No air conditioning condensers are to be installed on the residential apartment balconies.

(Modified by DA/437/2021/A)

39. Delete condition 148 and its associated heading and replace with:

POST-OCCUPANCY ACOUSTIC VALIDATION REPORT

- a) An acoustical report, prepared by a competent acoustic consultant, must be provided to the Council within six months of the issuing of an occupation certificate for the Coogee Bay Hotel licenced component, which demonstrates and confirms that the relevant provisions of the Protection of the Environment Operations Act 1997 and the noise criteria and requirements contained in this consent have been satisfied (including any relevant adopted acoustic report and

recommendations). The assessment and report must include all relevant fixed and operational noise sources.

- b) The report shall confirm that the measured noise levels from mechanical equipment complies with the criteria stated in the Acoustic Masterplan and music entertainment complies with the levels stated in the Acoustic Masterplan at:
- (i) the façades of representative noise-affected apartments that are on site.
 - (ii) The boundaries of residents external to the site.

For these tests, the sound systems in each of the Hotel spaces listed below shall be simultaneously operated at the maximum level allowed by the limiters.

- Beer Garden, outdoor dining, and patron balconies
- Diner Bar (formerly Beach Bar / Marra)
- Sports Bar
- Bistro
- Lounge / Foyer / Arden Bar (West of Beer Garden)
- Pre-Function
- Function
- Wine Bar
- Gaming

- c) Requirements for the competent consultant are detailed within Condition 26B of this consent.

(Modified by DA/437/2021/A)

40. In condition 177:

- a. Delete the words 'and Gym' after the words 'Access to the pool'.
- b. Insert the following words at the end of the condition:

Access to the Gym must be limited to 7am-10pm Monday to Saturday and 8am-10pm on Sunday and public holidays.

(Modified by DA/437/2021/A)

41. In condition 181:

- a. Delete the following text 'the approved Noise Masterplan (including any amendments)' and instead replace with 'the approved Acoustic Master Plan and the approved Precinct Noise Management Plan'.
- b. Insert the following text after the existing text:

(Modified by DA/437/2021/A)

42. Insert a new condition 182 as follows:

NOISE FROM MECHANICAL SERVICES

- a) Noise from the development must not cause an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and must not exceed the criteria outlined in the Acoustic Masterplan and Precinct Noise Management Plan.
- b) Vibration from the development shall be assessed in accordance with the DECC (EPA) Assessing Vibration – A Technical Guideline and relevant Australian Standards and conditions of this development consent.
- c) The noise from commercial plant, when assessed as an LAeq, 15 min must not exceed:
 - i) 27 dBA internally when assessed inside any habitable room of any affected residence on the site (assessed with doors and windows closed);
 - ii) the LA90, 15 min background noise level by more than 3dB when assessed inside any habitable room of any noise-sensitive commercial premises on the site when in use (assessed with doors and windows closed).
- d) Residential dwellings in mixed-use development are to be designed and constructed to satisfy the following acoustic criteria:
 - (i) In naturally ventilated spaces – the repeatable maximum Leq (1 hour) should not exceed:
 - 35 dB(A) between 10.00pm and 7.00am in sleeping areas when windows are closed,
 - 40 dB(A) in living areas when windows are closed (24 hours),
 - (ii) In mechanically ventilated spaces within the site– the repeatable maximum Leq (1 hour) should not exceed the following criteria (when the mechanical ventilation system is operating and doors and windows are closed):
 - 35 dB(A) in sleeping areas (24 hours).
 - 40 dB(A) in living areas (24 hours).

(Modified by DA/437/2021/A)

43. Insert a new condition 183 as follows:

LICENSED PREMISES/ENTERTAINMENT

- a) All events or activities in the licensed spaces of the Hotel shall utilise the house sound system that has been properly installed with limiters that have been calibrated. It is not permitted to allow third parties who hire a space to bring their own sound system.

- b) The proposed development is to incorporate noise control measures to ensure the standard LA10 Condition imposed by Liquor & Gaming NSW is satisfied inside those occupied spaces with doors and windows closed and any alternative ventilation system is operating as follows:
- i) The cumulative LA10 (90th percentiles) from licensed premises shall not exceed the background noise level in any octave-band centre frequency (31.5 Hz – 8 kHz inclusive) by more than 5 dB between 7am and midnight when measured at the most-affected residential boundary external to the site.
 - ii) The cumulative LA10* from licensed premises shall not exceed the background noise level in any octave-band centre frequency (31.5 Hz – 8 kHz inclusive) between midnight and 7am.
 - iii) The noise from licensed premises shall be inaudible in any habitable room of any residential premises external to the site between the hours of midnight and 7am.

(Modified by DA/437/2021/A)

44. Insert a new condition 184 as follows:

GYMNASIUMS OR THE LIKE

Noise and vibration from gymnasiums and other exercise facilities must satisfy the following additional requirements:

- a) Structure borne noise emanating from impulsive noise from weight-drops or other similar sources impacting residential apartments is not to exceed the Acoustical Consultants Guideline for Gymnasium & Exercise Facility Assessment V1.0 Guidelines at commercial premises. ii) The following criteria apply to impulsive noise from weight-drops or other similar sources impacting residential apartments. Overall contributed LAFmax within octave bands of interest (octave bands containing the impulse energy, generally 31.5 Hz to 250 Hz, as determined by the acoustic consultant) should not exceed the following levels:

- $L_{AFmax}(\Sigma_{Oct,31.5-250Hz}) \leq 30 \text{ dB}$ for daytime¹ and evening²

Notes:

- 1. Daytime is 7am to 6pm
 - 2. Evening is 6pm to 10pm
- b) Music noise in the gym is to be limited to 65dB(A) and 80dB(C) Leq(15min)n through an integrated speaker system.
 - c) Other than as provided in the preceding subcondition, there shall be no other amplified music permitted in the gym, however headphones are permitted.

- d) Signage shall be installed in the gym to the effect of the preceding subcondition.

(Modified by DA/437/2021/A)

45. Insert a new condition 185 as follows:

ACOUSTIC REQUIREMENTS FOR ONGOING OPERATION

- a) General
- (i) The development shall be operated in accordance with the approved Acoustic Masterplan and the relevant subplan of the Precinct Noise Management Plan
 - (ii) The doors of the various internal spaces in the Hotel shall be closed in accordance with the relevant statements in the Acoustic Masterplan (R9).
- b) Noise from residential swimming pool pumps
- (i) Noise generating pool plant and equipment shall be enclosed in a sound absorbing enclosure or installed within a building, to minimise noise emissions and possible nuisance to nearby residents.
 - (ii) The pool plant and equipment shall not be operated during the following hours if the noise emitted can be heard within a habitable room in any other residential premises, or, as otherwise specified in relevant Noise Control Regulations:
 - before 8.00am or after 8.00pm on any Sunday or public holiday; or
 - before 7.00am or after 8.00pm on any other day.
- c) Complaints management
- The operator of the business must establish and maintain a formal and documented system for the recording and resolution of complaints made to the premises by residents. All complaints are to be attended to in a courteous and efficient manner and referred promptly to the manager (or other nominated position). The appropriate remedial action, where possible, is to be implemented immediately and the Manager (or nominated position) shall contact the complainant within 48 hours to confirm details of action taken. The Complaints register shall be made available to Council officers and Police upon request.
- d) Loudspeakers
- (i) The only outdoor loudspeakers that can be used are in the Hotel's beer garden, outdoor dining, and Level 1 balconies and shall be installed as described in the Acoustic Masterplan R9.
 - (ii) Internal loudspeakers must not be directed towards outdoor areas.

(Modified by DA/437/2021/A)

46. Insert a new condition 186 as follows:

LEGAL AND ADMINISTRATIVE REQUIREMENTS

a) Section 10.7(2) Planning Certificate

The consent authority must ensure that each affected apartment has a notation on the Planning Certificate stating:

“This dwelling is subject to an approved acoustic noise masking system, ongoing operation and maintenance obligations, and associated costs under an endorsed Acoustic Management Plan.”

b) Disclosure to Purchasers

Prior to sale of any lot, the developer must provide prospective purchasers with:

- (i) the endorsed Mixed Use Development Noise Management Plan;
- (ii) an explanation of operational requirements including the noise masking system;
- (iii) an estimate of annual maintenance costs;
- (iv) notification that the noise masking system must remain operational to maintain expected internal amenity.

(Modified by DA/437/2021/A)

47. Insert a new condition 187 as follows:

OWNERS CORPORATION REQUIREMENTS

The Owners Corporation must:

- a) maintain the noise masking system in perpetuity;
- b) budget for ongoing costs;
- c) ensure no owner disconnects or modifies the noise masking system.

(Modified by DA/437/2021/A)

48. Insert a new condition 188 as follows:

SYSTEM PERFORMANCE AND LIMITATIONS

- a) The noise masking system must not replace or reduce façade acoustic performance requirements or natural ventilation compliance.
- b) The noise masking system must not be used to justify exceedances of intrusive or amenity-based entertainment noise criteria.
- c) The burden of ensuring continued amenity rests with the Owners Corporation and not with Council.

- d) The noise masking system does not relieve surrounding licensed premises from complying with their regulatory noise obligations.

(Modified by DA/437/2021/A)

49. Insert a new condition 189 as follows:

COUNCIL REVIEW AND ENFORCEMENT

- a) Council may request audits of the noise masking system operation or maintenance records at any time.
- b) Non-compliance with the Mixed Use Development Noise Management Plan constitutes a breach of this development consent.
- c) Council may require system upgrades or replacement where the noise masking system no longer achieves the approved acoustic outcomes, having regard to noise emanating from the site.

(Modified by DA/437/2021/A)

50. Insert a new condition 190 as follows:

The deep soil zone area between 17 Vicar Street and the approved building shall not be used as communal open space or any type of social gathering.

(Modified by DA/437/2021/A)