



DEVELOPMENT ASSESSMENT PANEL REPORT

Application No.	MOD/2024/0193
Address	9 Gerald Street MARRICKVILLE
Proposal	Section 4.55(2) modification to DA/2023/0732 dated 2 May 2024, proposing deletion of deferred commencement condition 1.B. to allow events and amendment to conditions 21 and 22 relating to events and live amplified music
Date of Lodgement	19 June 2024
Applicant	Jason Suplina
Owner	Andrew Simmons Pty Limited
Number of Submissions	Nil
Cost of works	\$20,000.00
Reason for determination at Planning Panel	Conflict of interest (landowner is a member of Council staff who is principally involved in the exercise of council's functions under the <i>EP & A Act 1979</i>)
Main Issues	N/A
Recommendation	Approved with Conditions
Attachment A	Recommended conditions of consent
Attachment B	Plan of Management
Attachment C	Statement of Environmental Effects
Attachment D	Approved plans of development
Attachment E	DA/2023/0732 consent (proposed to be modified)



Figure 1: Map of the subject site

Subject Site		Objectors		↑ N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council under Section 4.55(2) of the *Environmental Planning and Assessment Act 1979 (EP&A Act 1979)* to modify DA/2023/0732 dated 2 May 2024. The modification seeks the deletion of deferred commencement condition 1.B. to allow events to occur and seeks amendment to conditions 21 and 22 relating to events and live amplified music at 9 Gerald Street MARRICKVILLE.

The application was notified to surrounding properties and no submissions were received.

The proposal, subject to recommended conditions, generally complies with the aims, objectives and design parameters contained in the relevant State Environmental Planning Policies (SEPPs), *Inner West Local Environmental Plan 2022 (IWLEP 2022)* and Marrickville Development Control Plan 2011 (MDCP 2011).

The potential impacts to the surrounding environment have been considered as part of the assessment process. Any potential impacts from the development are considered acceptable, given the context of the site. The proposed modification is recommended for approval, subject to conditions.

2. Proposal

The application seeks to delete a deferred commencement condition (condition 1.B.) to allow for events and amend condition 22 to allow amplified music in the gallery and limit the sound levels on the site.

Condition 1.B. reads as follows:

1. *Deferred Commencement*

The following is a Deferred Commencement condition imposed pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979. This Consent will not operate and may not be acted upon until the Council is satisfied as to the following matter(s):

B. All references to events in the Architectural Plans, Plan of Management, and other documentation, is to be deleted. An amended copy of these documents are to be submitted to Council.

Deferred commencement condition 1.B. had been imposed as insufficient information regarding amenity impacts (i.e., traffic and parking, and acoustic impacts) had been submitted to Council supporting the proposed events, given the scale and frequency of the events proposed in DA/2023/0732. Furthermore, the events were not considered to be an ancillary use to the creative industries land use proposed.

Specifically, the following is proposed:

- “High-capacity” events, such as art shows, exhibitions, etc., to occur one (1) night a week;
- Events are restricted between 12pm-12am on either a Friday, Saturday or Sunday; and
- A maximum of 75 patrons (including staff).

Condition 22 is reproduced below:

22. Live Amplified Music

There is to be no entertainment in the form of amplified music on any part of the premises outside of the rehearsal rooms and artist studios at any time.

Whilst the rehearsal rooms are in operation the internal door to each rehearsal room shall be closed (except to allow ingress and egress).

The Applicant seeks to amend the condition to read:

22. Live Amplified Music

*There is to be no entertainment in the form of amplified music on any part of the premises outside of the rehearsal rooms and artist studios **and gallery** at any time.*

*Whilst the rehearsal rooms are in operation the internal door to each rehearsal room shall be closed (except to allow ingress and egress) **with sound levels to be limited to 110db, and within the gallery sound levels to be limited to 90db.***

Condition 22 had been imposed by Council’s Environmental Health team to minimise impact to the neighbouring sites.

3. Site Description

The subject site is 9 Gerald Street, Marrickville, and is legally described as Lot 19 Section 1 in DP 1465. The site is located on the western side of Gerald Street, between Marrickville Road and a railway corridor. The site consists of one (1) allotment and is generally rectangular with a total area of 490.4sqm. The site has a frontage to Gerald Street of 12.19 metres and a rear boundary of 12.19 metres to Maude Lane.

The site supports a one part two storey industrial building approved for creative industries. The adjoining properties support single and two storey warehouses industrial buildings. One (1) residential use is located on Meeks Road at the rear of the site.

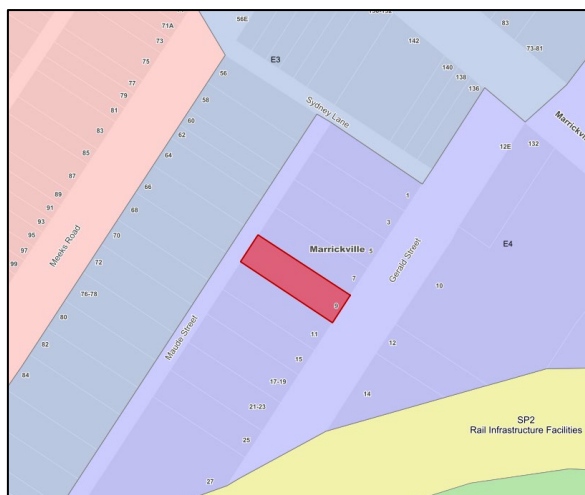


Figure 2: Land zone map

4. Background

Site history

The following application outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

Subject Site

Application	Proposal	Decision & Date
DA/2023/0732	Use of the premises for creative industries and hold associated events a maximum of 3 occurrences per week	Deferred Commencement on 02/05/2024
DA201900298	To change of use of the existing building to an office and artist studio use with associated works	Deferred Commencement on 27/11/2019

Surrounding properties

Application	Proposal	Decision & Date
DA201300494 1 Gerald Street	To demolish part of the premises and carry out ground and first floor alterations and additions to the existing factory building and use the premises for the cooking and preparation of food	07/03/2014
DA201600661 5 Gerald Street	To carry out alterations and additions to sex services premises and to operate the premises between the hours of 10am and 4am (the following day) 7 days a week	08/05/2017

DA/2022/0439 7 Gerald Street	alterations and additions to the existing two storey building and change of use to a warehouse with ancillary offices	06/06/2022
DA/2021/0411 11 Gerald Street	Aquaponics farm and food and drink premises (artisan food and drink premises).	18/08/2021
DA201600332 21-23 Gerald Street	To fit-out levels 1 and 2 and use the premises as artist studios	14/10/2016

Application history

The following table outlines the relevant history of the subject application.

Date	Discussion / Letter / Additional Information
19/06/2024	Application lodged.
02/07/2024 16/07/2024	– Application notified.
23/08/2024	A request for further information was sent to the applicant raising the following matters: <ul style="list-style-type: none"> • Traffic and Parking Assessment required to be submitted to support the proposed events; • Further information regarding s4.55 assessment; and • Further details regarding the proposed events.
04/09/2024	Additional information was submitted. Renotification was not required in accordance with Council’s Community Engagement Strategy 22-24.

5. Section 4.55 Modification of Consent

The following is a summary of the assessment of the application in accordance with Section 4.55 of the *Environmental Planning and Assessment Act 1979 (EP&A Act 1979)*.

Section 4.55(2)

Section 4.55(2) of the *EP & A Act 1979* allows a consent authority to modify a development consent granted by it, if:

- (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval*

proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

- (c) *it has notified the application in accordance with—*
- (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

In considering the above:

- DA/2023/0732 - A deferred commencement consent was issued on 2 May 2024 for the 'Use of the premises for creative industries and hold associated events a maximum of 3 occurrences per week'. The subject modification seeks to delete deferred commencement condition 1.B. to allow events on the site, and amend condition 22 to allow amplified music in the gallery and limit the sound levels on the site.
- Given the above, the essence of the development as modified is substantially the same as the original consent.
- The proposed modification does not require concurrence or General Term of Agreement from any approval body.
- The application was notified in accordance with the Community Engagement Strategy 2022-2024. No submissions were received.

Section 4.55(3)

In consideration of Section 4.55(3) of the *EP & A Act 1979* the consent authority has taken into account the following reasons given by the determination authority for the granting of the original consent:

- The proposal generally complies with the aims, objectives and design parameters contained in the relevant environmental planning instruments and development controls plans;
- The proposal will not result in any significant impacts on the amenity of the adjoining premises, the streetscape and is considered to be in the public interest; and
- The proposal is considered suitable for approval subject to the imposition of appropriate conditions.

It is considered that the modified proposal has taken into account the aforementioned reasons that the original development consent was granted.

6. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979 (EPA Act 1979)*.

A. Environmental Planning Instruments

The application has been assessed and the following provides a summary of the relevant Environmental Planning Instruments.

Inner West Local Environmental Plan 2022

The application was assessed against the following relevant sections of the *Inner West Local Environmental Plan 2022 (IWLEP 2022)*.

Part 1 – Preliminary

Section	Proposed	Compliance
Section 1.2 Aims of Plan	<p>The proposed modification satisfies the section as follows:</p> <ul style="list-style-type: none"> The proposal protects and promotes the use and development of land for arts and cultural activity, including music and other performance arts, The proposal facilitates economic growth and employment opportunities within Inner West, The proposal prevents adverse social, economic and environmental impacts on the local character of Inner West. 	Yes

Part 2 – Permitted or prohibited development

Section	Proposed	Compliance
Section 2.3 Zone objectives and Land Use Table	<ul style="list-style-type: none"> The site is zoned E4 General Industry under the <i>IWLEP 2022</i>. The proposed modification seeks to use the site for creative industries, which is permissible with consent in this zone. A deferred commencement condition (condition 1.B.) was imposed on DA/2023/0793 requiring the proposed events to be deleted from the proposal, as it had not been adequately demonstrated that the events were ancillary to the <i>creative industries</i> use, given the initially proposed hours of operation, frequency and number of attendees. Furthermore, it was unclear what the proposed events would entail, and it was considered that there may be subsequent traffic, parking and noise impacts. Thus, the proposed events were considered to intensify the use of the 	Yes

Section	Proposed	Compliance
	<p>site, and were not considered to be subservient to the creative industries use.</p> <ul style="list-style-type: none"> • Development consent was granted for smaller classes/workshops to occur on the site. For the purposes of this modification application, these have been defined as 'low capacity' events, which include "classes, workshops, exhibitions and events" with a capacity of up to 40 people (including staff) and can be held up to 3 times a week. Low capacity events could include workshops like screen printing, or instrument classes. The proposed modification does not seek to alter this. • The subject modification seeks to delete condition 1.B. to allow 'high capacity' events on site. These events are proposed to include larger 'creative industry' activities to allow the artist's to perform and/or display their work, like art shows, exhibitions, or performance art events. These are limited to one (1) night per week on a Friday, Saturday or Sunday for up to 75 people (including staff). • As the proposed events have been decreased to a maximum of one (1) night per week, and the number of attendees has been reduced, it is considered that these events are temporary, and are subservient to the creative industries use. Furthermore, as discussed elsewhere in this report, sufficient supporting documentation has been submitted demonstrating that the events would not adversely impact surrounding sites with regards to noise and traffic or parking. • Given the above, the proposed events are considered to be ancillary to the <i>creative industries</i> use and are permissible in the zone with consent. 	

Part 4 – Principal development standards

No change is proposed to the existing building height and floor space ratio.

B. Development Control Plans

Summary

The application has been assessed and the following provides a summary of the relevant provisions of Marrickville Development Control Plan 2011 (MDCP 2011).

MDCP 2011	Compliance
Part 2.1 – Urban Design	Yes
Part 2.5 – Equity of Access and Mobility	Yes
Part 2.6 – Acoustic and Visual Privacy	Yes – see discussion
Part 2.10 – Parking	No – see discussion
Part 2.21 – Site Facilities and Waste Management	Yes
Part 6 – Industrial Development	Yes – see discussion
Part 9 – Strategic Context	Yes – see discussion

The following provides discussion of the relevant issues:

Marrickville Development Control Plan 2011

The application was assessed against the following relevant parts of the Marrickville Development Control Plan 2011 (MDCP 2011).

Part 2 – Generic Provisions

Control	Assessment	Compliance
Part 2.6 Acoustic and Visual Privacy	<p>The proposed modification, subject to conditions, will have a satisfactory impact on visual and acoustic levels of the surrounds as follows:</p> <ul style="list-style-type: none"> The proposed modification was accompanied with a modified acoustic assessment to support the proposed events. The proposed 'high capacity' events, as modified, are to be held one (1) night a week on either a Friday, Saturday or Sunday, for a maximum number of 52 times in a year, and a maximum capacity of 75 persons including staff. 'Low capacity' events (i.e., workshops) are to be held a maximum of three (3) times a week, with a maximum capacity of 40 persons including staff. The acoustic report demonstrates compliance for the proposed events, and includes appropriate management techniques to limit acoustic impacts to neighbouring residents. Further, Council's Environmental Health officer has raised no objections to the proposed high-capacity events subject to conditions. In addition, the amendment to Condition 22 to allow live music to occur in the gallery space at a restricted dB level is acceptable. It is recommended that Condition 1 and 4 be amended to reflect the revised acoustic report and Condition 22 be amended to allow live music in the gallery. It is noted that, given the nature of the events, it is considered appropriate to impose a trial period of 12 months to allow Council to monitor and review the events in light of the 	Yes, subject to recommended conditions

Control	Assessment	Compliance
	<p>performance of the premises, and to ensure the events do not interfere with the amenity of the surrounding locality.</p> <ul style="list-style-type: none"> In addition to the above, to ensure the effective management of the high capacity events, it is considered appropriate to impose a condition that requires high-capacity and low-capacity events to not occur at the same time on the site. This is to minimise any adverse amenity impacts to the surrounding sites. 	
Part 2.10 Parking	<ul style="list-style-type: none"> Two (2) car parking spaces are required to be provided for the proposed use of creative industries. The site only provides one (1) car parking space, and one (1) loading/unloading area. The proposed modification does not seek to alter the existing parking arrangement on the site. A Traffic Report was required to be submitted to address and support the proposed events, which are proposed to cater up to 75 people including staff one (1) night a week. Council’s Development Engineer has reviewed the report, and supports the proposed events, as: <ul style="list-style-type: none"> High capacity events are infrequent (once a week), and attendees will likely travel to and from the event outside of peak hours; The site is well serviced by bus, train and metro network; The forecasted travel demand indicates that the additional traffic will have a minimal impact on the current network’s operation, particularly as events are scheduled outside peak hours. As outlined elsewhere, a 12 month trial period is recommended to be imposed to allow Council to monitor and review the events in light of the performance of the premises, and to ensure the events do not interfere with the amenity of the surrounding locality. In addition, a condition is recommended to be imposed requiring low capacity and high capacity events to not occur at the same time on the premises to minimise any potential amenity impacts due to the number of patrons expected at both low and high capacity events. 	No, but acceptable

Part 6 – Industrial Development

Control	Assessment	Compliance
Part 6.1.1 – General Objectives	The proposed modification, subject to conditions, is consistent with the objectives for industrial development as the proposal will not unreasonably impact on residential amenity.	Yes, subject to conditions
Part 6.2.1 Plan of Management	<p>The proposed modification development satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> A revised Plan of Management (POM) was submitted with the application. 	Yes, subject to conditions

Control	Assessment	Compliance
	<ul style="list-style-type: none"> • The revised POM submitted for the creative industries is considered to be adequate and provides sufficient detail in ongoing management of the rehearsal rooms and artists studios. Furthermore, the revised POM is considered to include sufficient and suitable procedures and operation of the proposed high capacity events. • The revised POM submitted is considered to be comprehensive and provide suitable management procedures to minimise potential amenity impacts to the surrounding locality. • Any additional amendments made to the POM are required to be approved by Council, as stated in Condition 20. • Condition 1 and 20 are recommended to be amended to reflect the revised Plan of Management, to ensure the ongoing operation of the premises adheres to the POM submitted. 	
Part 6.2.2 Noise and vibration generation	This matter is discussed above under Part 2.6 of MDCP 2011, and the development is acceptable in this regard subject to the imposition of appropriate conditions.	Yes, subject to conditions
Part 6.2.3 Environmental protection	This matter is discussed above under Part 2.6 of MDCP 2011, and the development is acceptable in this regard subject to the imposition of appropriate conditions.	Yes, subject to conditions
Part 6.2.4 Hours of Operation	<p>The proposed modification satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> • DA/2023/0732 approved the following operating hours; <ul style="list-style-type: none"> ○ Core operational hours: 8am – 12am, 7 days a week ○ Rehearsal studios: 9am – 12am, 7 days a week ○ A trial period of 12 months for 24 hour, 7 days a week access for artists • The proposed modification application does not seek to alter the core operational hours. However, the proposed high capacity events are to be held between 12pm and 12am. • While, in principle, sufficient information has been submitted (with regard to traffic and parking, and noise) for the proposed events, it is considered that a 12 month trial period be imposed for the high capacity events to allow Council to review the operation of the events in light of its performance. • Given the above, subject to recommended trial periods, the proposal will comply with controls C85, C86 and C86 of this Part. 	Yes, subject to conditions
Part 6.5 Creative Industries	<p>The proposed modification satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> • The proposed modification seeks to delete condition 1.B. to allow high capacity events associated with the creative 	Yes

Control	Assessment	Compliance
	<p>industries. The events are to occur one (1) night a week on Friday, Saturday or Sunday, with a maximum of 75 attendees.</p> <ul style="list-style-type: none"> • The proposed events will support the creative industries and artist's studios on the site and promote the work created on site. • The application does not seek to modify the existing building, or the approved operating hours. • Suitable conditions of consent are recommended to be imposed ensuring the effective ongoing management of the high capacity events, including a trial period of 12 months and restrictions on the maximum number of patrons permitted on site. 	

Part 9 – Strategic Context

Control	Assessment	Compliance
<p>Part 9.43 – Sydney Steel Precinct (Precinct 43)</p>	<p>The proposed modification satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> • The proposal protects the existing industrial zoned land; • The proposal retains employment generating uses; and • The proposal will facilitate efficient parking, loading and access for vehicles to minimise impact on surrounding amenity. 	<p>Yes, subject to conditions</p>

C. The Likely Impacts

These matters have been considered as part of the assessment of the development application. It is considered that the proposed development will not have significant adverse environmental, social or economic impacts upon the locality.

D. The Suitability of the Site for the Development

The proposal is of a nature in keeping with the overall function of the site. The premises are in a commercial surrounding and amongst similar uses to that proposed.

E. Submissions

The application was notified in accordance with Council's Community Engagement Strategy between 02 July 2024 to 16 July 2024.

No submissions were received.

F. The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

This has been achieved in this instance.

7. Referrals

The following internal referrals were made, and their comments have been considered as part of the above assessment:

- Development Engineer;
- Resource Recovery;
- Environmental Health; and
- Building Certification.

Comment:

As outlined in this report, Council's Environmental Health team have reviewed the proposed high-capacity events, the proposed amendments to condition 22 and the associated acoustic report and have raised no concern to the modification, subject to the imposition of appropriate noise management conditions which have been included in the recommendation.

In addition, Council's Resource Recovery team have raised no objections to the events, subject to suitable waste management conditions which have been included in the recommendation.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and *Marrickville Development Control Plan 2011*.

The development will not result in any significant impacts on the amenity of the adjoining premises/properties and the streetscape and is considered to be in the public interest.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

9. Recommendation

- A. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.55(2) of the *Environmental Planning and Assessment Act 1979*, grant consent to Modification Application No. MOD/2024/0193 which seeks to modify DA/2023/0732 dated 2 May 2024 so as to delete deferred commencement condition 1b to allow events and amend conditions 21 and 22 relating to events and live amplified music at 9 Gerald Street, Marrickville subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

A. Amend the following Conditions to read as follows:

1. Deferred Commencement

The following is a Deferred Commencement condition imposed pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979. This Consent will not operate and may not be acted upon until the Council is satisfied as to the following matter(s):

- A. A Building Information Certificate is to be issued for the unauthorised works undertaken at the site (shown in blue on the architectural plans).
- B. (deleted).

Reason: To ensure all unauthorised works are regularised under the Environmental Planning and Assessments Act 1979, and to protect the amenity of surrounding neighbours.

(Condition amended – MOD/2024/0193 – 12/11/2024)

GENERAL CONDITIONS

1. Noise – Consultant’s Recommendations

All the recommendations contained in the acoustic report prepared by Michael Phillips Acoustics, reference J000592, Rev.01 dated 03/06/2024 must be implemented.

Reason: To protect the amenity of the neighbourhood and ensure that the development is carried out in accordance with the consent.

(Condition amended – MOD/2024/0193 – 12/11/2024)

4. Documents related to the consent

The development must be carried out in accordance with plans and documents listed below:

Plan, Revision and Issue No.	Plan Name	Date Issued/Received	Prepared by
Not stated	Plan of Management	31/01/2024 02/09/2024	Monster Mouse Studios
Sheet 02 of 7, No.2	Ground Floor Plan - As Built	19/07/2023	Not stated
Sheet 03 of 7, No. 2	Ground Floor Plan - Work Done	19/07/2023	Not stated

Sheet 04 of 7, No. 2	First Floor Plan - As Built	19/07/2023	Not stated
Sheet 05 of 7, No. 2	First Floor Plan - Works Done	19/07/2023	Not stated
Sheet 07 of 7, No. 1	Loft Space - Works Done	11/02/2024	Not stated
J000592, Rev.01	Noise Emission Assessment	18/07/2023 03/06/2024	Michael Phillips Acoustics
P240007	BCA Compliance Assessment	24/01/2024	BCA Vision
P24016	Traffic and Parking Assessment	02/09/2024	Crossley

As amended by the conditions of consent.

Reason: To ensure development is carried out in accordance with the approved documents.

(Condition amended – MOD/2024/0193 – 12/11/2024).

20. Plan of Management

The operation of the premises complying at all times with the approved Plan of Management, dated 02/09/2024. The Plan of Management is not to be further amended without the prior written approval of the Council. If there is any inconsistency between the Plan of Management and the conditions of this consent, the conditions of consent shall prevail to the extent of that inconsistency.

Reason: To protect the amenity of the neighbourhood.

(Condition amended – MOD/2024/0193 – 12/11/2024).

22. Live Amplified Music

There is to be no entertainment in the form of amplified music on any part of the premises outside of the rehearsal rooms and artist studios and gallery at any time.

Whilst the rehearsal rooms are in operation the internal door to each rehearsal room shall be closed (except to allow ingress and egress) with sound levels to be limited to 110db, and within the gallery sound levels to be limited to 90db.

Reason: To protect the amenity of the neighbourhood.

(Condition amended – MOD/2024/0193 – 12/11/2024).

B. Add the following Conditions to read as follows:

14a. Bin Storage Area

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a Waste and Recycling Management Plan.

The submitted Waste and Recycling Management Plan must demonstrate that the bin storage area will accommodate the number of bins required for all waste and recycling generated by a development of this type and scale.

The bin storage area is to be located away from habitable rooms, windows, doors and private useable open space, and to minimise potential impacts on neighbours in terms of aesthetics, noise and odour.

The bin storage area is to meet the design requirements detailed in the Development Control Plan.

Reason: To ensure resource recovery is promoted and local amenity protected.

(Condition added – MOD/2024/0193 – 12/11/2024).

14b. Waste Transfer Route

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans demonstrating that the path of travel between the bin storage area/bulky waste storage area and the designated waste/recycling collection point has a minimum 1200mm wall-to-wall clearance, is slip-proof with a hard surface, free of obstructions and at no point has a gradient exceeding 1:14 for 240L bins, and 1:40 for 660L bins.

Reason: To require details of measures that will protect residents and staff or tenants during the operational phase of the development.

(Condition added – MOD/2024/0193 – 12/11/2024).

21a. Trial period of high-capacity events

For a period of not more than 12 months from the date of this modified consent, the high-capacity events are limited to no more than 52 events within the 12 month trial period and must not exceed the following:

i)

Day	Hours
One (1) occasion only on a Friday, Saturday or Sunday	12:00pm to 12:00am

ii) The operator must keep a register of all high capacity events including the date, type of event and capacity of event and this register shall be made available to Council on request at any time.

A continuation of the high-capacity events will require a further application under the *Environmental Planning and Assessment Act 1979*.

Reason: To protect the amenity of the neighbourhood.

(Condition added – MOD/2024/0193 – 12/11/2024).

21b. Events

Low-capacity and high-capacity events are not to occur on the site at the same time.

Reason: To protect the amenity of the neighbourhood.

(Condition added – MOD/2024/0193 – 12/11/2024).

30. Patronage numbers

The number of persons on the premises at any one time during high capacity events is restricted to a maximum of 75 persons.

Reason: To protect the amenity of the neighbourhood.

(Condition added – MOD/2024/0193 – 12/11/2024).

31. Bin Storage

All bins are to be stored within the property.

Reason: To ensure resource recovery is promoted and residential amenity is protected.

(Condition added – MOD/2024/0193 – 12/11/2024).

Attachment B – Plan of Management

Plan of Management | 9 Gerald Street

Plan of Management (POM)

Monster Mouse Studios
9 Gerald Street
Marrickville NSW
2204

Prepared 1/31/2024 9:45 AM
Revision 4/06/2024 10:00 AM
Revision 2/9/2024 10:00 AM

1. Objectives

The objective of this plan is to establish operational guidelines for Monster Mouse Studios, to ensure that the premises is operated in an orderly manner and in accordance with Inner West Council plans and policies. This plan will be used for the operation of the art studio by the staff and made available to the artists using the space. The plan will be accessible to anyone entering the space.

The plan will be reviewed and updated as required by management.

This plan will address the following points.

- Operational details
- The operating hours of the premises.
- Managing artists and guests within the space.
- Deliveries: loading/ unloading
- Staffing: guidelines for staff for using the site facilities and equipment.
- Measures to minimise noise impacts on adjoining properties with respect to the light industrial zoning of the premises.
- Security and safety
- Procedures for managing waste generation and collection
- Complaint recording and handling process
- The review process to continuously improve the POM

Plan of Management | 9 Gerald Street

2 Monster Mouse Studios - what we do

The premises is to operate as a multi-disciplinary art, rehearsal and gallery space, comprising studios, rehearsal/ music rooms and associated common areas.

The approved use is to be operated in accordance with the Inner West Council's Notice of Determination in respect to DA/2023/0732 dated 2nd May 2024.

The art studio and rehearsal space aim to foster a sense of community through creative engagement with the local community and an exchange of services with local businesses as well as filling the need for creative space for the large creative community within the Marrickville LGA.

To compliment our artists and studios, Monster Mouse Studios will hold classes, workshops, exhibitions and events within the studio broken into 2 categories:

1. Low capacity: classes, workshops, exhibitions and events

- a. Capacity - up to 40 people (including staff)
- b. Frequency - to be held up to 3 times a week

2. High capacity: classes, workshops, exhibitions and events

- a. Capacity - up to 75 people (including staff)
- b. Frequency - to be held a maximum of 52 times a year (equivalent of 1 event per week)

Below are example classes, workshops, exhibitions and events. This list is not exhaustive.

Name	Type	Primary Location	Second Location	Max Capacity	Lowest Attendees	Staff
Drum Lessons	Class	Rehearsal Room	N/A	40	1	1
Screenprint your own shirts	Workshop	Gallery Space	Rehearsal	40	5	1
Art Show	Exhibition	Gallery Space	Rehearsal	70	20	5
Performance art with Various Artists	Event	Gallery Space	Rehearsal	70	20	5

Plan of Management | 9 Gerald Street

3 Hours of Operation

Monster Mouse Studios Hours of Operation

- The studio will operate to business hours
- High Capacity classes, workshops, exhibitions and events will be limited to a maximum of 1 night a week on Friday, Saturday or Sunday
- Low Capacity classes, workshops, exhibitions and events will be run upon demand up to 3 times a week throughout the week
- Classes, workshops, exhibitions and events will finish no later than midnight

Classes, workshops, exhibitions and events will be restricted to the front of the building (towards Gerald Street) as provided for in the **Nominated Location of Classes, workshops, exhibitions and events plans** provided to this POM.

Core operational hours are 7 days a week, 8am-12:00am.

24hr access available to artists working on a non-typical timetable or meeting deadlines.

Artists working outside of the core operational hours are requested to practise in accordance with noise restrictions for the light industrial zoning of the area and respect to the neighbouring businesses, workers and patrons as many of the surrounding premises operate extended hours themselves- brothels, butchers and event management establishments.

Activities permitted during core operational hours include:

- painting (acrylic, gouche etc..)
- photography
- graphic design
- sculpture
- jewellery making
- printmaking
- costume/fashion design
- writing
- aural media
- theatre
- interior design
- installation work
- filming

All of the above practices, excluding classes, workshops, exhibitions and events, are permitted outside of core operational hours only if:

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- Artists will have a minimal noise and impact on the neighbouring premises, workers and patrons.
- No power tools/ loud equipment is used
 - Loud tools/equipment are to be restricted to 8.00am to 8.00pm Monday to Friday, and 8.00am to 4.00pm Saturday, Sundays and Public Holidays.
- Conversations are kept to a reasonable and respectful level and no noise travels beyond the boundaries of the premises.
- Entry and exit via Gerald Street only.

The rehearsal studios will operate from 9am-12am 7 days a week with the majority of rehearsals occurring between 5pm and 11pm Monday to Friday and 11am to 4pm Saturday to Sunday.

All low capacity classes, workshops, exhibitions and events will operate within core operation hours. These will be mainly located in the gallery, studios and rehearsal area of the building. The maximum number of participants will be 40 (inclusive of staff). The average number of low capacity classes, workshops, exhibitions and events operating per week will be one to three with the frequency varying throughout the year.

All high capacity classes, workshops, exhibitions and events will operate within core operation hours. These will only be located in the gallery and rehearsal area of the building. The maximum number of participants will be 75 (inclusive of staff). The number of high capacity classes, workshops, exhibitions and events operating per week will be one.

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4 Managing Artists and guests

Currently Monster Mouse studios hosts 20 artist studios.

Artists and guests are also directed to the studio's safer spaces policy which outlines behaviours that are unacceptable in the space. The policy is on our noticeboard and accessible to anyone who enters the space and is used as a guide of how to act in the space respectfully to fellow artists and guests. It also outlines how to voice concerns and grievances with minimal risk to themselves and others.

This plan of management will also be made available for artists and guests to refer to for a more in depth knowledge of studio procedures. We shall endeavour to encourage all artists to adhere to the guidelines outlined in this plan of management.




Artists have their own private space within the studio and are expected to maintain their space so it does not present any hazard to others.

Artists shall enter and exit the premises in a quiet and orderly fashion.

One carpark is available on site, with access to be on a first-come, first-served basis. We encourage all artists to take advantage of the frequent and nearby public transport alternatives within a 2-7minute walk of the premises- 5 bus routes:

- M30
- 423
- 426
- 418
- 425

and 3 train lines:

-  T2 Airport Line
-  T3 Bankstown Line
-  T4 Eastern Suburbs & Illawarra Line

Artists should only use equipment that could present a risk to your safety under supervision of the appropriately skilled individual and always with adequate safety measures i.e. goggles, mask, gloves and enclosed footwear.

Common areas should be maintained clear of hazards and be left as you find them.

If anything presents a potential hazard please report it to a staff member.

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5 Deliveries and loading/ unloading

All loading, unloading and setting up will be carried out on site and with respect for surrounding businesses and traffic conditions.

The main location of the loading and unloading area is located on the Gerald Street Side of the building – on the driveway closest to the street. Larger items can be taken to the Maud Lane entrance only when necessary.

When using a courier/delivery service artists will need to be on the premises to receive goods.

The studio has minimal impact in relation to traffic conditions compared to the surrounding businesses as most artists opt to receive deliveries at home.

Monster Mouse shall not be held responsible for missing packages

6 Guidelines for Staff

Staff will enter and exit the premises in an orderly manner via dedicated entries on Maud lane and Gerald Street and with respect for surrounding businesses.

One carpark is available on site, with access to be on a first-come, first-served basis. We encourage all staff/artists to take advantage of public transport.

Staff are responsible for all studio storage of equipment and materials to be contained within the building.

Staff are versed in the safer spaces policy and procedures as well at this plan of management.

Staff should take the appropriate measures to minimise risk and hazards to artists, guests and themselves and remove hazards safely.

7 Security and safety

Monster Mouse Studios shall make use of security lighting on all entrance and exit points to maximise surveillance from and onto the street to minimise illegal access and lower risk of crime taking place around the premises and thus not only enhance the safety of artists using the space but members of the community walking through the back laneway and cul-de-sac at the front.

The street number shall be more prominent to identify the premises in emergency situations.

Clear signage internally to identify exits in case of emergency.

Monster Mouse Studios shall commit to a continued maintenance of the space so it is well cared for - taking into consideration the age of the building and shall take the appropriate measures to insure minimal risk to artists and staff.

When entering or leaving the premises artists shall not cause any unnecessary disturbances to the surrounding businesses.

Artists will cooperate with the Police and Council Officers if required.

Incase of emergency (for example fire) all staff/artists should follow our evacuation plan to get to safety.

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8 Waste Management

All waste will be disposed of in accordance with the existing waste handling procedure for the building and collected by the regular contract waste service. All recyclable waste will be sorted and stored in separate bins to general waste.

Monster Mouse encourages artists to reuse/re-home where possible and this has resulted in a low general waste removal program. We currently receive a fortnightly general waste and recyclables collection.

High amounts of pollutants are not currently used in the space to minimise risks to the artists' health.

Oil artists: If you use turpentine please use it in a well ventilated area and contain it in an enclosed jar. When its use has been exhausted please dispose of this externally with respect to council regulations.

Resin: In the past artists have used resin. Again please use it in a well ventilated area.

House paint: Mural artists please do not dispose of house paint in our general waste bins. There are appropriate ways to dispose of house paint. We encourage you to re-home the paint or see if another artist in the space needs it. In failing that there are paint disposal services available or council disposal drop offs available. Otherwise as a last resort please wait for the paint to be completely dry before throwing it in the bin.

From a local council website:

“You can take water or oil based paint to the Council's Community Recycling Centre for safe disposal.

Alternatively you can take paint to a [Resource Recovery Centre](#)

If you have a tin containing a small amount of liquid paint, tip it out onto an absorbent material such as newspaper or kitty litter then allow it to dry completely. The dry, solid paint can go into your red lid general waste bin.

EMPTY paint tins can be placed into the metal recycling. EMPTY tins can also be placed on the kerbside for the general household scheduled clean up service.”

If artists know they are using potentially harmful substances, please ask a staff member before bringing it into the space. You must know the appropriate way to use the substance and dispose of it elsewhere with respect to council regulations. Adequate precautions need to be made to ensure the safety of those around you and yourself. Monster Mouse and its staff reserve the right to refuse use of potentially harmful substances if measures to ensure the safety of those in and around the space cannot be met.

If there is a chemical pollutant/ waste spill in the studio or affecting the studio from a neighbouring business, artists are asked to inform a staff member immediately. The staff member will call the appropriate services to see that the pollutant is cleaned quickly to have minimal impact to the studio and surrounding businesses. Monster Mouse will not operate if the studio is contaminated and will ask all artists to avoid coming in until it is deemed safe. For e.g. After the fire at the butchers on the street the studio requested artists not come in for a couple of days until the toxic smoke smell had gone.

Staff/ artists will regularly monitor the property to ensure the area around the premises is clear of rubbish and take the appropriate action if necessary.

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9 Complaint recording and handling process

If a grievance should occur, please inform a staff member.

The staff members will acknowledge your grievance and take immediate measures to ensure your safety in space. The prime objective of the staff members is to de-escalate any kind of physical altercation. Depending on what the grievance is the staff member may seek advice and assistance from other staff members or external professionals. The staff member may need to speak to others involved if applicable.

Written statements from those involved may be requested. A written record of the event shall be taken by the staff member. Once considerable thought and advice has been sought the appropriate action to try and resolve the grievance shall be made with great consideration for the party or parties involved as well as staff/ other artists using the space.

10 Noise Management Plan

To protect the amenity of the community and surrounding receivers, the following measures are provided for in this PoM.

The proposal is to be operated in accordance with the approved Acoustic Report. At time of DA lodgment the building's Acoustic Report was prepared by Micheal Phillips Acoustics dated 03/06/2024. See procedures in that report and below provisions from that Report.

Noise/ music levels and controls

Within the premises, the following noise levels will apply:

- Gallery: The noise levels in the gallery should not exceed LA10 90 dB(A).
- Rehearsal rooms: The noise levels in the rehearsal rooms should not exceed LA10 110dB(A).
- Studios: The studios are to be used with respect to other space users and neighbours. Noise should be kept to a minimum and only be emitted infrequently.

The following noise controls are implemented within the premises:

- Gallery:
 - Sound Level Monitor (visual display)
- Rehearsal rooms:
 - Sound Level Monitor (visual display)

Plan of Management | 9 Gerald Street

With these levels and controls in place, we will ensure that the noise levels transmitted outside the premises will not exceed the requirements listed in section 5.4.1. This has been tested, and the current noise levels are well below the specified limits.

Plant noise and power tools

The studio does not currently deploy any plant or industrial noise emitting equipment. If any such equipment is installed in the future it will be, where practicable, appropriately screened and/or acoustically treated.

Power tools are to be used infrequently within the studio - limited to a few minutes of usage per week. Any loud tools should be used considerably and acoustic isolation methods should be utilised where practicable. Power tools will be limited to gallery area where practicable. The use of power tools within studios is restricted to 8.00am to 8.00pm Monday to Friday, and 8.00am to 4.00pm Saturday, Sundays and Public Holidays.

Sound complaints

A contact number at the front of the premises is provided to the front door clearly visible to neighbours so that complaints can be made.

Complaints will be dealt with as per this PoM handling procedure. If a noise complaint is received the complaint will be recorded on a Complaint Form. The Complaint Form will contain the following:

- Name and Address of the Complainant
- Time and Date the Complaint was received
- The nature of the complaint and the time/date the noise was heard
- The name of the employee that received the complaint
- Actions taken to investigate the complaint and the summary of the results of the investigation
- Indication of what was occurring at the time the noise was happening (if applicable)
- Required remedial action (if applicable)
- Validation of the remedial action
- Summary of feedback to the complaint

All noise records to be retained and inspectable by officers of the IWC.

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11 Licensing

Alcoholic beverages may be served at classes, workshops, exhibitions and events in accordance with the required licence from Liquor & Gaming NSW. All events, where relevant, to operate in accordance with the licence conditions from the Liquor & Gaming NSW authority.

12 Reviewing the POM

The Monster Mouse collective are striving to continually improve the studio for our artists, guests and the community and are open to suggestions from artists, guests and council to the continued improvement of the studio and management procedures.

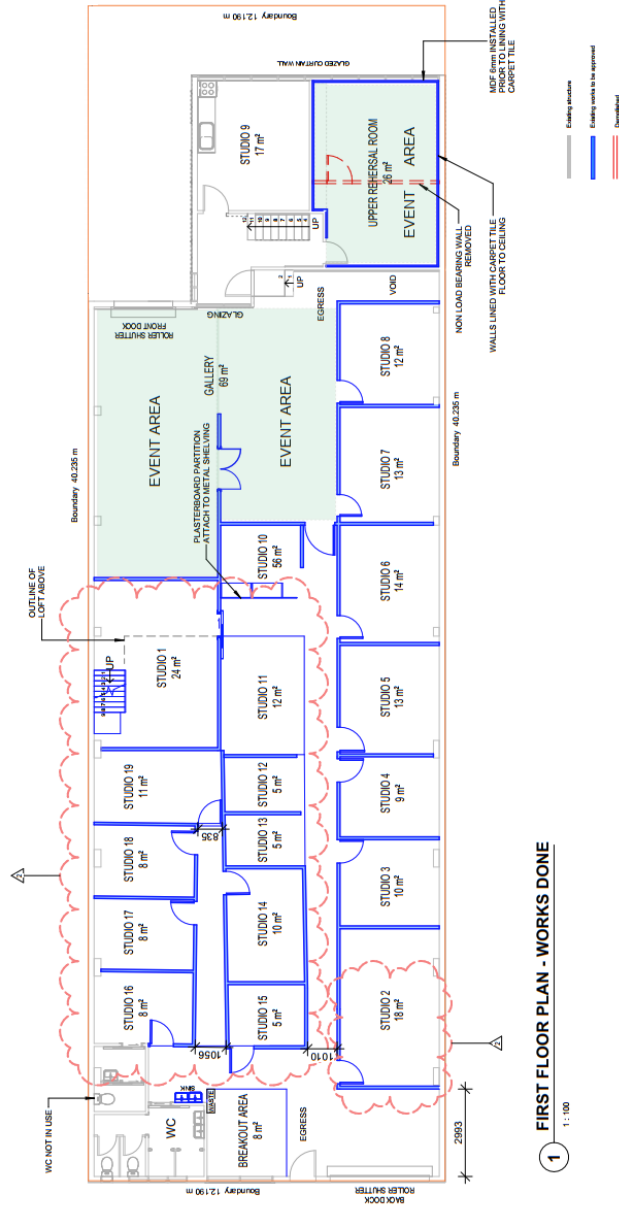
The POM will be updated as required as the art studio evolves and reassessed on an bi-annual basis.

Attached:

- Nominated Location of Classes, workshops, exhibitions and events Plans

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Nominated Location of classes, workshops, exhibitions and events Plans
 Classes, workshops, exhibitions and events are restricted to the upper rehearsal room and the gallery space (as green) 20/05/2024

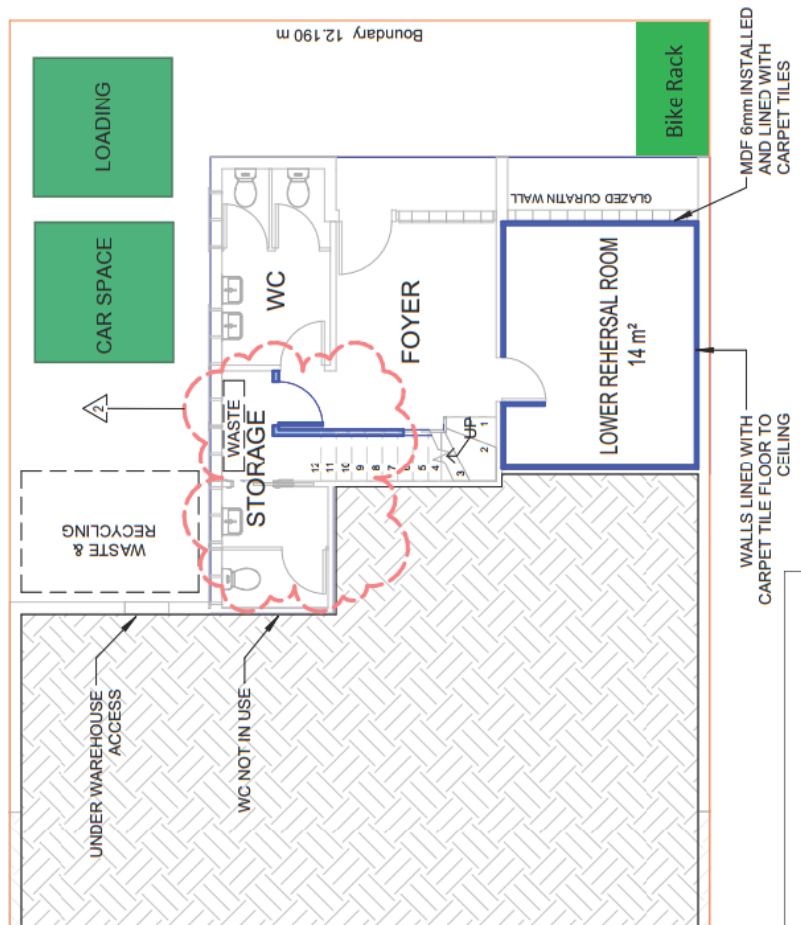


1 FIRST FLOOR PLAN - WORKS DONE
 1:100

Notes	Number	Description	Date	Project	Scale	Sheet
Note for new construction: Dimensions shown. Do not scale. Dimensions shown are unbracketed unless they are "As Shown" (Apply Double).	1	Complying Development	20/06/2019	MONSTER MOUSE	1:100 @ A3	5
	2	Proposed Additions	19/07/2023	9 GERALD STREET MARRICKVILLE 2204	MONSTER MOUSE INC	05 of 7

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Parking, loading and Bike Rack



Attachment C – Statement of Environmental Effects

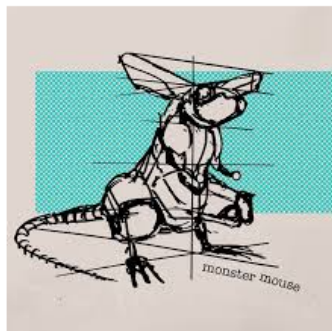
**Statement of Environmental Effects -
cover letter**

Section 4.55(2) - Modification Application - deletion of deferred commencement condition 1b to allow events and amendment to conditions 21 and 22 relating to events and live amplified music

DA/2023/0732 / PAN-366660 and MOD/2024/0193

Monster Mouse Studios

9 Gerald Street Marrickville NSW 2204



Prepared 13/06/2024 9:45 AM
Revision 04/09/2024 10:00 AM

Date: 5th September 2024

Prepared/ revisions by: Jason Suplina

Reviewed by: Damien Suplina

Authorised by: Jason Suplina

Contents

1. Purpose of Applications
2. Proposed Modification
3. Regulatory Framework
4. Further Supporting Information
5. Conclusion

1.0 Purpose of Application

This Statement of Environmental Effects (SEE) has been prepared by Jason Suplina to accompany an application for modification of development consent DA/2023/0732 & MOD/2024/0193.

The modification of the existing development consent comes in response to the success and growth had by Monster Mouse Studios since it began its operation on-site. Monster Mouse Studios has been able to build its brand and is now a recognised presence amongst the artistic studios in Marrickville and wider Sydney.

To accommodate this growth, the current application seeks to modify the existing development consent to enable Monster Mouse to remain commercially competitive.

This SEE provides for an assessment of the proposal under the terms of Section 4.55(2) of the Environmental Planning and Assessment Act 1979 (EP&A Act).

2.0 Proposed Modifications

This modification application seeks consent to modify the following deferred commencement condition and general condition from **DA2023/0732**

Deferred Condition 1b: deleting of all references of events

The deferred condition 1b states the following:

"All references to events in the Architectural Plans, Plan of Management, and other documentation, is to be deleted. An amended copy of these documents are to be submitted to Council"

We wish to modify/ remove this deferred condition from DA2023/0732

General Condition 22: Live Amplified Music

Condition 22 of the consent restricts amplified music only within the art studios and rehearsal rooms. We wish to modify this condition to also include amplified music to be allowed in the gallery space and reference the allowed decibels.

Below is the original condition:

There is to be no entertainment in the form of amplified music on any part of the premises outside of the rehearsal rooms and artist studios at any time.

Whilst the rehearsal rooms are in operation the internal door to each rehearsal room shall be closed (except to allow ingress and egress).

We seek to amend this to reflect as per below:

There is to be no entertainment in the form of amplified music on any part of the premises outside of the rehearsal rooms, artist studios and gallery at any time.

Whilst the rehearsal rooms are in operation the internal door to each rehearsal room shall be closed (except to allow ingress and egress) with sound levels to be limited to 110db, and within the gallery sound levels to be limited to 90db.

3.0 Regulatory Framework

The proposed modification to development consent number DA/2023/0732 is sought pursuant to Section 4.55(2) of the Act.

In accordance with Section 4.55 - Modification of consent – generally the Consent Authority must consider:

(2) Other modifications A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and

The modified consent is considered to be essentially and materially the same as demonstrated by the following table:

Qualitative comparison			
Aspect	Existing Approval	Modified Approval	Comment
<u>Use of site</u>	Artist studio use with associated workshops	Artist studio use with associated classes, workshops, exhibitions and events	The primary use of the site remains an art studio with only the associated activities having minor amendments. Changes are consistent with activity of creative industries and does not change the quality of existing associated activities
<u>Floor Plans</u>	Inclusive of studios, workshop and event areas	No change to floor plan	No change to floor plan
<u>Operation Hours</u>	8am to 12pm	No change to hours of operation	No change to hours of operation
<u>Patron Numbers</u>	Not previously determined.	75 patrons (staff inclusive)	Patron increase will have minimal impact on site and is consistent with other

			creative industries in the area
<u>Amplified music</u>	Rehearsal rooms and art studios	Rehearsal rooms, art studios and gallery space	Adding the gallery space will have minimal impact on site and is consistent with other creative industries in the area
<u>Car Parking</u>	As approved	No change	No change

In the appreciation of the qualitative comparison above, the essence of the use remains the same; the principal use of the premises remains an art studio (with associated activities) bringing this in line with other creative studios. Whilst allowing amplified music in the gallery space is a minor alteration in accordance with the acoustic assessment.

The impact of the proposed modification is limited to the modest change to associated activities:

- No external or internal physical works are proposed.
- Approved gross floor area remains the same
- Location and quantum of parking remain the same
- Relation to neighbouring properties in terms of use, location, height, and scale of buildings remain the same.
- Relation to neighbouring properties in terms of use, location, height, and scale of buildings remain the same.

The impact of the modification is considered to have a minimal environmental impact:

- The subject site is appropriately located within IN2 Light Industrial zone meaning the existing amenity is already heavily established by industrial activity and traffic movement
- The use of the subject premises primarily occurs after work hours, being 5pm onwards.
- The modification only seeks a minor increase to patron size and extending where amplified music can be played

It is for these reasons discussed above that the proposed modification satisfies the test for "substantially the same" development and is a S4.55(2) modification.

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and

that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

Consultation with the relevant minister is not required as a condition of the existing development consent.

(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

Inner West Council's Community Engagement Framework states that section 4.55(2) modifications will be notified in the same manner as the original application.

(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

Council to consider any submissions received within the assessment of the modification application

(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.

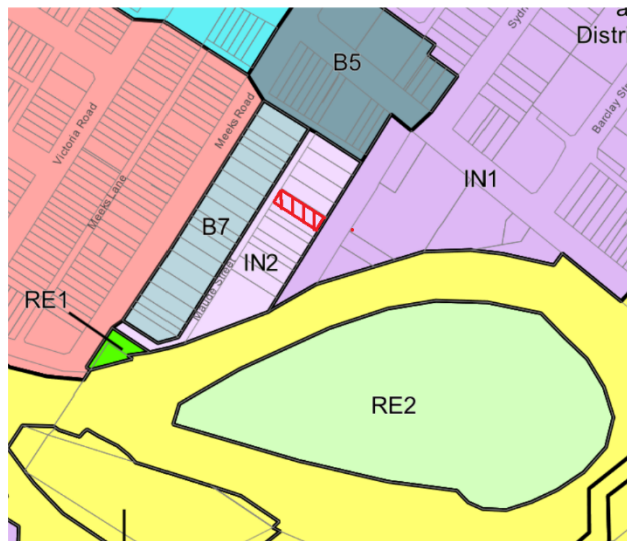
Matters referred to in Section 4.15(1) that are of relevance to the development subject of the application are discussed as follows.

In accordance with Section 4.15 Evaluation the Consent Authority must consider:

- (1) Matters for Consideration – general*
(a) the provisions of:
(i) any environmental planning instrument, and

Inner West Local Environmental Plan 2022

- Clause 2.1 Land use zones & Clause 2.3 Zone objectives
The subject site is zoned IN2 Light Industrial under the provisions of the IWLEP 2022



Extract from MLEP 2022 zoning map

• Permissibility

The use of the subject site as artist studios with associated workshops was granted by Council through DA/2023/0732. This modification does not seek to change the existing land use approval. The need to add classes, workshops, exhibitions and events comes from the need to keep up with inflation and other competitive pressures.

• Clause 2.1 Land use zones and Clause 2.3 Zone objectives

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To support and protect industrial land for industrial uses.
- To encourage industrial uses to meet the needs of the community.
- To maintain and encourage waterfront industrial and maritime activities.

The proposed modification seeks to achieve the zone objectives to encourage employment opportunities, support the existing businesses in the area, and essentially support a growing industry sector - the creative industry.

• Clause 5.4 Controls relating to miscellaneous permissible uses

This modification does not propose to alter the existing permissible uses.

• Clause 6.5 Development in areas subject to aircraft noise

Considering that the existing use is not subject to change as part of this modification it is considered that the associated activities modified by this proposal would accordingly continue to satisfy this clause.

(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

No draft environmental planning instruments of relevance apply to the site.

(iii) any development control plan, and

Marrickville DCP 2011

- Part 2.5 - Equity and Mobility

No change is proposed to the access or parking arrangements.

- Part 2.6 - Acoustic and Visual Privacy

A letter has been prepared by Michael Phillips Acoustics from an acoustic perspective fully supports the proposed:

The predicted noise levels from patrons within the venue is expected to comply with the established criteria in all octave frequency bands, provided the following recommendations are implemented:

- Signage should be installed at the entrance to the venue requesting that patrons to enter/exit the premises quietly during the night hours (10:00pm – 12:00am).
- Public access via Maude Lane is to conclude at 10:00pm.
- Patrons are not to be permitted to congregate outside either entrance to the venue.

Within the premises, the following controls are required:

- Music in the event and rehearsal room areas is to be limited to:
 - a maximum of LA10 90dB(A) and 110dB(A) respectively.

The overall noise level measured inside the rooms has to be below the set noise limits.

- Part 2.8 - Social Impact Assessment

The approval of the subject development consent illustrates that Council has already approved artist studios with associated workshops. The proposed modification only seeks to extend the associated activities to similar associated activities; ie classes, workshops, exhibitions and events.

- Part - 2.10 Parking

The subject modification does not seek to modify the approved parking arrangement.

- Part 2.23 - Acid Sulfate Soils

No works are proposed within this modification, as such the proposed development is considered reasonable having regard to acid sulfate soils.

(iia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and

No planning agreement has been found to apply to the subject site.

iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and

The pertinent considerations identified within the EPA Regulation 2021, are within conformity with the Building Code of Australia.

It was demonstrated within the previous approval that the subject premises would be capable of accommodating up to 75 patrons whilst being capable of complying with BCA requirements for sanitary facilities, fire safety and ingress/ egress arrangements.

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

The proposed modification seeks to only minimally change associated activities. Impacts include:

- Environmental Impact on neighbourhood by way of parking, traffic and transport
 - Parking: The proposal does not seek to alter this provision
 - Traffic: The proposal will not alter the existing traffic conditions
 - Transport: the majority of the patrons come from the local neighbourhood catchment with patrons getting to the premises via a number of ways, including: walking, car-pooling, bus, taxi and uber
- Environmental Impact on neighbourhood by way of noise generation
 - A letter prepared by Michael Phillips Acoustics fully supports the proposed modification from an acoustic perspective noting that there should be no impact to the acoustic amenity of the area as a result.
- Environmental Impact on social aspects of the neighbourhood
 - The social impacts of the proposed modification on the neighbourhood are considered to have a positive impact on the community.
- Environmental Impact on economic aspects of the neighbourhood
 - The modification of the existing consent is considered to support the development of an evening economy in Marrickville.

(c) the suitability of the site for the development,

The subject site is considered to continue to be suitable for the development

(d) any submissions made in accordance with this Act or the regulations,

Council to consider any submissions received in respect to the proposed modification application.

(e) the public interest

This application is considered to be in Public Interest, as detailed in this report, for the reasons that the development satisfies the IWLEP 2022, the MDCP 2011, supports the intent of the creation of 'creative industry' uses.

4.0 Further Supporting Information

We believe that the restriction on classes, workshops, exhibitions and events in this creative space is unnecessary due to the following reasons:

Low Capacity: Classes, Workshops, Exhibitions and Events

Low capacity activities such as workshops and screenings were approved in the determination (see condition 21). We have renamed these activities 'low capacity classes, workshops, exhibitions and events' to cover the potential spectrum of activities to be included.

Frequency

- Reduced the number to 3 per week.

Capacity

- Limited the capacity to 40 persons including staff

Operation times

- Event times are restricted to 8am to 10pm with exceptions for niche activities that may require to go later to 12am (such as film screenings).

High capacity: Classes, Workshops, Exhibitions and Events

High capacity activities such as workshops and screenings were approved in the determination (see condition 21). We have renamed these activities 'high capacity classes, workshops, exhibitions and events' to cover the potential spectrum of activities to be included.

Frequency

- Reduced the number to 1 per week.

Capacity

- Limited the capacity to 75 persons including staff

Operation times

- Event times are restriction to 12pm to 12am

Nominated Event Area

Events are restricted to the following:

- Gallery space
- Rehearsal rooms

Please refer to updated POM for example of activities that use either the gallery or upper rehearsal room or both.

Sound Limits & Monitoring

As per the updated acoustic assessment we have been provided with the following:

Rehearsal Rooms:

- Limited to 110db
- Visual sound monitors to be installed

Gallery Space:

- Limited to 90db
- Visual sound monitor to be installed

Artist Studios:

- Outside of 8.00am to 8.00pm Monday to Friday, and 8.00am to 4.00pm Saturday, Sundays and Public Holidays.
 - Sound levels limited to patron noise levels
 - No power tool or plant usage.
 - Quiet enjoyment of the space

Amplified Music

- Amplified music restricted to the rehearsal rooms up to 110db
- Acoustic performance, sound artworks and other sounds allowed in gallery restricted to 90db

Operation Hours**High capacity events**

- 12pm to 12am

Low capacity events

- 8am to 10pm with exceptions for niche activities that may require to go later to 12am (such as film screenings).

Rehearsal Rooms

- 9am to 12am

Artist Studios

- 24 hours access

Plant noise and power tools

- No plant or industry noise emitters are deployed in the studio
 - Screens and acoustic treatment to be equipped if installed.
- Power tools are used very infrequently
 - Most creatives do not use power tools at all
 - For e.g. A few minutes to fix a canvas
 - Power tools will be used in the gallery area when practicable
 - Restricted to 8.00am to 8.00pm Monday to Friday, and 8.00am to 4.00pm Saturday, Sundays and Public Holidays.

Rear Windows and Exhaust Fan

- Rear window and exhaust fan hole will be enclosed with acoustic panelling

Ancillary Usage

We believe hosting one high capacity and three low capacity classes, workshops, exhibitions and events per weeks is ancillary usage as per the following:

Classes, workshops, exhibitions and events are activities undertaken within creative industries.

The category of creative industries includes various businesses within the creative field. A creative studio includes a wide variety of artistic, craft and skill development activities including (but not limited to) painting, photography, fashion, theatre rehearsal, live music rehearsal, film production etc. Essentially, we are a co-working space where creatives can come to develop their creative small businesses - from product design to public display.

Classes, activities, exhibitions and events are an integral activity of small creative businesses and individuals

An emerging aspect of creative studios is to provide educational, demonstration and performance based activities to the public - these have previously been listed in our DA as 'workshops' and 'screenings' and are what we now refer to as 'classes, workshops, exhibitions and events'. These activities have been funded by the Inner West Council for years through grants and development programs. The Inner west council recently announced that town halls will be utilised as creative spaces. These activities allow for all of the activities we have proposed in our modification:

<https://www.innerwest.nsw.gov.au/explore/venues-for-hire/creative-use-of-council-venues>

Low and high capacity classes, workshops, exhibitions and events are similar in activity but differ in scope

In a similar manner to our low capacity events - where a single creative will share their activities with a small audience - creatives also collaborate, perform and display their works through exhibitions, performances and community events. We describe these as high capacity events. These events are how creatives convey their activities to the public. They are directly equivalent to 'workshops' and 'screenings' but just operate on a slightly larger scale. They are precisely ancillary to their creative activities. For example, a shibori dyer will teach a workshop for a public to produce silk scarfs and then host an exhibition to display the scarfs.

Events should be defined by building limitations not activity type

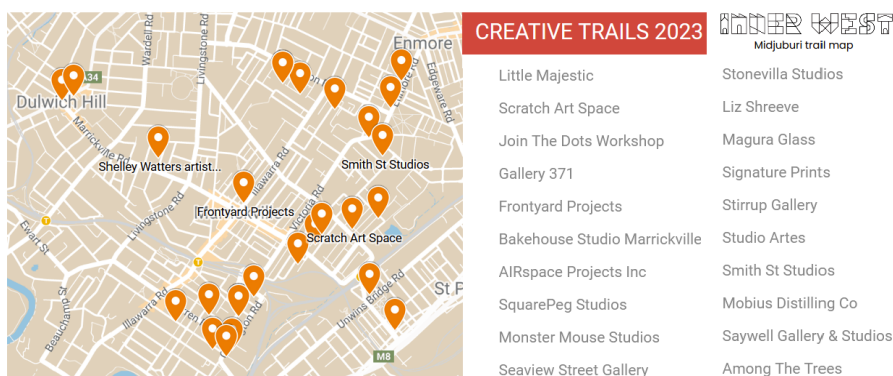
There is a fluidity between the production of creative activities and the public display of such activities. It would be arbitrary to allow for some creatives to engage in public facing events while restricting others. We suggest that these activities should be restricted by the

limitations of the creative space. That being by frequency, capacity limits, decibel limits and hours of operation.

Example classes, workshops, exhibitions and events currently hosted by other creative studios

Further, creative studios throughout the city are currently engaging in classes, workshops, exhibitions and events within their buildings. These range equally in the type and scope of the events we propose. See the following examples:

- Tortuga Studios - <https://tortugastudios.org.au/happening-now>
- Mothership studios - <https://themothership.art/exhibitions>
- Scratch Art Space - <https://www.scratchartspace.com/home/>
- Airspace Gallerys - <https://www.airspaceprojects.com.au/>
- Join the Dots - <http://www.jointhedotsworkshop.com.au/#swamp>
- The Nest - <https://www.thenestcreativespace.com/culture>
- Alpha House - <https://www.ravencontemporary.com.au/profiles/alpha-gallery/>
- Little Majestic - <https://www.littlemajestic.com.au/workshops-events/>
- Bakehouse Studios - <https://www.thebakehousestudio.com.au/whatson>
- One Art Studio - <https://www.oneart.com.au/>
- Lennox Studios - <https://www.lennoxstreetstudios.com/event>
- Flow Studios - <https://flowstudios.com.au/>
- 107 Redfern projects - <https://107.org.au/whats-on/>



To summarise, both low and high capacity classes, workshops, exhibitions and events are ancillary to our creative space as:

- They align with the activities undertaken within creative industries
- They are an integral activity for small creative businesses and individual creatives
- The Inner west council funds creative studios to engage in classes, workshops, exhibitions and events and is converting townhalls into creative studios to make up for a shortfall in creative space.

- Low capacity classes, workshops, exhibitions and events have already been approved by the determination
- High capacity classes, workshops, exhibitions and events are similar to low capacity events except in size and scope
- The ability to engage in classes, workshops, exhibitions and events should be based on frequency, capacity limits, decibel limits and hours of operation. Not on the type of creative activities.
- Creative studios throughout the inner west and NSW currently engage in a broad range of classes, workshops, exhibitions and events and are often funded by local councils and other government grants.

5.0 Conclusion

The proposed development has been assessed against the provisions of Section 4.55(2) of the EP&A Act.

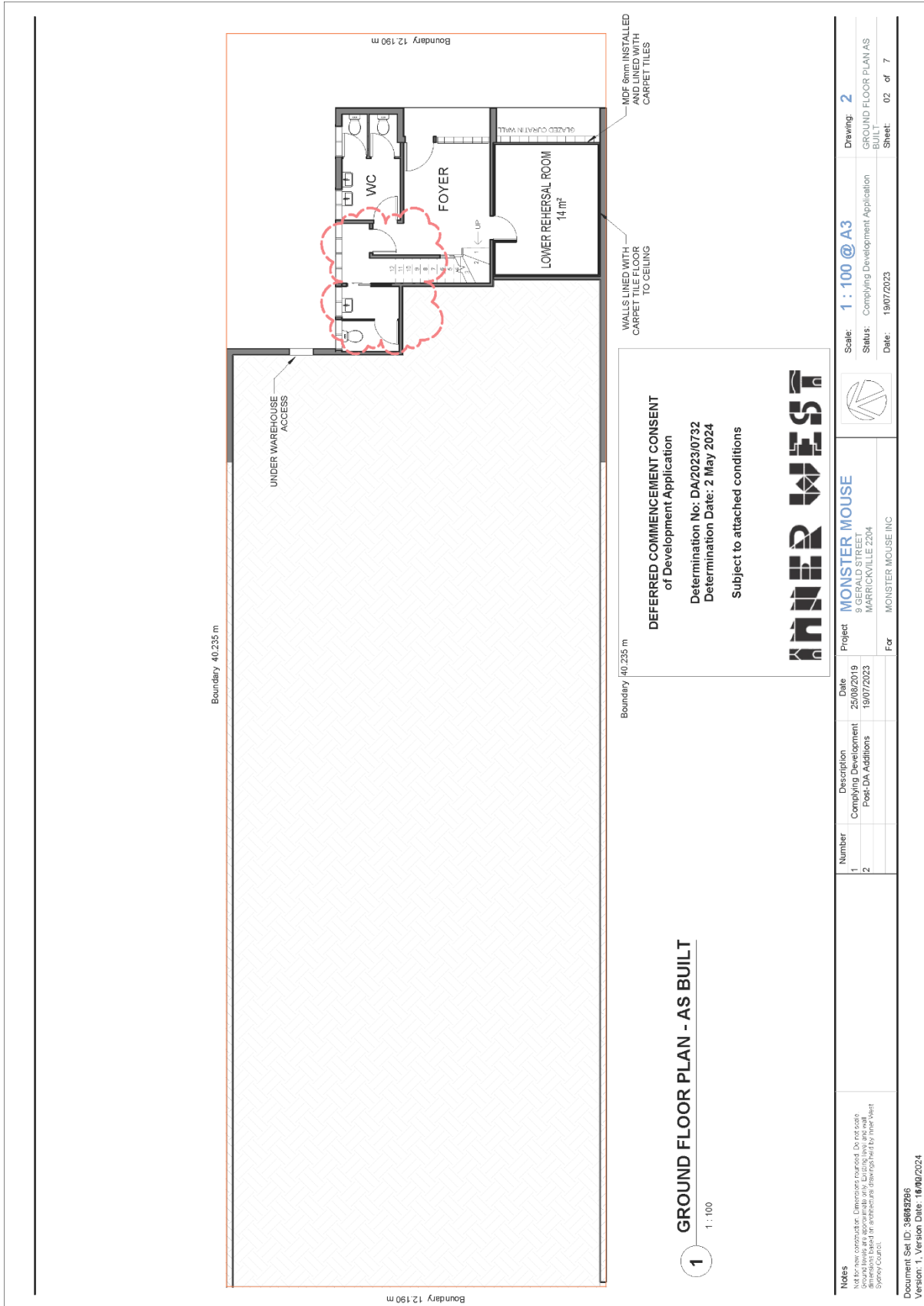
On balance, it is concluded the proposed modification is satisfactory and warrants support, having regard to the following matters:

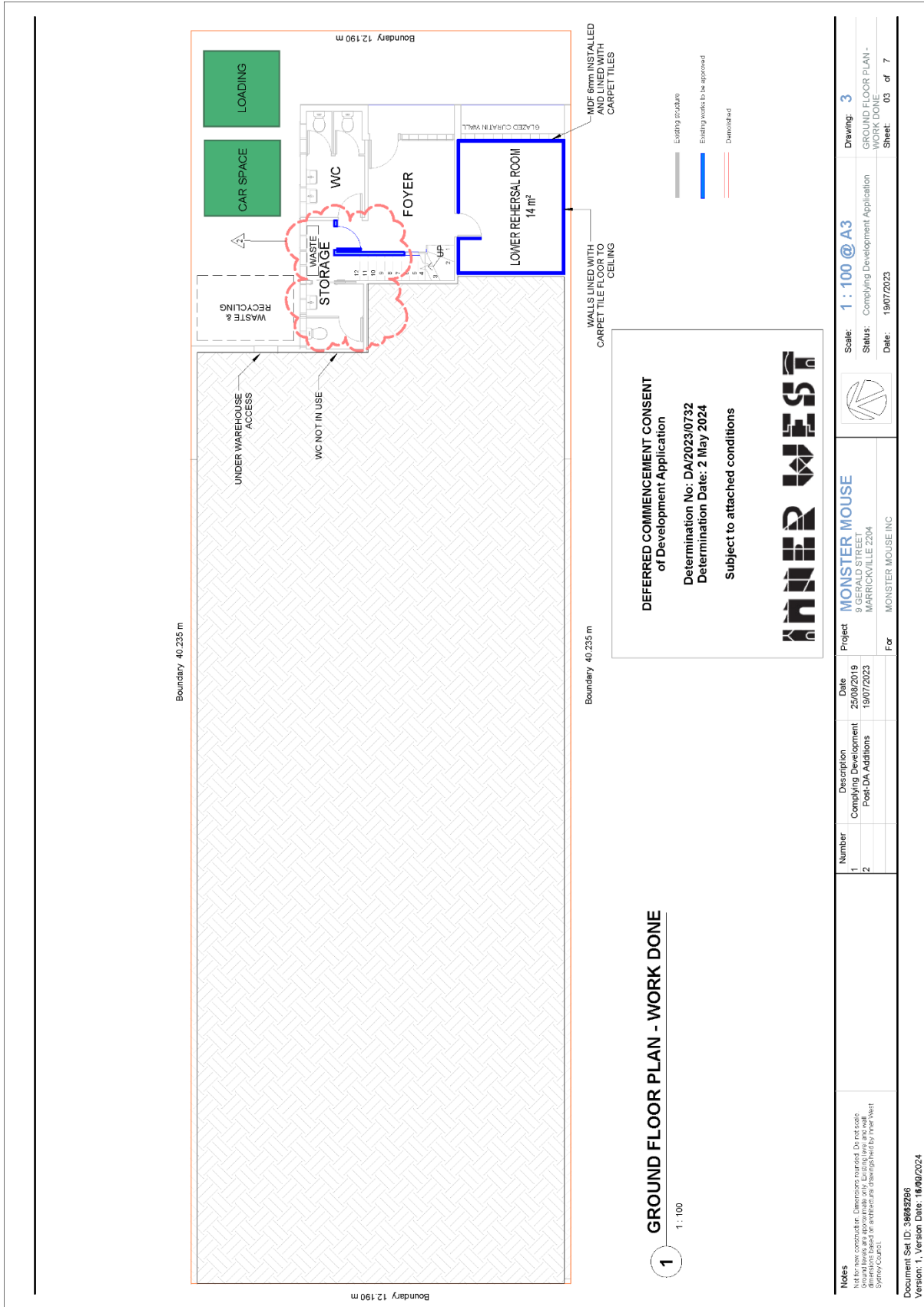
- The proposal is consistent with the IN2 Light Industrial zoning objectives of IWLEP 2022.
- The proposal is consistent with Council's development control plan, being the Marrickville Development Control Plan 2011.
- The proposal makes use of existing infrastructure and resources, and continues to be compatible with the business/light industrial character of the locality.
- It is considered there are no matters that warrant refusal of the proposal on the grounds of it being contrary to the public interest.
- The proposal will improve the quality of businesses in the local area and is considered to contribute positively to the social and economic character of the local community and area.
- The proposal will provide short-term and long-term economic benefits to the local community and wider region.

As such, the modification is worthy of merit and will positively contribute to the activity and industrial environment within the Marrickville locality. There is anticipated to be no negative impacts to the existing streetscape or neighbourhood character.

Accordingly, it is recommended that Inner West Council support and approve this modification application.

Attachment D – Approved plans of development





1 GROUND FLOOR PLAN - WORK DONE

1:100

Notes
 Not to scale
 Dimensions are approximate only. Existing lines are wall
 centerlines and new lines are structural centerlines unless
 otherwise stated.

Number	Description	Date
1	Complying Development	25/08/2019
2	Post-DA Additions	19/07/2023

Project MONSTER MOUSE
 9 GERALD STREET
 MARRICKVILLE NSW 2204

Date 19/07/2023

For MONSTER MOUSE INC


Scale: 1:100 @ A3	Drawing: 3
Status: Complying Development Application	GROUND FLOOR PLAN -
Date: 19/07/2023	WORK DONE
	Sheet: 03 of 7

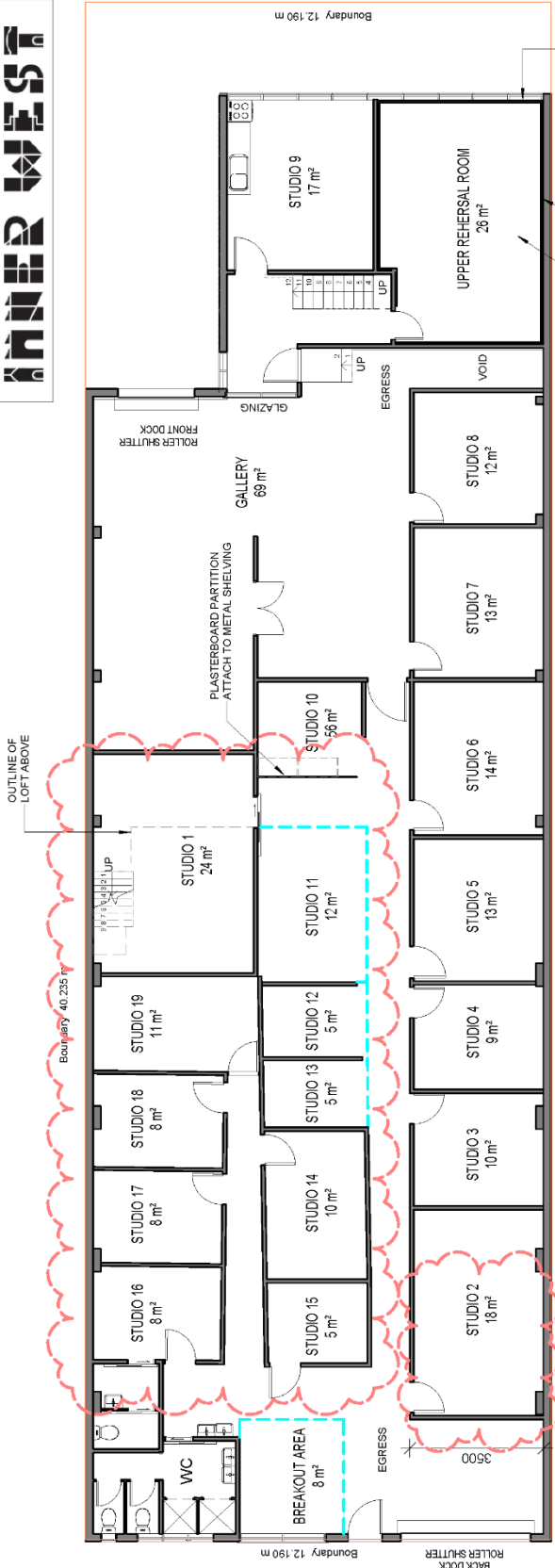
Document Set ID: 3663296
 Version: 1, Version Date: 16/09/2024

DEFERRED COMMENCEMENT CONSENT
of Development Application

Determination No: DA/2023/0732
Determination Date: 2 May 2024

Subject to attached conditions





FIRST FLOOR PLAN - AS BUILT

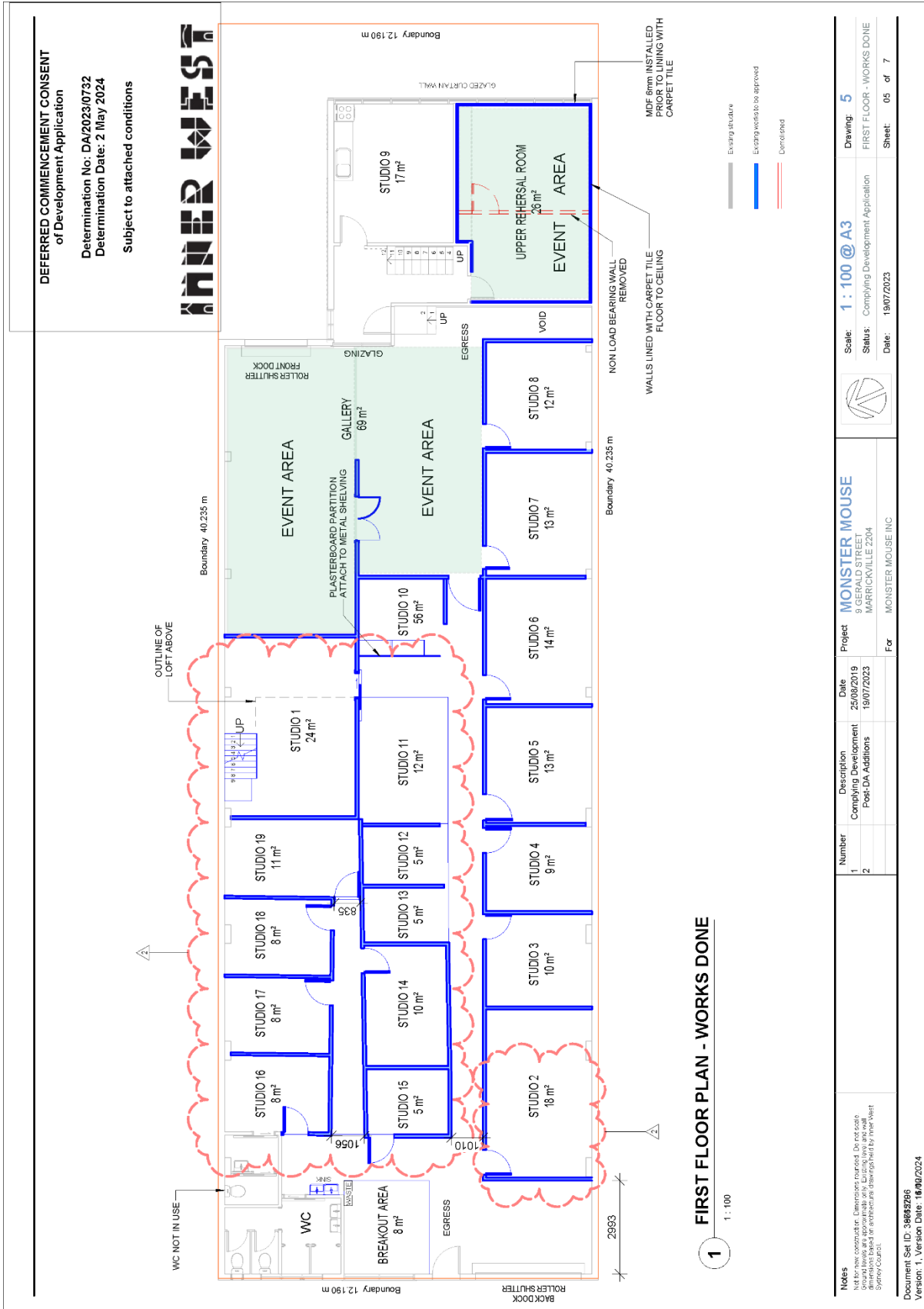
1:100

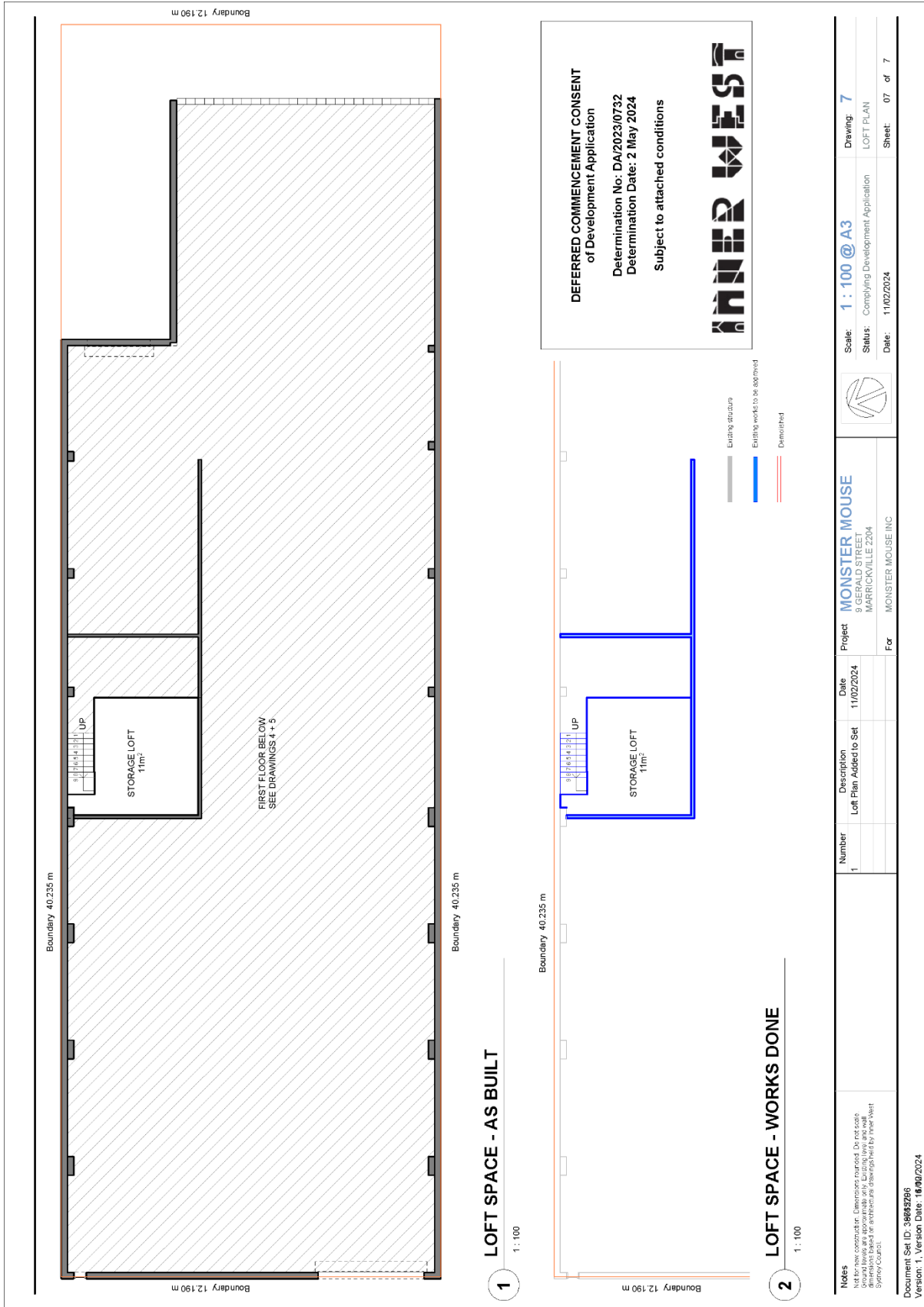
Number	Description	Date	Project	Scale	Drawing
1	Complying Development	25/08/2019	MONSTER MOUSE 9 GERALD STREET MARRICKVILLE 2204	1:100 @ A3	4
2	Post-DA Additions	19/07/2023	MONSTER MOUSE INC	Complying Development Application	FIRST FLOOR PLAN AS BUILT
			For	Date: 19/07/2023	Sheet: 04 of 7

Notes

Not to scale. Dimensions are approximate. Developer responsible for post-scale ground levels are approximate only. Existing levels are wall to wall. Surveyor's notes and annotations are shown in red. All dimensions are in meters unless otherwise stated.

Document Set ID: 3663296
Version: 1, Version Date: 16/09/2024





Attachment E – DA/2023/0732 consent



NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application number	DA/2023/0732 PAN-366660
Applicant	Jason Suplina Unit 5 18-20 Harrow Road STANMORE NSW 2048
Description of development	Use of the premises for creative industries
Property	9 Gerald Street MARRICKVILLE NSW 2204 Lot 19 Section 1 DP 1465
Determination	Deferred Commencement Consent Authority ○ Delegation to Staff
Date of determination	2 May 2024
Date from which the consent date operates	Not yet operational
Date on which the consent lapses	Five years from date consent becomes operational

Under section 4.18(1) of the EP&A Act, notice is given that the above development application has been determined by the granting of consent using the power in section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

Relevant matters

This consent does not operate and may not be acted on until the consent authority is satisfied of the following matter(s):

1. Deferred Commencement

The following is a Deferred Commencement condition imposed pursuant to Section 4.16(3) of the *Environmental Planning and Assessment Act 1979*. This Consent will not operate and may not be acted upon until the Council is satisfied as to the following matter(s):

- A. A Building Information Certificate is to be issued for the unauthorised works undertaken at the site (shown in blue on the architectural plans).
- B. All references to events in the Architectural Plans, Plan of Management, and other documentation, is to be deleted. An amended copy of these documents are to be submitted to Council.

Reason: To ensure all unauthorised works are regularised under the *Environmental Planning and Assessments Act 1979*, and to protect the amenity of surrounding neighbours.

Evidence of the above relevant matter(s) must be produced to the consent authority, within two (2) years of the date of the determination, otherwise the consent will lapse.

Under section 76(4) of the EP&A Regulation, the consent authority will notify you in writing if the matters above have been satisfied and the date from which this consent operates.

The conditions of development consent below apply from the date that this consent operates.

Note: Section 76(3) of the EP&A Regulation enables a consent authority to specify the period within which the applicant must produce evidence to the consent authority sufficient enough to enable it to be satisfied as to the relevant matter(s) that it requires before a deferred commencement consent can operate. Where a period is specified under section 76(3), a deferred commencement consent will lapse if the applicant has not produced sufficient evidence for the consent authority to be satisfied of the relevant matters on the expiration of the specified period.

Where the applicant produces evidence of the relevant matters in accordance with section 76(4) of the EP&A Regulation, the consent authority must notify the applicant whether or not it is satisfied as to the relevant matter(s). If the consent authority has not notified the applicant within 28 days after receiving the applicant's evidence, the consent authority is taken to have notified the applicant that it is not satisfied about the relevant matter(s) on the date on which that period expires, for the purposes of section 8.7 of the EP&A Act (see sections 76(4), (5) and (6) of the EP&A Regulation).

Reasons for approval

1. The development is consistent with the objectives of the zone;
2. The development is generally consistent with the development controls;
3. The development will not unreasonably compromise the amenity of nearby properties;
4. The development is compatible with the character of the area;
5. The development is considered suitable for the site; and
6. Approval is considered to be in the public interest.

Community Views

No submissions were received.

Right of appeal / request a review of the determination

If you are dissatisfied with this determination:

Request a review

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

Rights to appeal

You have the right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

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



Andrew Newman
Team Leader, Development Assessment

Person on behalf of the consent authority

For further information, please contact Camille Guyot on 02 9392 5795 or camille.guyot@innerwest.nsw.gov.au.

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS

Condition																									
1.	<p>Noise – Consultant’s Recommendations</p> <p>All the recommendations contained in the acoustic report prepared by Michael Phillips Acoustics, reference J000592, Rev.01 dated 18/07/2023 must be implemented.</p> <p>Reason: To protect the amenity of the neighbourhood and ensure that the development is carried out in accordance with the consent.</p>																								
2.	<p>Works Outside the Property Boundary</p> <p>This development consent does not authorise works outside the property boundaries on adjoining lands.</p> <p>Reason: To ensure works are in accordance with the consent.</p>																								
3.	<p>Car Parking</p> <p>The development must provide and maintain within the site:</p> <p>One (1) car parking space must be paved and line marked.</p> <p>Reason: To ensure parking facilities are designed in accordance with the Australian Standard and Council's DCP.</p>																								
4.	<p>Documents related to the consent</p> <p>The development must be carried out in accordance with plans and documents listed below:</p> <table border="1"> <thead> <tr> <th>Plan, Revision and Issue No.</th> <th>Plan Name</th> <th>Date Issued/Received</th> <th>Prepared by</th> </tr> </thead> <tbody> <tr> <td>Not stated</td> <td>Plan of Management</td> <td>31/01/2024</td> <td>Monster Mouse Studios</td> </tr> <tr> <td>Sheet 02 of 7, No.2</td> <td>Ground Floor Plan - As Built</td> <td>19/07/2023</td> <td>Not stated</td> </tr> <tr> <td>Sheet 03 of 7, No. 2</td> <td>Ground Floor Plan - Work Done</td> <td>19/07/2023</td> <td>Not stated</td> </tr> <tr> <td>Sheet 04 of 7, No. 2</td> <td>First Floor Plan - As Built</td> <td>19/07/2023</td> <td>Not stated</td> </tr> <tr> <td>Sheet 05 of 7, No. 2</td> <td>First Floor Plan - Works Done</td> <td>19/07/2023</td> <td>Not stated</td> </tr> </tbody> </table>	Plan, Revision and Issue No.	Plan Name	Date Issued/Received	Prepared by	Not stated	Plan of Management	31/01/2024	Monster Mouse Studios	Sheet 02 of 7, No.2	Ground Floor Plan - As Built	19/07/2023	Not stated	Sheet 03 of 7, No. 2	Ground Floor Plan - Work Done	19/07/2023	Not stated	Sheet 04 of 7, No. 2	First Floor Plan - As Built	19/07/2023	Not stated	Sheet 05 of 7, No. 2	First Floor Plan - Works Done	19/07/2023	Not stated
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Sheet 04 of 7, No. 2	First Floor Plan - As Built	19/07/2023	Not stated																						
Sheet 05 of 7, No. 2	First Floor Plan - Works Done	19/07/2023	Not stated																						

	Sheet 07 of 7, No. 1	Loft Space - Works Done	11/02/2024	Not stated
	J000592, Rev.01	Noise Emission Assessment	18/07/2023	Michael Phillips Acoustics
	P240007	BCA Compliance Assessment	24/01/2024	BCA Vision
	As amended by the conditions of consent.			
	Reason: To ensure development is carried out in accordance with the approved documents.			
5.	Other works			
	Works or activities other than those approved by this Development Consent will require the submission of a new Development Application or an application to modify the consent under Section 4.55 of the <i>Environmental Planning and Assessment Act 1979</i> .			
	Reason: To ensure compliance with legislative requirements.			
6.	National Construction Code (Building Code of Australia)			
	A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out. All building works approved by this consent must be carried out in accordance with the requirements of the National Construction Code.			
	Reason: To ensure compliance with legislative requirements.			
7.	Lead-based Paint			
	Buildings built or painted prior to the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.			
	Reason: To protect human health.			
8.	Dial before you dig			
	Contact "Dial Prior to You Dig" prior to commencing any building activity on the site.			
	Reason: To protect assets and infrastructure.			
9.	Bin Storage			
	All bins are to be stored within the property.			

	Reason: To ensure resource recovery is promoted and residential amenity is protected.
10.	Storage of Materials on public property The placing of any materials on Council's footpath or roadway is prohibited, without the prior consent of Council. Reason: To protect pedestrian safety.
11.	Notification of commencement of works Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the PCA (not being the council) has given the Council written notice of the following information: <ul style="list-style-type: none"> a. In the case of work for which a principal contractor is required to be appointed: <ul style="list-style-type: none"> i. The name and licence number of the principal contractor; and ii. The name of the insurer by which the work is insured under Part 6 of that Act. b. In the case of work to be done by an owner-builder: <ul style="list-style-type: none"> i. The name of the owner-builder; and ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit. Reason: To ensure compliance with legislative requirements.
12.	Dividing Fences Act The person acting on this consent must comply with the requirements of the <i>Dividing Fences Act 1991</i> in respect to the alterations and additions to the boundary fences. Reason: To ensure compliance with legislative requirements.
13.	Asbestos Removal Hazardous and industrial waste arising from the use must be removed and / or transported in accordance with the requirements of the NSW Environment Protection Authority (EPA) and the New South Wales WorkCover Authority. Reason: To ensure compliance with the relevant environmental legislation.

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

	Condition
14.	BCA Upgrades

	<p>The details of any building upgrades required in accordance with the recommendations in the BCA Compliance Assessment report from BCA Vision dated 24 January 2024 must be provided to the Certifying Authority. Amended plans demonstrating the recommendations must be submitted to the Certifier's satisfaction.</p> <p>Reason: To ensure the development is compliant with the National Construction Code.</p>
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BEFORE BUILDING WORK COMMENCES

	Condition
15.	<p>Waste Management Plan</p> <p>Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a Recycling and Waste Management Plan (RWMP) in accordance with the relevant Development Control Plan.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>
16.	<p>Erosion and Sediment Control</p> <p>Prior to the issue of a commencement of any works (including any demolition works), the Certifying Authority must be provided with an erosion and sediment control plan and specification. Sediment control devices must be installed and maintained in proper working order to prevent sediment discharge from the construction site.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>
17.	<p>Construction Fencing</p> <p>Prior to the commencement of any works (including demolition), the site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property.</p> <p>Reason: To protect the built environment from construction works.</p>

DURING BUILDING WORK

	Condition
18.	<p>Construction Hours – Class 2-9</p> <p>Unless otherwise approved by Council, excavation, demolition, construction or subdivision work must only be permitted during the following hours:</p> <p>7:00am to 6.00pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm); 8:00am to 1:00pm on Saturdays with no demolition works occurring during this time; and at no time on Sundays or public holidays.</p>

	<p>Works may be undertaken outside these hours where they do not create any nuisance to neighbouring properties in terms of dust, noise, vibration etc. and do not entail the use of power tools, hammers etc. This may include but is not limited to painting.</p> <p>In the case that a standing plant or special out of hours permit is obtained from Council for works in association with this development, the works which are the subject of the permit may be carried out outside these hours.</p> <p>This condition does not apply in the event of a direction from police or other relevant authority for safety reasons, to prevent risk to life or environmental harm.</p> <p>Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving must be limited to 8:00am to 12:00pm, Monday to Saturday; and 2:00pm to 5:00pm Monday to Friday.</p> <p>The person acting on this consent must not undertake such activities for more than three continuous hours and must provide a minimum of one 2 hour respite period between any two periods of such works. "Continuous" means any period during which there is less than an uninterrupted 60 minute respite period between temporarily halting and recommencing any of that intrusively noisy work.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>
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OCCUPATION AND ONGOING USE

		Condition				
19.	Noise General	<p>The proposed use of the premises and the operation of all plant and equipment must not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations, NSW EPA Noise Policy for Industry and NSW EPA Noise Guide for Local Government.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>				
20.	Plan of Management	<p>The operation of the premises complying at all times with the approved Plan of Management. The Plan of Management is not to be further amended without the prior written approval of the Council. If there is any inconsistency between the Plan of Management and the conditions of this consent, the conditions of consent shall prevail to the extent of that inconsistency.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>				
21.	Hours of Operation	<p>a. The hours of operation of the premises must not exceed the following:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Day</th> <th style="text-align: center;">Hours</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Monday to Sunday</td> <td style="text-align: center;">8:00am to 12:00am</td> </tr> </tbody> </table>	Day	Hours	Monday to Sunday	8:00am to 12:00am
Day	Hours					
Monday to Sunday	8:00am to 12:00am					

	<p>b. For a period of not more than 12 months from the date of this consent, the hours of operation of the premises must not exceed the following, subject to compliance with (c) and (d) below:</p> <table border="1" data-bbox="509 450 1272 510"> <thead> <tr> <th>Day</th> <th>Hours</th> </tr> </thead> <tbody> <tr> <td>Monday to Sunday</td> <td>24 hours</td> </tr> </tbody> </table> <p>c. All workshops, screenings and the like must be restricted between 8:00am and 12:00am.</p> <p>d. The upper rehearsal room and lower rehearsal room must be restricted to between 9:00am and 12:00am.</p> <p>e. A continuation of the extended hours will require a further application under the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>	Day	Hours	Monday to Sunday	24 hours
Day	Hours				
Monday to Sunday	24 hours				
<p>22.</p>	<p>Live Amplified Music</p> <p>There is to be no entertainment in the form of amplified music on any part of the premises outside of the rehearsal rooms and artist studios at any time.</p> <p>Whilst the rehearsal rooms are in operation the internal door to each rehearsal room shall be closed (except to allow ingress and egress).</p> <p>Reason: To protect the amenity of the neighbourhood.</p>				
<p>23.</p>	<p>Commercial Waste/Recycling Collection</p> <p>The collection of waste and recycling must only occur between 7:00am and 8:00pm weekdays and 9:00am and 5:00pm weekends and public holidays, to avoid noise disruption on the surrounding area.</p> <p>Garbage and recycling must not be placed on the street for collection more than one (1) hour before the scheduled collection time. Garbage bins and containers are to be removed from the street within one (1) hour after collection.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>				
<p>24.</p>	<p>Deliveries and Unloading</p> <p>The use of the Maude Street roller door entrance for deliveries, and unloading/loading of equipment is restricted to 8.00am to 8.00pm seven days per week.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>				
<p>25.</p>	<p>Use of Power Tools</p>				

	<p>The use of power tools within the artist and break out spaces is restricted to 8.00am to 8.00pm Monday to Friday, and 8.00am to 4.00pm Saturday, Sundays and Public Holidays.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>
26.	<p>Bin Storage</p> <p>Bin storage area is to be provided within the site that will fully accommodate the number of bins required for all waste generated by a development of this type and scale. The area must also include 50% allowance for manoeuvring of bins. The bin storage area is to be located away from habitable rooms, windows, doors and private useable open space, and to minimise potential impacts on neighbours in terms of aesthetics, noise and odour.</p> <p>The bin storage area is to meet the design requirements detailed in Marrickville DCP 2011 and must include doorways/entrance points of 1200mm.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>
27.	<p>Additional Storage Space</p> <p>There is to be a space allocated on site for the storage of reusable items such as crates and pallets and/or compaction equipment.</p> <p>Reason: To ensure waste and other items can be adequately stored on the site.</p>
28.	<p>Commercial Waste Collection Service</p> <p>All commercial waste, recyclable and other material collected by a private waste collector must have minimal impact on the surrounding properties.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>
29.	<p>Documentation of Businesses Waste Services</p> <p>All businesses must have written evidence of all valid and current contracts and/ or tip dockets for the disposal and/ or processing of all waste streams generated from the site.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>

Dictionary

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

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

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

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

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

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

Council means Inner West Council.

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

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

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

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

Local planning panel means Inner West Local Planning Panel.

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

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

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

Stormwater drainage system means all works and facilities relating to:
the collection of stormwater,

the reuse of stormwater,

the detention of stormwater,

the controlled release of stormwater, and

connections to easements and public stormwater systems.

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

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

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

Sydney district or regional planning panel means Sydney Eastern City Planning Panel.