



**CAMPBELLTOWN**  
CITY COUNCIL

# **LOCAL PLANNING PANEL**

23 FEBRUARY 2022



## MEETING NOTICE

### Campbelltown City Council Local Planning Panel

The meeting of the Campbelltown City Council Local Planning Panel will be held in Civic Centre, Campbelltown on **Wednesday, 23 February 2022 at .**

## MEETING AGENDA

### 1. ACKNOWLEDGEMENT OF LAND

I would like to acknowledge the Traditional Custodians, the Dharawal people, whose Lands we are now meeting on. I would like to pay my respects to the Dharawal Elders, past and present and all other Aboriginal people who are here today.

### 2. APOLOGIES

### 3. DECLARATIONS OF INTEREST

### 4. REPORTS

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- 4.1 Modification Application - Entertainment Facility (Nightclub) - 218-226 Queen Street, Campbelltown

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## **General Information**

The role of the Local Planning Panel is to determine development applications and provide advice on planning proposals.

When the panel is considering a report relating to a development application, the panel will receive and consider verbal submissions from the applicant and from any person that made a written submission in regard to that development application (during the notification or exhibition period).

As required by the Minister's Local Planning Panels Direction, when considering a planning proposal, the role of the panel is to provide advice to Council. The panel is the first step in the evaluation process before Council and the State Government (through the Gateway process) to decide whether to support a formal public exhibition or consultation period on the proposal. It is possible that the proposal will be modified before or as part of the consideration by Council and/or through the Gateway process. The panel will consider verbal submissions made in relation to the matter from the applicant, if there is one, and from any other person. The panel will not consider written submissions tabled at the meeting, however they will be accepted and passed on to Council officers for consideration in their report to Council.

Any person who makes a verbal submission to the panel must identify themselves and must also accept that their presentation will include their images and sounds and will be webcast and stored on Council's website for future viewing. Any person who makes a verbal submission to the panel must also declare before their submission any political contributions or donations they have made over the last four years exceeding \$1,000 to any political party or candidate who contested the last Ordinary Election of Council.

If you would like to make a verbal submission to the panel, it is necessary to submit the "request to address – community access to meetings" form available on Council's website by midday the day prior to the meeting. The panel chair will invite the registered speakers to the table at the appropriate time in the agenda. Verbal submissions to the panel will be limited to five minutes each. The chairperson has the discretion to extend the period if considered appropriate. Panel members will have the opportunity to ask your questions at the end of your submission.

**Recommendations of the Panel**

The reports are presented to the Local Planning Panel for its consideration and recommendation.

After the panel has considered submissions made by interested parties, the panel will make recommendations to the Council. The Panel's recommendations become public the day following the Local Planning Panel meeting.

**Information**

Should you require information about the panel or any item listed on the agenda, please contact Council's City Development Division on 4645 4575 between 8.30 am and 4.30pm.

The following reports are referred to the Local Planning Panel for its consideration and recommendation.

Lindy Deitz  
General Manager

## 4. REPORTS

### 4.1 Modification Application - Entertainment Facility (Nightclub) - 218-226 Queen Street, Campbelltown

#### Community Strategic Plan

Objective	Strategy
3 Outcome Three: A Thriving, Attractive City	3.4 - Retain and expand existing businesses and attract new enterprises to Campbelltown, offering opportunities for a diverse workforce including professional, technology and knowledge based skills and creative capacity

#### Referral Criteria

This modification application is seeking to alter conditions of a development consent granted by the Campbelltown Local Planning Panel (the Panel) for an entertainment facility (nightclub) at No.218-226 Queen Street, Campbelltown.

In accordance with the Ministerial Direction, Local Planning Panels are to determine applications under Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* for the modification of development consents granted by the panel that:

- Propose amendments to a condition of development consent recommended in the council assessment report but which was amended by the Panel, or
- Propose amendments to a condition of development consent that was not included in the council assessment report but which was added by the Panel, or
- Meet the criteria for development applications set out in the Schedules to this direction relating to conflict of interest, contentious development or departure from development standards.

Condition No.2 was modified by the Panel and condition No.2A was added by the Panel. Therefore this modification application is to be determined by the Panel.

#### Executive Summary

- Council has received a modification application seeking to modify a development consent for internal construction works at, and the change of use of, No.218-226 Queen Street, Campbelltown to an entertainment facility (nightclub).
- The development application was approved by the Campbelltown Local Planning Panel at its meeting on 25 November 2020. The Notice of Determination is shown in attachment 2.

- The proposed modifications are to conditions of consent relating to the hours of operation, trial period, plan of management and car parking.
- The subject site is zoned B3 Commercial Core under Campbelltown Local Environmental Plan, 2015.
- The modification application was notified from 6 July 2021 to 26 July 2021. No submissions were received.
- The modification application was referred to NSW Police on 6 July 2021 who have provided their comments which are discussed in detail in this report.
- It is recommended that the modification application be refused for the reasons listed in attachment 1.

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### Officer's Recommendation

That modification application 3989/2019/DA-U/A, seeking to modify the development consent for the fitout and use of premises at 218-226 Queen Street, Campbelltown as an entertainment facility (nightclub) be refused for the reasons listed in attachment 1.

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### Purpose

To assist Campbelltown Local Planning Panel in its determination of the subject application in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

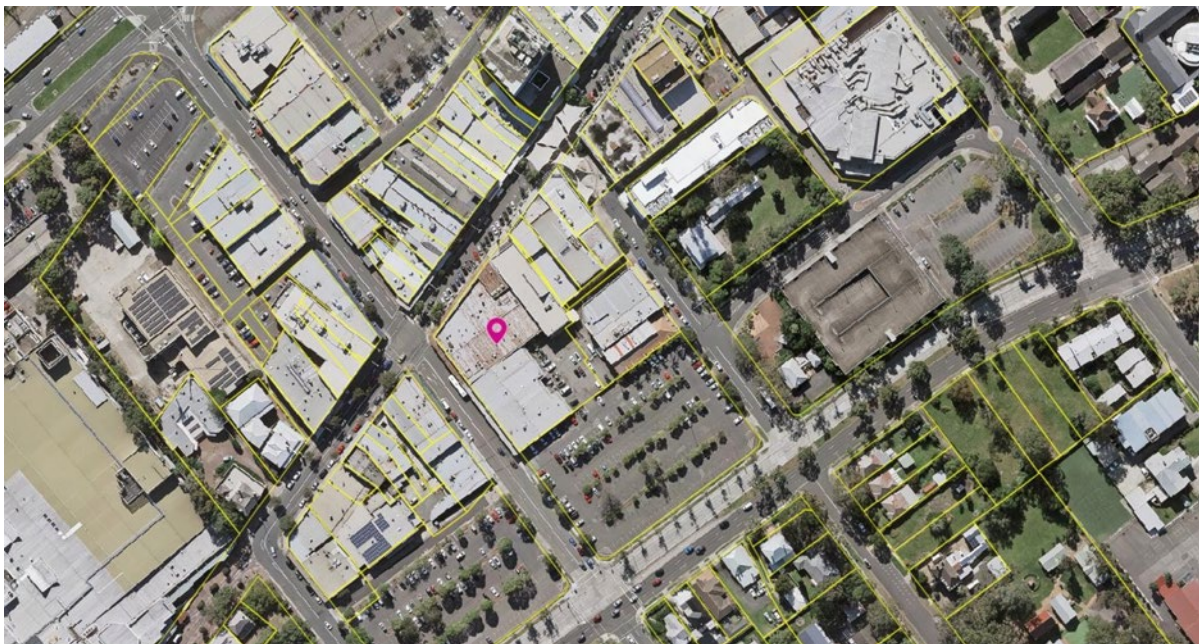
<b>Property Description</b>	Lot 10 DP 1178627, 218-226 Queen Street, Campbelltown
<b>Application No</b>	3989/2019/DA-U/A
<b>Applicant</b>	Mr Mick Mijatovic
<b>Owner</b>	HP Advance Pty Ltd
<b>Provisions</b>	State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy No.55 – Remediation of Land State Environmental Planning Policy (Sydney Region Growth Centres) 2006 Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment Campbelltown Local Environmental Plan 2015 Campbelltown (Sustainable City) Development Control Plan 2015
<b>Other Provisions</b>	Campbelltown 2027 – Community Strategic Plan
<b>Date Received</b>	29 June 2021

## Report

### The Site and Locality

The subject site is located on the southern side of Queen Street and has a site area of approximately 4,556 m<sup>2</sup> and a frontage of approximately 62.2 m to Queen Street. There are multiple tenancies on the subject site that are used for a range of retail and commercial uses, with 27 car parking spaces provided at the rear of the premises for the benefit and use of the tenancies.

The subject tenancy is 2 storeys in height and is currently vacant. An aerial photo of the site is shown in Figure 1.



**Figure 1:** Site location map, subject site identified with the pin (Source: Spectrum Spatial Analysis)

The surrounding locality consists of a range of commercial and retail uses within Queen Street. Directly adjoining to the rear of the site is a Council owned car park consisting of approximately 274 car parking spaces. The site is also approximately 520 m walking distance from Campbelltown Railway Station. There are several heritage items on Queen Street and Lithgow Street but none of these are adjacent to the premises.

### The Proposal

The application submitted is for the modification to several conditions of the development consent that was granted by the Campbelltown Local Planning Panel on 25 November 2020. The proposed modifications are detailed below.

#### Condition No. 2 - Hours of Operation

Condition No. 2 currently states:

2. The hours of operation are as follows except where otherwise advised in this consent:



- a) Except where otherwise allowed by this consent, the hours of operation must be restricted to between 8:00 pm and 12:00 am (midnight) Monday to Sunday, inclusive.
- b) Notwithstanding (a) above, the use may operate between 12:00 am (midnight) and 3:00 am Wednesday to Sunday, inclusive and on any public holiday for a trial period of 12 months from the date of the Occupation Certificate. Council is to be notified in writing of the date of commencement of the trial hours within 14 days prior to commencement. The trial period is not to extend beyond 12 months from the issue of the occupation certificate and commencement of the use of the premises as an entertainment facility.
- c) A further application may be lodged to continue the operating hours outlined in (b) above not less than 30 days before the end of the trial period. Council's consideration of a proposed continuation and/or extension of the hours permitted by the trial will be based on, among other things, the performance of the operator in relation to the compliance with development consent conditions, any substantiated complaints received and any views expressed by the Police.

This condition was applied to give the use an opportunity to operate until 3:00 am for a trial period of 12 months to determine whether the operation of the use would cause any adverse social impacts in response to concerns raised by the NSW Police.

### **Condition No. 2 – Applicant's request**

The applicant is proposing to amend condition no. 2 to delete the trial period and requests that the condition be modified to read as follows:

2. The hours of operation are as follows except where otherwise advised in this consent:

Monday and Tuesday 8:00 pm – 12:00 am (midnight)  
Wednesday – Sunday 8:00 pm – 3:00 am  
Public Holidays 8:00 pm – 3:00 am

The proposed modification as requested would allow a fully operational consent with the abovementioned operating hours. The applicant argues that limiting the operation of the nightclub until midnight would not be conducive for the nightclub given the nature of the operation and would not create a sustainable vibrant business in Campbelltown. It is further argued that the 12 month trial period is a burden to the feasibility of ongoing operations of the nightclub and given that the lease for the subject site is a fixed term lease for 5 years, there is no security for the operators of the nightclub which may lead to defaulting on the lease.

In addition, the applicant advises that the nightclub would be bound by any requirements of NSW Liquor and Gaming Authority including fines, the ability to cancel the liquor license and shut down periods if the nightclub is considered to be a threat to public health or safety or a risk of serious property damages. This would ensure that the nightclub is operated without any adverse social impacts.

### **Condition No. 2A – Plan of Management**

Condition No. 2A was added by the Local Planning Panel to update the Plan of Management with the operating hours specified in Condition No.2. Condition No. 2A currently states:

- 2A. The entertainment facility (nightclub) shall operate in accordance with an approved plan of management at all times. The Plan of Management Version 2 shall be updated to reflect the hours of operation in condition 2 of this consent and submitted to Council for approval prior to the issue of any Construction Certificate.

**Condition No. 2A – Applicant’s request**

The modification application seeks the deletion of this condition as it would no longer apply should condition No.2 be modified as requested.

**Condition No.7 – Trial Period of Consent**

Condition No.7 – Trial period of Consent was applied to give the use an opportunity to operate for 2 years to assess whether there would be any adverse social impacts as a result. Condition No. 7 currently states:

7. This consent will lapse 24 months from the release of the occupation certificate and commencement of the use of the premises as an entertainment facility. Written notification shall be provided to Council of the commencement date within 14 days of commencement.

**Condition No. 7 – Applicant’s request**

The modification application seeks the deletion of Condition No. 7 for the same reasons as detailed for the modification of Condition No.2.

**Condition No.10(j) – Nightclub**

Condition No.10 – Nightclub currently states:

10. The operation of the premises shall be carried out in accordance with the following requirements:
- a. The operation of the premises shall be carried out in accordance with the plan of management approved with this consent and any other Police requirements;
  - b. The installation of CCTV surveillance cameras in and around the premises, placed in strategic places such as the external entrance and exit doors. The surveillance tapes shall be kept for a minimum period of 14 days for viewing by the Police upon request.
  - c. Footpath lighting shall be provided along the front entrance for the full frontage of the site. The location, design and illumination of such lighting shall ensure pedestrian safety and shall be at a minimum level of 10 lux in the horizontal and vertical plane.
  - d. The management/licensee shall ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood. In this regard, the management shall be responsible for the control of noise, loitering and litter generated by patrons of the premises and shall ensure that people leave the premises and area in an orderly manner. If so directed by the Police or Council, the

- management is to employ private security staff to ensure that this condition is complied with to the satisfaction of Council.
- e. The management/licensee shall prevent patrons removing glasses, opened cans, bottles or alcohol from the premises (except from any approved Bottle Shop area).
  - f. Signs shall be placed in clearly visible positions within the hotel requesting patrons upon leaving the premises to do so quickly and quietly, having regard to maintaining the amenity of the area.
  - g. In addition to the sign showing the licensee's name, there shall be affixed alongside, details of the maximum number of persons permitted in the premises, in letters not less than 25 mm, displayed at the main front entrance of the premises. The overall size of both signs shall not exceed 600 mm in height or width in total.
  - h. A public telephone and a breathalyser shall be installed inside the premises for patrons to use at all times.
  - i. The use of the premises shall not give rise to any one or more of the following:
    - i. Transmission of vibration to any place of different occupancy greater than specified in Australian Standard 2670 (as amended).
    - ii. An indoor sound pressure level in any place of different occupancy (and/or public place) greater than 3dB above the L90 background level or greater than 5dB at the boundary of any affected property in any octave band from 31.5 Hz to 8,000 Hz centre frequencies inclusive between the hours of 8:00 am to 10:00 pm daily and 0dB above the L90 background between 10:00 pm and 8:00 am the following morning.
    - iii. A sound level at any point on the boundary of the site greater than the background levels specified in Australian Standard 1055 (as amended). Acoustics - Description and Measurement of Environmental Noise.
    - iv. The "emission of an offensive noise" specified under the Protection of the *Environment (Operations) Act 1997*.
    - v. The emission into the surrounding environment of gases, vapours, dust, or other impurities which are a nuisance or injurious or dangerous or prejudicial to health.
    - vi. The method of measurement of vibration in i and sound levels in ii, iii, and iv shall be carried out in accordance with Australian Standard 2973 (as amended) for vibration measurements. Australian Standard 1055 (as amended) for outdoor sound level measurements, and Australian Standard 2107 (as amended) for indoor sound level measurements.
  - j. The applicant shall appoint a suitably qualified acoustic engineer to measure and verify that noise emanating from the premises, at the nearest residential boundary, is not above the ambient background noise level (with such measurement being made between 8:00 pm and midnight), while entertainment is being provided on the first 3 occasions and shall make recommendations to ensure the entertainment is inaudible at the nearest

residential property. The results of such measurements shall be submitted to Council, and no further public entertainment shall take place until such time as any necessary recommendations of the acoustic consultant of other matters considered appropriate by Council have been satisfactorily implemented.

#### **Condition No. 10(j) – Applicant’s request**

The modification application seeks to modify condition 10(j) to state the following:

- j. The applicant shall appoint a suitably qualified acoustic engineer to measure and verify that noise emanating from the premises, at the nearest residential boundary, is not above the ambient background noise level (with such measurement being made between 8:00 pm and midnight), while entertainment is being provided on the first 3 occasions and shall make recommendations to ensure the entertainment is inaudible at the nearest residential property. The results of such measurements shall be submitted to Council for approval. Public entertainment is permitted to continue as per usual until Council approves the acoustic findings.

The applicant argues that ceasing nightclub operations until Council resolves any potential acoustic issues would be detrimental the business as well as staff who would lose their jobs. The requested modification ensures that the use can continue whilst acoustic issues are being resolved.

#### **Condition No.11 – Car Parking Spaces**

Condition No.11 – Car Parking Spaces currently states:

11. Twenty seven car parking spaces shall be designed, sealed, line marked and made available to all users of the site in accordance with Australian Standards 2890.1 and 2 (as amended). Disabled car parking spaces are to be provided at the rate as specified within the relevant Australian Standards and/or Building Code of Australia, whichever is the greatest.

The car park shall be maintained in a good state of repair with the surface deformations and potholes repaired and line marking maintained to ensure car park capacity is retained and trip hazards are minimised.

#### **Condition No. 11 – Applicant’s request**

The modification application seeks to modify this condition by removing the word ‘sealed’ so that it states the following:

11. Twenty seven car parking spaces shall be designed, line marked and made available to all users of the site in accordance with Australian Standards 2890.1 and 2 (as amended). Disabled car parking spaces are to be provided at the rate as specified within the relevant Australian Standards and/or Building Code of Australia, whichever is the greatest.

The car park shall be maintained in a good state of repair with the surface deformations and potholes repaired and line marking maintained to ensure car park capacity is retained and trip hazards are minimised.

The applicant argues that the existing car park is in a workable condition and is not required to be sealed. It is further argued that the economic cost of re-sealing the car park would be significant and that it should be the responsibility of the owner of the site to seal the car park given that there are other tenancies using the spaces during normal business hours.

There are no changes proposed to the approved internal construction works.

## **1. Vision**

### Campbelltown 2027 Community Strategic Plan

Campbelltown 2027 is the Community Strategic Plan for the City of Campbelltown. The Strategic Plan addresses four key strategic outcomes that Council and other stakeholders will work to achieve over the next 10 years:

- Outcome 1: A vibrant, liveable city
- Outcome 2: A respected and protected natural environment
- Outcome 3: A thriving, attractive city
- Outcome 4: A successful city

Outcome 3 is most relevant to the proposed development. The relevant strategy to this proposed development is:

- 3.4 - Retain and expand existing businesses and attract new enterprises to Campbelltown, offering opportunities for a diverse workplace including professional, technology and knowledge based skills and creative space.

The proposed modifications would still provide a development that would attract a new enterprise to Campbelltown and offer further opportunities for local employment.

However, it is noted that the use would have the potential to attract anti-social behaviour, and may have a negative impact on the ability for the precinct to attract new businesses hence the original approval granted a trial consent to determine whether this would be the case or not and give Council and the Police a chance to address any issues that occurred during this trial period. By deleting the condition relating to the trial period, the opportunity to determine whether the use would have a negative impact is not available and therefore it is considered that the proposed modifications are not consistent with the Community Strategic Plan.

## **2. Planning Provisions**

The development and proposed modification have been assessed in accordance with the heads of consideration under Section 4.15 of the EP&A Act and having regard to those matters the following issues have been identified for further consideration.

### **2.1 Environmental Planning and Assessment Act 1979 – Section 4.55(2)**

It is considered that the proposed modification is a modification under Section 4.55(2) of the EP&A Act given that the proposed modifications have the potential to have an environmental impact. Section 4.55(2) of the EP&A Act states the following:

- (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
  - (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 concurrence to the consent or in accordance with the general terms of 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 modifications of a development consent, and
  - (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.

Subsections (1) and (1A) do not apply to such a modification.

The modifications requested in the modification application are such that the development would remain substantially the same development if the modification application was approved. Consultation with the Minister or concurrence from another authority or body is not required. The modification was notified in accordance with the Regulations and Council's Community Participation Plan. As such, the proposed modifications are consistent with Section 4.55(2).

## **2.2 State Environmental Planning Policy No.55 – Remediation of Land**

State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55) aims to provide a State wide planning approach for the remediation of contaminated land.

Clause 7(2) of SEPP 55 states that a consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned in accordance with the contaminated land guidelines. The subject site has predominately been used for retail/commercial purposes with the current use operating for a number of years. The site has not been used for any purpose that is deemed to be potentially contaminated and has not been identified as being contaminated. Any potential contamination issues were addressed in the assessment of the original development application with the proposed modifications not having any further contamination issues.

### **2.3 Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment**

The proposed development is within the Georges River Catchment and as such this policy applies. The general aims and objectives of this plan are as follows:

- a) To maintain and improve the water quality and river flows of the Georges River and its tributaries and ensure that development is managed in a manner that is in keeping with the national, State, regional and local significance of the Catchment.
- b) To protect and enhance the environmental quality of the Catchment for the benefit of all users through the management and use of the resources in the Catchment in an ecologically sustainable manner.
- c) To ensure consistency with local environmental plans and also in the delivery of the principles of ecologically sustainable development in the assessment of development within the Catchment where there is potential to impact adversely on groundwater and on the water quality and river flows within the Georges River or its tributaries.
- d) To establish a consistent and coordinated approach to environmental planning and assessment for land along the Georges River and its tributaries and to promote integrated catchment management policies and programs in the planning and management of the Catchment.
- e) (Repealed)
- f) To provide a mechanism that assists in achieving the water quality objectives and river flow objectives agreed under the Water Reform Package.

The proposed modifications do not conflict with any of the relevant provisions of the Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment, and are therefore considered acceptable in this regard.

### **2.4 State Environmental Planning Policy (Sydney Region Growth Centres) 2006**

State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (GC SEPP) was amended on 6 December 2019 to include the Greater Macarthur Growth Area as a designated growth centre. As there are no savings provisions associated with the amendment, the GC SEPP applies to the subject development.

The GC SEPP does not include a precinct plan for the Greater Macarthur Growth Area, and therefore Clause 16 of the GC SEPP is to be considered. In this regard, the following should be noted:

- The Campbelltown Precinct Plan released under the Glenfield to Macarthur Urban Renewal Corridor Strategy (which is not a Precinct Plan for the purposes of the GC SEPP but is rather a structure plan) indicates that the subject site would be “Commercial and Retail Core”. This implies that a future land use zoning of B3 Commercial Core would apply. As the proposed use is permissible with consent in the B3 Commercial Core zone, the proposed development is consistent with the relevant precinct planning strategy.

- The cost and scale of the proposed development are relatively minor and as such, there would be no adverse impacts if the land were to be rezoned to reflect the land uses identified under the Corridor Strategy.

In conclusion, the proposed modifications do not alter the consistency of the approved development with the GC SEPP.

## **2.5 Campbelltown Local Environmental Plan 2015**

The subject site is zoned B3 Commercial Core under the provisions of Campbelltown Local Environmental Plan 2015 (CLEP 2015). The objectives of the B3 Commercial Core zone are:

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To accommodate redevelopment, enhancement and vitality of centres by facilitating mixed use development.

It is a requirement of the CLEP 2015 that the proposed development be consistent with one or more objectives of the zone. The proposed development as modified would still provide an entertainment use that would serve the needs of the local and wider community and encourage employment opportunities in an accessible location.

## **2.6 Campbelltown (Sustainable City) Development Control Plan 2015**

Campbelltown (Sustainable City) Development Control Plan 2015 (SCDCP) applies to the subject land. The aims of the SCDCP are:

- To ensure that the aims and objectives of the CLEP 2015 are complemented by the Plan
- Ensure that the principles of ecological sustainability are incorporated into the design, construction and ongoing operation of development
- Facilitate innovative development of high quality design and construction in the City of Campbelltown
- Ensure that new development maintains or enhances the character and quality of the natural and built environment
- Ensure that new development takes place on land that is capable of supporting development
- Encourage the creation of safe, secure and liveable environments
- Ensure that new development minimises the consumption of energy and other finite resources, to conserve environmental assets and to reduce greenhouse gas emissions; and



- Provide for the design requirements for a variety of housing within the City of Campbelltown.

It is considered that the development is consistent with the relevant aims of the SCDCP as it would facilitate a development on land that is capable of supporting development. The proposed modifications do not alter the consistency of the proposed development with the SCDCP.

## **Part 2 – Requirements applying to all Types of Development**

The general provisions of Part 2 of the Plan apply to all types of development and were satisfied in the approval of the original development application. Compliance with the relevant provisions of Part 2 of the Plan is discussed below.

**Site Analysis Plan** – The modification application does not seek any changes to the approved site plan.

**Views and Vistas** – The proposed use would not impact upon views and vistas from public places of significance.

**Sustainable Building Design** – The building is an existing building and as the proposed development is for a use and internal construction works, a BASIX certificate is not required.

**Landscaping** – A landscape plan is not considered necessary in the circumstances of the case.

**Weed Management** – Not applicable.

**Erosion and Sediment Control** – All construction works are within the building and therefore an erosion and sediment control plan is not required.

**Cut, Fill and Floor Levels** – Not applicable.

**Demolition** – No changes are proposed to the previously approved demolition works.

**Water Cycle Management** – The proposal is for development within an existing building that is already connected to Council's stormwater system.

**Heritage Conservation** – The subject site does not contain a heritage item and is not within a heritage conservation area.

**Retaining Walls** – No retaining walls are required.

**Security** – See discussion in section 3.2 of this report.

**Risk Management** – The subject site is not affected by mine subsidence, contamination, salinity nor it is within a bushfire prone area.

**Waste Management** – The proposed modifications do not modify the previous waste management practices as approved.

**Provision of Services** – The site has access to suitable water, electricity and sewage services.

**Work On, Over or Near Public Land** – No work is required on, over or near public land.

**Work on Land Adjacent to the Upper Canal Corridor** – Not applicable.

**Development Near or on Electricity Easements** – Not Applicable.

**Development on Land Adjacent to, or Affected by a Gas Easement** – Not Applicable.

## **Part 6 – Commercial Development**

Part 6 – Commercial Development sets out the requirements for commercial development including entertainment venues within the City of Campbelltown. The proposed modifications do not change any component of the development to which this part applied as previously approved. As such, the proposal still complies with Part 6 – Commercial Development. A discussion on car parking required by the SCDCP is contained below.

### **3. Planning Assessment**

#### **3.1 Impacts on the natural and built environment**

Section 4.15(1)(b) of the EP&A Act requires the consent authority to assess the development's potential impacts on the natural and built environment.

The key matter for consideration when considering the development's impact on the natural and built environment in relation to the proposed development is car parking.

#### **Car Parking**

The subject premises includes 27 car parking spaces located to the rear of the building. In addition, there are over 400 free public car parking spaces within a short walking distance from the premises. A late night taxi rank (2 spaces) is located on the northern side of Queen Street adjacent to the '4 Bargain Hunters' retail premises. The site is within walking distance of Campbelltown Railway Station.

The modification application includes a request for the alteration of condition No.11 to delete the word 'sealed' such that no further work is required to be done to the car park area apart from line marking the spaces. The applicant argues that the car park is in a workable condition and is not required to be sealed due to the economic burden placed on the nightclub owners to seal the entire car park which are also made available to other tenancies.

The nightclub was approved despite non-compliance with the number of car parking spaces required by the SCDCP, with only 27 spaces available on site instead of the 42 required. Approval was reasonably granted on the basis that the hours of operation of the nightclub meant that there is limited use by other business on the site and because car parking spaces were in the public car park located to the rear.

Further dispensation was given in relation to the requirement to pay car parking contributions even though the site falls within the Campbelltown CBD car parking contributions area, given that the consent is for a time limited period and there is available public car parking capacity in the vicinity of the site within the nightclub's hours of operation .

The current surface of the car park is need of repair with surface deformations and pot holes. The surface deformations and pot holes give rise to trip hazards (particularly at night) for patrons and staff using the car park, create a distraction for drivers making them focus on avoiding the obstacle instead of pedestrians and create unnecessary noise. As can be seen in Figure 2 below, the existing car park is not currently in a safe state of repair with works required to formalise the layout of the car park and provide a stable surface.

The intent of the current condition does not necessarily seek the full redesign or resealing of the whole car park. This element (first sentence) of condition 11 is describing the state the car park should be. In the main, with the exception of surface deformations and potholes, the carpark is already sealed. In complying with the active part of the condition which requires the surface deformations and potholes to be repaired and line marking maintained to ensure car park capacity is retained and trip hazards are minimised. Works are required with the end state in mind being that the carpark is sealed, complies with the relevant pedestrian safety and accessibility standards, and incorporates accessible car parking.

The condition is deemed to have planning purpose, has been included to ensure the ongoing safety of patrons, and is therefore is considered reasonable in its application.

It is therefore recommended that this condition not be modified and retained as originally approved.



**Figure 2:** Photograph of car park

### **3.2 Social, economic and environmental impacts**

Section 4.15(1)(b) of the EP&A Act requires the consent authority to assess the likely impacts of the development, including social and economic impacts in the locality. The social, economic and environmental impacts associated with the proposed are discussed below.

### **Acoustic Impacts**

The modification application seeks amendment of Condition No. 10(j) in regards to the potential acoustic issues associated with the proposed use. The modification proposes to modify the condition to allow the use to continue operating until the acoustic findings are approved by Council as opposed to ceasing the use during this time. The applicant argues that ceasing the use until Council is satisfied with the acoustic results is detrimental to the operation, the town centre, the workers and the success of the entertainment facility.

It is noted that the NSW Police do not object to the modification of Condition No. 10(j).

It is considered that the condition is not unreasonable and should remain as originally approved. Acoustic issues are a major concern of the use as a nightclub given that music and live entertainment would be provided each night with the condition ensuring that the use would not negatively impact upon the nearest residential receivers. Ceasing operation of the use while acoustic measures are implemented will ensure that there would not be any adverse acoustic issues. The wording sought by the applicant does not provide any certainty or encouragement for acoustic issues to be remedied in a timely manner.

### **Crime Prevention Through Environmental Design**

Crime Prevention Through Environmental Design was assessed in the original development application given that the applicant submitted a Crime Prevention Through Environmental Design (CPTED) report as well as the original proposal being referred to the NSW Police Force.

The original proposal was not supported by NSW Police Force due to the potential for crime, anti-social behaviour and alcohol fuelled related issues. Notwithstanding, the original response from NSW Police requested that where the application was to be approved, specific additional conditions be included in the consent in order to reduce the potential for anti-social behaviour and improve the NSW Police Force's ability to successfully investigate a matter, in the case that the need for a Police investigation eventuates.

The modification application was referred to The Police for comment. The Police stated that Condition No.2 should remain in place however recommended that Council provide some leniency towards the use continuing to operate whilst the new DA for continuation of the operating hours is being assessed if possible.

The proposed modification to Condition No.2 seeks to modify the condition to delete the trial period of consent and allow a fully operational consent with hours of operation being until 3am Wednesday to Sunday including Public Holidays.

The applicant argues that the trial period does not provide longevity for the use and would negatively impact on the operation of the nightclub given the lease requirements is a 5 year lease contract. The applicant further argues that the use of the nightclub and any associated issues can be managed by other external authorities such as NSW Liquor and Gaming therefore a trial period is not required as there will be other means to deal with any issues that arise.

Notwithstanding the above, it is considered that a trial period of consent is appropriate given the type of use. The condition is consistent with trial periods conditions issued for similar uses and trading hours all throughout Metropolitan Sydney. While the limitations on the operation are consequential, there has been no other suitable mechanism proposed that will provide the

community with an ultimate protection from the risk of uncontrolled anti-social behaviour. In this regard, the trial period is considered to be reasonable and it is recommended that it be retained.

Where the trial period and operating hours are retained as recommended, it follows that condition No.2A regarding the plan of management should be retained. If the Panel is of the view that condition 2 should be modified as requested, then there is no objection to the deletion of condition 2A.

### **3.3 Suitability of the Site**

Section 4.15(1)(c) of the EP&A Act requires the consent authority to assess the suitability of the site for the proposed development.

The proposed modifications would still provide a development that is permissible within the zone and would still be accessible by various modes of public transport. The conditions as originally applied would ensure a satisfactory car park area is provided and suitable measures are in place to ensure the amenity of the site and surrounds.

### **3.4 Public Interest**

The public interest is a comprehensive requirement that requires the consent authority to consider impacts of the development and the suitability of the proposal in a wider context.

The proposed development type as originally approved with conditions of consent would ensure that the use would not lead to or result in a detrimental impact on the locality. Modifications to these conditions as proposed would not provide enough of a guarantee that any associated adverse impacts would be dealt with and addressed sufficiently.

The conditions remaining as originally applied will provide Council and the NSW Police Force an opportunity to understand and assess the impacts of the proposal on its surroundings. The original conditions will also provide a more commercially viable timeframe during which the operator will have time to address issues that might arise from time to time to demonstrate the premises is capable of operating without having an amenity impact on its neighbours.

Where the management of the site during the trial period is in keeping with the not unreasonable expectations of the community, it is envisaged that the conditions relating to the trial period would be removed, with the consent becoming permanent at the end of the trial period.

## **4. Public Participation**

Section 4.15(1)(d) of the EP&A Act requires the Panel to consider submissions. The modification application was notified to adjoining and nearby properties from 6 July 2021 until 26 July 2021.

No submissions were received.

## **5. Conclusion**

The modification application has been assessed against the provisions of Section 4.15 and Section 4.55 of the *Environmental Planning and Assessment Act 1979*. The proposed modifications still provide a development that is permissible with consent under the provisions of Campbelltown Local Environmental Plan 2015 and is consistent with the objectives of the B3 Commercial Core Zone.

Having regard to the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed modifications to the original conditions of consent would not adequately ensure that any adverse issues that may arise from the ongoing use would be addressed.

The NSW Police Force had raised a number of concerns relating to potential crime and reduced safety as a consequence of the operation of the nightclub in the original application which were closely considered as part of the assessment and as a result a number of conditions were applied.

The trial period condition provides the opportunity to limit the hours of operation where the use is found to be operating not in accordance with the conditions of consent, having an adverse impact on the amenity and safety of the area, or where any increase in the occurrence of anti-social behavioural or crime related activities can be shown to be a consequence of the use of the site as a nightclub.

It is recommended that the proposed modification be refused for the reasons outlined in attachment 1.

## **Attachments**

1. Reasons for Refusal (contained within this report)
2. Original Notice of Determination (contained within this report)
3. Local Planning Panel Report 25 November 2020 (contained within this report)
4. Local Planning Panel Minutes 25 November 2020 (contained within this report)

## **Reporting Officer**

Executive Manager Urban Centres

**REASONS FOR REFUSAL**

The Modification Application 3989/2019/DA-U/A seeking to modify the development consent for the change of use and construction of internal works for use an entertainment facility (Nightclub) at No.216-228 Queen Street, Campbelltown is refused for the following reasons:

1. The modifications sought to the development consent would prevent the protection of the local area from any potential unreasonable adverse impacts from the development with regard to the following:
  - Anti-social behaviour, and
  - Acoustic issues on the nearest residential areas
2. The modification sought would not make certain that an adequate and safe car park area would be provided for use by the patrons of the development.
3. It is considered that in the circumstances of the case, approval of the modifications would set an undesirable precedent for similar inappropriate development and is therefore not in the public interest.

**END OF CONDITIONS**

Rdp Consultancy  
9 Hambledon Cct  
HARRINGTON PARK NSW 2567

### **NOTICE OF DETERMINATION**

Development Application No.: 3989/2019/DA-U

#### **Approval issued under Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979**

The application was approved by the Campbelltown Local Planning Panel at its meeting on 25 November 2020.

This Consent will lapse unless the development is commenced within two (2) years from the effective date of this determination or as otherwise provided under Section 4.53 of the Act.

Division 8.2 of the Act may allow an applicant who is dissatisfied with the determination of an application, a right to request Council review its determination within six (6) months from the date of this notice.

Section 8.7 of the Act allows an applicant who is dissatisfied with the determination of a consent authority, a right of appeal to the Land and Environment Court within six (6) months from the date of this notice.

**Property:** Lot 10 DP 1178627,  
Endeavour Square, 218-226 Queen Street, CAMPBELLTOWN

**Development:** Change of use and construction of internal works for use as an entertainment facility (Nightclub)

**Effective date of this determination:** 25 November 2020

David Smith  
**Executive Manager Urban Centres**  
Contact: Michelle Penna – 4645 4608



**Conditions of Consent of DA No. 3989/2019/DA-U****GENERAL CONDITIONS**

The following conditions have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land.

For the purpose of these conditions, the term 'applicant' means any person who has the authority to act on or benefit of the development consent.

**1. Approved Development**

The development shall be carried out in accordance with the approved plans and documents listed in the table below, and all associated documentation supporting this consent, except as modified in red by Council and / or any conditions within.

<b>Plan Detail</b>	<b>Job Number</b>	<b>Prepared by</b>	<b>Date</b>
Site Plan	19239-1	Space Plus Architecture and Interior Design	2 December 2019
Existing Ground and First Floor Plan	19239-2	Space Plus Architecture and Interior Design	2 December 2019
Proposed Ground Floor and First Floor Plan	19239-3, Revision A	Space Plus Architecture and Interior Design	28 June 2020
CCTV & Lighting Plan	19239-4, Revision A	Space Plus Architecture and Interior Design	28 June 2020
Elevations and Section Plan	19239-5	Space Plus Architecture and Interior Design	2 December 2019
Kitchen Detail Plan	19239-6, Revision A	Space Plus Architecture and Interior Design	28 June 2020
Bar 1 Detail Plan	19239-7, Revision A	Space Plus Architecture and Interior Design	28 June 2020
Bar 2 Detail Plan	19239-8, Revision A	Space Plus Architecture and Interior Design	28 June 2020

- BCA/ Fire Safety Report, prepared by NSW Building Approvals and dated 9 December 2019.
- Operational Noise Emission Assessment, prepared by Acoustic Dynamics and dated 12 December 2019.
- DDA & Access Assessment Report, prepared by Knisco and dated 2 August 2020.
- Accessibility Performance Solution Report, prepared by Knisco and dated 2 August 2020.

**Conditions of Consent of DA No. 3989/2019/DA-U****2. Hours of Operation**

The hours of operation are as follows except where otherwise advised in this consent:

- a) Except where otherwise allowed by this consent, the hours of operation must be restricted to between 8pm and 12am (midnight) Monday to Sunday, inclusive.
- b) Notwithstanding (a) above, the use may operate between 12am (midnight) and 3am Wednesday to Sunday, inclusive and on any public holiday for a trial period of 12 months from the date of the Occupation Certificate. Council is to be notified in writing of the date of commencement of the trial hours within 14 days prior to commencement. The trial period is not to extend beyond 12 months from the issue of the occupation certificate and commencement of the use of the premises as an entertainment facility.
- c) A further application may be lodged to continue the operating hours outlined in (b) above not less than 30 days before the end of the trial period. Council's consideration of a proposed continuation and/or extension of the hours permitted by the trial will be based on, among other things, the performance of the operator in relation to the compliance with development consent conditions, any substantiated complaints received and any views expressed by the Police.

**2A. Plan of Management**

The entertainment facility (nightclub) shall operate in accordance with an approved plan of management at all times. The Plan of Management Version 2 shall be updated to reflect the hours of operation in condition 2 of this consent and submitted to Council for approval prior to the issue of any Construction Certificate.

**3. Maximum Capacity of Persons**

- a) The maximum number of patrons permitted in the premises at any one time is 500 persons, subject to any limits imposed by other relevant legislative requirements.
- b) The manager/licensee is responsible for ensuring the number of persons in the premises does not exceed that specified above.
- c) A sign in letters not less than 25mm in height must be fixed at the main entry point to the premises alongside the Licensee's name stating the maximum number of persons, as specified in the development consent, that are permitted in the building. Details are to be provided to the satisfaction of the appointed Principal Certifier prior to the issue of an Occupation Certificate.
- d) Note: Clause 98D of the *Environmental Planning and Assessment Regulation 2000* requires a sign specifying the maximum number of persons permitted in the building to be displayed in a prominent position for the following types of premises:
  - i. entertainment venue,
  - ii. function centre,
  - iii. pub,
  - iv. registered club,

**Conditions of Consent of DA No. 3989/2019/DA-U**

v. restaurant.

**4. Sale of Alcohol**

Prior to the sale of alcohol on the premises, an on-premises liquor licence is required to be approved by the appropriate authority.

**5. Building Code of Australia**

All building work must be carried out in accordance with the provisions of the *Building Code of Australia*. In this clause, a reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application for the relevant construction certificate is made.

**6. Advertising Signs – Separate DA Required**

This consent does not permit the erection or display of any advertising signs.

Most advertising signs or structures require development consent. You should make separate enquiries with Council prior to erecting or displaying any advertising or signage.

**7. Trial Period of Consent**

This consent will lapse twenty (24) months from the release of the occupation certificate and commencement of the use of the premises as an entertainment facility. Written notification shall be provided to Council of the commencement date within 14 days of commencement.

**8. Storage of Goods**

All works, storage and display of goods, materials and any other item associated with the premises shall be contained wholly within the building.

**9. Graffiti Removal**

In accordance with the environmental maintenance objectives of 'Crime Prevention Through Environmental Design', the owner/lessee of the building shall be responsible for the removal of any graffiti which appears on the buildings, fences, signs and other surfaces of the property within 48 hours of its application.

**10. Nightclub**

The operation of the premises shall be carried out in accordance with the following requirements:

- a. The operation of the premises shall be carried out in accordance with the plan of management approved with this consent and any other Police requirements;
- b. The installation of CCTV surveillance cameras in and around the premises, placed in strategic places such as the external entrance and exit doors. The surveillance tapes shall be kept for a minimum period of 14 days for viewing by the Police upon request.

**Conditions of Consent of DA No. 3989/2019/DA-U**

- c. Footpath lighting shall be provided along the front entrance for the full frontage of the site. The location, design and illumination of such lighting shall ensure pedestrian safety and shall be at a minimum level of 10 lux in the horizontal and vertical plane.
- d. The management / licensee shall ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood. In this regard, the management shall be responsible for the control of noise, loitering and litter generated by patrons of the premises and shall ensure that people leave the premises and area in an orderly manner. If so directed by the Police or Council, the management is to employ private security staff to ensure that this condition is complied with to the satisfaction of Council.
- e. The management / licensee shall prevent patrons removing glasses, opened cans, bottles or alcohol from the premises (except from any approved Bottle Shop area).
- f. Signs shall be placed in clearly visible positions within the hotel requesting patrons upon leaving the premises to do so quickly and quietly, having regard to maintaining the amenity of the area.
- g. In addition to the sign showing the licensee's name, there shall be affixed alongside, details of the maximum number of persons permitted in the premises, in letters not less than 25mm, displayed at the main front entrance of the premises. The overall size of both signs shall not exceed 600mm in height or width in total.
- h. A public telephone and a breathalyser shall be installed inside the premises for patrons to use at all times.
- i. The use of the premises shall not give rise to any one or more of the following:
  - i. Transmission of vibration to any place of different occupancy greater than specified in Australian Standard 2670 (as amended).
  - ii. An indoor sound pressure level in any place of different occupancy (and/or public place) greater than 3dB above the L90 background level or greater than 5dB at the boundary of any affected property in any octave band from 31.5 Hz to 8,000 Hz centre frequencies inclusive between the hours of 8.00 a.m. to 10.00 p.m. daily and 0dB above the L90 background between 10.00 p.m. and 8.00 a.m. the following morning.
  - iii. A sound level at any point on the boundary of the site greater than the background levels specified in Australian Standard 1055 (as amended).  
Acoustics - Description and Measurement of Environmental Noise.
  - iv. The "emission of an offensive noise" specified under the Protection of the Environment (Operations) Act 1997.
  - v. The emission into the surrounding environment of gases, vapours, dust, or other impurities which are a nuisance or injurious or dangerous or prejudicial to health.

**Conditions of Consent of DA No. 3989/2019/DA-U**

- vi. The method of measurement of vibration in i. and sound levels in ii., iii. and iv. shall be carried out in accordance with Australian Standard 2973 (as amended) for vibration measurements. Australian Standard 1055 (as amended) for outdoor sound level measurements, and Australian Standard 2107 (as amended) for indoor sound level measurements.
- j. The applicant shall appoint a suitably qualified acoustic engineer to measure and verify that noise emanating from the premises, at the nearest residential boundary, is not above the ambient background noise level (with such measurement being made between 8.00pm and midnight), while entertainment is being provided on the first 3 occasions and shall make recommendations to ensure the entertainment is inaudible at the nearest residential property. The results of such measurements shall be submitted to Council, and no further public entertainment shall take place until such time as any necessary recommendations of the acoustic consultant of other matters considered appropriate by Council have been satisfactorily implemented.

**11. Car Parking Spaces**

Twenty seven car parking spaces shall be designed, sealed, line marked and made available to all users of the site in accordance with Australian Standards 2890.1 and 2 (as amended). Disabled car parking spaces are to be provided at the rate as specified within the relevant Australian Standards and/or Building Code of Australia, whichever is the greatest.

The car park shall be maintained in a good state of repair with the surface deformations and potholes repaired and line marking maintained to ensure car park capacity is retained and trip hazards are minimised.

**12. Public Liability Insurance**

A copy of valid public liability insurance cover for the value of \$20,000,000 (twenty million dollars) or as adjusted by Council, indemnifying Council from all and any claims arising from an incident caused or associated with operations or activities carried out within the public domain in accordance with the approved use shall be sent annually to Council's Property Services Section within seven days of the commencement of the period of insurance, or insurance renewal.

The value of the public liability insurance cover will be reviewed by Council on an annual basis and where Council deem it necessary to vary the amount of cover required, any subsequent policy taken out will need to be of an equal or greater amount to that set by Council following its review. In this regard, prior to the applicant applying for an annual renewal of the public liability insurance cover, the applicant is to contact the Council's Property Services Section to confirm the current value of the public liability insurance cover required for the continued use of the premises.

**13. Rubbish/Recycling Bin Storage**

The rubbish and recycling bins shall not be stored within vehicle parking, vehicle manoeuvring areas or landscaped areas.

**Conditions of Consent of DA No. 3989/2019/DA-U**

The bin(s) shall only be stored in accordance with the approved plans.

**14. Construction Certificate**

Prior to the commencement of any works that require a construction certificate:

- a) the applicant shall appoint a Principal Certifier;
- b) the applicant shall obtain a construction certificate for the particular works; and
- c) when Council is not the Principal Certifier, the appointed Principal Certifier shall notify Council of their appointment no less than two days prior to the commencement of any works.

**15. Pollution and Waste Management Conditions**

The following conditions have been applied to ensure that all activities involving the operation of the facility are carried out in a manner which will prevent undue air, land, water pollution, noise pollution and waste management practices in accordance with the Protection of the Environment Operations Act 1997 Protection of the Environment Operations (Waste) Regulation 2014, Protection of the Environment Operations (Noise) Regulation 2017, Local Government Act 1993, Local Government Regulation 2015 and associated technical standards:

**AMENITY OF THE NEIGHBOURHOOD** – The implementation and ongoing operation of this development must not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, odour, dust, waste products or other products, particularly from machinery, vehicles, warning sirens, public address systems and the like.

**OFFENSIVE NOISE** – The development must be design so that the use of the premises, building services, operations, equipment, machinery, vehicles and ancillary fittings must not emit ‘offensive noise’ as defined in the Protection of the Environment Operation Act, 1997: Offensive noise means noise:

- a) That, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:

- i) Is harmful to (or likely to be harmful to) a person who is outside the premises from which it is emitted; or
- ii) Interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted; or

- b) That is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulations.

**NSW INDUSTRIAL NOISE POLICY** – The use of the premises must not exceed the noise criteria outlined in the NSW Industrial Noise Policy.

**Conditions of Consent of DA No. 3989/2019/DA-U**

UNREASONABLE NOISE, ODOUR, DUST AND VIBRATION - In the event of a noise, fumes, odour, dust, or waste related issue arising during the implementation, construction and ongoing operation of this development, the person in charge of the premises shall when instructed by Council, cause to carry out an investigation by an appropriate consultant and submit the results to Council. If required by Council, the person in charge of the premises shall implement any or all of the recommendations of the consultant and any additional requirements of Council to its satisfaction.

Should the development not achieve compliance with the applicable guidelines and standards, amendments to the development are required to be made (with the consent of Council), which may include, but are not limited to, changes to hours of operation, installation of further treatment, modification of operational procedures, etc.

WASTE MANAGEMENT - Open waste storage areas must be appropriately covered and bunded to avoid stormwater entering the sewer.

The business operator must enter into a commercial waste contract agreement for regular waste & recycling collection and disposal with a suitably licensed contractor. A copy of the waste agreement must be available for inspection upon request by Council.

All waste and recycling generated from the business are to be kept within an appropriate storage receptacle on the premises. Waste is not to be stored or placed outside of a waste storage receptacle or in such a manner that it will become a litter, odour or health nuisance.

**PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

The following conditions of consent must be complied with prior to the issue of a construction certificate by either Campbelltown City Council or the appointed Principal Certifier. All necessary information to comply with the following conditions of consent must be submitted with the application for a construction certificate.

**16. Waste Management Plan**

Prior to Council or an accredited certifier issuing a construction certificate, the relevant provisions of Council's *Waste Management Plan* is to be completed to the satisfaction of Council.

**17. Design for Access and Mobility**

Prior to Council or an accredited certifier issuing a Construction Certificate, the applicant shall demonstrate by way of detailed design, compliance with the relevant access requirements of the BCA and AS 1428 – Design for Access and Mobility.

**Conditions of Consent of DA No. 3989/2019/DA-U****18. Telecommunications Infrastructure**

- a. If the development is likely to disturb or impact upon telecommunications infrastructure, written confirmation from the service provider that they have agreed to proposed works must be submitted to the appointed Principal Certifier prior to the issue of a Construction Certificate or any works commencing, whichever occurs first; and
- b. The arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant/developer.

**PRIOR TO THE COMMENCEMENT OF ANY WORKS**

The following conditions of consent have been imposed to ensure that the administration and amenities relating to the proposed development comply with all relevant requirements. These conditions are to be complied with prior to the commencement of any works on site.

**19. Erection of Construction Sign**

Prior to the commencement of any works on the land, signs must be erected in prominent positions on the site:

- a. Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours
- b. Stating that unauthorised entry to the work site is prohibited
- c. Pollution warning sign promoting the protection of waterways (a digital copy is provided with this consent that can be printed, laminated and affixed to the site or a corflute sign is available for free pick up at Council's administration office)
- d. Stating the approved construction hours in which all works can occur
- e. Showing the name, address and telephone number of the principal certifying authority for the work.

Any such signs are to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

**20. Trade Waste**

Prior to the commencement of any works on the land, a trade waste facility shall be provided on-site to store all waste pending disposal. The facility shall be screened, regularly cleaned and accessible to collection vehicles.

**21. Public Property**

Prior to the commencement of any works on site, the applicant shall advise Council of any damage to property which is controlled by Council which adjoins the site, including kerbs, gutters, footpaths, and the like. Failure to identify existing damage may result in all damage detected after completion of the development being repaired at the applicant's expense.



**Conditions of Consent of DA No. 3989/2019/DA-U****22. Demolition Works**

Demolition works shall be carried out in accordance with the following:

- a. Prior to the commencement of any works on the land, a detailed demolition work plan designed in accordance with Clause 1.7.3 of Australian Standard AS 2601-2001 – The Demolition of Structures, prepared by a suitably qualified person with suitable expertise or experience, shall be submitted to and approved by Council and shall include the identification of any hazardous materials, method of demolition, precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- b. Prior to commencement of any works on the land, the demolition Contractor(s) licence details must be provided to Council.
- c. The handling or removal of any asbestos product from the building/site must be carried out by a NSW Work Cover licensed contractor irrespective of the size or nature of the works. Under no circumstances shall any asbestos on site be handled or removed by a non-licensed person. The licensed contractor shall carry out all works in accordance with NSW Work Cover requirements.
- d. An appropriate fence preventing public access to the site shall be erected for the duration of demolition works
- e. Immediately prior to the commencement of the demolition or handling of any building or structure that contains asbestos, the applicant shall request that the principal certifying authority attend the site to ensure that all appropriate safety measures are in place. The applicant shall also notify the occupants of the adjoining premises and Workcover NSW prior to the commencement of any works.

**23. Hoarding / Fence**

Prior to the commencement of any works, a hoarding or fence must be erected between the work site and a public place if the work involved in the development is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or if the building involves the enclosure of a public place in accordance with *Work Cover* requirements.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

A separate land use application under Section 68 of the Local Government Act 1993 shall be submitted to and approved by Council prior to the erection of any hoarding on public land.

**DEVELOPMENT REQUIREMENTS DURING CONSTRUCTION**

The following conditions of consent have been imposed to ensure that the administration and amenities relating to the proposed development comply with all relevant requirements. These conditions are to be complied with during the construction of the development on site.

**Conditions of Consent of DA No. 3989/2019/DA-U****24. Construction Work Hours**

All work on site shall only occur between the following hours:

Monday to Friday	7.00am to 6.00pm
Saturday	8.00am to 5.00pm
Sunday and public holidays	No Work.

**25. Work Zones**

All loading, unloading and other activities undertaken during construction shall be accommodated on the development site.

Where it is not practical to load, unload or undertake specific activities on the site during construction, the provision of a 'Work Zone' external to the site may be approved by Council following an application being submitted to Council's Traffic Unit outlining the proposal for the work zone. The application is required to be made prior to the commencement of any works and is to include a suitable 'Traffic / Pedestrian Management and Control Plan' for the area of the work zone that will be affected. All costs of approved traffic / pedestrian control measures, including relevant fees, shall be borne by the applicant.

**26. Dust Nuisance**

Measures shall be implemented to minimise wind erosion and dust nuisance in accordance with the requirements of the manual – 'Soils and Construction (2004) (Bluebook). Construction areas shall be treated/ regularly watered to the satisfaction of the appointed Principal Certifier.

**27. Excess Material**

All excess material is to be removed from the site. The spreading of excess material or stockpiling on site will not be permitted without prior written approval from Council.

**28. Public Safety**

Any works undertaken in a public place are to be maintained in a safe condition at all times in accordance with AS 1742.3. Council may at any time and without prior notification make safe any such works Council considers to be unsafe, and recover all reasonable costs incurred from the applicant.

**29. Demolition Work/Plan**

All work shall be completed in accordance with the approved demolition work plan designed in accordance with clause 1.7.3 of *Australian Standard A52601-2001 The Demolition of Structures*.

**Conditions of Consent of DA No. 3989/2019/DA-U****30. Completion of Construction Works**

Unless otherwise specified in this consent, all construction works associated with the approved development shall be completed within 12 months of the date of the notice of the intention to commence construction works under Section 81A of the Act.

In the event that construction works are not continually ongoing, the applicant shall appropriately screen the construction site from public view with architectural devices and landscaping to Council's written satisfaction.

**PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

The following conditions of consent must be complied with prior to the issue of an occupation certificate by the appointed Principal Certifier. All necessary information to comply with the following conditions of consent must be submitted with the application for an occupation certificate.

**31. Building Upgrade**

Pursuant to Clause 94 of the Environmental Planning & Assessment Regulation 2000, the existing building shall be brought into conformity with the Building Code of Australia (BCA).

In this regard, the building shall be upgraded in accordance with the recommendations of a BCA Compliance Report issued by the Principal Certifying Authority.

Details demonstrating compliance with this report and the BCA shall be submitted to Council or an accredited certifier prior to the issue of an occupation certificate.

**32. Carpark Area**

Prior to the release of the occupation certificate and prior to the use of the premises as an entertainment venue, the surface deformations and potholes within the car parking area shall be repaired to ensure that there are no trip hazards and the line marking for the car parking spaces shall be refreshed so that car parking spaces are clearly delineated to ensure maximum capacity of the car parking area is achieved.

**33. Council Fees and Charges**

Prior to the principal certifying authority issuing an occupation certificate, the applicant shall obtain written confirmation from Council that all applicable Council fees and charges associated with the development have been paid in full. Written confirmation will be provided to the applicant following Council's final inspection and satisfactory clearance of the public area adjacent the site.

**FOOD CONSTRUCTION CONDITIONS**

The following conditions have been applied to ensure that all construction and fit-out of the food premises complies with the *Food Act 2003*, *Food Regulation 2015* Food Standards Code Australia and New Zealand and Australian Standard 4674-2004: Design, construction and fit-out of food premises.

**Conditions of Consent of DA No. 3989/2019/DA-U****34. Construction**

The construction, fit-out and finishes of the food premises must be constructed in accordance with the *Food Act 2003*, *Food Regulation 2015*, Food Standards Code Australia and New Zealand and Australian Standard 4674-2004 Design, construction and fit-out of food premises.

**35. Registration**

The premise is required to be registered with Council. Regular inspections will be carried out to ensure health standards are maintained. A business registration form is available on Council's website and must be completed and submitted to Council prior to the operation of the food business commencing (Food Safety Standard 3.2.2).

**36. Food Premises Fit-Out Pre-Construction Meeting and Inspection**

Prior to the release of the occupation certificate, Council's Environmental Health Officer is to be contacted on (02) 4645 4604 to undertake an inspection of the premises to confirm compliance with this Consent, the *Food Act 2003*, *Food Regulation 2015*, Food Standards Code Australia and New Zealand and AS 4674-2004.

**37. Food Safety Supervisor**

Food businesses selling ready-to-eat potentially hazardous foods are required by law to appoint a Food Safety Supervisor that has undertaken food safety training at a registered training organisation approved by the NSW Food Authority.

**38. Floor Construction**

The floor construction within the food preparation area/s must be finished to a smooth, even non-slip surface, graded and drained to a floor waste (AS 4674-2004, Section 3.1).

**39. Floor Waste**

Floor wastes in food preparation and food service areas must be fitted with sump removable stainless steel baskets and grates (AS 4674-2004, Section 4.1.8).

**40. Coving**

Feather edge skirting and non-rebated coving is not permitted. Recessed coving must be provided at all intersections of the floor with the walls/plinths within all food preparation, service and storage areas. All coving must:

- a. Have a minimum concave radius of 25mm; or
- b. Be tiled 50mm minimum in width and splayed at 45°.

The coving must be installed so as to be integral to the surface finish of both floor and wall in such a manner as to form a continuous, uninterrupted surface in accordance with Figure 3.1 and 3.2 of the Australian Standard (AS 4674-2004, Section 3.1.5).

**Conditions of Consent of DA No. 3989/2019/DA-U****41. Penetrations/Service Lines**

INTEGRAL PENETRATIONS/SERVICE LINES - All service pipes, conduits and electrical wiring must be concealed in the floor, walls, plinths or ceiling (AS 4674-2004, Section 3.2.9).

EXTERNAL PENETRATIONS/SERVICE LINES - External service pipes and electrical conduit must be fixed on brackets so to provide at least 25mm clearance between the pipe and adjacent vertical surface and 100mm between the pipe or conduit and adjacent horizontal surfaces. Service pipes and electrical wiring must not be placed in the recessed toe space of plinths or of any equipment (AS 4674-2004, Section 3.2.9).

**42. Wall Requirements**

Cavity walls are not permitted. All walls in the food premises, including all new and existing partition walls, must be of solid construction and finished to a smooth, impervious surface that can be easily cleaned, as specified in Table 3.2 of AS 4674-2004. The finishing materials of the wall surfaces must provide an even surface, free of fixing screws, open joint spaces, cracks or crevices (AS 4674-2004, Section 3.2).

**43. Window Sills**

Window sills located within a food preparation area or food service area must be located 450mm above the top of any bench or sink and tiled at a splayed angle of 45°.

**44. Ceiling Construction**

Drop-in panel style ceilings are not permitted in food preparation areas or over areas where open food is displayed, handled or served. The ceiling in the food premises must be constructed with a rigid, non-absorbent, smooth faced material free from open joints, cracks and crevices and be painted with a light coloured washable paint. The intersection of the walls and ceiling must be tight-jointed, sealed and dust proofed (AS 4674-2004, Section 3.2).

**45. Light Fittings**

All fluorescent light fittings must be fitted with a smooth faced diffuser. The light fittings must be either:

- a. Recessed so that the diffuser is flush with ceiling; or
- b. Designed to ensure that no horizontal surface exists which would allow dust and grease to accumulate (AS 4674-2004, Section 2.6.2).

**46. Hand Wash Basins**

Hand wash basins must be provided in all parts of the premises where open food is handled and in utensil/equipment washing areas. The hand wash basin is to be located and installed in such a way that they are not obstructed, are at bench height either permanently fixed to a wall, to a supporting frame or set in a bench top and is accessible from no further than 5 metres away from any place where food handlers are handling open food (AS 4674-2004, Section 4.4).

**Conditions of Consent of DA No. 3989/2019/DA-U**

The hand wash basin is to have a permanent supply of warm running potable water mixed to a temperature of at least 40°C and delivered through a single outlet. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to the hand wash basin. A waste receptacle for used towels must be provided (AS 4674-2004, Section 4.4).

**47. Dishwashing Machines**

The dishwashing/glass washing machine must be designed and able to operate in accordance with AS 4674-2004 and the Food Standards Code. All utensils and equipment must undergo a washing, sanitising and rinsing cycle. The sanitising rinse cycle must achieve a water temperature of 80°C for two minutes or 75°C for 10 minutes (AS 4674-2004, Section 4.1.6).

Appropriate ventilation must be provided over the dishwashing system and be designed and installed in accordance with Australian Standard 1668.2-2012: The use of ventilation and air conditioning in buildings - Part 2: Mechanical ventilation in buildings.

**48. Equipment Wash Sinks**

A double bowl wash sink must be installed and serviced with hot and cold water through a single outlet (AS4674-2004 – Section 4.1). The double bowl sink is in addition to the hand wash basin.

or

A triple bowl sink must be installed and serviced with hot and cold water through a single outlet where rinsing is required before or after sanitising e.g. wash, rinse, sanitise procedure or wash, rinse/sanitise, rinse procedure (AS 4674-2004, Section 4.1).

**49. Food Preparation Sink**

A food preparation sink is required where foods are prepared by immersion in water including for cleaning fruit or vegetables. All food preparation sinks must be used only for the preparation and cleaning of food. The sink is in addition to the hand basin and equipment wash sinks (AS 4674-2004, Section 4.1).

**50. Cleaner's Sink**

A cleaner's sink is to be installed in a location outside of the food preparation area and must be serviced with hot and cold water through taps fitted with hose connectors. (AS 4674-2004, Section 4.1.8).

**51. Tap Fittings**

Hot and cold wall mounted taps must be installed fitted with hose connectors and positioned at least 600mm above the floor in a convenient and accessible location within the food preparation area and adjacent to the floor waste (AS 4674-2004, Section 4.1.8).

**Conditions of Consent of DA No. 3989/2019/DA-U****52. Fittings and Fixtures**

All fixtures, fittings and equipment must be provided with smooth and impervious surfaces, free from cracks and crevices to enable easy cleaning (AS 4674-2004, Section 4).

All fittings and fixtures must be built into the wall and floor so to be free from joints, gaps and cavities to enable easy cleaning or alternatively, supported on one of the following in accordance with Table 4.5 of AS 4674-2004:

- Plinths must be an integral part of the floor, constructed of solid materials similar to the floor at least 75mm in height and coved at the intersection with the floor. All plinths must have a smooth and impervious finish. All fittings and fixtures must be properly sealed to the plinth so to be free from gaps, cracks and cavities.
- Fittings and fixtures can be supported on wheels or castors. The wheels and castors must be capable of supporting and easily moving a full loaded fitting. All wheels and castors must be provided with a restraining device.
- Fittings and fixtures can be supported on legs but must be constructed of non-corrosive, smooth metal or moulded plastic. All legs must be free from cracks and crevices. All legs must have a clearance space between the floor and the underside of the fitting of at least 150mm.

False bottoms under fittings are not permitted (AS 4674-2004, Sections 4.2 and 4.3).

**53. Food Preparation Benches**

All food preparation benches must be constructed of stainless steel. All food contact surfaces are to be smooth, continuous and flush so as to avoid any exposed screw fixtures.

**54. Benches**

The top and exposed edges of all benches and counters must be finished in a smooth and non-absorbent material, free of joints, cracks and crevices (AS 4674-2004, Section 4.2).

**55. Shelving**

All shelving must be located at least 25mm off the wall or alternatively, the intersection of the shelf and the wall is to be completely sealed. All shelving must be constructed at least 150mm from the floor level (AS 4674-2004, Section 4.2).

**56. Food Display Units**

All food display units must be enclosed to prevent the possibility of contamination by customer's breath, handling, or from flies, dust, etc (Food Standards Code 3.2.2).

**57. Food Storage**

Any appliance used for the storage of hot and/or cold food must be provided with a numerically scaled indicating thermometer or recording thermometer accurate to the

**Conditions of Consent of DA No. 3989/2019/DA-U**

nearest degree Celsius or an alarm system for continuous monitoring of the temperature of the appliance.

**58. Cool Room and Freezer Room**

The cool room and/or freezer room floor must be finished with a smooth even surface and graded to the door. A sanitary floor waste must be located outside the cool room and freezer room adjacent to the door.

All metal work in the cool room and freezer room must be treated to resist corrosion.

Condensation from the refrigeration units/cool room/freezer room motors must be directed to a tundish, installed in accordance with Sydney Water requirements.

The cool room and freezer room must be provided with:

- a. A door which can at all times be opened internally without a key; and
- b. An approved alarm device located outside the room, but controllable only from the inside.

**59. Condensation Collection**

Condensation from refrigeration units, freezer units and coffee machines must be directed to a tundish, installed in accordance with Sydney Water requirements (Food Standards Code 3.2.3).

**60. Mechanical Exhaust Ventilation**

A food premises must be provided with a kitchen exhaust hood complying with Australian Standard 1668.2-2012: The use of ventilation and air conditioning in buildings - Part 2: Mechanical ventilation in buildings and where applicable, Australian Standard 1668.1-1998: The use of ventilation and air conditioning in buildings - Fire and smoke control in multi-compartment buildings, where:

- a. Any cooking apparatus has:
  - i. A total maximum electrical power input exceeding 8 kW; or
  - ii. A total gas power input exceeding 29 MJ/h; or
- b. The total maximum power input to more than one apparatus exceeds:
  - i. 0.5 kW electrical power; or
  - ii. 1.8 MJ gas per m<sup>2</sup> of floor area of the room or enclosure; or
- c. Any deep fryer.

Documentation from a mechanical engineer certifying that the mechanical ventilation system, as installed, complies with the AS/NZS 1668.1:1998 and 1668.2-2012, must be provided to the certifying authority prior to the issue of an Occupational Certificate.



**Conditions of Consent of DA No. 3989/2019/DA-U****61. Pest Protection**

Flyscreens and/or other approved means of excluding the entry of pests must be provided to all window and door openings in accordance with Section 2.1.5 of AS 4674-2004.

Where pipe work, drains, cables and ducts penetrate walls, ceilings and roofs, holes must be sealed, filled and finished to prevent the entry of pests.

Spaces between adjoining structures, such as between cool room walls and premises walls, must be accessible for inspection and cleaning or sealed with a suitable compound so that they are inaccessible to pests. Spaces between the top surface of equipment or structures, such as cool rooms, must be accessible for inspection and cleaning or sealed/boxed in so that they are inaccessible to pests.

**62. Toilet Facilities and Hand Basins**

A toilet for staff must be provided for the premises. The toilet cubicle must be separated from areas where open food is handled, displayed or stored by one of the following:

- a. An intervening ventilated space fitted with self-closing doors; or
- b. Self-closing doors and mechanical exhaust systems that operate when the sanitary compartment is in use for at least 30 seconds after the cubicle is vacated (AS 4674-2004, Section 5.2).

Toilets intended for customer use must not be accessed through areas where open food is handled, displayed or stored

A hand basin must be located within the toilet cubicle. The basin must be freestanding, serviced with hot and cold water through a single outlet, able to be mixed to a temperature of at least 40°C and fitted with a hands-off type tap set (AS 4674-2004, Section 4.4). The basin must be provided with soap and disposable paper towels from a dispenser.

**63. Locker Storage for Staff Belongings and Equipment**

Sufficient lockers must be provided in the food preparation area or store room specifically for the storage of cleaning materials, employees' clothing and personal belongings (AS 4674-2004, Section 5.1).

**64. Meter Box**

Where a meter box is situated within a food preparation area, an approved non-absorbent, smooth faced cover must be provided over the meter box. The cover is to be splayed at an angle of 45° to the wall at the top and made tight fitting to the wall surfaces.

**65. Roller Door**

Where a roller door is situated in the food preparation area it must be enclosed in a frame, sheeted with compressed cement with a smooth and sealed finish. The enclosure must be accessible for pest control inspection and maintenance (AS 4674-2004, Section 2.1.5).

**Conditions of Consent of DA No. 3989/2019/DA-U****66. Hot Water Service**

The hot water service must be positioned at least 75mm clear of the adjacent wall surfaces, and mounted at a minimum 150mm above the floor level on a non-corrosive metal stand. The hot water system must be of adequate size to enable a sufficient amount of hot water to all washing facilities throughout the working day (AS 4674-2004, Section 4.3).

**67. Smoke Free Areas**

Any enclosed eating area must be smoke free. Smoking is not permitted in all outdoor eating areas. "No Smoking" signs must be displayed within the eating areas to ensure all patrons comply with this requirement (*Smoke Free Environment Act 2000*). Please refer to NSW Health website for further information <http://www.health.nsw.gov.au>

**68. Office Materials**

Facilities for storing paperwork and other materials associated with the administration of the business must be in a designated room for office use or in an enclosed cupboard or drawer dedicated for that use (AS 4674-2004, Section 5.1.3).

**69. Waste and Recycling Storage, Collection and Disposal**

The business operator must enter into a commercial waste contract agreement for regular waste and recycling collection and disposal with a suitably licensed contractor. A copy of the waste agreement must be available for inspection upon request by Council.

All waste and recycling generated from the business are to be kept within an appropriate storage receptacle on the premises. Waste is not to be stored or placed outside of a waste storage receptacle or in such a manner that it will become a litter, odour or health nuisance.

Waste bins that are placed out on a public place for collection must only be placed out for collection on the day of the collection after 6.00pm and must be removed by 8.00am the following day. Any residual waste left on the public place as a result of bin placement must be removed within undue delay by the food business operator.

Where a Waste Storage area /room must be provided it must be provided with smooth and impervious surfaces (walls and floors) and coved at the intersection of the floor and walls. Floor areas must be graded and drained to a floor waste gully connected to the sewer. Waste storage rooms must be well ventilated and proofed against pests. The area or room must be provided with water service hose connectors to enable easy cleaning.

Open waste storage areas must be appropriately covered and bunded to avoid stormwater entering the sewer. The ground areas shall be paved with impervious material and shall be graded and drained to a waste water disposal system according to Sydney Water's requirements. A hose tap connected to a water supply shall be provided (AS4674-2004 – Section 2.4).

**Conditions of Consent of DA No. 3989/2019/DA-U****70. Grease Arrestors**

All grease arrestors must be located outside of where food and equipment is handled or kept. Access to grease arrestors for emptying shall not be through area where open food is handled or stored or where food contact equipment and packaging materials are handled or stored (AS4674-2004 Section 2.3).

The person with the benefit of this consent must obtain and submit to Council details of a Trade Waste Agreement with Sydney Water before the issue of the Construction Certificate. If no trade waste agreement or grease trap is required, a letter from Sydney Water is to be submitted to the accredited certifier to this effect.

Please contact Sydney Water for information and requirements for grease arrestors by calling 132092.

**NSW POLICE****71. Surveillance**

Ensure that CCTV cameras are installed effectively around the premises, in accordance to Australian Standards. Suitably trained staff in the operation of CCTV system should always be working.

Extensive CCTV camera coverage should cover all entry and exit points which adequate light to be used in conjunction with the cameras.

**72. Lighting**

Lighting should be designed to the Australian and New Zealand Lighting Standards or higher.

Australia and New Zealand Lighting Standard 1158.1 – Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels.

Adequate lighting should be used when operating CCTV cameras during times of low light and darkness.

Lighting shall clearly illuminate the front and rear entrances of the premises and the car aprk and CCTV shall include full coverage of the rear car parking area.

**73. Territorial Re-enforcement**

Effective signage and/or directional signs must be installed to provide guidance to visitors in locating prohibited areas.

Post warning signs around the perimeter of the business to warn intruders of what security treatments have been implemented to reduce opportunities for crime, such as:

- *Warning. This property is under electronic surveillance.*
- *Warning. No large amounts of cash are kept on these premises*

**Conditions of Consent of DA No. 3989/2019/DA-U**

The street number must be prominently displayed at the front of the complex to comply with the Local Government Act, 1973.

**74. Landscaping**

Remove obstacles and rubbish from property boundaries, footpaths, driveways, car parks and buildings to restrict concealment of offenders (including the construction phase).

Any new landscaping should be designed so that it does not provide concealment or entrapment areas should be maintained regularly.

**75. Environmental Maintenance**

As malicious damage (graffiti) is often an offence caused to such developments, strong consideration must be given to the use of graffiti resistant materials, particularly on the fences, ground floor, car parks and areas which are accessible by other structures to reduce such attacks or assist in the removal of such attacks.

A graffiti management plan needs to be incorporated into the maintenance plan for the development. Research has shown that the most effective strategy for reducing graffiti attacks is the quick removal of such material generally within a forty-eight hour period.

**76. Space/Activity Management**

Entrances to toilets within the premises always need to be covered by CCTV and monitored by security. Regularly cleaning should be undertaken.

Furniture should pose no threat to being used as a weapon or used to cause malicious damage. This includes chairs and tables, planter boxes and potential inclusion of garden rocks, garden statues etc.

Any Automated Teller Machines (ATM) should be placed in a position where vehicles cannot potentially reach (i.e elevated area of the club). ATM's positioning should consider privacy for the users but maximise safety. As such they should be placed in common areas, away from main entries and exists, in easy view of staff and under CCTV surveillance at all.

**77. Access Control**

The rear doors that lead to the carpark should be used for emergency exit only and not for use for general patronage. This will minimize entry and exit points which allows for staff to more effectively and efficiently monitor the premises and control access.

Emergency evacuation plans should be updated and maintained to assist staff and emergency services in the event of an emergency. This plan should be prominently displayed.

Staff should be suitably trained in evacuation procedures.

**Conditions of Consent of DA No. 3989/2019/DA-U**

It is recommended that the premise be fitted with an Intruder Alarm System as this will enhance the security of the development. Ensure that the system has been designed and installed to the Australian Standard (Domestic and Commercial Alarm Systems).

All "Staff Only" spaces should always be secure and kept locked while not in use.

**ADVISORY NOTES**

The following information is provided for your assistance to ensure compliance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, other relevant Council Policy/s and other relevant requirements. This information does not form part of the conditions of development consent pursuant to Section 4.17 of the Act.

**Advice 1. Environmental Planning and Assessment Act 1979 Requirements**

The Environmental Planning and Assessment Act 1979 requires you to:

- a. Obtain a construction certificate prior to the commencement of any works. Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service Centre on 4645 4000.
- b. Nominate a Principal Certifier and notify Council of that appointment prior to the commencement of any works.
- c. Give Council at least two days notice prior to the commencement of any works.
- d. Have mandatory inspections of nominated stages of the construction inspected.
- e. Obtain an occupation certificate before occupying any building or commencing the use of the land.

**Advice 2. Provision of Equitable Access**

Nothing in this consent is to be taken to imply that the development meets the requirements of the *Disability Discrimination Act 1992* (DDA1992) or *Disability (Access to Premises – Buildings) Standards 2010* (Premises Standards).

Where a Construction Certificate is required for the approved works, due regard is to be given to the requirements of the *Building Code of Australia* (BCA) & the Premises Standards. In this regard it is the sole responsibility of the certifier, building developer and building manager to ensure compliance with the Premises Standards.

Where no building works are proposed and a Construction Certificate is not required, it is the sole responsibility of the applicant and building owner to ensure compliance with the DDA1992.

**Advice 3. Covenants**

The land upon which the subject building is to be constructed may be affected by restrictive covenants. Council issues this approval without enquiry as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this permit.

**Conditions of Consent of DA No. 3989/2019/DA-U**

Persons to whom this permit is issued must rely on their own enquiries as to whether or not the building breaches any such covenant.

**Advice 4. Inspection within Public Areas**

All works within public areas are required to be inspected at all stages of construction and approved by Council prior to the principal certifying authority releasing the Occupation Certificate.

**Advice 5. Adjustment to Public Utilities**

Adjustment to any public utilities necessitated by the development is required to be completed prior to the occupation of the premises and in accordance with the requirements of the relevant Authority. Any costs associated with these adjustments are to be borne by the applicant.

**Advice 6. Asbestos Warning**

Should asbestos or asbestos products be encountered during construction or demolition works you are advised to seek advice and information prior to disturbing the material. It is recommended that a contractor holding an asbestos-handling permit (issued by Work Cover NSW), be engaged to manage the proper disposal and handling of the material. Further information regarding the safe handling and removal of asbestos can be found at:

[www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

[www.nsw.gov.au/fibro](http://www.nsw.gov.au/fibro)

[www.adfa.org.au](http://www.adfa.org.au)

[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

Alternatively, call Work Cover Asbestos and Demolition Team on 8260 5885.

**Advice 7. Smoke Free Environment Act**

Nothing in this consent is to be taken to imply that the development meets the requirements of the *Smoke Free Environment Act 2000* (SFEA2000) or the *Smoke Free Environment Regulations 2007* (SFER2007). In the event that the occupier wishes to facilitate smoking within any enclosed public place of the premises (in accordance with clause 6 of the SFER2007), the occupier must first contact NSW Department of Health to ensure that the design and construction of the area proposed to facilitate smoking fully complies with the requirements of the SFEA2000 and the SFER2007.

**Advice 8. Bonds and Bank Guarantees**

All bonds are to be provided in the form of Cash or a written Bank Guarantee from an Australian Banking Institution. Bonds will not be accepted in any other form or from any other institution.

**THIS DOCUMENT HAS BEEN ISSUED WITHOUT ALTERATION OR ERASURE**



#### 4.1 Fitout and use as an entertainment venue (nightclub) 218-226 Queen Street, Campbelltown

##### Community Strategic Plan

Objective	Strategy
3 Outcome Three: A Thriving, Attractive City	3.4 - Retain and expand existing businesses and attract new enterprises to Campbelltown, offering opportunities for a diverse workforce including professional, technology and knowledge based skills and creative capacity

##### Referral Criteria

This development applications is for an entertainment venue (nightclub) which is new licensed premises requiring an on-premises license and therefore meets the criteria of sensitive development detailed in the Minister for Planning and Public Spaces section 9.1 direction issued 30 June, 2020 and therefore must be reported to the Campbelltown Local Planning Panel (the Panel) for determination.

##### Executive Summary

- Council has received a development application for the internal fit out of premises at 218-226 Queen Street, Campbelltown and the use of the premises as an entertainment venue (nightclub).
- The subject site is zoned B3 Commercial Core under the provisions of Campbelltown Local Environmental Plan 2015 (CLEP 2015).
- The development application was publicly notified and exhibited from 8 January 2020 to 5 February 2020. No submissions were received.
- An assessment under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and is included within this report.
- The proposed development was referred to NSW Police Force, where concerns were raised with the proposal, primarily in regards to anti-social behaviour and the risk of crime. In raising concerns they also provided recommended conditions of consent should the application be approved. The conditions recommended by the NSW Police Force have been incorporated into the recommended conditions of consent.
- It is recommended that the application be approved for a time limited period of 24 months and that the consent conditions include a reviewable condition in regards to the hours of operation. The recommended conditions of consent are in attachment 1.

Local Planning Panel Meeting

25/11/2020

## Officer's Recommendation

That development application 3989/2019/DA-U for the internal fitout of premises at 218-226 Queen Street, Campbelltown and the use of the premises as an entertainment venue (nightclub) be approved for a time limited period of 24 months from the release of the Occupation Certificate and the commencement of the use of the premises as an entertainment venue subject to the conditions in attachment 1.

## Purpose

To assist Campbelltown Local Planning Panel in its determination of the subject application in accordance with the provisions of the EP&A Act.

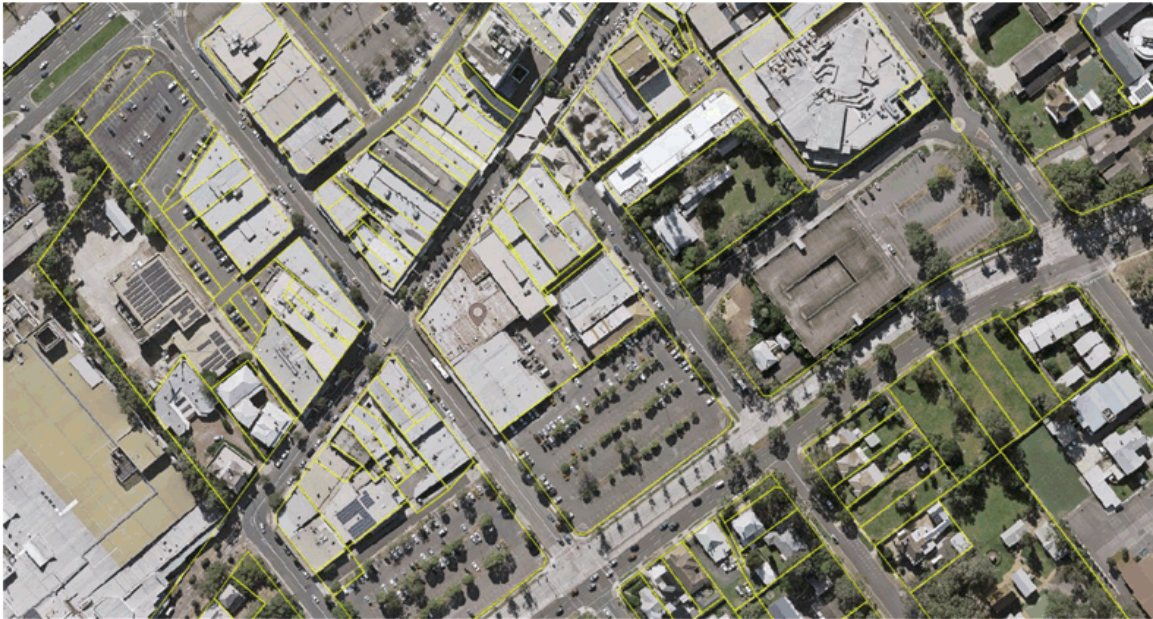
<b>Property Description</b>	Lot 10 DP 1178627, 218–226 Queen Street, Campbelltown
<b>Application No</b>	3989/2019/DA-U
<b>Applicant</b>	RDP Consultancy
<b>Owner</b>	HP Advance Pty Ltd
<b>Provisions</b>	State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy No.55 – Remediation of Land State Environmental Planning Policy (Sydney Region Growth Centres) 2006 Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment Campbelltown Local Environmental Plan 2015 Campbelltown (Sustainable City) Development Control Plan 2015
<b>Other Provisions</b>	Campbelltown 2027
<b>Date Received</b>	18 December 2019

## Report

### The Site and Locality

The subject site is located on the southern side of Queen Street and has a site area of approximately 4,556sqm and a frontage of approximately 62.2m to Queen Street. The subject tenancy is two storeys in height and is currently used as a shop. There are multiple tenancies on the subject site that are used for a range of retail and commercial uses. Twenty seven car parking spaces are provided to the rear of the premises. An aerial photo of the site is shown in Figure 1.





**Figure 1:** Site location map, subject site identified with the pin (Source: Spectrum Spatial Analysis)

The surrounding locality consists of a range of commercial and retail uses within Queen Street. Directly adjoining to the rear of the site is a Council owned car park consisting of approximately 274 car parking spaces. The site is also approximately 520m walking distance from Campbelltown Railway Station. There are several heritage items on Queen Street and Lithgow Street but none of these are adjacent to the premises.

### **The Proposal**

The application submitted is for the change of use of the existing site for the purpose of an entertainment venue. The plans submitted with the application show that internal construction works are proposed to fit out the premises for use as an entertainment venue. The internal constructions proposed consist of:

### **Ground Floor**

- new glazed wall with swing door on the Queen Street elevation
- modification to the existing exit door to swing outwards on the Queen Street elevation
- new accessible toilets, female toilets and male toilets to the rear of the tenancy
- new aluminium framed swing entry door to the rear of the tenancy
- blocking up the existing door to the rear of the tenancy

### **First Floor**

- construction of new wall around kitchen
- new door to the male toilets

The ground floor would consist of a bar area, three seating areas, DJ booth and dance floor. The first floor would consist of a bar area, a lounge seating area, kitchen with adjacent seating area and balcony. There are no changes to the external facades of the building proposed. It is estimated that the maximum patron capacity of the nightclub would be 500 people. The requested hours of operation are Monday to Wednesday and Sunday, 8pm –

midnight and Thursday – Saturday, 8pm – 3am (next day). Up to twenty staff would be employed consisting of bartenders, RSA officers, floor staff, security guards and a site manager. There are twenty seven car spaces provided at the rear of the premises. The site owner has provided consent for access to all 27 car parking spaces given the hours of operation of the proposed use are outside normal business hours.

## Report

### 1. Vision

#### Campbelltown 2027 Community Strategic Plan

Campbelltown 2027 is the Community Strategic Plan for the City of Campbelltown. The Strategic Plan addresses four key strategic outcomes that Council and other stakeholders will work to achieve over the next ten years:

- Outcome 1: A vibrant, liveable city
- Outcome 2: A respected and protected natural environment
- Outcome 3: A thriving, attractive city
- Outcome 4: A successful city

Outcome 3 is most relevant to the proposed development. The relevant strategy to this proposed development is:

- 3.4 – Retain and expand existing businesses and attract new enterprises to Campbelltown, offering opportunities for a diverse workplace including professional, technology and knowledge based skills and creative space.

The proposed development would attract a new enterprise to Campbelltown and offer further opportunities for local employment. However, it is noted that the NSW Police Force has raised concerns with the proposal and formed the view that the use would have the potential to attract criminal and anti-social behaviour, and may have a negative impact on the ability for the precinct to attract new businesses.

These are very relevant issues and issues that have been very carefully considered through the assessment of the application. However, it is recommended that consent be issued for the proposed use, but given the qualified concern raised by the NSW Police Force, any consent issued be issued on a trial/time limited basis and its broader operation managed through reviewable consent conditions.

In this case it is recommended that reviewable conditions be applied to the consent if the development is approved, which includes the limiting of the operation of the consent to a maximum of a 24 month period, in order to allow the monitoring of the impacts of the use on the safety, economy and amenity of the CBD area before any longer term or permanent use is considered.

### 2. Planning Provisions

The development has been assessed in accordance with the heads of consideration under Section 4.15 of the EP&A Act and having regard to those matters the following issues have been identified for further consideration.

## **2.1 State Environmental Planning Policy No.55 – Remediation of Land**

State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55) aims to provide a State wide planning approach for the remediation of contaminated land.

Clause 7(2) of SEPP 55 states that a consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned in accordance with the contaminated land guidelines. The subject site has predominately been used for retail/commercial purposes with the current use operating for a number of years. The site has not been used for any purpose that is deemed to be potentially contaminated and has not been identified as being contaminated. The proposed use would not have any adverse impacts on contamination.

Given the minimal contamination risk, a preliminary investigation report is not required to be submitted. It is further considered that the proposed development would not be adversely impacted upon by contamination. Nevertheless standard conditions have been recommended in case asbestos is discovered during renovation works.

## **2.2 State Environmental Planning Policy (Infrastructure) 2007**

The proposed development is not adjacent to or located on a classified road. The proposed development is not considered to be affected by road noise or vibration. Therefore, Clause 87 of the Infrastructure SEPP is not applicable in this instance.

The number of vehicles does not meet the requirements under Schedule 3 to be classified as traffic generating development. Therefore, referral to the RMS is not required in this instance.

## **2.3 Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment**

The proposed development is within the Georges River Catchment and as such this policy applies. The general aims and objectives of this plan are as follows:

- a) To maintain and improve the water quality and river flows of the Georges River and its tributaries and ensure that development is managed in a manner that is in keeping with the national, State, regional and local significance of the Catchment.
- b) To protect and enhance the environmental quality of the Catchment for the benefit of all users through the management and use of the resources in the Catchment in an ecologically sustainable manner.
- c) To ensure consistency with local environmental plans and also in the delivery of the principles of ecologically sustainable development in the assessment of development within the Catchment where there is potential to impact adversely on groundwater and on the water quality and river flows within the Georges River or its tributaries.
- d) To establish a consistent and coordinated approach to environmental planning and assessment for land along the Georges River and its tributaries and to promote integrated catchment management policies and programs in the planning and management of the Catchment.
- e) (Repealed)

- f) To provide a mechanism that assists in achieving the water quality objectives and river flow objectives agreed under the Water Reform Package.

The proposal does not conflict with any of the relevant provisions of the Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment, and is therefore considered acceptable in this regard.

#### **2.4 State Environmental Planning Policy (Sydney Region Growth Centres) 2006**

State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (GC SEPP) was amended on 6 December 2019 to include the Greater Macarthur Growth Area as a designated growth centre. As there are no savings provisions associated with the amendment, the GC SEPP applies to the subject development.

The GC SEPP does not include a precinct plan for the Greater Macarthur Growth Area, and therefore Clause 16 of the GC SEPP is to be considered. In this regard, the following should be noted:

- The Campbelltown Precinct Plan released under the Glenfield to Macarthur Urban Renewal Corridor Strategy (which is not a Precinct Plan for the purposes of the GC SEPP but is rather a structure plan) indicates that the subject site would be “Commercial and Retail Core”. This implies that a future land use zoning of B3 Commercial Core would apply. As the proposed use is permissible in the B3 Commercial Core zone, the proposed development is consistent with the relevant precinct planning strategy.
- The cost and scale of the proposed development are relatively minor and as such, there would be no adverse impacts if the land were to be rezoned to reflect the land uses identified under the Corridor Strategy.

In conclusion, the proposed development is considered to be consistent with the GC SEPP.

#### **2.5 Campbelltown Local Environmental Plan 2015**

The subject site is zoned B3 Commercial Core under the provisions of Campbelltown Local Environmental Plan 2015 (CLEP 2015). The objectives of the B3 Commercial Core zone are:

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To accommodate redevelopment, enhancement and vitality of centres by facilitating mixed use development.

It is a requirement of the CLEP 2015 that the proposed development be consistent with one or more objectives of the zone. The proposed development would provide an entertainment use that would serve the needs of the local and wider community and encourage employment opportunities in an accessible location.

The subject application has been submitted as an entertainment venue which is defined by CLEP 2015 as:

**Entertainment venue** means a theatre, cinema, music hall, concert hall, dance hall and the like, but does not include a pub or registered club.

Entertainment venues are permissible with consent in the B3 Commercial Core zone. Specifically the definition of entertainment venue does not include a pub or a registered club which are defined as follows:

**Pub** means licensed premises under the *Liquor Act 2007* the principal purpose of which is the retail sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold or entertainment is provided on the premises.

Note— Pubs are a type of food and drink premises—see the definition of that term in this Dictionary.

**Registered club** means a club that holds a club licence under the *Liquor Act 2007*.

The proposed use of the premises is for an entertainment venue. The use is distinguished from regular bars, registered clubs and pubs as it provides an avenue for live music including DJ booth and dance floor area. The primary purpose of the nightclub is to provide a venue for people to socialise in a setting where patrons can listen to music and dance as well as eat and drink in the seated lounge areas. The dance floor area provided on the plans can be expanded as well as removing the tables within the seating areas to also accommodate further dance floor space. The use as an entertainment venue is different from the use as a pub as the hours of operation, provision of dance floor areas and no poker machines are different for a pub which generally cater for families throughout the day, do not provide dance floor areas and also have poker machines and/or gambling areas such as TAB and keno facilities.

As such, it is considered that the proposed use as a nightclub is consistent with the definition of an entertainment venue.

#### **Clause 2.7 Demolition requires development consent**

Clause 2.7 states that the demolition of a building or work may be carried out only with development consent. There are minor demolition works as part of the proposed development with all demolition detailed on the plans and will be conditioned to comply with the relevant demolition requirements and Australian Standards.

#### **Clause 7.9 Mixed Use Development in Zone B3 and B4**

As the subject land is in the B3 zone clause 7.9 applies to the application. Clause 7.9(3) provides that development consent must not be granted to a change of use of a building unless the consent authority is satisfied that the building will have an active street frontage after is change of use, the ground floor will only accommodate non-residential land uses and in the case of the B3 zone the building will have at least one additional floor above the ground floor set aside for non-residential land uses. The proposed change of use satisfies these requirements as it maintains an active street frontage to Queen Street and the proposal is only for non-residential land uses.

**Clause 7.10 Essential Services**

Clause 7.10 provides that development consent must not be granted to development unless the consent authority is satisfied that any of the following services essential for the development are available or that adequate arrangements have been made to make them available when required:

- a) the supply of water
- b) the supply of electricity
- c) the disposal and management of sewage
- d) stormwater drainage or on-site conservation
- e) suitable road and vehicular access
- f) telecommunication services
- g) the supply of natural gas.

Noting that the subject application is for a change of use of existing premises it is considered that the services essential to the development are available.

**2.6 Draft Campbelltown Local Environmental Plan 2015 – Amendment No 24**

Section 4.15 – (1)(a)(ii) of the EP&A Act requires consideration of any proposed instrument that has been the subject of public consultation under the Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

Amendment No. 24 to Campbelltown Local Environmental Plan 2015 has been publicly exhibited and a planning proposal was considered by Council on 9 June 2020. The proposal has been forwarded to the Department of Planning, Industry and Environment. As such, the proposed amendment has a high level of certainty and imminence.

The proposed amendment includes the addition of an additional objective to the B3 zone being wording like “To provide healthy, attractive, vibrant and safe commercial core”. The proposed entertainment venue is capable of being consistent with this objective, subject to compliance with the recommended conditions of consent.

**2.7 Campbelltown (Sustainable City) Development Control Plan 2015**

Campbelltown (Sustainable City) Development Control Plan 2015 (SCDCP) applies to the subject land. The aims of the SCDCP are:

- To ensure that the aims and objectives of the CLEP are complemented by the Plan
- Ensure that the principles of ecological sustainability are incorporated into the design, construction and ongoing operation of development
- Facilitate innovative development of high quality design and construction in the City of Campbelltown
- Ensure that new development maintains or enhances the character and quality of the natural and built environment

- Ensure that new development takes place on land that is capable of supporting development
- Encourage the creation of safe, secure and liveable environments
- Ensure that new development minimises the consumption of energy and other finite resources, to conserve environmental assets and to reduce greenhouse gas emissions; and
- Provide for the design requirements for a variety of housing within the City of Campbelltown.

It is considered that the development is consistent with the relevant aims of the SCDCP as it would facilitate a development on land that is capable of supporting development.

## **Part 2 – Requirements Applying to all Types of Development**

The general provisions of Part 2 of the Plan apply to all types of development. Compliance with the relevant provisions of Part 2 of the Plan is discussed below.

**Site Analysis Plan** – A site plan was submitted and considered to be satisfactory.

**Views and Vistas** – The proposed use would not impact upon views and vistas from public places of significance.

**Sustainable Building Design** – The building is an existing building and as the proposed development is for a use and internal construction works, a BASIX certificate is not required.

**Landscaping** – A landscape plan is not considered necessary in the circumstances of the case.

**Weed Management** – Not applicable.

**Erosion and Sediment Control** – All construction works are within the building and therefore an erosion and sediment control plan is not required.

**Cut, Fill and Floor Levels** – Not applicable.

**Demolition** – There are demolition works proposed and are detailed on the plans. Standard conditions will be applied to the consent to ensure that the demolition works are in accordance with the relevant Australian Standards,

**Water Cycle Management** – The proposal is for development within an existing building that is already connected to Council's stormwater system.

**Heritage Conservation** – The subject site does not contain a heritage item and is not within a heritage conservation area.

**Retaining Walls** – No retaining walls are required.

**Security** – A Crime Prevention through Environmental Design (CPTED) report has been submitted as part of the development application and is discussed further in this report.

**Risk Management** – The subject site is not affected by mine subsidence, contamination, salinity nor it is within a bushfire prone area.

**Waste Management** – A Waste Management Plan was submitted as part of the development application however did not detail disposal methods of the demolition and construction works. A condition of consent is recommended to provide this information prior to the issue of the construction certificate.

**Provision of Services** – The site has access to suitable water, electricity and sewage services.

**Work On, Over or Near Public Land** – No work is required on, over or near public land.

**Work on Land Adjacent to the Upper Canal Corridor** – Not applicable.

**Development Near or on Electricity Easements** – Not Applicable.

**Development on Land Adjacent to, or Affected by a Gas Easement** – Not Applicable.

#### Part 6 – Commercial Development

Part 6 – Commercial Development sets out the requirements for commercial development including entertainment venues within the City of Campbelltown. Below is an assessment against the relevant development standards.

		<b>Campbelltown (Sustainable City) Development Control Plan 2015</b>	
<b>Control</b>	<b>Proposed</b>	<b>Requirement</b>	<b>Complies</b>
<b>Car Parking</b>	<p>The car parking spaces that exist on site have been constructed in accordance with the Australian Standards 2890.1 and 2</p> <p>The site has 27 car parking spaces that are proposed to be made available for the exclusive use of the proposed development.</p> <p>Car parking spaces are not locked off, obstructed, reserved or separately allocated to any individual use at any time.</p> <p>All vehicles are capable of entering and exiting</p>	<p>Off street parking and loading to be designed in accordance with Australian Standards 2890.1 and 2</p> <p>The DCP requires a car parking rate of 1 space per 25sqm GFA for an entertainment venue.</p> <p>Required: 42 spaces</p> <p>Spaces shall not be locked off, obstructed, reserved or separately allocated to any individual use at any time.</p> <p>All vehicles to enter and exit the site in a forward direction.</p>	<p>No</p> <p>Refer to Section 3 of this report for further discussions</p>



	<p>the site in a forward direction.</p> <p>Manoeuvring area for delivery and service vehicles is separate from car parking spaces and accessed via the rear</p> <p>Vehicle movements will not interfere with the flow of traffic within the surrounding road network.</p> <p>Vehicle movements do not conflict with pedestrian access.</p> <p>A Traffic Impact Assessment report was not required under the provisions of the Infrastructure SEPP.</p> <p>No heavy vehicle access as heavy vehicles are not required for the proposed development.</p> <p>Parking is not proposed in a stacked configuration.</p> <p>No car parking space is created as a Strata or Torrens Title allotment.</p> <p>No multi-level car parking structure is proposed.</p>	<p>The area for manoeuvring of delivery and service vehicles is separate from vehicle parking areas, preferably accessed via a rear lane.</p> <p>Vehicle movements shall minimise interference to the flow of traffic within the surrounding road network.</p> <p>Vehicle movements will provide safe and convenient access for pedestrians.</p> <p>A Traffic Impact Assessment Report prepared by a suitably qualified person is to be submitted if the development exceeds the thresholds within the Infrastructure SEPP.</p> <p>One ingress and one egress for heavy vehicles.</p> <p>No car parking shall be in a stacked configuration.</p> <p>No required car parking space shall be created as a separate Strata or Torrens Title allotment.</p> <p>Above ground multi-level car parking structures are to be designed so as to integrate with surrounding built form.</p>	
<b>Loading and Unloading</b>	<p>Existing loading dock and service areas exist.</p> <p>Parking spaces will be clearly identified on the site.</p> <p>Existing building therefore medium rigid</p>	<p>Loading bays to be kept separate from parking and pedestrian access.</p> <p>Loading and unloading to take place wholly on the site.</p> <p>No loading or unloading shall be carried out across parking spaces, landscaped areas, pedestrian</p>	Yes

	access is not required.	aisles or on roadways.  Parking and loading shall be clearly identified on the site.  Required manoeuvring areas for heavy vehicles shall not conflict with car parking.  New commercial buildings more than 200sqm but less than 1500sqm shall provide a loading area for a medium rigid vehicle.  Loading docks and service areas shall not be visible from a public place.	
<b>Access for People with Disabilities</b>	Access report submitted and is satisfactory.  Conditions will be applied that the use complies with the relevant standards.  Disabled car parking spaces will be condition to be provided	Must comply with minimum access requirements contained within the BCA, the Disability Standards and Australian Standards.  Car parking for people with disabilities shall be provided at one space per development plus one space for every 20 car parking spaces and designed in accordance with the Australian Standards.	Yes
<b>Vehicular Access along Queen Street</b>	No vehicular access is proposed via Queen Street. Rear access is provided.	Consent must not be granted to the development of land unless vehicular access is provided by a road other than Queen Street and the safety, efficiency and ongoing operation of Queen Street is not adversely affected	Yes
<b>Commercial Waste Management</b>	Existing waste management facilities to be used.  Private contractor will dispose of all waste.	Provision of an enclosed waste and recycling venue to accommodate the waste generated.	Yes

The proposed development generally complies with the provisions of the SCDCP, except for the requirements for on-site car parking, which is discussed in Section 3 of this report.

### 3. Planning Assessment

#### 3.1 Impacts on the natural and built environment

Section 4.15(1)(b) of the EP&A Act requires the consent authority to assess the development's potential impacts on the natural and built environment.

The key matter for consideration when considering the development's impact on the natural and built environment in relation to the proposed development is car parking.

### **Car Parking**

The subject premises includes twenty seven car parking spaces located to the rear of the building. In addition, there are over 400 free public car parking spaces within a short walking distance from the premises. A two spot late night taxi rank is located on the northern side of Queen Street adjacent to the '4 Bargain Hunters' retail premises.

Based on the gross floor area of the tenancy (1042sqm), the proposed development is required to provide 42 car parking spaces which is a shortfall of 15 car parking spaces under the provisions of the SCDCP. It is however noted that the proposal does not increase the floor area of the tenancy, and the existing car parking arrangements have been in place for a long time. The subject application does not include the provision of any additional off street car parking. The hours of operation of the entertainment venue will be outside ordinary business hours.

The Campbelltown Contributions Plan – Public Car Parking Facilities applies to the subject site. The Plan has been in force since 21 September 2004. The Plan is usually applied for intensification of land use and where the applicant is unable to provide a valid justification for providing the required car parking spaces on site.

The applicant has provided a justification as to why the car parking contributions should not apply to this development. The main reason detailed in the request is the fact that a public car park with approximately 274 car spaces is located directly adjoining the rear of the building. It is argued that the proposed hours of operation of the entertainment venue would be outside of normal business hours and as such most of the car parking spaces in the public car park would be available for use for the nightclub. A parking survey reiterates this point and demonstrated that most of the car parking spaces were available at 9pm.

In addition, the justification notes that the subject site is located within close proximity to the train station with Queen Street frequented by a number of bus services throughout the night. A taxi rank is also provided on Queen Street within close proximity to the subject site and therefore there are a number of public transport options available for patrons of the nightclub. Given the proposed nature of the use it is considered that the use of public transport would be a better outcome for patrons instead of driving.

Given the operating hours of the proposed use; the location and availability of free parking in the nearby public car park; and the frequency of various modes of public transport available close to the site, it is considered that the shortage in car parking spaces will not result in a significant adverse impact on parking availability during normal retail hours. Further to this, it is noted that the Plan of Management details that free non-alcoholic drinks will be provided to designated drivers, encouraging car-pooling, and further reducing the demand for off street car parking.

With regard to the payment of developer contributions towards parking, as it is proposed to issue the consent for a time limited period, and there is currently capacity in the adjoining car parking during the hours of operation of the entertainment venue, it is not proposed to charge a contribution for the shortfall in parking spaces at this stage. Should a more permanent consent be issued for the use of this site as an entertainment venue, noting that the other uses in the tenancies in the same premises will change over time, it is considered more

appropriate and reasonable to apply a contribution for the shortfall in car parking spaces at that time.

It is also noted that there is a level of disrepair to the car park surface. It is recommended that the surface be repaired and line marking be refreshed to ensure the safety of patrons and the orderly parking of vehicles. These works should be completed prior to the release of the Occupation Certificate and prior to the use of the entertainment venue.

### **3.2 Social, economic and environmental impacts**

Section 4.15(1)(b) of the EP&A Act requires the consent authority to assess the development's likely impacts of the development, including social and economic impacts in the locality. The social, economic and environmental impacts associated with the proposed are discussed below.

#### **Acoustic Assessment**

An acoustic report prepared by Acoustic Dynamics, dated 12 December 2019 was submitted in support of the proposed development. The acoustic report assesses operational noise emission associated with the proposed development and provides an assessment of noise emission from the site at the nearest residential receivers.

The report concludes that the proposed development would comply with the relevant noise emission criteria, however recommends the following measures to be incorporated into the Plan of Management to help manage potential noise impacts:

- Signage reminding patrons to be aware of their neighbours and leave in a quiet manner;
- Ensuring patrons queuing along Queen Street are behaving in a quiet and sensible manner to minimise any potential impacts on the surrounding amenity;
- Preventing patron ingress and egress via the rear of the building, located to the southeast;
- Noise generating activities such as placing empty glass bottles in bottle bins are conducted during day time hours only;
- Deliveries to be received during day time hours only (7am to 6pm Monday to Saturday, 8am to 6pm Sundays and Public Holidays);
- Amplified music (including live music) must not exceed a maximum reverberant noise level of 90 dB(A) within the area;
- Mechanical equipment should be regularly maintained and serviced to maintain low mechanical noise emission levels; and
- At the cessation of trade, staff and security should actively discourage loitering near the venue to minimise any potential impacts on the surrounding amenity.

These recommendations are considered to be appropriate in mitigating noise generated by the activities undertaken on the site, and have been incorporated into the Plan of Management. Conditions have been included in the draft consent that generally require

compliance with the Plan of Management. In addition, it is normal for liquor licensing conditions to include conditions relating to noise mitigation and abatement, and these conditions are able to be altered during the course of the license.

### **Crime Prevention Through Environmental Design**

The applicant submitted a Crime Prevention Through Environmental Design (CPTED) report as well as an external lighting plan and CCTV plan. The external lighting and CCTV plan are provided in attachments 2 and 3.

The proposed development was referred to the NSW Police Force for its comment. The response provided did not support the proposed development due to the potential for crime, anti-social behaviour and alcohol fuelled related issues. Notwithstanding, the response requested that where the application was to be approved, that specific additional conditions be included in the consent in order to reduce the potential for anti-social behaviour and improve the NSW Police Force's ability to successfully investigate a matter, in the case that the need for a Police investigation eventuates.

Further to the conditions recommended by the NSW Police Force, it is recommended that the conditions of consent include a reviewable condition in accordance with section 4.17 10(B)-10(E) of the EP&A Act. The recommended condition sets the hours of operation with a finish time of 12.00am (midnight) but enables the opportunity for extended operations until 3.00am for a trial period of 12 months. Recommended condition 2 also allows for this 12 month trial period to be reviewed.

The CPTED report was prepared by Space Plus and identified potential impacts associated with the proposed development, considering principles such as accessibility, lighting, design, pedestrian safety, and impact on the local amenity.

The report concludes that the overall development complies with the CPTED principles which reinforce ingress and egress, provides optimal passive and natural surveillance and appropriate safety and security measures. The report recommends a number of recommendations in regards to graffiti management, CCTV and noise all of which will be incorporated into conditions of consent.

Notwithstanding this, the recommendation for a time limited consent is being proposed in order to respond to any unforeseen detrimental impacts the operation of the entertainment venue might have on the safety and general amenity of the area.

### **Economic Impacts**

The proposed development will have a positive impact on the local area as it would provide for 20 direct local jobs for those in the community, and it is expected to have a positive impact on the potential for increased trade along Queen Street in the evening, with an opportunity for other establishments to stay open for longer hours, servicing the passing trade/patrons of the subject entertainment venue.

Notwithstanding this, the recommendation for a time limited consent is being proposed in order to respond to any unforeseen detrimental impacts the operation of the entertainment venue might have on the economic viability of the area.

### **Plan of Management**

A Plan of Management was submitted for the proposed use (see Attachment 4) and detailed information relating to:

- operating hours
- security
- patron management
- cleaning
- liquor policy
- noise measures
- responsible service of alcohol
- complaint management
- staff training

The plan of management is considered to be generally satisfactory with draft conditions recommended to be incorporated with any consent issued that ensures the ongoing management of both known and unforeseen noise impacts caused by the use of the site as a nightclub.

### **3.3 Suitability of the Site**

Section 4.15(1)(c) of the EP&A Act requires the consent authority to assess the suitability of the site for the proposed development.

The proposed development is permissible within the zone and is considered to be accessible by various modes of public transport as well as providing sufficient vehicular access and is in proximity to large areas of public parking that have a low level of occupancy during the proposed hours of operation of the entertainment venue. There are no immediate residential neighbours to the development. It is considered that the subject site is suitable for the proposed development subject to operational conditions of consent.

### **3.4 Public Interest**

The public interest is a comprehensive requirement that requires the consent authority to consider impacts of the development and the suitability of the proposal in a wider context.

The proposed development type is considered to be potentially suitable for the site. However, and to ensure that the proposed development would not lead to or result in a detrimental impact on the locality, it is recommended that consent only be granted for a continuous period of 24 months from its commencement date, and a reviewable condition be included in regards to the hours of operation.

This will provide Council and the NSW Police Force an opportunity to understand and assess the impacts of the proposal on its surroundings. It will also provide a more commercially viable timeframe during which the operator will have time to address issues that might arise from time to time to demonstrate the premises is capable of operating without having an amenity impact on its neighbours.

Council has adopted an economic development strategy that promotes the creation of local jobs. The Western City District Plan strategic directions for Campbelltown City Centre encourages new lifestyle and entertainment uses to activate streets and grow the night-time economy. The proposed use is considered consistent with this as the use will generate jobs

for the local community and an opportunity to increase patronage for other establishments along Queen Street during the evening.

#### **4. Public Participation**

Section 4.15(1)(d) of the EP&A Act requires the Panel to consider submissions. The development application was notified to adjoining and nearby properties from 8 January 2020 until 5 February 2020. The proposal was then placed on public exhibition on 30 January, 2020 and adjoining and nearby properties were renotified and given 21 days to comment.

No submissions were received.

#### **5. Conclusion**

The application has been assessed against the provisions of Section 4.15 of the EP&A Act. The proposed development is permissible with consent under the provisions of Campbelltown Local Environmental Plan 2015 and is consistent with the objectives of the B3 Commercial Core Zone.

Having regard to the matters for consideration under Section 4.15 of the EP&A Act, it is considered that the proposed development is suitable for the site subject to the conditions discussed in this report.

A numerical deficiency in the number of car parking spaces provided by the development has been identified, however on review and in consideration of the hours of operation outside of normal retail trading hours, and the availability of free parking close to the site, it is considered that (while not fully known at this stage), the impacts of the development on public car parking can be monitored over the 24 months of the time limited consent.

The NSW Police Force has raised a number of concerns relating to potential crime and reduced safety as a consequence of the operation of the nightclub. Those concerns have been closely considered as part of the assessment of the application and are also deemed an important and necessary matter of consideration for the Panel with its determination.

While these concerns must not be dismissed, when considering all aspects of the proposal, it is recommended that the development application be issued with a time limited consent, and that the consent include a reviewable condition. The reviewable condition provides the opportunity to limit the hours of operation where the use is found to be operating not in accordance with the conditions of consent, having an adverse impact on the amenity and safety of the area, or where any increase in the occurrence of anti-social behavioural or crime related activities can be shown to be a consequence of the use of the site as a nightclub.

On balance, it is recommended that a time limited consent be issued for a maximum period of 24 months from the release of the Occupation Certificate and the commencement of the use of the premises for an entertainment venue.

#### **Attachments**

1. Recommended conditions of consent (contained within this report)
2. Site Plan (contained within this report)
3. Existing ground floor and first floor plan (contained within this report)
4. Proposed ground floor and first floor plan (contained within this report)

5. CCTV & Lighting plan (contained within this report)
6. Elevations plan (contained within this report)
7. Kitchen plan (contained within this report)
8. Bar 1 detail plan (contained within this report)
9. Bar 2 detail plan (contained within this report)
10. Plan of Management (contained within this report)
11. Police Comments (contained within this report)
12. Entertainment venue use (contained within this report)

### **Reporting Officer**

Executive Manager Urban Centres



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# CAMPBELLTOWN CITY COUNCIL

## Minutes Summary

Campbelltown Local Planning Panel Meeting hosted at  
Campbelltown Civic Centre on Wednesday, 25 November 2020 .

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5.1	Planning Proposal - Leumeah	

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**Minutes of the Local Planning Panel Meeting held on 25 November 2020**

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**Present**            Chair Keith Dedden  
                         Member Jenny Rudolph  
                         Member Philip Hayward  
                         Member Helena Miller

**Also Present****1.     ACKNOWLEDGEMENT OF LAND**

An Acknowledgement of Land was presented by the Chairperson .

**2.     APOLOGIES**

Nil

**3.     DECLARATIONS OF INTEREST**

Jenny Rudolph declared a conflict of interest in regards to agenda Item 4.1 and left the meeting for this item.

**4.     REPORTS****4.1   Fitout and use as an entertainment facility (nightclub)  
      218-226 Queen Street, Campbelltown**

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**Executive Summary**

- Council has received a development application for the internal fit out of premises at 218-226 Queen Street, Campbelltown and the use of the premises as an entertainment venue (nightclub).
  - The subject site is zoned B3 Commercial Core under the provisions of Campbelltown Local Environmental Plan 2015 (CLEP 2015).
  - The development application was publicly notified and exhibited from 8 January 2020 to 5 February 2020. No submissions were received.
  - An assessment under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and is included within this report.
  - The proposed development was referred to NSW Police Force, where concerns were raised with the proposal, primarily in regards to anti-social behaviour and the risk of crime. In raising concerns they also provided recommended conditions of consent should the application be approved. The conditions recommended by the NSW Police
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Force have been incorporated into the recommended conditions of consent.

- It is recommended that the application be approved for a time limited period of 24 months and that the consent conditions include a reviewable condition in regards to the hours of operation. The recommended conditions of consent are in attachment 1.

## Public Address

The Local Planning Panel meeting was addressed by the applicant, Alex Petkovic (Town Planner).

Panel members asked questions that were responded to directly at the meeting

## Panel Considerations and Reasons for Decision

The proposed entertainment facility is permissible with consent under the provision of the CLEP 2015 and is consistent with the objectives of the B3 Commercial Core zone.

It is considered that a 24 month time limit on the approval will enable a review of the operation of the nightclub having regards to the concerns raised by the NSW Police that the nightclub could lead to increased crime, anti-social behaviour and reduced safety for the community.

The Panel noted that there were no submissions in regards to the application and that there are no sensitive land uses within the vicinity of the site. The Panel is therefore agreeable to the proposed hours of operation requested by the applicant during the meeting and amended condition 2 should be modified to reflect that request.

The subject approval requires that a separate consent is required to continue the use beyond the 24 month time limit. Such an application would be assessed having regards to any identified crime, safety or anti-social behavioural issues observed during the operation of the night club. Any new development application for the use of the premises should be submitted a sufficient period before the end of the 24 month time limit to enable it to be determined before the end of the period. Such application however should not be submitted until the nightclub has been in operation for at least 12 months.

## Decision of the Panel

That development application 3989/2019/DA-U for the internal fitout of premises at 218-226 Queen Street, Campbelltown and the use of the premises as an entertainment facility (nightclub) be approved for a time limited period of 24 months from the release of the Occupation Certificate and the commencement of use of the premises as an entertainment facility subject to the conditions in attachment 1 with the following amendments:

Condition 1 is amended by deleting the words "Plan of Management, Version 2".

Condition 2 is amended by replacing part (b) of that condition with the following:

b) Notwithstanding (a) above, the use may operate between 12am (midnight) and 3am Wednesday to Sunday, inclusive and on any public holiday for a trial period of 12 months from the date of the Occupation Certificate. Council is to be notified in writing of the date of commencement of the trial hours within 14 days prior to the commencement. The trial period is not to extend beyond 12 months from the

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issue of the occupation certificate and commencement of the use of the premises as an entertainment facility.

Condition 2A is added and states:

2A The entertainment facility (nightclub) shall operate in accordance with an approved plan of management at all times. The Plan of Management Version 2 shall be updated to reflect the hours of operation in condition 2 of this consent and submitted to Council for approval prior to the issue of any Construction Certificate.

Condition 72 is amended by adding the words "lighting shall clearly illuminate the front and rear entrances of the premises and the car park and CCTV shall include full coverage of the rear car parking area".

### **Voting**

4/0

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The next meeting of the Local Planning Panel is scheduled for 16 December, 2020.

### **Chairperson**

Meeting Concluded: 3.55pm

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