

8

Walsh Bay Arts Precinct Operational Plan of Management



Create NSW
Arts, Screen & Culture



Food and beverage

Version control

Version	Issue date	Content contributors	Nature of change(s)
1.0	02/06/2020	GTK	Draft issued to INSW for comments
1.1	19/10/2020	GTK	References to SSD 7561 Consent Conditions added as requested by DPIE

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1 INTRODUCTION

Objective of this plan

This **Food and beverage plan** is prepared by GTK Consulting and outlines the obligations and commitments for tenants and Create NSW for the precinct as required by Development Consent SSD 8671 and SSD 7561. It sets out statutory obligations, design commitments for tenants and operation management constraints specific for the site to ensure food safety for staff, tenants and visitors.

Relationship to other documents

Read this plan in conjunction with:

- Other sections of the Operational Plan of Management (OPM).
- Current building codes, regulations and standards cited in this document.
- Any other document cited in this plan.

19 October 2020

Dinh Ngo
Create NSW
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WALSH BAY NSW 2060

BY EMAIL: Dinh.Ngo@create.nsw.gov.au

Dear Ms Ngo,

Executive Summary – Walsh Bay Arts Precinct

GTK Consulting has been engaged to assist Create NSW meet the food and beverage requirements under the Development Consent SSD8671 & SSD7561. Furthermore, the obligations under the relevant legislation have also been considered.

The report attached with this letter provides an overview of each Condition within Consent SSD8671 & SSD7561 and the person/agency responsible for ensuring compliance. The following Executive Summary is only for the conditions of consent to provide clarity for the purposes of obtaining an Occupation Certificate. This Executive Summary is to be read in conjunction with the attached report.

Executive Summary

There are specific conditions of consent provided in the Development Consent which are in relation to food and beverage provisions to the Walsh Bay Arts Precinct (“the precinct”).

Condition B43:

Condition B43 is in relation to the construction and fit out of any food premises on the site. This is in relation to commercial food premises and does not relate to any kitchenettes provided for staff to prepare (heat and minor assembly) food for the purpose of their sole consumption (e.g. lunch rooms). There are a number of possible food tenancies within the precinct which may be used for commercial food outlets. Condition B43 requires that the food tenancies comply with Food Standards Code 3.2.3 and Australian Standard 4674-2004: *Design, construction and fitout of food premises*. These two documents have been broken down into their specific clauses in an additional report provided by GTK Consulting called “Food and Beverage Obligations and Commitments Design Statement”. Generally, the specific clauses can be broken down to construction requirements and operational requirements. The operational requirements will not be

able to be met at the base build occupation certificate stage as the fit out and operation of the food tenancies will be the responsibility of the successful tenant. The tenant will then be required to meet the requirements for fit out and operation of their food business. Generally, the successful tenant will be required to submit a Development Application to the City of Sydney Council.

The clauses which can be considered as base build as outlined in report 2, are the responsibility of Create NSW to ensure compliance before accepting hand over of the site. As Infrastructure NSW is undertaking the base build of the site, they are responsible to ensure that the base build of potential food tenancies, waste rooms and bathrooms, complies with this condition. Sections of Food Standards Code 3.2.3 and AS4674 will be required to be complied with in order to obtain the Occupation Certificate for the base build.

Condition B44:

This condition relates to any cool rooms installed. Cool rooms are to be installed by the tenant and not at base build stage. It will be the responsibility of each tenant who installs a cool room to comply with this condition. This condition does not need to be complied with at Occupation Certificate stage for the base build.

Condition B45:

Grease Traps are a requirement of Sydney Water. During a site meeting it was determined that a grease trap will be installed within the precinct. For the Occupation Certificate to be granted, any grease trap must not be installed within a kitchen, food preparation or storage area. Also, the installation must be installed in accordance with Sydney Water requirements. Create NSW is to liaise with Infrastructure NSW to ensure that this has been met before the Occupation Certificate is issued.

Condition B46:

Mechanical ventilation must be installed to any kitchen tenancies and internal waste storage rooms. It is the responsibility of Create NSW to ensure that Infrastructure NSW has provided duct work from each potential tenancy and waste room/s to be discharged to the roof of the premises. The installation must be installed in accordance with AS1668 parts 1 and 2 and a report can be provided by a mechanical engineer. This is required as part of the Occupation Certificate and Create NSW should liaise with Infrastructure NSW to ensure that these requirements have been met. It will be the responsibility of the tenant to connect into the duct work provided.

Condition B48:

Interlocks are required to be installed to the mechanical ventilation system to ensure that the mechanical ventilation can not operate without filters being installed. This is part of the base build and is required to be verified as part of the Occupation Certificate. Create NSW should liaise with Infrastructure NSW to ensure that this condition has been met.

Condition B49:

Toilets are not being provided in each tenancy. Communal toilets will be provided for the use of food handlers in the precinct. As such, this condition is not required to be complied with.

Condition D25:

This condition does not need to be complied with at base build stage. It is responsibility of the individual food business to ensure compliance with this.

Condition D26:

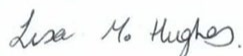
The responsibility of food regulation moved to the NSW Food Authority in 2004. This condition can not be met as the responsibility for the food notification is to the Local Council and NSW Health is no longer responsible for the administration of the food legislation.

There are only eight conditions of consent in relation to food that require to be met. Some of the conditions are not required to be met as they are either obsolete or will be the responsibility of the tenant (due to fit out and operation of the food business). The attached report provides more information in relation to the obligations under the DA, and a further report titled Food and Beverage Obligations and Commitments Design Statement provides an in depth commentary as to who is responsible for each Clause (specifically for Condition B43).

GTK Consulting has also been engaged to assist Create NSW to provide food and beverage requirements within an operational plan of management. Reports will be provided at the tenant EOI stage as well as provide best practice operational guidelines for the operation of the food businesses within the precinct.

Please do not hesitate to contact me if you have any further questions.

Warm regards,



Lisa Hughes
Director

Summary of Food and Beverage Obligations and Commitments

Walsh Bay Arts Precinct

Client: Create NSW

VERSION 1.1
October 2020

**GTK
CONSULTING**

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1.0 Introduction

GTK Consulting has been engaged to undertake a review of the Development Consent issued by the Department of Planning, Industry and Environment in relation to conditions surrounding food and beverage service within the Walsh Bay Arts Precinct (the precinct). The precinct is currently undergoing major redevelopment to include theatre spaces, rehearsal spaces as well as development of commercial tenancies (including food and beverage offerings).

This summary of obligations and commitments is in relation to the food and beverage conditions within the Development Consent SSD8671 & SSD7561. The summary determines the obligations under each of the conditions (or part thereof) for both Create NSW and future tenants. The summary also outlines any obligations to be met under legislation not covered within the consent.

1.1 Site Visit

A site visit was undertaken on Wednesday 27 May 2020. The site visit was undertaken to determine the current stage of the project and responsibilities for fit out of the food premises. The discussions held on site are reflected within this summary. It is understood that some of the tenants may be required to submit a separate fit-out Development Application (DA) to the City of Sydney.

2.0 Conditions and Obligations

The Development Consent was issued by the Minister for Planning in 2018. The Development Consent includes several conditions in relation to the service of food and beverage. The conditions in relation to food and beverage are outlined in **Table 1**. The table summarises the requirements and determines overarching responsibilities to meet compliance that will be further detailed within the Overview of Food and Beverage Obligations Report.

As well as the conditions within the Development Consent, there are obligations that must be met under State and Federal legislation. The legislation pertaining to the service of food and beverage includes:

- *NSW Food Act 2003*;
- *NSW Food Regulation 2015*;
- The Australian New Zealand Food Standards Code;
- *NSW Liquor Act 2007*;
- *NSW Liquor Regulation 2018*;
- *NSW Smoke Free Environment Act 2000*; and
- *NSW Smoke Free Environment Regulation 2016*.

Table 2 outlines the legislation and responsibilities to ensure compliance.

During the Covid-19 Pandemic there are further requirements that businesses must meet under Public Health Orders issued in accordance with the *Public Health Act 2010* and associated Regulation. These requirements may or may not be active when the project is completed, and food and beverage premises are operational.

2.1 Development Consent Obligations

Condition No.	Condition	Discussion	Responsibility
B43	<p>Construction and Fit-out of Food Premises</p> <p>The construction, fit-out and finishes of any food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code under the Food Act 2003 all relevant Australian Standards and the provisions of the BCA. Details of compliance with the relevant provisions shall be prepared by a suitably qualified and practicing person and submitted to the Certifying Authority prior to the construction and fit-out of any food premises.</p>	<p>There are sections of this conditions that can be met at the current construction stage and sections of this conditions that must be met at the fit-out stage. Further detail will be provided within the “Overview of Food and Beverage Obligations” report to be provided by mid June.</p>	<p>Create NSW</p> <p>Tenants</p>
B44	<p>Cool Rooms</p> <p>Any cool room(s), refrigerated chambers or strong-rooms must be constructed in accordance with G1.2 of the BCA</p>	<p>During the site meeting it was indicated that any installation of cool room(s), refrigerated chambers or strong-rooms would be the responsibility of tenants within each food premises. This condition, therefore, is not required to be met at this stage. Each tenant will make a determination as to whether cool rooms and the like are required for their operation.</p>	<p>Tenants</p>

B45	<p>Grease Traps A grease trap (if required by Sydney Water) must not be installed in any kitchen, food preparation or food storage areas. Installation of the grease trap must comply with the requirements of Sydney Water.</p>	<p>During the site meeting it was indicated that grease traps were to be installed as part of the current base build as per the requirements of Sydney Water. Any grease traps must not be installed within the kitchen, food preparation or food storage areas within any of the proposed food tenancies/areas</p>	Create NSW
B46	<p>Mechanical Ventilation The premises must be ventilated in accordance with the BCA and AS1668.1 and AS1668.2. Any exhaust system servicing an area where food is being cooked must discharge exhaust air at roof level.</p>	<p>Mechanical ventilation services will be provided during the base build to each of the tenancies that could be used as food outlets. The mechanical ventilation will be vented to the roof level as per the condition of consent.</p> <p>It is the responsibility of the tenant to connect into the services provided as part of their tenancy fit-out.</p> <p>All internal waste storage rooms used by food tenancies will be required to be mechanically ventilated. This is part of the base build.</p>	Create NSW Tenants (connection only)
B48	<p>Interlocks – Mechanical Ventilation Interlocks shall be installed to the kitchen mechanical ventilation system to ensure that the system is not operated unless the filters are correctly installed and enhanced filtration and odour systems are fully functional and operational.</p>	<p>Mechanical ventilation services will be provided during the base build to each of the tenancies that could be used as food outlets. This condition is to be met as part of the base build.</p>	Create NSW

B49	<p>Sanitary Facilities – Food Premises The sanitary facilities must be separated from all food handling areas via an airlock, self-closing door or mechanical ventilation in accordance with the provisions of the BCA, Part F3.1, 4.8 and 4.9.</p>	<p>Sanitary facilities will be provided during the base build. Communal toilets are provided for several of the tenancies, however, no toilets are proposed to enter onto kitchens . Common toilets will be provided on the site.</p> <p>As sanitary facilities will not be provided within food tenancies, this condition does not need to be met.</p>	Create NSW
D25	<p>Food Premises – Health Registration Database Prior to the commencement of food handling operations, the proprietor of the food premises must notify and register the food premises with Council’s Health and Building Unit and the NSW Health Department at www.foodnotify.nsw.gov.au prior to the opening of the premises.</p>	<p>This condition is in relation to the operation of the premises and is for the tenant to ensure compliance. The tenant is to notify Council of their food business.</p> <p>The NSW Health Department has not been responsible for food businesses for almost 20 years, and the registration requirements were moved solely to Councils several years ago. The second part of this condition cannot be met.</p>	Tenants
D26	<p>Food Premises – Health Registration Database Prior to the commencement of food handling operations, the proprietor of the food premises must notify the NSW Health Department of the following information:</p> <ul style="list-style-type: none"> a) Contact details of the food business including the name of the food business and the name and address of the proprietor; b) The nature of the food business; and 	<p>The responsibility for the regulation of food was moved from NSW Health to the NSW Food Authority in 2004.</p> <p>The Food Act 2003 and associated Regulation requires that food businesses must notify their local Council only. This means that this condition cannot be met.</p>	N/A

	c) The location of all food premises of the food business within the jurisdiction of NSW Health.		
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Table 1- Conditions within Development Consent (Source: GTK Consulting 2020).

2.2 Legislative Obligations

Legislation	Summary	Discussion	Responsibility
Food Act 2003	The Food Act is the overarching legal document relating to food safety in NSW. It requires compliance with the Australian and New Zealand Food Standards Code. It provides the powers for Authorised Officers to enter and inspect premises.	<p>The Food Act 2003 relates to the operation of the premises and not the construction. Construction requirements can be found in the Australian and New Zealand Food Standards Code 3.2.3 which will be discussed further on.</p> <p>The main aim of the Act is to ensure the production and service of safe food.</p>	Tenant
Food Regulation 2015	This regulation sits underneath the Food Act. It calls into force items such as the requirement for a Food Safety Supervisor, display of nutritional information, it also allows for regulatory action to be undertaken.	<p>The Food Regulation 2015 relates to the operation of the premises and not the construction. Construction requirements can be found in the Australian and New Zealand Food Standards Code 3.2.3 which will be discussed further on.</p> <p>The main aim of the Regulation is to ensure the production and service of safe food as well as having a Food Safety Supervisor at the premises.</p>	Tenant
Australian and New Zealand Food Standards Code	The Australian and New Zealand Food Standards Code is separated into 4 Chapters. For retail food premises Chapter 3 relates to Food Safety Standards. For the purposes of this report (and the operation of the site) Standards 3.2.2 and 3.2.3 are the most relevant.	<p>Food Standards Code 3.2.2 generally relates to the operation of the premises. The tenant would be responsible for meeting the obligations under this code.</p> <p>Food Standards Code 3.2.3 generally relates to the premises fit out and equipment requirements. This Code will be the responsibility of both Create NSW and the tenant. Further detail will be provided within the “Overview of Food and Beverage Obligations” document.</p>	<p>Create NSW</p> <p>Tenant</p>

Liquor Act 2007	The Liquor Act 2007 sets out the offences related to the sale and supply of liquor. It also calls into force the requirement for licenses to sell liquor (commonly referred to as Liquor Licenses). This Act refers to responsible service of alcohol training courses (commonly referred to as RSA) which is required to be undertaken by all people serving alcohol.	<p>The requirements set under this legislation will be required to be complied with prior to the sale of alcohol and relates to the operation of the premises.</p> <p>Liquor licenses will need to be applied for and granted prior to alcohol being sold from the premises. This is an operational requirement.</p>	Tenant
Liquor Regulation 2018	The Liquor Regulation 2018 generally relates to applications, fees, advertising requirements, community impact statements (CIS) and operational requirements of licenses (including RSA).	<p>Further exploration is required regarding the CIS. It may be possible to develop a CIS for the entire precinct rather than one for each individual tenancy. A CIS is required to accompany any application for a liquor license.</p> <p>Applications for each tenancy liquor license will be the responsibility of the tenant.</p>	Create NSW Tenant

Smoke Free Environment Act 2000	<p>This piece of legislated prohibits smoking within indoor public spaces as well as some outdoor public spaces (including areas around pedestrian access points to buildings as well as commercial outdoor dining areas).</p>	<p>Prior to occupation of the premises, pedestrian access points to buildings will need to be identified so that compliance with this legislation can be met.</p> <p>Within the Tenancy Guide it is recommended that a section be included regarding the prohibition of smoking in commercial outdoor dining areas.</p> <p>This is generally an operational requirement of the site and the tenants.</p>	<p>Create NSW Tenant</p>
Smoke Free Environment Regulation 2016	<p>The Regulation requires signage to be places in areas which are “smoke-free zones”. It determines the wording required as well as the height of the letters.</p> <p>Should an area within a food premises be designated for smoking, signs must be displayed stating that “NO FOOD TO BE CONSUMED IN THIS AREA” (wording required) as well as the height of the letters on the signage.</p>	<p>In relation to the operation of the site, signs must be erected at pedestrian access points to the buildings to meet the requirements of this legislation. Pedestrian access points will need to be identified.</p> <p>For the food areas, the tenants will need to determine whether want a smoking area and whether they can comply with the requirements set out under the Regulation.</p>	<p>Create NSW Tenant</p>

Table 2- Legislative Obligations (Source: GTK Consulting 2020).

3.0 Recommendations

3.1 Recommendations

This summary provides an overview of obligations and commitments required by both Create NSW and tenants in relation to service of food and beverage within the precinct. GTK Consulting will prepare the following documents to assist in providing a practical guide to the implementation of these conditions and obligations:

- *Overview of food and beverage obligations* – this document will focus on specific clauses within legislation that need to be met. It will determine whose responsibility it is to meet compliance.
- *Food and Beverage Guidelines* – this document will be able to form part of the paperwork which is issued to potential tenants as part of the Expression of Interest process. This document will determine the construction obligations that must be met by the tenant in relation to legislation and the overarching precinct development consent.
- *Tenancy Guide* – this document will be issued to successful tenants to assist them to meet their operational obligations. This document will focus on operational matters such as cleaning, sanitising, food processing, etc. The purpose of this document will be to give the tenant as much information as possible to assist them to meet their legislative obligations for operation in the preparation and service of safe food.

It is recommended that any proposed food premises fit out by tenants is assessed by a suitably qualified person prior to the issue of a Construction Certificate (for fit out development applications). This will ensure that the fit out complies with the precinct development consent as well as other legislative obligations outlined in this report.

There are currently restrictions regarding food and beverage premises as part of the Public Health Orders (Covid-19). These may or may not be in place when the site is activated. It is recommended that should these restrictions still be in place that a suitably qualified person be engaged to assist with meeting compliance with these Orders.