



Mr Louis Goulimis  
PO Box 110  
BANKSIA NSW 2216

D270/23  
TH2 (CPE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
NOTICE OF DETERMINATION - Approval**

<b>Development Application Number:</b>	<b>270/23</b>
<b>Land to which this applies:</b>	G01 132 Military Road, Neutral Bay Lot No.: 10, SP: 93684
<b>Applicant:</b>	Louis Goulimis
<b>Proposal:</b>	Change of Use to recreation facility (indoor)
<b>Determination of Development Application:</b>	Subject to the provisions of Section 4.17 of <i>the Environmental Planning and Assessment Act 1979</i> , approval has been granted subject to conditions in the notice of determination.
<b>Date of Determination:</b>	8 January 2024

The development application has been assessed against the North Sydney Local Environmental Plan 2013 and the North Sydney Development Control Plan 2013 and generally found to be satisfactory.

The use of the ground floor for a non-residential use is a desired future characteristic for the Neutral Bay Town Centre and achieves the objectives for the MU1 Mixed Use Zone.

**Reasons for Approval**

Subject to conditions of consent the use of the ground floor as an indoor recreation facility would ensure the maintenance of acceptable amenity including acoustic privacy for adjoining commercial and residential properties.

Having regard to the provisions of Section 4.15 (1) of *the Environmental Planning and Assessment Act 1979*, the proposed development will not result in any unreasonable amenity or environmental impacts. The application is considered satisfactory and is recommended for approval.

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**Consent to operate from:** 8 January 2024

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**Consent will lapse on:** 8 January 2029

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**Period of Consent**

Subject to Section 4.20 of the Act, this consent becomes effective and operates from the date listed above. The consent lapses five years after the date of consent in accordance with Section 4.53 of the Act and cannot be extended. To activate this consent, works must physically commence onsite 8 January 2029.

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**How community views were taken into account:**

The subject application was notified to adjoining properties and the Parks Precinct for 14 days where a number of issues were raised that have been addressed in this report where appropriate conditions of consent have been recommended to maintain the amenity of adjoining properties.

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**Review of determination and right of appeal:**

Within six months after the date of notification of the decision, a review of this determination can be requested under Division 8.2 of the Act or an appeal to the Land and Environment Court made pursuant to the provisions of Section 8.7 of the Act. A review of determination should be lodged as soon as possible, and preferably no later two months after the date of notification of the decision to enable the review to be completed within the six-month period.

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Plans endorsed by the consent authority - please refer to condition A1.

**Endorsed for and on behalf of North Sydney Council**

**8 January 2024**

DATE

*Thomas Holman*

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Signature on behalf of consent authority  
THOMAS HOLMAN  
**SENIOR ASSESSMENT OFFICER**

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(i) **Conditions**

Consent is granted subject to the following conditions imposed pursuant to Section 4.17 of the Environmental Planning and Assessment Act 1979 (“the *Act*”) and the provisions of the Environmental Planning and Assessment Regulation 2021 (“the *Regulation*”) such conditions being reasonable and relevant to the development as assessed pursuant to Section 4.17 of the Act.

(ii) **Definitions**

Unless specified otherwise, words have the same meaning as defined by the *Act*, the *Regulation* and the *Interpretation Act* 1987 as in force at the date of consent.

**Applicant** means the applicant for this consent.

**Approved Plans** means the plans endorsed by Council referenced by this consent as amended by conditions of this consent.

**AS** or **AS/NZS** means Australian Standard® or Australian/New Zealand Standard®, respectively, published by Standards Australia International Limited.

**NCC** means the National Construction Code as published by the Australian Building Codes Board as in force at the date of issue of any *Construction Certificate*.

**Council** means North Sydney Council.

**Court** means the Land and Environment Court.

**Local Native Plants** means species of native plant endemic to North Sydney LGA.

**Stormwater Drainage System** means all works, facilities and documentation relating to:

- The collection of stormwater,
- The retention of stormwater,
- The reuse of stormwater,
- The detention of stormwater,
- The controlled release of stormwater; and
- Connections to easements and public stormwater systems.

**Owner** means the owner of the *site* and successors in title to the *site*.

**Owner Builder** has the same meaning as in the *Home Building Act* 1989.

**Principal Certifier** for building or subdivision work means the certifier appointed as the principal certifier for the building work under section 6.6 (1) or for the subdivision work under section 6.12 (1).

**Principal Contractor** for building work means the person responsible for the overall coordination and control of the carrying out of the building work.

Note: If any residential building work is involved, the principal contractor must be the holder of a contractor licence under the *Home Building Act* 1989.

**Professional Engineer** has the same meaning as in the *NCC*.

**Public Place** has the same meaning as in the *Local Government Act 1993*.

**Road** has the same meaning as in the *Roads Act 1993*.

**SEE** means the final version of the Statement of Environmental Effects lodged by the *Applicant*.

**Site** means the land being developed subject to this consent.

**NSLEP 2013** means *North Sydney Local Environmental Plan 2013*

**NSDCP 2013** means *North Sydney Development Control Plan 2013*

**Work** for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of any waste, materials, site crane, machine, article, material, or thing,
- the demolition of a building,
- the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an *occupation certificate*.

Note: **Interpretation of Conditions** - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.

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**A. Conditions that Identify Approved Plans**

**Development in Accordance with Plans/Documentation**

- A1. The development must be carried out in accordance with the following drawings endorsed with Council's approval stamp and other documentation listed in the table to this clause, or cited by other conditions, and as amended by other conditions of this consent.

<b>Plan No.</b>	<b>Rev</b>	<b>Description</b>	<b>Prepared by</b>	<b>Dated</b>
DA 01A	A	Site Plan and Location Plan	Solid Void	18/08/2023
DA 03B	B	Ground Floor and Mezzanine Floor Plan	Solid Void	29/12/2023
AS 01B	B	Acoustic Rubber Floor Extent	Solid Void	29/12/2023
DA 04A	A	Section A and Grosvenor Lane Elevation	Solid Void	18/08/2023

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

**Terms of Consent**

- A2. Approval is granted for the change of use only to a recreation facility (indoor).

No approval is given or implied for any works undertaken prior to 8 January 2024 associated with the change of use of the premises. The consent holder may consider a building information certificate application should it be desired to regularise any such works.

(Reason: To ensure the terms of the consent are clear)

**F. Prescribed Conditions imposed under EP&A Act and Regulations and other relevant Legislation**

**National Construction Code**

- F1. All building work must be carried out in accordance with the provisions of the National Construction Code.

(Reason: Prescribed - Statutory)

**G. Prior to the Issue of an Occupation Certificate**

**Fire Safety Schedule**

- G1. Prior to issue of an Occupation Certification, a Final Fire Safety Certificate which assesses all Fire safety measures within the relevant building part will be required to be submitted to Council for approval and assessed against the Fire Safety Schedule for the premises.

A copy of the Fire Safety Schedule must be submitted to Principal Certifier prior to issue of any Occupation Certificate.

(Reason: Prescribed - Statutory)

***I. Ongoing/Operational Conditions***

**Noise from Plant and Equipment**

11. The use of all plant and equipment installed on the premises must not:

- (a) Contribute an LAeq (15min) which will cause the total LAeq(15min) from all plant and equipment operating contemporaneously on the site or in the strata scheme or in the mixed strata schemes to exceed the RBL by more than 5dB when measured at the boundary of any affected receiver. The modifying factor adjustments in Section 4 of the EPA Noise Policy for Industry shall be applied.
- (b) Cause “offensive noise” as defined in the *Protection of the Environment Operations Act 1997*.

“affected receiver” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship and parks and such other affected receiver as may be notified by the Council in writing.

“boundary” includes any window or elevated window of an affected receiver.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Noise Policy for Industry published by the NSW Environment Protection Authority.

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

**Noise Control**

12. The use of the premises shall comply with the following:

Music and Vocal

- (a) The LA10 noise level emitted from the use of the premises must not exceed the background noise level (LA90) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 5dB between the hours of 6.00am and 7.00pm when assessed at the boundary of any affected residence.
- (b) The LA10 noise level emitted from the use must not exceed the background noise level (LA90) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) between the hours of 7.00pm and 6.00am on the following day when assessed at the boundary of any affected residence.
- (c) Notwithstanding compliance with (a) and (b) above, the noise from the use must not be audible within any habitable room or sleeping area in any affected residence between the hours of 7.00pm and 6.00am on the following day.
- (d) The LA10 noise level emitted from the use must not exceed the background noise level (LA90) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 3dB when assessed indoors at any affected commercial premises with windows closed.
- (e) The use of the premises must be controlled so that any emitted noise is at a level so as not to create an “offensive noise” as defined in the *Protection of the Environment Operations Act 1997*.

LA10 is the average maximum A-weighted Fast Response sound level emitted from the premises. LA90 shall be measured in the absence of all noise from the premises (including mechanical plant noise).

Use of Gym Equipment

The LAavmax noise level emitted from the use of gym equipment must not exceed the background noise level (LA90) by more than 5dB when assessed inside any affected residence with the windows of the affected residence closed.

LAavmax is the average maximum A-weighted Fast Response sound level emitted from use of gym equipment on the premises.

LA90 shall be measured in the absence of all noise from the premises (including mechanical plant noise) with the windows of the affected residence closed and any air-conditioning in the residence turned off. If the LA90 is less than 20dB then it is taken to be 20dB.

General

“affected residence” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation and hospitals.

“boundary” includes any window or elevated window of an affected residence.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Noise Policy for Industry published by the NSW Environment Protection Authority.

(Reason: To ensure the amenity of surrounding land uses)

**Hours of Operation**

13. The hours of operation are restricted to:

5.30am to 7.30pm Monday to Thursday  
5.30am to 5.00pm Friday  
6.00am to 12.00pm (midday) Saturday

Upon expiry of the permitted hours:

- (a) all service must immediately cease;
- (b) no person shall be permitted entry; and
- (c) all customers on the premises must be required to leave.

(Reason: To ensure that amenity of the surrounding locality is maintained and hours of operation are consistent with those in surrounding locality)

**Noise and Vibration Impact**

14. The ongoing use of the premises approved under this consent must comply with all conditions pertaining to noise and vibration specified in this consent.

(Reason: To ensure compliance with the specified levels of noise and vibration and to maintain the amenity of surrounding land uses)



**No Illumination**

15. No consent is given or implied for any form of illumination or floodlighting to the building or any sign. A separate development application must be lodged and approved prior to any external floodlighting or illumination of the building, approved sign or site landscaping.

(Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties)

**Occupancy Numbers**

16. The premises shall have a maximum occupancy of 20 people including staff and patrons at any one time.

(Reason: To ensure safe usage of the indoor recreation facility)

**Plan of Management**

17. The proposed management and security practices contained within the Plan of Management for Vision Personal Training, received by Council on 29 December 2023 shall be implemented.

(Reason: To maintain the amenity of surrounding land uses)

**Daily Cleaning**

18. The proprietor/operator is to ensure that at all times when the premises are open and at the end of each day after the premises have closed, all rubbish including loose papers, bottles etc which may be left on the subject premises, site or immediately adjacent area is picked up and placed in the proprietor's/operator's rubbish bins.

(Reason: To ensure waste generated by the approved use or activity is properly managed by the person acting upon this consent, to prevent unsightly build-up of waste material)

**Waste Collection**

19. Waste and recyclable material, generated by this premises, must not be collected between the hours of 10.00pm and 6.00am on any day.

(Reason: To ensure the amenity of surrounding properties)

**Delivery Hours**

110. No deliveries, loading or unloading associated with the premises are to take place between the hours of 10.00pm and 6.00am on any day.

(Reason: To ensure the acoustic amenity of surrounding properties)

# Fire Safety Schedule

Part 10 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021



**Please note:**

- A fire safety schedule must deal with the whole of the building not just part of the building.
- Please complete all sections in full using CAPITAL LETTERS only.
- Information to assist to complete each section is provided at the end of this document.

## Section 1: Location of the building

Address (Street No., Street Name, Suburb and Postcode)

132 MILITARY ROAD, NEUTRAL BAY, NSW, 2089

Lot No. (if known) CP/DP/SP (if known) Building name (if applicable)

0 SP93684

## Section 2: Reissue of Fire Safety Schedule (Section 80A of the Regulation)

- Not applicable – Fire Safety Schedule is not being re-issued  
 Reissued Fire Safety Schedule (please state reason below)

Reason for Reissue of Schedule

- Original Schedule Lost or Destroyed  Correction of errors or omissions

## Section 3: Reference Details (Section 78 of the Regulation)

Reference Type

Reference Number (if known)

DEVELOPMENT CONSENT

DA270/23

## Section 4: Fire Safety Measures for the building – excluding Critical Fire Safety Measures (Section 79 of the Regulation)

Item No.	Fire Safety Measure (FSM)	Minimum Standard of Performance
<b>Current (Existing)</b>		
1	SMOKE ALARM SYSTEM	AS3786 (1993) BCA CLAUSE 3 OF SPECIFICATION E2.2A
2	EMERGENCY LIGHTING	AS2293.1 (1998), BCA CLAUSE E4.4, E4.2
3	FIRE HYDRANT SYSTEM	AS2419.1-1994, E1.3 OF THE BCA
4	PORTABLE FIRE EXTINGUISHER	AS2444 (2001), CLAUSE E1.6 OF THE BCA
5	FIRE DOORS	AS1905.1 (1997), BCA C3.11
6	FIRE HOSE REELS	AS2441 – 1998, BCA E1.4
7	BUILDING OCCUPANT WARNING SYSTEM	AS1670.1-2004, CLAUSE 8 OF SPECIFICATION E1.5, CLAUSE 8 OF SPECIFICATION E1.5
8	EWIS SPEAKER	BCA CLAUSE E4.9, AS2220.1
9	EXIT SIGNS	AS/NZ2293.1, E4.8
<b>Proposed (New or Modified Including Section 84(6) of the Regulation)</b>		
	NIL	NIL

## Details of Fire Safety Building Code of Australia (BCA) Performance Solution Report(s)

(Ref No./Title of report/Author/Date)	BCA Performance Requirement(s)	BCA Dts Provision(s) and details of non-compliance
NIL	NIL	NIL

## Section 5: Critical Fire Safety Measures – where applicable to the building (Section 79 of the Regulation)

Note: A critical fire safety measure is one where the performance is verified at intervals of less than 12 months through the submission of a supplementary fire safety statement.

# Fire Safety Schedule



Part 10 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021

Item No.	Fire safety measure (FSM)	Minimum Standard of Performance	Frequency of issue of Supplementary Fire Safety Statement
<b>Current (Existing)</b>			
	NIL	NIL	
<b>Proposed (New or Modified)</b>			
	NIL	Nil	

## Section 6: Details of approved exemptions from compliance with BCA standards for a relevant fire safety system (Section 74 of the Regulation)

Item No.	Relevant Fire Safety System	Description of exemption
	NIL	NIL

## Section 7: Name of authority or registered certifier issuing this schedule

Name (Given Name/s and Family Name)

Organisation (Business or Council Name)

NORTH SYDNEY COUNCIL

Business Address (Street No., Street Name, Suburb and Postcode)

PO BOX 12, NORTH SYDNEY, NSW. 2059

Registration Number (Where Applicable)

INSERT REGISTRATION NUMBER

Date of Issue

13/09/2023

# Fire Safety Schedule



Part 10 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021

## **Please note:**

The following information is provided to help persons completing this fire safety schedule (FSS) template and does not comprise part of the form. The following pages **do not** have to be displayed in the building or submitted to the local Council or the Commissioner of Fire and Rescue NSW or attached to any fire safety certificate or annual fire safety statement.

## **General**

- Please print in CAPITAL LETTERS and complete all relevant sections in full.
- A reference to 'the Regulation' is a reference to the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.
- The completed fire safety schedule form must be attached to the relevant application.
- An earlier fire safety schedule is superseded by a later fire safety schedule and ceases to have effect when the later fire safety schedule is issued.
- A fire safety schedule must deal with the whole of the building and not only the part of the building to which the development consent, complying development certificate, construction certificate or fire safety order relates.
- Further information about building fire safety is available on the 'Fire safety' page of the Department's website at <https://www.fairtrading.nsw.gov.au/housing-and-property/reforms-to-fire-safety-regulation-2022>.

## **Section 1: Description of the building**

- The address and other property details should be provided here.

## **Section 2: Reissue of Fire Safety Schedule**

- The purpose of this section is to specify whether the fire safety schedule is a new schedule or a schedule that has been reissued under section 80A of the Regulation.
- An initial fire safety schedule issued when a Development Consent, Complying Development Certificate, Construction Certificate, or a fire safety order is issued is not taken to be a re-issued Schedule.
- The re-issue of a fire safety schedule may occur because the original schedule was lost or destroyed or to correct errors or omissions in the fire safety schedule.
- It must be noted that a fire safety schedule **cannot** be reissued under section 80A of the Regulation if the error or omission is due to building work or a change in plans or specifications for the fire safety measures of the building.
- A private certifier **cannot** re-issue a schedule under s80A after an occupation certificate has been issued by the certifier.
- A council that reissues a fire safety schedule where the 'original' was not required to be in the approved form does not need to issue the replacement schedule on the approved form. Instead, a council may reissue the schedule in the same form as the schedule being replaced.

## **Section 3: Reference Details**

- Provide details of the relevant reference document by selecting the relevant type from the drop-down list.
- The reference number of the relevant Development Consent, Construction Certificate, Complying Development Certificate or Fire Safety Order Reference must be listed where known.
- For ease of use only one reference to a relevant document type is necessary for filling out this part. It is unnecessary to reference multiple Development Consents, staged CCs, or CDCs that are/or were once applicable to the building over its lifetime.

## **Section 4: Fire Safety Measures currently implemented OR proposed to be implemented for the building**

- The purpose of this section is to identify those current and proposed fire safety measures that must be implemented for the building.

### **Fire safety measures**

- A proposed fire safety measure is taken to be either a measure not installed in the building or an existing measure which is being altered.
- Fire safety measures include both statutory fire safety measures and other fire safety measures. The statutory fire measures are specified in section 79(4) of the Regulation and include portable fire extinguishers, fire hydrants, fire sprinklers, fire detection and alarm systems and lightweight construction.
- Other fire safety measures could include any measure that is specific to the building such as those required as part of a fire safety Building Code of Australia (BCA) performance solution for the building.

# Fire Safety Schedule



## Part 10 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021

### Minimum standard of performance

The minimum standard of performance for a fire safety measure describes the technical specification for the design, installation and operation of the measures. The minimum standard of performance is generally determined by the BCA and should not be confused with the specified maintenance activities which are used for maintenance of a fire safety measure.

- Where noting the minimum standard of performance for a fire safety measure (FSM) care needs to be taken to ensure relevant details are provided. When expressing a minimum standard of performance for a FSM the following referencing sequence should be used: (the Building Code of Australia (BCA) edition applicable to the FSM, then any relevant BCA Deemed-to-Satisfy Clause(s) or Specification(s), then any relevant Reference Document(s) (such as Australian Standards) and the applicable edition (year) of that Referenced Standard.
- If an application relates only to a part of a building and the required fire safety measures and their associated minimum standard of performance varies from other parts of the building, the fire safety schedule must clearly identify the different fire safety measures and/or different standards of performance in a building.

### Using the table

- If there are no existing fire safety measures specify 'Nil' in the first row under both 'Current' and 'Minimum standard of performance'. The remaining rows of the table under 'Current' can be deleted.
- If there are no proposed fire safety measures specify 'Nil' in the first row under both 'Proposed' and 'Minimum standard of performance'. The remaining rows of the table under 'Proposed' can be deleted.
- Additional rows can be added under 'Current' and 'Proposed' measures if required.

### Performance solutions

- The fire safety schedule must identify all fire safety measures that are required as part of a fire safety BCA performance solution, including any reference to the BCA performance solution report document when specifying the standard of performance for each measure.
- Provide identifying details of any fire engineered BCA performance solution report(s) relevant to those corresponding fire safety measures in the table 'Details of Building Code of Australia Performance Solution Report(s)'.
- Details including the author of the report, the relevant BCA performance requirements about which the report demonstrates compliance, and a brief description of the relevant BCA deemed-to-satisfy provision(s) considered are to be provided here.

### **Section 5: Critical Fire Safety Measures currently implemented OR proposed to be implemented in the building**

- The purpose of this section is to identify those current or proposed critical fire safety measures for the building.
- A critical fire safety measure is a measure that requires periodic assessment and certification at intervals of less than 12 months, because of its nature, the environment, or other circumstances.
- Not all buildings will be subject to critical fire safety measures and this section must only be filled out where a building has critical fire safety measures as identified by the registered certifier (council or private) or appropriate authority.
- Each critical fire safety measure and the associated minimum standard of performance must be listed.
- The intervals, of less than 12 months, at which the critical fire safety measure must be assessed and requiring the submission of a supplementary fire safety statement must also be specified.
- It is up to the registered certifier (council or private) or appropriate authority to identify what is a critical fire safety measure and the frequency in which a supplementary fire safety statement is required to be lodged to the council.
- If there are no applicable critical fire safety measures insert 'Nil' in the row under 'Current', 'Proposed' and 'Minimum standard of performance'. The remaining rows of the table under 'Current' and 'Proposed' can be deleted.
- Additional rows can be added to the table if required.

### **Section 6: Exemption from BCA standard for a relevant fire safety system**

- The purpose of this section is to identify in accordance with section 23(3)(b) of the Regulation any exemptions from BCA standards for the fire safety building work granted under a construction certificate by a certifier resulting from an objection under section 74 of the Regulation.
- Objections made under this provision relate to the operational performance of a relevant fire safety system.
- A relevant fire safety system is defined by the Regulation and can be either a hydraulic fire system, a fire detection and alarm system, or a mechanical ducted smoke control system.
- In this section the applicant must specify the relevant fire safety measure to which an exemption applies. In addition, a detailed description of the exemption is to be provided.
- If there are no exemptions relevant to the building insert 'Nil' in the first row under both 'Relevant Fire Safety System' and 'Details of the exemption'. The remaining rows of the table can be deleted.
- Additional rows may be added to the table if required.

# Fire Safety Schedule

Part 10 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021



## Section 7: Name and contact details of the person issuing the schedule

- The purpose of this section of the form is to include details of the person or authority that is issuing the schedule.
- Where the fire safety schedule is issued by a registered certifier details of the registration number of the certifier are to be provided.
- The date of issue must also be included on the fire safety schedule.

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