

# **Attachment A**

<b>Recommended Conditions of Consent</b>
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## SCHEDULE 1

### CONDITIONS OF CONSENT

#### (1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2017/1748 dated 15 December 2017 and the following drawing:

Drawing Number	Drawing Name	Date
DA Issue April 2018 Rev B	Proposed Licensed Outdoor Area	11 April 2018

and as amended by the conditions of this consent.

- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

#### (2) HOURS OF OPERATION – DAILY FOOTWAY USE

- (a) The hours of operation are restricted to between 11.00am and 6.00pm Monday to Sunday for a trial period of 1 year from the date of issue of the approved variation of the Liquor Licence. Council's Health and Building Unit is to be informed in writing of the date of commencement of the trial hours. Email notification is to be sent to [liquor@cityofsydney.nsw.gov.au](mailto:liquor@cityofsydney.nsw.gov.au)
- (b) A further application may be lodged to continue the operating hours outlined in (a) 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.

#### (3) MAXIMUM CAPACITY OF PERSONS – DAILY FOOTWAY USE

- (a) The maximum number of persons permitted to use the footway dining area at any one time is 12 persons.
- (b) The capacity for each area shall not exceed the maximum numbers at any given time.
- (c) The manager/licensee is responsible for ensuring the number of persons in the premises does not exceed that specified above.
- (d) 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 area. Details of the sign are to be submitted to Council's

Health and Building Unit for approval prior to issue of a Construction Certificate.

Note: Clause 98D of the *Environmental Planning and Assessment Regulation 2000* requires a sign specifying 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,
- (v) restaurant.

#### **(4) CESSATION OF SERVICE - DAILY FOOTWAY USE**

The outdoor dining area may be used by patrons only between the operating hours in condition 2 above. The operator must ensure patrons and outdoor dining furniture are moved within the building premises by 6.00pm Monday to Sunday.

#### **(5) FOOTWAY SEATING – DAILY FOOTWAY USE**

The following conditions apply to footway seating:

- (a) The use of the subject area for outdoor seating is only permitted in conjunction with the provision of a food service from the associated approved food and drink premises use that is operating from the restaurant known as the Palisade Hotel.
- (b) The management/licensee/owner of the property must apply for and be granted a footway approval by Council under section 125(1) of the Roads Act 1993 for the use of the subject area of the footway with all legal costs associated with the preparation of the licence being borne by the management/licensee/owner. The approval must be issued by Council prior to the use of the footway for seating.

Note: Should the operator of the premises change at any time, the footway approval is required to be renewed under the name of the new operator.

- (c) The use of the footway may be suspended to facilitate Council approved special events to be held in the street or for road and services works. No claim for compensation is entitled under such circumstances.
- (d) In addition to Council's daily street sweeping and cleansing operations, the operator of the hotel must ensure that the surrounds of the building including pavements and gutters are to be kept clean and free of litter at all times.
- (e) Approval is granted for the use of an area measuring 12.5m<sup>2</sup> adjoining the Palisade Hotel in accordance with the plan marked as Proposed Licensed Outdoor Area DA Issue April 2018 Rev B.

- (f) All furniture must be kept strictly within the boundaries of the area defined on the approved drawing Proposed Licensed Outdoor Area DA Issue April 2018 Rev B.
- (g) All outdoor furniture and planting must be maintained at all times in a physically sound condition and of an appearance that is deemed to be acceptable by Council.
- (h) No furniture or other structure is to be fixed to the pavement, without the consent of Council.
- (i) The chairs should be able to be stacked or folded for storage when not in use with a furniture storage area being provided within the premises.
- (j) The use of disposable tableware at the footway cafe is not permitted at any time.
- (k) Portable signs or goods for sale or display must not be placed on the footway or other public areas without the consent of Council.
- (l) All outdoor furniture and the footway are to be kept clean and free of food scraps.
- (m) A separate development application for any proposed signs which are either externally fitted or applied must be submitted to and approved by Council prior to the erection or display of any such signs.

**(6) HOURS OF OPERATION – EVENT USE**

- (a) The hours of operation are restricted to between 10.00am and 5.00pm for 4 days/year being New Year's Day, Australia Day, ANZAC Day, and Melbourne Cup day for a trial period of 1 year from the date of issue of the approved variation of the Liquor Licence. Council's Health and Building Unit is to be informed in writing of the date of commencement of the trial days/hours. Email notification is to be sent to [liquor@cityofsydney.nsw.gov.au](mailto:liquor@cityofsydney.nsw.gov.au)
- (b) A further application may be lodged to continue the operating days/hours outlined in (a) 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.

**(7) MAXIMUM CAPACITY OF PERSONS – EVENT USE**

- (a) The total maximum number of persons (including staff, patrons and performers) permitted in the event areas at any one time is 30 persons.
- (b) The capacity for each area shall not exceed the maximum numbers at any given time.

- (c) The manager/licensee is responsible for ensuring the number of persons in the premises does not exceed that specified above.
- (d) 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 area. Details of the sign are to be submitted to Council's Health and Building Unit for approval prior to issue of a Construction Certificate.

Note: Clause 98D of the *Environmental Planning and Assessment Regulation 2000* requires a sign specifying 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,
- (v) restaurant.

#### **(8) CESSATION OF SERVICE - EVENT USE**

The event area may be used by patrons only between the operating hours in condition 7 above. The operator must ensure patrons and associated barriers are moved within the building premises by 5.00pm on New Year's Day, Australia Day, ANZAC Day, and Melbourne Cup day.

#### **(9) EVENT USE – TEMPORARY BARRIERS ONLY**

Only temporary barriers are to be placed for the limited number of events as proposed without any fixings. These should be able to be removed easily and shall not require any excavation to be installed.

#### **(10) TEMPORARY EVENT APPROVAL OR LEASE/LICENCE AGREEMENT TO BE OBTAINED PRIOR TO EACH EVENT**

Either a temporary event approval is to be obtained through the City's Outdoor Venue Management Team via a section 68 Approval; or a lease/licence agreement sought through the City's Properties Unit for the use of the external space prior to each of the four annual event days.

#### **(11) TEMPORARY EVENT USE – POLICE NOTIFICATION**

The Local Police Licensing Unit is to be notified prior to each of the four annual event days.

## **(12) PLAN OF MANAGEMENT**

The use must always be operated / managed in accordance with the Plan of Management & Security Management Plan, for the Hotel Palisade dated April 11, 2018 that has been approved by Council. In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.

The Plan of Management & Security Management Plan is to be amended to specify that patrons must be seated and dining when utilising the 12.5sq.m. outdoor area available on a daily basis, and not to describe this area as a permanent outdoor standing area as it is neither permanent nor a standing area.

The Plan of Management & Security Management Plan is to be signed and dated.

## **(13) COPIES OF CONSENTS AND MANAGEMENT PLANS**

A full and current copy of all current development consents for the operation of the licensed premises, and the Plan of Management and Security Management Plan must be kept on-site and made available to Police or Council Officers, or Special Investigator upon request

## **(14) COMPLIANCE WITH THE ACOUSTIC REPORT**

All performance parameters, requirements, engineering assumptions and recommendations contained in the acoustic report prepared by Acoustic Logic, dated 22 September 2015, ref 20151180.1, titled 'Outdoor Seating Acoustic Assessment', Council Ref 2017/634050 must be implemented.

## **(15) SURVEILLANCE CAMERAS**

- (a) CCTV surveillance cameras shall be strategically installed, operated and maintained throughout the premises with particular coverage to:
  - (i) principal entrance/s and exits;
  - (ii) all areas within the premise occupied by the public (excluding toilets);
  - (iii) staircases in multilevel premises; and
  - (iv) the area within a 10m radius external to the public entrance(s) to the premise.
- (b) Suitable and clearly visible signage shall be displayed at the principal entrance(s) to the premise and in a prominent position on each floor accessible to the public, in lettering not less than 50mm in height with the words "Closed Circuit Television in use on these premises".
- (c) All CCTV recording equipment and cameras shall be of high grade digital quality capable of establishing the population and identification of patrons, offenders and incidents within the depth of field view of the cameras. In this respect each surveillance camera shall be capable of recording a minimum rate of 10 frames per second and at high resolution.

- (d) CCTV recording discs or hard drive recordings shall be retained for 28 days before being re-used, destroyed or deleted. Time and date shall be auto recorded on the disc or hard drive. The CCTV recording equipment shall be capable of reproducing a CD, DVD, USB or other appropriate digital copy of recorded footage on demand of Council or Police Officers either immediately or within 12 hours of the request being made. Copy discs must be handed to Council, Police Officer or Special Inspectors as required.
- (e) All CCTV recording devices and cameras shall be checked daily to ensure the equipment is operating correctly. The Licensee shall record this daily checking activity in the security/incident register book that meets the standards required by the Licensing Police and Council. If it is discovered at any time that the equipment is not in full operating order all reasonable steps must be taken to repair the system as soon as practicable. Where the system will not be functioning in full operating order for a period of longer than 24 hours the manager/licensee is to notify the relevant Local Area Commander of the NSW Police.
- (f) All CCTV recording devices and cameras shall be operated at all times when the premises are open to the public and, where premises do not operate 24 hours a day, continuously for at least 1 hour prior to opening and closing times of the premises.
- (g) The CCTV recording device shall be secured within the premises and only be accessible to senior management personnel so as to maintain the integrity of the recorded footage. When the premises is operating there must be at least one staff member present at the premises who is authorised to access the CCTV system and able to immediately review recordings and produce copies.
- (h) Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.

#### **(16) QUEUING**

No persons are to be permitted to drink or queue outside the premises at any time. Security officers are to ensure that there is no queue for the premises and take all reasonable steps to ensure compliance with this condition.

#### **(17) INCIDENTS – RECORDING AND NOTIFICATION**

The manager/licensee must ensure that all incidents involving staff members (including security personnel) are recorded in the incident register maintained on site, including incidents involving physical contact between staff and patrons, physical restraint of patrons and/or the ejection of patrons from the premises.

#### **(18) NEIGHBOURHOOD AMENITY**

- (a) Signs must 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. The signage shall be in bold letters not less than 25mm in height on a contrasting background.

- (b) The management/licensee must ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood.

**(19) NO SPEAKERS OR MUSIC OUTSIDE**

Speakers and/or noise amplification equipment must not be installed and music must not be played in any of the outdoor areas associated with the premises including the public domain. Speakers located within the premises must not be placed so as to direct the playing of music towards the outdoor areas associated with the premises.

**(20) NO SPRUIKING NOISE**

No persons (such as those commonly known as spruikers) or recordings or other devices which have the effect of spruiking are to be located on Council owned property. Furthermore, the sound level of any spruiking generated within privately owned land must not be audible on any adjacent property with a shared boundary.

**(21) NOISE FROM GLASS REMOVAL**

Glass must not be emptied or transferred from one receptacle to another anywhere in a public place. All glass must be emptied / transferred inside of the building on the premises and removed in containers.

**(22) REMOVAL OF GLASS**

Patrons must be prevented from removing glasses, opened cans, bottles or alcohol from the premises (except from any approved bottle shop area) or approved outdoor dining area included in the boundaries of the licensed premises.

**(23) GLASS CRUSHER**

All glass bottles and other glass waste must be reduced to glass shards (by way of a glass crusher located inside the premises) prior to the removal of such waste from the premises.

**(24) OCCUPATION CERTIFICATE TO BE SUBMITTED**

An Occupation Certificate must be obtained from the Principal Certifier and a copy submitted to Council prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.

**(25) HOURS OF WORK AND NOISE – OUTSIDE CBD**

The hours of construction and work on the development must be as follows:

- (a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg. loading and unloading of goods, transferring of



tools etc) in connection with the proposed development must only be carried out between the hours of 7.30am and 5.30pm on Mondays to Fridays, inclusive, and 7.30am and 3.30pm on Saturdays, with safety inspections being permitted at 7.00am on work days, and no work must be carried out on Sundays or public holidays.

- (b) All work, including demolition, excavation and building work must comply with the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436 - 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites.
- (c) Notwithstanding the above, the use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on-site tower cranes which warrant the on-street use of mobile cranes outside of above hours can occur, subject to a permit being issued by Council under Section 68 of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993.

Note: Works may be undertaken outside of hours, where it is required to avoid the loss of life, damage to property, to prevent environmental harm and/or to avoid structural damage to the building. Written approval must be given by the Construction Regulation Unit, prior to works proceeding

The *City of Sydney Code of Practice for Construction Hours/Noise 1992* allows extended working hours subject to the approval of an application in accordance with the Code and under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

## SCHEDULE 2

### PRESCRIBED CONDITIONS

**The prescribed conditions in accordance with Division 8A of the *Environmental Planning and Assessment Regulation 2000* apply:**

- Clause 98 Compliance with *Building Code of Australia* and insurance requirements under the *Home Building Act 1989*
- Clause 98A Erection of signs
- Clause 98B Notification of *Home Building Act 1989* requirements
- Clause 98C Conditions relating to entertainment venues
- Clause 98D Conditions relating to maximum capacity signage
- Clause 98E Conditions relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 8A of the *Environmental Planning and Assessment Regulation 2000*. This can be accessed at: <http://www.legislation.nsw.gov.au>

## SCHEDULE 3

### TERMS OF APPROVAL

The Terms of Approval for Integrated Development as advised by *the Heritage Council of NSW* are as follows:

#### 1. APPROVED DEVELOPMENT

Development must be in accordance with:

- a) Architectural drawings, prepared by “not stated” as listed below (refer to DOC17/636514-5):

Drawing No.	Title	Date	Rev
Project Name: 35 Bettington St. Millers Point.			
DA Issue OCT 2017	Proposed licensed outdoor area	30 Oct 2017	A

- b) Heritage Impact Statement for Palisade Hotel, 35-37 Bettington St, Millers Point (SHR No.00510), prepared by City Plan Services, dated 24 November 2017.

**EXCEPT AS AMENDED** by the following conditions of this approval:

#### 2. DESIGN

2.1 Only temporary bollards are to be placed for the limited number of events as proposed without any fixings. These should be able to be removed easily and shall not require an excavation to be installed.

*Reason: To avoid impact to archaeology that might be present on site.*

2.2 The installation of four (4) permanent timber barrels outside the eastern façade of the Palisade Hotel is not approved.

*Reason: To avoid visual impact to the views to the Palisade Hotel and impact in the immediate setting and character of this landmark building.*

#### 3. SITE PROTECTION

Significant elements are to be adequately protected during the works from potential damage. Protection systems must ensure historic fabric is not damaged or removed.

#### 4. COMPLIANCE

If requested, the Applicant and nominated Heritage Consultant may be required to participate in audits of Heritage Council approvals to confirm compliance with conditions of consent.

*Reason: To ensure completion of the works in accordance with the approved plans and to improve the approvals process through a better understanding of the implementation of conditions of approval.*

**5. SECTION 60 APPLICATION**

An application under section 60 of the *Heritage Act 1977* must be submitted to and approved by the Delegate of the Heritage Council of NSW prior to work commencing.