

# **Attachment A**

**Recommended Conditions of Consent**

## CONDITIONS OF CONSENT

### SCHEDULE 1

#### APPROVED DEVELOPMENT/DESIGN MODIFICATIONS/COVENANTS AND CONTRIBUTIONS/USE AND OPERATION

**Note:** Some conditions in Schedule 1A are to be satisfied prior to issue of a Construction Certificate and some are to be satisfied prior to issue of Occupation Certificate, where indicated.

#### (1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2018/1475 dated 4 December 2018 and the following drawing:

Drawing Number	Drawing Name	Date
GA01 Rev D	Site Plan	27/02/2019

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) TIME LIMITED CONSENT

- (a) The period during which the use is approved to operate is restricted to 1 year from the date of this consent. The footway dining area can only operate during this time if there is a concurrent consent for footway dining issued under the Roads Act 1993.
- (b) A further application for the outdoor dining area must be lodged prior to the end of the current Approval Period for Council's consideration. Council's consideration of a proposed continuation of the use of the outdoor dining area will be based on, among other things, the performance of the operator in relation to the compliance with the conditions of the Approval, any substantiated complaints received and any views expressed by the Police.

#### (3) HOURS OF OPERATION – OUTDOOR SEATING

The hours of operation for the outdoor dining area are restricted to between 10.00am and 8.00pm Monday to Sundays.

#### (4) FOOTWAY SEATING

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 food and drink use that is operating from the hotel known as The Lord Gladstone Hotel.

- (b) Seating must be provided for all patrons utilising the approved outdoor dining area.
- (c) No alcohol is to be served or consumed within the approved outdoor dining area unless authorised under a liquor license.
- (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 food and drink 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 8.2sqm on the footway of Meagher Street adjoining the Lord Gladstone Hotel in accordance with the plan marked as GA01 Rev D.
- (f) All furniture must be kept strictly within the boundaries of the area defined on the approved drawing GA01 Rev D.
- (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.

**(5) 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.

**(6) SIGNS/GOODS IN THE PUBLIC WAY**

No signs or goods are to be placed on the footway or roadway adjacent to the property.

**(7) BARRIERS NOT APPROVED**

The use of barriers or enclosures of any kind around the perimeter of the outdoor seating area is not approved.

**(8) COMPLIANCE WITH THE ACOUSTIC REPORT**

All performance parameters, requirements, engineering assumptions and recommendations contained in the acoustic report prepared by Rodney Stevens Acoustics, Titled 'DA Noise Impact Assessment Proposed Footway Dining' dated 11 February (TRIM record no. 2018/620779) must be implemented prior to the use of the outdoor dining area.

**(9) NOISE**

- (a) An  $L_{Aeq,15 \text{ minute}}$  (noise level) emitted from the development must not exceed the  $L_{A90, 15 \text{ minute}}$  (background noise level) by more than 3dB when assessed inside any habitable room of any affected residence or noise sensitive commercial premises at any time. Further:
  - (i) The noise level and the background noise level shall both be measured with all external doors and windows of the affected residence closed.
  - (ii) Background noise measurements must not include noise from the development but may include noise from necessary ventilation at the affected premise.
- (b) Corrections in [Fact Sheet C](#) of the NPfI are applicable to relevant noise from the development measured in accordance with this condition, however duration corrections are excluded from commercial noise

**(10) NO SPEAKERS OR AMPLIFIED 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.

**(11) ROAD CLEARANCE**

Clearance widths for pedestrians should be maintained in accordance with AUSTRROADS Guide to Road Design Part 6A – Pedestrian and Cyclist Paths (Section 6 Design Criteria for Pedestrian Paths) with additional allowance made for transverse movements by staff and customers. Pedestrians should not be forced on to the road carriageway by footway restaurants or other non-permanent items on the footpath.

**(12) 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.

**(13) PLAN OF MANAGEMENT**

The use of the footway must always be operated and managed in accordance with the Plan of Management, prepared by Design Collaborative Pty Limited dated February 2019 (Ref. 150710.5P) (TRIM record number 2019/117278) that has been approved by Council. In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.

**(14) FOOTWAY APPROVAL DISPLAY NOTICE**

After all payments required before use have been received by Council, a Footway Approval display notice will be issued to Holder of the Approval. The footway cannot be used until the display notice has been issued. The notice is to be kept displayed on the subject premises at all times.

**(15) OUTDOOR DINING FURNITURE**

The design and appearance of the outdoor furniture to be used in conjunction with the outdoor dining area must comply with Section 5 of Council's Outdoor Dining Guidelines.

**(16) NO OBSTRUCTION OF REGULATORY SIGNS**

The footway seating or approved associated structures must not obstruct the view of advisory and regulatory signs and traffic controls.

**(17) ACCESS FOR MAINTENANCE**

Footway seating or any approved structures shall not cover or impede access to public or private utility access and drainage pits. Authorities such as Telstra and Sydney Water must be given access to the site if required.

## **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>