

Attachment A

Recommended Conditions of Consent
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SCHEDULE 1 - DEFERRED COMMENCEMENT CONDITIONS

The following deferred commencement conditions must be satisfied prior to the consent becoming operative:

PART A - DEFERRED COMMENCEMENT CONDITIONS

(CONDITIONS TO BE SATISFIED PRIOR TO CONSENT OPERATING)

The consent is not to operate until the following condition is satisfied, within **24 months** of the date of this determination:

(1) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

- (a) The 3 graphic vinyl (decal signs) on elevations 2, 3 and 4 and the dynamic content external menu board on elevation 1 are not approved and are to be removed.
- (b) The outdoor dining area including tables, chairs, umbrellas and barriers are not approved and are to be removed.
- (c) The proposed awnings on elevation 1 are not approved and are to be removed.
- (d) All elevations are to be painted / finished in a neutral colour scheme or material similar to that shown on elevation 1. A detailed materials, colours and finishes schedule keyed to each building elevation is to be submitted and approved by Council's Area Planning Manager.

(2) PLAN OF MANAGEMENT

An updated Plan of Management must be submitted and approved by Council's Area Planning Manager, and must contain details on how waste is to be collected and how deliveries and services will be managed including frequency, timing and location of parking and loading area.

- (3) Evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement conditions, as indicated above, must be submitted to Council within 24 months of the date of determination of this deferred commencement consent failing which, this deferred development consent will lapse pursuant to section 4.53(6) of the Environmental Planning and Assessment Act 1979.

The consent will not operate until such time that the Council notifies the Applicant in writing that deferred commencement consent conditions, as indicated above, have been satisfied.

Upon Council giving written notification to the Applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of that written notification, subject to the conditions of consent, as detailed in Part B Conditions of Consent.

**PART B – CONDITIONS OF CONSENT
SCHEDULE 1A**

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

Note: Some conditions in Schedule A 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/2018/1418 dated 23 November 2018 and the following drawings prepared by

Drawing Number	Drawing Name	Date
01.02	Layout Plan	05/11/2018
01.03	Dimensions Plan	05/11/2018
01.04	Reflected Ceiling Plan	05/11/2018
02.01a	Shopfront Elevation	05/11/2018
02.01b	Shopfront Elevation	05/11/2018
02.02	Section 1	05/11/2018
02.03	Section 2	05/11/2018
02.04	Section 3	05/11/2018
02.05	Section 4	05/11/2018
03.01	Counter Plan – Detail	05/11/2018
03.02	Counter Elevation – Detail	05/11/2018
03.03	Counter Sections – Detail	05/11/2018
03.04	Counter Sections – Detail	05/11/2018
03.05	Back Bench Plan – Detail	05/11/2018
03.06	Back Bench Elevation – Detail	05/11/2018
03.07	Back Bench Section – Detail	05/11/2018
03.08	Counter Menu – Detail	05/11/2018
03.15	The Beverage Hub Feature – Detail	05/11/2018
03.16	Signage – Detail	05/11/2018

and as amended by the conditions of this consent and the amended plans submitted to satisfy deferred commencement condition (1).

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

(2) HOURS OF OPERATION - SENSITIVE USES

The hours of operation are regulated as follows:

- (a) The hours of operation must be restricted to between 7.00am and 8.00pm Monday to Sunday inclusive.

- (b) Notwithstanding (a) above, the use may operate between 7.00am and 12.00 midnight, Monday to Sunday inclusive for a trial period of 1 year from the date of this consent. 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
- (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.

(3) NOISE – COMMERCIAL PLANT / INDUSTRIAL DEVELOPMENT

- (a) Noise from commercial plant and industrial development must not exceed a project amenity/intrusiveness noise level or maximum noise level in accordance with relevant requirements of the NSW EPA [Noise Policy for Industry 2017 \(NPfI\)](#) unless agreed to by the City's Area Planning Manager. Further:
 - (i) Background noise monitoring must be carried out in accordance with the long-term methodology in [Fact Sheet B](#) of the NPfI unless otherwise agreed by the City's Area Planning Manager.
 - (ii) Commercial plant is limited to heating, ventilation, air conditioning, refrigeration and energy generation equipment.
- (b) 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.
- (c) 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.

(4) PLAN OF MANAGEMENT

The use must always be operated / managed in accordance with the Plan of Management required by deferred commencement condition (2). In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.

(5) COPIES OF CONSENTS AND MANAGEMENT PLANS

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

(6) 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.

(7) NO SPRUICKING NOISE

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

(8) 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.

(9) ERECTION OF SIGN

The approved signs are to be erected in a secure manner to ensure safety and the installation is not to involve measures that would cause irreversible damage to the building.

(10) SIGN ILLUMINATION

- (a) At no time is the intensity, period of intermittency and hours of illumination of the sign to cause objectionable glare or injury to the amenity of the neighbourhood and as such must be designed, installed and used in accordance with AS4282-1997 Control of Obtrusive Effects of Outdoor Lighting.
- (b) The sign(s) must not flash. Signs with flashing, chasing, pulsating or flickering lights are not permitted.
- (c) The maximum night time luminance of any sign is not to exceed 300 cd/sqm.
- (d) Signage is only permitted to be illuminated while a premises is open.
- (e) Upward facing light sources onto the signage is not permitted.

(11) SIGNS/GOODS IN THE PUBLIC WAY

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

(12) CONTROL OF LIGHT INTO THE ENVIRONMENT

Lighting installed in the open and/or public spaces must comply with AS1158 series-lighting for roads and public spaces. The design and placement must be so that lighting does not create a nuisance or negatively affect the amenity of the surrounding neighbourhood, for that purpose lighting must comply with AS4282-1997 Control of Obtrusive Effects of Outdoor Lighting.

(13) CARE OF BUILDING SURROUNDS

- (a) In addition to Council's daily street sweeping and cleansing operations, the owner/manager of the business shall ensure that surrounds of the shopfront including pavements and gutters are to be kept clean and free of litter associated with the operation of the business at all times. Regular morning, noon, afternoon, evening and night time litter patrols shall be undertaken.
- (b) The owner/manager of the site must be responsible for the removal of all graffiti from the building within 48 hours of its application.

(14) ROADS AND MARITIME SERVICES CONDITIONS

- (a) All works associated with the proposed sign, including maintenance activities, shall be at no cost to Roads and Maritime Services.
- (b) Signage shall not contain/use:
 - (i) Flashing lights;
 - (ii) Electronically changeable messages;
 - (iii) Animated display, moving parts or simulated movement.
 - (iv) Complex displays that hold a drivers attention beyond "glance appreciation"
 - (v) Displays resembling traffic signs or signals by use of colour, shape or words that can be construed as giving instruction to traffic (i.e. by using words such as 'halt' or 'stop').
 - (vi) A method of illumination that distracts or dazzles.
- (c) A construction zone will not be permitted on George Street or Lee Street.
- (d) The sign and ancillary support structures shall be frangible (breakable). Should the sign and support structures be infrangible, they shall be located outside the road side clear zone of Lee Street in accordance with Austroads Guide to Road Design (Part 6: Roadside Design, Safety and Barriers, Section 4.2.2), or behind a Roads and Maritime approved crash barrier.

SCHEDULE 1B

PRIOR TO CONSTRUCTION CERTIFICATE/COMMENCEMENT OF WORK/HEALTH AND BUILDING

(15) CONSTRUCTION AND FITOUT OF FOOD PREMISES

The construction, fitout and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code under the *Food Act 2003* and AS 4674 – 2004 Design, Construction and Fitout of Food Premises.

Note: Copies of AS 4674-2004 may be obtained from the Standards Australia Customer Service on telephone 1300 65 46 46 or by visiting the website www.standards.com.au.

Copies of the Food Standards Code (Australia) may be obtained by contacting the Food Standards Australia and New Zealand Authority on telephone (02) 6271 2222, email info@foodstandards.gov.au or by visiting the website www.foodstandards.gov.au.

(16) HOT WATER SERVICE

The capacity of the hot water service must ensure that a constant supply of hot water is provided to the premises at all times for all sinks and basins including hand wash basin/s. The temperature of the hot water provided to the sinks must be in accordance with *AS4674 – Design, Construction and Fit-out of Food Premises* and the *Australia New Zealand Food Standards Code 3.2.2 - Food Safety Practices* and general requirements.

(17) NO MECHANICAL VENTILATION – APPROVED EQUIPMENT LIST

Prior to the issue of an Occupation Certificate, the food business must submit to and seek written approval of Council's Health and Building Unit, a list detailing each item of cooking and food heating equipment to be used within the premises together with the corresponding units of energy for each piece of equipment in accordance with *AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings – Mechanical Ventilation in Buildings* (To be known as the Approved List). The following must also be complied with:

- (a) The Approved List must be kept on the premises and be made available to any authorised officer of Council upon request.
- (b) The use of any cooking or heating appliance not present on the Approved List is prohibited.
- (c) Amendments to the Approved List can be made subject to a written request to and approval from Council's Health and Building Unit.

(18) WASTE STORAGE AREA

- (a) To ensure the adequate storage and collection of waste from the food premises, all garbage and recyclable materials emanating from the premises must be stored in a designated waste storage area. The waste storage area must be designed and constructed in accordance with *AS 4674 – Design, Construction and Fit-out of Food Premises, Australia New Zealand Food Standards Code 3.2.3 – Food Premises and Equipment* and comply with the *Council Policy for Waste Minimisation in New Developments*, and must be:
 - (i) Provided with a hose tap connected to the water supply.
 - (ii) Paved with impervious floor materials.
 - (iii) Coved at the intersection of the floor and walls.
 - (iv) Graded and drained to a waste disposal system in accordance with the requirements of the relevant regulatory authority (Sydney Water).
 - (v) Adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour or air pollution as defined by the *Protection of the Environment Operations Act 1997* or a nuisance.
 - (vi) Fitted with appropriate interventions to meet fire safety standards in accordance with the *Building Code of Australia*.
 - (vii) Provided with the appropriate number and size of bins adequate for the storage of waste generated by the business, including recycling.
 - (viii) Appropriately managed so that it does not attract pests or create litter.
- (b) Detailed plans and specifications for the construction of the waste storage area must be submitted to and approved by the Principal Certifier prior to the issue of the Construction Certificate and must be constructed in accordance with such plans and specifications prior to the issuance of an Occupation Certificate.

(19) EXTERNAL WALLS AND CLADDING FLAMMABILITY

The external walls of the building including attachments must comply with the relevant requirements of the *National Construction Code (NCC)*. Prior to the issue of a Construction Certificate and Occupation Certificate the Principal Certifier must:

- (a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
- (b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

(20) CONSTRUCTION TRAFFIC MANAGEMENT PLAN

A Construction Traffic Management Plan must be submitted to and approved by Council prior to a Construction Certificate being issued.

(21) LOADING AND SERVICE MANAGEMENT PLAN

A detailed Loading and Servicing Management Plan, must be submitted to the Coordinator General, Transport Coordination within TfNSW for endorsement, prior to the Construction Certificate being issued.

The Loading and Servicing Management Plan will include a strategy for the management of all servicing of the site including waste collection and other delivery vehicles and should include information such as arrivals to the site, the anticipated numbers of arrivals per week, time of day of the arrivals, length of stay, vehicle type etc. The Plan must include, but is not limited to, management of deliveries to prevent disruption to public streets. The Plan must identify how loading / delivery for the retail tenant will be managed safely from the kerb-side to the site over the public domain. The Plan shall manage deliveries to the development without impacting the safe and efficient operation of bus services, the bus interchange and pedestrian movements within the vicinity of the site.

Once approved, the applicant must comply with this management plan at all time for the life site/use being granted. Any changes to the plan are to be approved by the Council's Area Planning Manager in writing prior to the amendment of the plan.

(22) CONSTRUCTION TRAFFIC AND PEDESTRIAN MANAGEMENT PLAN

- (a) The applicant shall prepare a Construction Pedestrian and Traffic Management Plan (CPTMP) in consultation with the Sydney Coordination Office within TfNSW, Roads and Maritime Services and the City of Sydney Council. A copy of the final plan shall be submitted to the Coordinator General, Transport Coordination for endorsement, prior to the commencement of any work on site. The CPTMP needs to specify, but not limited to, the following:
- (i) Location of the proposed work zone, noting that Lee Street and George Street are not suitable locations;
 - (ii) Location of any crane(s);
 - (iii) Haulage routes;
 - (iv) Construction vehicle access arrangements;
 - (v) Proposed construction hours;
 - (vi) Predicted number of construction vehicle movements and detail of vehicle types, noting that vehicle movements are to be minimised during peak periods;
 - (vii) Construction program;
 - (viii) Consultation strategy for liaison with surrounding stakeholders;

- (ix) Any potential impacts to general traffic, cyclists, pedestrians and bus services within the vicinity of the site from construction vehicles during the construction of the proposed works;
 - (x) Cumulative construction impacts of projects including Sydney Light Rail Project and Sydney Metro City and Southwest. Existing CPTMPs for developments within or around the development site should be referenced in the CPTMP to ensure that coordination of work activities are managed to minimise impacts on the CBD road network; and
 - (xi) Proposed mitigation measures. Should any impacts be identified, the duration of the impacts and measures proposed to mitigate any associated general traffic, public transport, pedestrian and cyclist impacts should be clearly identified and included in the CPTMP.
- (b) No construction work zone shall be permitted on Lee Street and George Street without the prior approval of the Sydney Coordination Office within TfNSW; and
 - (c) The applicant shall provide the builder's direct contact number to small businesses adjoining or impacted by the construction work and the Transport Management Centre and Sydney Coordination Office within Transport for NSW to resolve issues relating to traffic, freight, servicing and pedestrian access during construction in real time. The applicant is responsible for ensuring the builder's direct contact number is current during any stage of construction.

TfNSW requests that the applicant consults with the Sydney Coordination Office within TfNSW in relation to the above issues. TfNSW would be pleased to consider any further material forwarded from the applicant.

(23) WASTE AND RECYCLING MANAGEMENT - MINOR

The proposal must comply with the relevant provisions of Council's *Guidelines for Waste Management in New Developments 2018* which requires facilities to minimise and manage waste and recycling generated by the proposal.

SCHEDULE 1C

DURING CONSTRUCTION/PRIOR TO OCCUPATION/COMPLETION

(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 – CBD

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

- (a) All work, including demolition, excavation and building 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 7.00am and 7.00pm on Mondays to Fridays, inclusive, and 7.00am and 5.00pm on Saturdays, 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*.

(26) NO OBSTRUCTION OF PUBLIC WAY

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by Council to stop all work on site.

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>