

Attachment A

Recommended Conditions of Consent
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DRAFT CONDITIONS OF CONSENT

SCHEDULE 1

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2019/331 dated 2 April 2019 and the following drawings prepared by Paul Kelly Design:

Drawing Number	Drawing Name	Date
A-DA-2-05-C	Footway Licence Application Proposed Plan	18/09/2013

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 - SENSITIVE USES

The hours of operation are regulated as follows:

- (a) The hours of operation must be restricted to between 10.00am and 10.00pm Monday to Sunday.
- (b) Notwithstanding (a) above, the use may operate between 10.00pm and 12 midnight for a trial period of 2 years from the date of this consent.
- (c) All outdoor furniture including planter boxes / barriers must be removed from the footway and stored within the premises once outdoor trading ceases.
- (d) 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) FOOTWAY CLEARANCE

A minimum clear dimension of 2575mm for pedestrians must be maintained at all times.

(4) PLAN OF MANAGEMENT AND CAPACITY

- (a) The use must always be operated / managed in accordance with the Plan of Management, prepared by Design Collaborative signed and dated March 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.

- (b) The total capacity of the ground floor of the premises including the footway seating area must not exceed 400 persons.

(5) 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 approved hotel use that is operating from the restaurant known as Bourbon 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 33.5sqm on the footway of Darlinghurst Road adjoining the Bourbon Hotel in accordance with the plan marked as 'Footway Licence Application – Proposed Plan'.
- (f) All furniture must be kept strictly within the boundaries of the area defined on the approved drawing reference A-DA-2-05-C.
- (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) OUTDOOR DINING FURNITURE

- (a) 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.
- (b) If used, the planter boxes are limited to 7 in total, with 5 along Darlinghurst Road frontage and 1 on each end of the outdoor dining area. There is no obligation to use any planters.

(7) UMBRELLAS/HEATERS/MENU BOARD NOT APPROVED

Umbrellas, heaters, signs, and menu boards are not approved and cannot be placed within or near the outdoor dining area.

(8) NUISANCE

The Holder must not do, or permit to be done, anything which in the opinion of Council may become a nuisance or a disturbance, obstruction or cause damage, whether to Council property or to a member of the public in the vicinity of the footway, nor use the footway in any noisy, noxious or offensive manner.

(9) MAINTENANCE OF FOOTWAY

The Holder must prevent damage to any Council property. If the Holder of the Approval does not comply with this condition, Council may carry out the necessary work and the Holder must reimburse the Council for any associated costs.

(10) WASTE CONTRACT

The Holder of the Approval must at all times maintain a seven day trade waste contract and provide to Council on demand, evidence of that current waste contract.

(11) ACCESS FOR MAINTENANCE

Footway seating or any approved structures must not cover or impede access to public or private utility access and drainage pits. The Holder must permit utility, infrastructure and communications organisations access to the site at no cost if required.

(12) 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.

(13) NO SPEAKERS OR MUSIC OUTSIDE

Speakers 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.

(14) NO SPRUIKING/AMPLIFIED NOISE

No persons (such as spruikers) or recordings or other devices which have the effect of spruiking may be located on the footway. The sound of any spruiking or amplified noise generated within privately owned land must not be audible on the footway adjoining the subject property.

(15) 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 or transferred within the premises and removed in containers.

(16) COMPLIANCE WITH THE ACOUSTIC REPORT PRIOR TO OCCUPATION CERTIFICATES

- (a) All performance parameters, requirements, engineering assumptions and recommendations contained in the acoustic report prepared by Acoustic report prepared by **Acoustic logic Ref 20171405.1/1010A/R1/BW dated 16 October 2017 TRIM 2017/606382** must be implemented as part of the detailed design assessment and implemented into the design drawings prior to the commencement of the use of the premises.

(17) 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.