

# **Attachment A**

<b>Recommended Conditions of Consent</b>
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## CONDITIONS OF CONSENT

### SCHEDULE 1A

#### 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/2018/1473 dated 4 December, 2018 and the following drawings:

Drawing Number	Drawing Name	Date
Unnumbered	Unnamed	Undated

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) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

- (a) The outdoor dining area must be set back at least 2.0 metres from the southern edge of the adjoining concrete retaining wall for its full extent in order to facilitate safer emergency egress to the buildings adjoining to the east and north.

The modifications are to be submitted to and approved by Council's Area Planning Manager prior to Issuance of any Footway Approval.

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

The hours of operation are regulated as follows:

- (a) The hours of operation must be restricted to between 9:00am to 8:00pm Monday to Sunday inclusive.
- (b) Notwithstanding (a) above, the use may operate between 8:00pm till 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](mailto: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.

#### **(4) PLAN OF MANAGEMENT**

The use must always be operated / managed in accordance with the Plan of Management, prepared by Merivale signed and dated 29 November 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.

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

All performance parameters, requirements, engineering assumptions and recommendations contained in the acoustic report prepared by The Acoustic Group, dated 19th November 2018, ref: 48.4796.L31:MSC, titled Acoustic Compliance, Outdoor Dining Area – Felix Bar, Council Ref 2018/620801 must be implemented.

#### **(6) USE AND OPERATION**

The use and operation of outdoor areas must also be in accordance with the conditions prescribed and approved under Development Application D/2018/973.

#### **(7) 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 small bar use that is operating from the small bar known as Shop 1, 123 Pit Street, Sydney.
- (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 small bar 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 19 sqm on the footway of Ash Street adjoining 'Felix' in accordance with the plan stamped approved dated 5 June, 2019.
- (f) All furniture must be kept strictly within the boundaries of the area defined on the approved drawing plan stamped approved on 9 April, 2019.
- (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.
- (n) Radiant gas heating appliances used in association with footway seating must comply with AS 4565 – 2004 'Radiant gas heaters for outdoor and non-residential indoor use'.

#### **(8) OUTDOOR DINING APPROVAL**

A separate application must be made to Council to obtain approval to use the subject part of Ash Street for the purposes of Outdoor Dining under the provisions of Sections 125 and 126 of the *Roads Act 1993*.

#### **(9) COMPLIANCE WITH OUTDOOR DINING GUIDELINES**

The use and operation of the outdoor dining area must comply with all of the relevant provisions of Council's Outdoor Dining Guidelines and Outdoor Dining Policy.

**(10) 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.

**(11) 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 must be kept on-site and made available to Police or Council Officers, or Special Investigator upon request.

**(12) 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.

**(13) NEIGHBOURHOOD AMENITY**

- (a) Signs must be placed in clearly visible positions within the premises 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.

**(14) SECURITY AND QUEUING – CATEGORY B LICENSED PREMISES**

Security is to be provided at any time and in any manner specified in the Plan of Management prepared by Merivale, signed and dated 15 June 2018 that has been approved by Council.

The manager/licensee shall ensure that a clear footway width of 2.3m is maintained at all times along all footpaths immediately adjoining the premises. Patrons waiting to enter the premises shall queue along the immediate frontage of the premises. The queue must not obstruct any fire exit of any building or entrance to any other premises.

**(15) OUTDOOR DINING FURNITURE**

Furniture associated with the outdoor dining must be arranged in accordance with the approved plans and must not be fixed. All furniture must be stored inside the premises at the cease of operation.

## **SCHEDULE 1B**

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

#### **(16) WASTE AND RECYCLING MANAGEMENT - MINOR**

The proposal must comply with the relevant provisions of Council's *Policy for Waste Minimisation in New Developments 2005* which requires facilities to minimise and manage waste and recycling generated by the proposal.

#### **(17) CONDITIONS OF OPERATION SIGNAGE**

A notice must be displayed at or near every entrance by which patrons may enter the premises, and in such a manner and position that a patron entering the premises would reasonably be expected to see its contents. The notice is required to state the following:

- (a) The development approved hours of operation of the premises. Where appropriate specify hours of operation for each floor/area of the premises.
- (b) Any development approved trial hours of operation of the premises, and their expiry date. Where appropriate specify trial hours of operation for each floor/area of the premises.
- (c) Any development approved hours of operation of the footway associated with the premises.
- (d) Any development approved trial hours of operation of the footway, and their expiry date.
- (e) The maximum number of persons (including staff, patrons and performers) permitted in the premises at any one time. Where appropriate specify maximum number of persons for each floor/area of the premises at any one time. The capacity for each area shall not exceed the maximum numbers at any given time.
- (f) This notice must be in legible letters and figures:
  - (i) at least 50mm high; and
  - (ii) on contrasting background
- (g) Any such sign must be in a form approved by Council

## **SCHEDULE 1C**

### **DURING CONSTRUCTION/PRIOR TO OCCUPATION/COMPLETION**

#### **(18) 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.

#### **(19) 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.

#### **(20) 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.

#### **(21) 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.

## 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>