

Attachment A

Recommended Conditions of Consent

382-388 Botany Road, Beaconsfield

SCHEDULE 1 - DEFERRED COMMENCEMENT CONDITIONS (CONDITIONS TO BE SATISFIED PRIOR TO CONSENT OPERATING)

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

(A) 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) MATERIALS, COLOURS AND FINISHES

The design details of the shop frontage and all associated signage colours and finishes of the shopfront and signage are to be submitted to and approved by Council's Area Planning Manager.

- (a) The design of the shop frontage is to prevent any view into the store while providing a visually interesting presentation to Botany Road. This may include creative use of materials, glazing, geometric pattern or street art as defined by schedule 2 (Exempt development) of the Sydney LEP 2012.
- (b) The sign must comply with Section 4.4.6.5 (Signs) of the Sydney DCP 2012. The sign must be a maximum dimension of 600mm by 600mm and display the street number. The sign must contain the words 'RESTRICTED PREMISES' in capital letters no greater than 50mm in height.

(2) 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.

(3) 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.

(4) 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 (Once the Consent is Operation) of the subject report.

(B) PART B – CONDITIONS OF CONSENT

SCHEDULE 1

Note: Some conditions are to be satisfied prior to issue of a Construction Certificate, some are to be satisfied prior to issue of Occupation Certificate and others during the course of construction.

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2019/991 dated 22 October 2019 and the following drawings prepared by Adrian Minnard:

Drawing Name	Date
Site plan, Sign detail and floor plan	22.10.2019
Internal fittings layout	22.10.2019
Shop front elevation 1:100	22.10.2019
Shop front elevation 1:50	22.10.2019

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) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

- (a) The rear door within the proposed staff room is to be removed and the wall bricked up to ensure there is no access to the garage.
- (b) The floor plan must show a dedicated waste area and 4sqm bulky waste area in accordance with Council's *Guidelines for Waste Management in New Developments 2018*.

The modifications are to be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate.

(3) NO APPROVAL FOR SEX SERVICES OR SEXUAL ACTIVITY

Sexual services as defined in the *Sydney LEP 2012* are not permitted on the premises.

(4) HOURS OF OPERATION – SENSITIVE USES

The hours of operation are regulated as follows:

- (a) The hours of operation must be restricted to between 9.00am and 8.00pm Monday to Saturday inclusive and between 10.00am and 8.00pm on Sunday.

(5) CUSTOMER ACCESS – BOTANY ROAD

All customer access must be restricted to the southernmost corner of the tenancy adjoining Botany Road.

(6) REAR ACCESS – BEACONSFIELD LANE

The northernmost rear exit adjoining the carport must not be obstructed at any time.

(7) PLAN OF MANAGEMENT

The use must always be operated/managed in accordance with the Plan of Management as submitted in email correspondence dated 9/10/2019 Council ref: 2019/508784 that has been approved by Council. In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.

(8) COPIES OF CONSENTS AND MANAGEMENT PLANS

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

(9) INCIDENTS – RECORDING AND NOTIFICATION

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

(10) HEALTH SERVICES ACCESS

The proprietor must give access to health service providers to provide information and educational activities on disease transmission issues and any other issues.

(11) 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.

(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) 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.

(14) SIGN ILLUMINATION

- (a) The sign(s) must not flash. Signs with flashing, chasing, pulsating or flickering lights are not permitted.
- (b) Upward facing light sources onto the signage is not permitted.

(15) NO ADDITIONAL SIGNS

No additional signs to those approved as part of this consent are to be displayed.

(16) NO SEXUAL DISPLAY

There must be no display of restricted material, sex-related products, nude or semi-dressed staff in windows or doors, or outside the premises.

(17) MATERIALS FOR MAKING GOOD

New materials for making good and repairs, are to match the existing in terms of colours, finishes, sizes, profile and properties.

(18) ACCESS AND FACILITIES FOR PERSONS WITH DISABILITIES

The building must be designed and constructed to provide access and facilities for people with a disability in accordance with the *Building Code of Australia*.

If, in complying with this condition, amendments to the development are required, the design changes must be submitted to and approved by Council prior to a Construction Certificate being issued.

(19) WASTE AND RECYCLING MANAGEMENT - COMMERCIAL

- (a) A Waste and Recycling Management Plan is to be approved by the Principal Certifier prior to a Construction Certificate being issued. The plan must comply with the Council's *Guidelines for Waste Management in New Developments 2018* and incorporate changes required by Condition 2 (Design Modification).

UPON COMPLETION OF THE DEVELOPMENT

- (b) Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifier must ensure that waste handling works have been completed in accordance with: the Waste and Recycling

Management Plan; other relevant development consent conditions; and Council's *Guidelines for Waste Management in New Developments 2018*.

(20) WASTE AND RECYCLING COLLECTION CONTRACT

Prior to an Occupation Certificate being issued and/or commencement of the use, whichever is earlier, the building owner must ensure that there is a contract with a licensed contractor for the removal of **all waste**. No garbage is to be placed on the public way, e.g. footpaths, roadways, plazas, reserves, at any time.

(21) WASTE/RECYCLING COLLECTION

- (a) The collection of waste and recycling must only occur during the designated zone collection times as outlined in the City's Waste Policy – Local Approvals Policy for Managing Waste in Public Places 2017.
- (b) Garbage and recycling must not be placed on the street for collection more than half an hour before the scheduled collection time. Bins and containers are to be removed from the street within half an hour of collection.

(22) BICYCLE PARKING AND END OF TRIP FACILITIES

- (a) The minimum number of bicycle parking spaces and end of trip facilities to be provided for the development must comply with the table below.

Bicycle Parking Type	Number	Requirements
Customer	3	Spaces must be Class 3 bicycle rails

Notes:

- (i) The bicycle rails are to be located within the site boundaries.
- (b) The layout, design and security of bicycle facilities must comply with the minimum requirements of Australian Standard AS 2890.3 Parking Facilities Part 3: Bicycle Parking Facilities. The details must be submitted to and approved by the Principal Certifier confirming prior to the Construction Certificate being issued.

(23) ASBESTOS REMOVAL WORKS

- (a) All works removing asbestos containing materials must be carried out by a suitably licensed asbestos removalist duly licensed with Safework NSW, holding either a Friable (Class A) or a Non- Friable (Class B) Asbestos Removal Licence which ever applies.

A copy of the relevant licence shall be made available to any authorised Council officer on request within 24 hours.

(24) NOTIFICATION – NEW CONTAMINATION EVIDENCE

Any new evidence of site contamination discovered during demolition or construction works shall be notified to Council's Area Planning Manager immediately, who may require works to cease while issues are addressed.

(25) COVERING OF LOADS

All vehicles involved in the excavation and/or demolition process and departing the property with demolition materials, spoil or loose matter must have their loads fully covered before entering the public roadway.

(26) LOADING AND UNLOADING DURING CONSTRUCTION

The following requirements apply:

- (a) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.
- (b) Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate approval under Section 68 of the Local Government Act 1993 must be obtained.

(27) 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.

(28) 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.

(29) 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 - 1981 *Guide to Noise Control on Construction, Maintenance and Demolition Sites*.

Note: 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>