

Attachment A

Recommended Conditions of Consent
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CONDITIONS OF CONSENT

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2019/1176 dated 23 October 2019 and the following drawings:

Drawing Number	Drawing Name	Date
FA01	Site Plan – Outdoor Dining	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) APPROVAL TO LAPSE

- (a) The period during which the footway use is approved to operate is restricted to 5 years from the date of this approval. The use must cease after that time. A further footway application may be lodged before the end of that period for Council's consideration of the continuation of the use.
- (b) Council's consideration of a further application will take into account compliance with the conditions of approval; payment of rent; number and nature of substantiated complaints regarding the operation of the premises; any views expressed by the NSW Police Force; and any other relevant matters.
- (c) When the approval expires, the approval holder shall, at their own expense, remove all seating and associated structures and ensure that the footway is returned to its original condition.

(3) HOURS OF OPERATION - SENSITIVE USES

The hours of operation are regulated as follows:

- (a) The hours of operation must be restricted to between 12 midday and 8.00pm Mondays to Sundays inclusive.
- (b) Notwithstanding (a) above, the use may operate between 8.00pm and 9.30pm for a trial period of 1 year from the date of this consent.
- (c) A further application may be lodged to continue the trading hours outlined in (b) above 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 the

conditions of the approval, any substantiated complaints received and any views expressed by the Police.

All outdoor furniture must be removed from the footway and stored within the premises once outdoor trading ceases.

(4) MAXIMUM CAPACITY OF PERSONS

- (a) The maximum number of persons (including staff, patrons and performers) permitted on the premises (including the approved footpath area) at any one time, shall not exceed 338 persons in total, or:
 - (i) 143 persons on the ground floor, **including the approved footpath area;**
 - (ii) 100 persons on the first floor;
 - (iii) 95 persons on the rooftop bar area.
- (b) The capacity for each and any area specified above shall not exceed the maximum numbers at any given time.
- (c) The manager/licensee is responsible for ensuring the number of persons in the premises does not exceed that specified above.

(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 food and drink premises use that is operating from the licenced premises known as The Local Taphouse.
- (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 20.8m² on the footway of South Dowling Street adjoining The Taphouse Hotel in accordance with the plan marked as FA01 – Site Plan – Outdoor Dining.
- (f) All furniture must be kept strictly within the boundaries of the area defined on the approved drawing FA01.
- (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) BARRIERS NOT APPROVED

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

(7) NUISANCE

The applicant/operator must not do, or permit to be done, anything which in the opinion of the City of Sydney may become a nuisance or a disturbance, obstruction or cause of damage, whether to the City of Sydney or to a member of the public in the vicinity of the Site, nor use the Site in any noisy, noxious or offensive manner.

(8) MAINTENANCE OF FOOTWAY

The applicant/operator shall clean the footway area daily, remove litter, food scraps and so on, and prevent damage to any council property. If the applicant/operator does not comply with this condition, the City may carry out the necessary work and the applicant/operator will be required to reimburse the City for any associated costs.

(9) WASTE CONTRACT

The applicant/operator must at all times maintain a trade waste contract and provide to the City on demand evidence of that current waste contract.

(10) 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.

(11) NO OBSTRUCTION OF REGULATORY SIGNS

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

(12) 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.

(13) COPIES OF CONSENTS AND MANAGEMENT PLANS

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

(14) PLAN OF MANAGEMENT

The use must always be operated / managed in accordance with the Plan of Management, signed and dated October 2019.

(15) ROADS AND MARITIME SERVICES (RMS) - SPECIAL CONDITIONS

- (a) The tables and chairs shall be located on South Dowling Street in the identified space as shown on the submitted sketch with a 2.5 meters clearance from the face of kerb on South Dowling Street.
- (b) 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.

The clearance widths must consider any existing or proposed landscaping, vegetation, garden beds or proposed street furniture which may impact on the clearance. Pedestrians should not be forced on to the road carriageway by footway restaurants or other non-permanent items on the footpath.

(c) All improvements are not to be fixed structures and are to be stored away at the close of outdoor trading.

(d)

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 applying to use of buildings at places of public entertainment
- Clause 98D Conditions applying to use of land as drive-in theatre
- 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>