

Attachment A

Recommended Conditions of Consent
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CONDITIONS OF CONSENT

SCHEDULE 1

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2021/1212 dated 18 October 2021 and the following drawings: ~~drawing numbered 101 (Revision W, dated 26/10/2021 and prepared by 'kathryn Ashley studio') and as amended by the conditions of this consent.~~

<i>Drawing Number</i>	<i>Drawing Name</i>	<i>Date</i>
<i>Drawing no. 101 Revision W</i>	<i>Floor Plan</i>	<i>26/10/2021</i>
<i>Drawing no. 101 Revision W</i>	<i>Indicative Speaker Location Plan</i>	<i>26/10/2021</i>

and as amended by the conditions of this consent.

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

Reason

To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

Amended 17 May 2023 under D/2021/1212/A

(2) NO APPROVAL FOR WORKS

No approval is granted under this consent for any works.

(3) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA

The proposed use must comply with the *Building Code of Australia* (BCA).

(4) WASTE AND RECYCLING MANAGEMENT

The proposal must comply with the relevant provisions of Council's *Guidelines for Waste Management in New Developments 2018* which requires facilities to promote the efficient storage, separation, collection and handling of waste to maximise resources recovery.

(5) LICENSED PREMISES – PRIMARY PURPOSE

The primary purpose of the premises is always as a restaurant with the kitchen to be open and substantial food service to be available to patrons during the approved hours of operation. The sale and supply of liquor shall cease when the kitchen ceases to operate. All patrons are to have an allocated seat and the number and location of tables and chairs provided for seated dining must be in accordance with the approved floor plan at all times.

(6) INDOOR HOURS OF OPERATION

The indoor hours of operation must be restricted to between 8.00am and 2.00am (the following morning) Monday to Sunday, inclusive.

(7) OUTDOOR HOURS OF OPERATION

The outdoor hours of operation are regulated as follows:

- (a) The hours of operation must be restricted to between 8.00am and 10.00pm Monday to Sunday, inclusive.
- (b) Notwithstanding (a) above, the use may operate between 10.00pm and 12.00am (midnight) for a trial period of 1 year from the date of this **modified** consent **dated 17 May 2023. 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.

Amended 17 May 2023 under D/2021/1212/A

(8) CESSATION OF SERVICE

The premises may be open for business only between the operating hours in Condition 6 and Condition 7 above. The operator must cease providing alcohol at the premises 15 minutes before the required closing time.

(9) MAXIMUM CAPACITY OF PERSONS

- (a) The maximum number of patrons permitted in the premises at any one time is 300 persons.
- (b) The capacity 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.
- (d) A sign in letters not less than 25mm in height must be fixed at the main entry point to the premises alongside the Licensee's name stating the maximum number of persons, as specified in the development consent, that are permitted in the building. Details are to be provided to the satisfaction of the Principal Certifier prior to issue of a Construction Certificate.

Note: Clause 98D of the *Environmental Planning and Assessment Regulation 2000* requires a sign specifying maximum number of persons permitted in the building to be displayed in a prominent position for the following types of premises:

- (i) entertainment venue,
- (ii) function centre,
- (iii) pub,
- (iv) registered club,
- (v) restaurant.

(10) 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 and the Security Management Plan must be kept on-site and made available to Police or Council Officers, or Special Investigator upon request.

(11) PLAN OF MANAGEMENT

The use must always be operated / managed in accordance with the Plan of Management, ~~prepared by Kathryn Ashley Studio~~ signed and dated ~~2 November 2021~~ **23 February 2023** that has been approved by Council. In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.

Amended 17 May 2023 under D/2021/1212/A

(12) 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.

(13) QUEUING

No persons are to be permitted to drink or queue outside the premises at any time. Staff are to ensure that there is no queue for the premises and take all reasonable steps to ensure compliance with this condition.

(14) ~~NO SPEAKERS OR MUSIC OUTSIDE~~

SPEAKERS OR MUSIC OUTSIDE IN ACCORDANCE WITH ACOUSTIC ASSESSMENT

~~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.~~

- (a) *The outdoor speakers are to be installed in accordance with the indicative speaker location plan referenced condition 1 and the acoustic report prepared by Norrebro Design, dated 19 March 2023, Revision 7 titled 'Outdoor Dining and Acoustic Assessment Report', Council reference no. 2023/141457 must be implemented in the development prior to the commencement of its use.*
- (b) *The outdoor speakers may operate for a trial period of one (1) year from the 17 May 2023. A further application may be lodged to continue the use of the outdoor speakers not less than 30 days before the end of the trial period. Council's consideration of a proposed continuation and/or extension of the use of the outdoor speakers 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.*
- (c) *Additional amplification equipment must not be brought onsite which if used could cause cumulative entertainment noise (including amplified sound) from the development to exceed controls in this consent.*
- (d) *The outdoor speakers are to operate in accordance with the measures detailed in the acoustic report prepared by Norrebro Design, dated 19 March 2023, Revision 7 titled 'Outdoor Dining and Acoustic Assessment Report', Council reference no. 2023/141457.*

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(15) 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.

(16) 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.

(17) GLASS CRUSHER

All glass bottles and other glass waste must be reduced to glass shards (by way of a glass crusher located inside the premises) prior to the removal of such waste from the premises.

(18) 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.

(19) NEIGHBOURHOOD AMENITY

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

(20) 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 must 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.

(21) NOISE - ENTERTAINMENT

- (a) The $L_{Aeq, 15 \text{ minute}}$ noise level from the use must not exceed the background noise level ($L_{A90, 15 \text{ minute}}$) in any octave band (reference frequency 31.5 Hz to 8 kHz inclusive) by more than 5dB between 7.00am and 12.00 midnight when assessed at the boundary of any residential accommodation or tourist and visitor accommodation.
- (b) The $L_{Aeq, 15 \text{ minute}}$ noise level from the use must not exceed the background noise level ($L_{A90, 15 \text{ minute}}$) in any octave band (reference frequency 31.5 Hz to 8 kHz inclusive) between 12.00 midnight and 7.00am when assessed at the boundary of any residential accommodation or tourist and visitor accommodation.
- (c) Notwithstanding (a) above, the $L_{Aeq, 15 \text{ minute}}$ noise level from the use must not exceed the greater of the following levels between 7am and 12 midnight inside any habitable room of a residential accommodation or tourist and visitor accommodation, or at any time in an affected commercial premises:
 - (i) The existing internal $L_{A90, 15 \text{ minute}}$ (from external sources excluding the use) in any octave band (reference frequency 31.5 Hz to 8 kHz inclusive). Or,
 - (ii) If the $L_{Z90, 15 \text{ minute}}$ background level is below the hearing threshold curve (Tf - Table 1 of ISO 226 : 2003) in an above octave band, the lowest audible sound level (L_p) of the Tf curve in that octave band shall become that octave's $L_{Zeq 15 \text{ minute}}$ noise criteria level.
- (d) Notwithstanding (b) above, the $L_{A1 15 \text{ minute}}$ noise level from the use must not exceed the greater of the following sound pressure levels inside any habitable room between 12 midnight and 7am inside any habitable room of an affected residential accommodation or tourist and visitor accommodation:
 - (i) The existing internal $L_{A90, 15 \text{ minute}}$ (from external sources excluding the use) minus 10 dB in any octave band (reference frequency 31.5 Hz to 8 kHz inclusive) inside a habitable room of an affected residential accommodation or tourist and visitor accommodation. Or,
 - (ii) If the $L_{Z90, 15 \text{ minute}}$ minus 10 dB level is below the hearing threshold curve (Tf - Table 1 of ISO 226 : 2003) in an above octave band, the lowest audible sound level (L_p) of the Tf curve in that octave band shall become that octave's $L_{Z1 15 \text{ minute}}$ noise criteria level.

Note: L_{eq} , L_{01} , and L_{90} , metrics and 'A' (weightings) are as per the definitions in the standard AS1055-20148. 'Z' means unweighted noise. An internal L_{A90} level must be determined in the absence of noise emitted by the use and be sufficiently representative of the receiver in a low noise level quiet state. External L_{A90} levels for planning must be established as per the long-term methodology in Fact Sheet B of the NPfl unless otherwise agreed by the City's Area Planning Manager.

(22) COMPLIANCE WITH THE ACOUSTIC REPORT PRIOR TO CONSTRUCTION AND OR OCCUPATION CERTIFICATES

- (a) All relevant performance parameters (including but not limited to requirements, engineering assumptions and recommendations) in the DA Acoustic Report prepared by Kathryn Asheley, dated 7 October 2021, ref Doc. Rev 0 titled Norrebro Design, Alegre, Bar and Dining, Acoustic Assessment for Development Application, Council Ref 2021/451950 must be implemented in the development prior to the commencement of its use.
- (b) Prior to the commencement of the use, the final construction drawings and final construction methodology must be assessed and reported to be in accordance with the requirements of the DA Acoustic Report in (a) above, with reference to relevant documentation. This must be done by a Suitably Qualified Acoustic Consultant* (see definition below). This work will be to the satisfaction of the accredited certifier.
- (c) Prior to the use commencing, a Suitably Qualified Acoustic Consultant* is to provide a written Acoustic Verification Report to the satisfaction of the Principal Certifier that the development complies with the requirements set out in the Report and in (a) and (b) above.

Note: *Suitably Qualified Acoustic Consultant* means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustical Society, Institution of Engineers Australia or the Association of Australian Acoustical Consultants at the grade of member firm.

- (d) All physical aspects of the building's structure installed in order to meet performance parameters in accordance with this condition must be maintained at all times.

(23) NOISE – INSTALLATION, SETUP, TESTING AND CALIBRATION OF LIMITER/S, PRIOR TO THE USE COMMENCING

Prior to the use commencing, a Suitably Qualified Acoustic Consultant* is to provide a Noise Limiter/s Verification Report to the written satisfaction of the Principal certifying Authority that the development complies with the requirements set out as follows, and any relevant requirement in the COMPLIANCE WITH THE ACOUSTIC REPORT CONDITION PRIOR TO CONSTRUCTION OR OCCUPATION CERTIFICATES condition:

- (a) All sound amplification equipment in the premises must be controlled by a Root Mean Square (RMS) noise limiter with an attack time constant not exceeding 0.5 seconds, release time constant not less than 1 second and a compression ratio equal of at least 20:1. The limiter shall be set by a suitably qualified acoustic consultant* as per the manufacturer's specification. The consultant must ensure that resultant amplified sound complies with the Council's criteria for entertainment noise.
- (b) All Limiters and all post-limiter equipment including power amplifiers must be tamper proof and only operable by the acoustic consultant, a licensee and business owner who must keep a completed report on the premises.
- (c) This report must certify that limiter/s were installed, tested and calibrated so amplified noise will comply with the NOISE – ENTERTAINMENT Condition. The report will be prepared in accordance with and provide detail on the following requirements:
 - (i) An initial calibration of the operation of the limiter with the sound amplification equipment is to be undertaken. This assessment must include setting of the amplification system in addition to a documented overview of the system so that compliance is achieved with the noise criteria as referenced in parts (a) to (c) above.
 - (ii) Limiter settings and subsequent equipment must be benchmarked at the time of the above operational assessment. Pink noise and a swept sine wave signal must be fed into the amplification system and the level of the noise increased until the limiter operates continuously to comply with criteria. The L_{Aeq} , L_{A1} , L_{Ceq} and L_{C1} (1/1 octave bands - 31.5 Hz to 8 kHz centre frequencies) levels must be measured at suitable relevant reference location/s in the premises, with the premise empty other than essential staff. Correlating L_{Aeq}/L_{A1} and L_{Ceq}/L_{C1} measurements must be taken at identified nearby noise sensitive receivers during this process.
 - (iii) Music must then be played through the sound system(s) with the limiter(s) in continuous operation to verify the limiters work correctly and meet noise criteria at the locations detailed above.
 - (iv) The report will address the limiter installed within the premise (including but not limited to its brand, type specifications and location) including the noise control levels the limiter was set to (including a copy of the software configuration file for any digital signal processing device used). Furthermore, all post limiter equipment will be photographed, documented and catalogued in the report including location on a layout drawing.

Note: Suitably qualified Acoustic Consultant means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member.

(24) NOTIFICATION OF CONDUCT OF FOOD BUSINESS

The use shall not commence until the food business has notified Council with their food business details in accordance with the *Food Act 2003* and *The Australia New Zealand Food Standards Code – 3.2.2 – Food Safety Practices and General Requirements, Clause 4*.

Note: Registration forms are available on Council's website www.cityofsydney.nsw.gov.au.

(25) CONSTRUCTION AND FITOUT OF FOOD PREMISES

The construction, fit-out 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 Fit-out 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

(26) MECHANICAL VENTILATION

- (a) The premises must be ventilated in accordance with the Building Code of Australia and AS1668.1 and AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings - Mechanical Ventilation in Buildings.
- (b) Details of any mechanical ventilation and/or air conditioning system complying with AS1668.1 and AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings - Mechanical Ventilation in Buildings, the Building Code of Australia and relevant Australian Standards must be prepared and certified in accordance with Clause A5.2(1)(e) of the Building Code of Australia, to the satisfaction of the Accredited Certifier prior to the issue of a Construction Certificate.
- (c) Prior to issue of any Occupation Certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A5.2(1)(e) of the *Building Code of Australia*, must be submitted to the Principal Certifier.

(27) NO CHARCOAL OR SOLID FUEL COOKING

No charcoal or solid fuel cooking is approved as part of this application.

For the purpose of this condition solid fuel cooking should be defined as any solid material used as a fuel to produce energy and provide heating through combustion for the purpose of cooking. Solid fuels will include but are not limited to wood, charcoal, peat, coal etc.

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>.