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|---------------------------|------------------|-----------|---------------|
| <b>Original signed by</b> | <b>David Hoy</b> | <b>on</b> | <b>2/8/18</b> |
| <b>Date determined</b>    | <b>31/7/18</b>   |           |               |
| <b>Date operates</b>      | <b>2/8/18</b>    |           |               |
| <b>Date lapses</b>        | <b>2/8/2023</b>  |           |               |

## **Development Consent No. 148/18**

### **Notice of Determination**

Section 4.18 of the Environmental Planning and Assessment Act 1979 (“the Act”)  
Clause 100 of the Environmental Planning and Assessment Regulation 2000 (“the  
Regulation”)

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#### **Applicant’s Name**

Lux Ink Pty Ltd

#### **Land to which this applies**

326 Pacific Highway, Crows Nest  
Lot: B, DP: 333866

#### **Proposal**

Change of use to barber salon and tattoo parlour and internal fitout. Monday to Friday  
10am to 9pm and Saturday & Sunday 10am to 7pm.

#### **Determination of Development Application**

Subject to the provisions of Section 4.17 of the Environmental Planning and  
Assessment Act 1979, approval has been granted subject to conditions in the notice of  
determination.

#### **Reason for approval**

The change of use is permissible and consistent with zone objectives. The proposed  
hours of operation are consistent with the DCP. Any safety and security issues arising  
from the use as tattoo parlour may reasonably be mitigated or managed via conditions  
of consent. The same business owner has operated a premises in close proximity for a  
number of years with no concerns being raised.

#### **Date from which this Consent operates**

2 August 2018

**How were community views taken into account in making the decision**

The owners of adjoining properties and the **Wollstonecraft Precinct** were notified of the proposed development for a 14-day period, between **15 & 29 June 2018**, in accordance with Section A4 of NSDCP 2013. The notification resulted in **no submissions**.

**Period of Consent**

Subject to Section 4.20 of the Act, this consent becomes effective and operates from 2 August 2018. The consent lapses five years after the date of consent in accordance with Section 4.53 of the Act and cannot be extended. To enjoy the benefits of this consent, works must physically commence onsite by 2 August 2023.

**Review of determination and right of appeal**

Within 6 months after the date of determination, a review of this determination can be requested under Division 8.2 of the Act or an appeal to the Land and Environment Court made pursuant to the provisions of Section 8.7 of the Act. If a review is contemplated, it should be lodged within two months of the date of this determination to enable the six month period, which includes Council's review to be met.

**Plans endorsed by the consent authority**

| <b>Plan No.</b> | <b>Issue</b> | <b>Title</b>                    | <b>Drawn by</b>     | <b>Received</b> |
|-----------------|--------------|---------------------------------|---------------------|-----------------|
| DA01            | A            | Site Plan                       | Think Design Studio | 23/5/18         |
| DA02            | A            | Existing Floor Plans            | Think Design Studio | 23/5/18         |
| DA03            | A            | Proposed Floor Plans            | Think Design Studio | 23/5/18         |
| DA04            | A            | Elevation + Section + 3D Images | Think Design Studio | 23/5/18         |

**Endorsed for and on behalf of North Sydney Council**

DAVID HOY  
TEAM LEADER (ASSESSMENTS)

2 August 2018  
Date of Endorsement

**(i) Conditions**

Consent is granted subject to the following conditions imposed pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979 (“the *Act*”) and the provisions of the Environmental Planning & Assessment Regulation 2000 (“the *Regulation*”) such conditions being reasonable and relevant to the development as assessed pursuant to Section 4.15 of the Act.

Standard Condition: A1 (Autotext AA1)

**(ii) Definitions**

Unless specified otherwise, words have the same meaning as defined by the *Act*, the *Regulation* and the *Interpretation Act 1987* as in force at the date of consent.

***Applicant*** means the applicant for this consent.

***Approved Plans*** means the plans endorsed by Council referenced by this consent as amended by conditions of this consent.

***AS*** or ***AS/NZS*** means Australian Standard® or Australian/New Zealand Standard®, respectively, published by Standards Australia International Limited.

***NCC*** means the National Construction Code as published by the Australian Building Codes Board as in force at the date of issue of any *Construction Certificate*.

***Council*** means North Sydney Council.

***Court*** means the Land and Environment Court.

***Local Native Plants*** means species of native plant endemic to North Sydney LGA.

***Stormwater Drainage System*** means all works, facilities and documentation relating to:

- The collection of stormwater,
- The retention of stormwater,
- The reuse of stormwater,
- The detention of stormwater,
- The controlled release of stormwater; and
- Connections to easements and public stormwater systems.

***Owner*** means the owner of the *site* and successors in title to the *site*.

***Owner Builder*** has the same meaning as in the *Home Building Act 1989*.

***PCA*** means the *Principal Certifying Authority* under the *Act*.

*Principal Contractor* for building work means the person responsible for the overall coordination and control of the carrying out of the building work.

Note: If any residential building work is involved, the principal contractor must be the holder of a contractor licence under the *Home Building Act 1989*.

*Professional Engineer* has the same meaning as in the *NCC*.

*Public Place* has the same meaning as in the *Local Government Act 1993*.

*Road* has the same meaning as in the *Roads Act 1993*.

*SEE* means the final version of the Statement of Environmental Effects lodged by the *Applicant*.

*Site* means the land being developed subject to this consent.

*NSLEP 2013* means *North Sydney Local Environmental Plan 2013*

*NSDCP 2013* means *North Sydney Development Control Plan 2013*

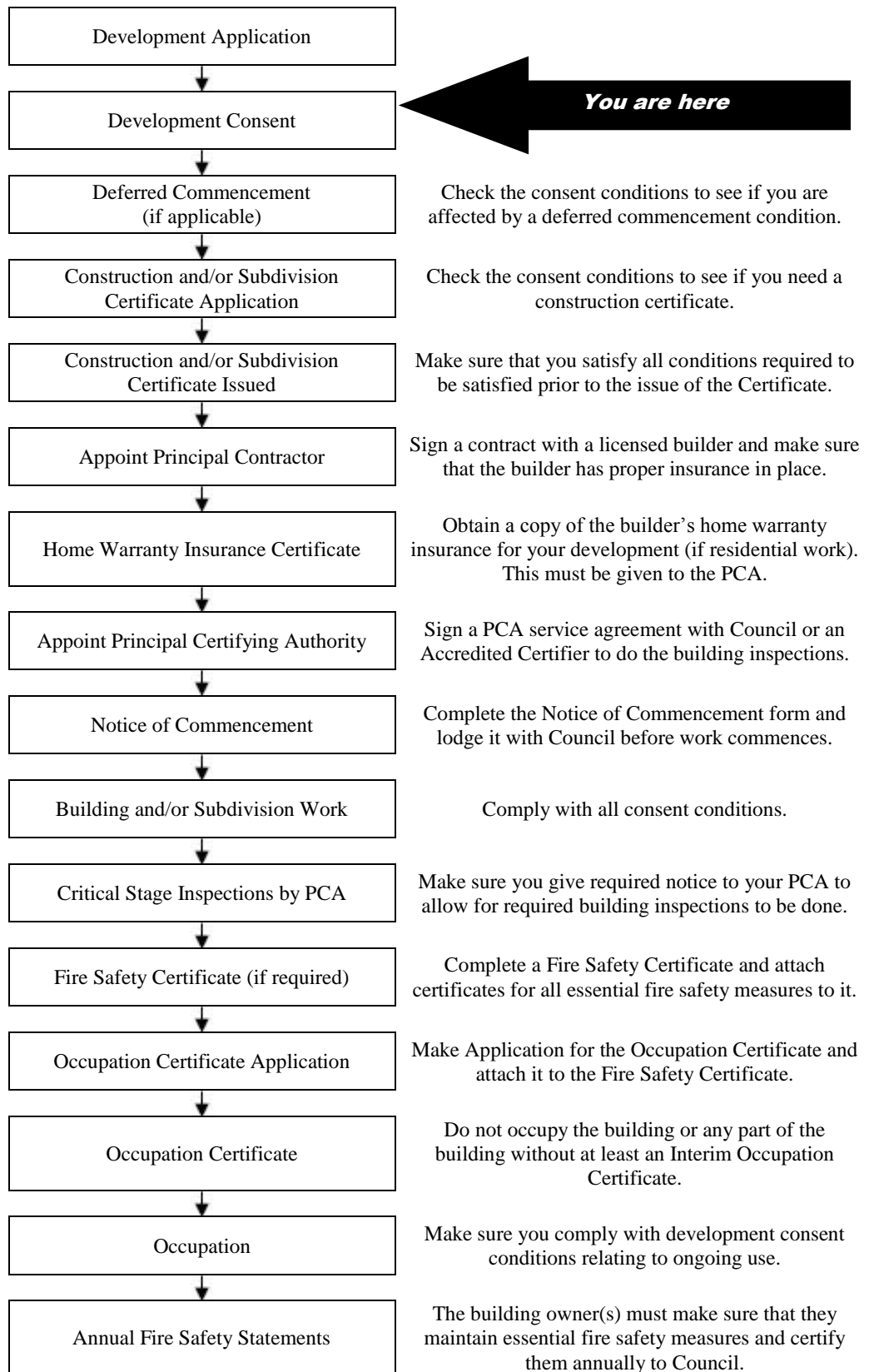
*Work* for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of any waste, materials, site crane, machine, article, material, or thing,
- the demolition of a building,
- the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an *occupation certificate*.

Note: **Interpretation of Conditions** – Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.

Standard Condition: A2 (Autotext AA2)

**(iii) The general steps after obtaining development consent from Council which need to be followed is provided below: -**



**Note:** This guide is provided in good faith to assist applicants to understand the broad process. Not every statutory step may apply or has been covered given that each situation may vary in individual circumstances.

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**A. Conditions that Identify Approved Plans**

**Development in Accordance with Plans/documentation**

- A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

| <b>Plan No.</b> | <b>Issue</b> | <b>Title</b>                    | <b>Drawn by</b>     | <b>Received</b> |
|-----------------|--------------|---------------------------------|---------------------|-----------------|
| DA01            | A            | Site Plan                       | Think Design Studio | 23/5/18         |
| DA02            | A            | Existing Floor Plans            | Think Design Studio | 23/5/18         |
| DA03            | A            | Proposed Floor Plans            | Think Design Studio | 23/5/18         |
| DA04            | A            | Elevation + Section + 3D Images | Think Design Studio | 23/5/18         |

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

**Plans on Site**

- A2. A copy of all stamped approved plans, specifications and documents (including the plans, specifications and documents submitted and approved with the Construction Certificate) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

All documents kept on site in accordance with this condition must be provided to any officer of the Council or the certifying authority upon their request.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance)

**No Demolition**

- A3. Alterations to the existing building shall be limited to that documented on the approved plans.

(Reason: To ensure compliance with the approved development)

**Signage separate DA**

- A4. Signage, other than exempt development under *SEPP (Exempt & Complying Development Codes) 2008*, shall be subject to a separate development application. Any under awning sign must be erected approximately horizontal to the ground and be at no point less than 2.6m from the ground.

(Reason: To clarify consent)

**Cleanliness and Maintenance of Hairdressing, Beauty and Skin Penetration Salons**

A5. To ensure that adequate provision is made for the cleanliness, hygiene and maintenance of all hairdressing, beauty and skin penetration salons, all work associated with the fitout shall be designed and carried out in accordance with the requirements of:

- a) the Public Health Act 2010;
- b) the Public Health Regulation 2012;
- c) the NSW Health Guidelines for Skin Penetration premises;
- d) the Building Code of Australia;
- e) the NSW Health Hairdressing and Barbers Hygiene Standard;
- f) the NSW Health and Nail Technician Tips for Health and Safety; and
- g) the Local Government (General) Regulation 2005.

Plans and specifications which comply with this condition must be submitted to a Certifying Authority engaged by the applicant, for approval **prior to the commencement of the use.**

**Documentary evidence of approval by a Certifying Authority is to be submitted to Council and the premises registered with Council prior to the commencement of the use.**

(Reason: To ensure compliance with the relevant public health legislation and guidelines)

***D. Prior to the Commencement of Fitout Works (and continuing where indicated)***

**Public Liability Insurance – Works on Public Land**

D1. Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of public land and the undertaking of approved works within Council's road reserve or public land, as approved by this consent. The Policy is to note, and provide protection/full indemnification for North Sydney Council, as an interested party. A copy of the Policy must be submitted to Council prior to commencement of any works. The Policy must be valid for the entire period that the works are being undertaken.

(Note: Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.)

(Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land)



### **Commencement of Works Notice**

- D2. Fitout works in accordance with this development consent must not be commenced until the developer has given at least 2 days notice to North Sydney Council of the person's intention to commence fitout works in accordance with this development consent.

(Reason: To ensure appropriate safeguarding measures are in place prior to the commencement of any works)

### ***E. During Fitout Work***

#### **Parking Restrictions**

- E1. Existing public parking provisions in the vicinity of the site must be maintained at all times during fitout works. The placement of any barriers, traffic cones, obstructions or other device in the road shoulder or kerbside lane is prohibited without the prior written consent of Council. Changes to existing public parking facilities/restrictions must be approved by the North Sydney Local Traffic Committee. The Developer will be held responsible for any breaches of this condition, and will incur any fines associated with enforcement by Council regulatory officers.

(Reason: To ensure that existing kerbside parking provisions are not compromised during works)

#### **Removal of Extra Fabric**

- E2. Should any portion of the existing building or curtilage of the site which is indicated on the approved plans to be retained be damaged for whatever reason, all the fitout works in the area of the damaged portion are to cease and written notification of the damage is to be given to Council forthwith. No fitout work is to resume until the written approval of Council to do so is obtained. Failure to comply with the provisions of this condition may result in the Council taking further action including legal proceedings if necessary.

(Reason: To ensure compliance with the terms of this development consent)

#### **Noise and Vibration**

- E3. The works must be undertaken in accordance with the "Interim Construction Noise Guideline" published by the NSW Environment Protection Authority, to ensure excessive levels of noise and vibration do not occur so as to minimise adverse effects experienced on any adjoining land.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

### **Developer's Cost of Work on Council Property**

- E4. The developer must bear the cost of all works associated with the development that occurs on Council's property, including the restoration of damaged areas.

(Reason: To ensure the proper management of public land and funds)

### **Construction Hours**

- E5. Fitout works must be restricted to within the hours of 7.00 am to 5.00 pm Monday to Friday and on Saturday to within the hours of 8.00 am to 1.00 pm inclusive, with no work on Sundays and Public Holidays.

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

### **Health and Safety**

- E6. All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that warn the public to keep out of the site, and provide a contact telephone number for enquiries.

Further information and details regarding occupational health and safety requirements for construction sites can be obtained from the internet at [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

(Reason: To ensure the health and safety of the community and workers on the site)

### **Prohibition on Use of Pavements**

- E7. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the fitout works, with no obstructions caused to the said footways and roadways. Furniture, fixtures and/or fittings must not be placed or stored on Council's footpaths or roadways (unless a permit is obtained from Council beforehand). A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the site.

(Reason: To ensure public safety and amenity on public land)

### **Waste Disposal**

- E8. All records demonstrating the lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as North Sydney Council and the Environmental Protection Authority.

(Reason: To ensure the lawful disposal of construction and demolition waste)

### ***F. Prescribed Conditions imposed under EP&A Act and Regulations and other relevant Legislation***

### **Building Code of Australia**

- F1. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

(Reason: Prescribed - Statutory)

### ***I. On-Going / Operational Conditions***

### **Hours of Operation**

- I1. The hours of operation are restricted to:

|                   |                   |
|-------------------|-------------------|
| Monday to Friday  | 10:00am to 9:00pm |
| Saturday & Sunday | 10:00am to 7:00pm |

Upon expiry of the permitted hours:

- (a) all salon and tattoo services must immediately cease;
- (b) no person shall be permitted entry; and
- (c) all customers on the premises must be required to leave within the following half hour.

(Reason: to ensure that amenity of the surrounding locality is maintained and hours of operation are consistent with those in surrounding locality)

### **Noise and Vibration Impact**

- I2. The on-going use of the premises approved under this consent must comply with all conditions pertaining to noise and vibration specified in this consent.

(Reason: To ensure compliance with the specified levels of noise and vibration and to maintain the amenity of surrounding land uses)

### **No Entertainment**

- I3. This approval is for a hair salon and tattoo studio only and does not authorise musical or other forms of entertainment. A separate development consent is required for any proposed entertainment.

(Reason: Clarification of terms of this consent and ensure compliance with relevant legislation)

### **Daily Cleaning**

- I4. The proprietor/operator is to ensure that at all times when the premises are open and at the end of each day after the premises have closed, all rubbish including loose papers, cigarette butts, bottles etc which may be left on the subject premises, site or immediately adjacent area is picked up and placed in the proprietor's/operator's rubbish bins.

(Reason: To ensure waste generated by the approved use or activity is properly managed by the person acting upon this consent, to prevent unsightly build-up of waste material)

### **Waste Collection**

- I5. Waste and recyclable material, generated by this premises, must not be collected between the hours of 10pm and 6am on any day.

(Reason: To ensure the amenity of surrounding properties)

### **Trade Waste Collection (Crows Nest Trade Waste Policy)**

- I6. All trade waste and recycling generated from the premises must be managed and disposed of in accordance with the Crows Nest Trade Waste Policy available on Council's website at [www.northsydney.nsw.gov.au](http://www.northsydney.nsw.gov.au)

Arrangements for the collection and storage of trade waste bins must comply with the following:

- (a) Bins must be placed out for collection no earlier than 5.00pm and no later than 10.00pm on the day before collection.
- (b) All trade waste must be collected between the hours of 6.00am and 10.00am.
- (c) Waste and recycling bins are not to be stored permanently in streets and laneways unless specifically prescribed by Council in writing.

(Reason: To ensure compliance with Council's waste controls for the Crows Nest commercial area)

### **Delivery Hours**

I7. No deliveries, loading or unloading associated with the premises are to take place between the hours of 10pm and 6am on any day.

(Reason: To ensure the acoustic amenity of surrounding properties)

### **Operation of Business**

I8. The development must comply with the following:

- (a) The consent holder must hold a current tattoo operator licence authorising the licensee to carry on a body art tattooing business (whether on his or her own behalf or on behalf of another person) at the premises and operate the business in accordance with the Tattoo Parlour Act 2012 and the conditions of the licence.
- (b) All staff that performs body art tattooing procedures for fee or reward must hold a current body art tattooist Licence.
- (c) The consent holder is to ensure that all staff who perform any duties on the premises maintains a record of their employment. This record is required to contain the full name, current residential address, contact numbers and employment position. This record is required to be made in English and made available for inspection by Police or an authorised officer.

(Reason: NSW Police requirements, to facilitate law enforcement)

### **Display of Licence Information (Tattoo Operator)**

I9. It is a condition of a tattoo operator licence that the licensee must ensure that:

- (a) such document or information as may be prescribed by the regulations is conspicuously displayed at the licensed premises, and
- (b) the licence number is included in any advertisement relating to the body art tattooing business carried on at the licensed premises.

(Reason: NSW Police requirement, to facilitate law enforcement)

### **CCTV**

I10. The consent holder shall maintain a CCTV system that meets the following minimum requirements:

1. A camera must be located at the main entrance to the venue and positioned to record any person entering through this entrance. The CCTV recordings of this camera must be sufficient to enable the identity of an individual to be established beyond a reasonable doubt when:
  - a. the person represents not less than 100% of screen height, and
  - b. there is an unobstructed view of the persons face.

2. In addition, CCTV cameras must be maintained throughout the premises with camera coverage to specifically record images of the following areas:
  - a. all entrances and exits, whether or not in use at the time where persons are entering or leaving the premise;
  - b. any rooms where staff or the public may have access to. (excluding toilets).
3. The CCTV recordings of these cameras must be sufficient to enable the recognition of a person. A viewer must be able to say with a high degree of certainty whether or not an individual shown is the same as someone they have seen before when:
  - a. the person represents not less than 50% of screen height, and
  - b. there is an unobstructed view of the persons face.
4. Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.
5. Camera recordings must meet the standards set out at all times, either by way of camera technology and settings, and/or by maintenance of lighting, camera positioning, camera shades and other environmental factors.
6. Recordings must:
  - a. be in digital format,
  - b. record at a minimum of six frames per second, and
  - c. be continuous 24 hours per day.
7. The correct time, date and camera identification must be automatically embedded on all recordings and be able to be read when the image is played back on a different system without interfering with the view of the target area.
8. Recordings should be retained for a period of 30 days before being reused or destroyed. The consent holder shall ensure that no person is able to delete or alter any recordings within the 30-day period.
9. When premise is open and trading, at least one person shall be at the venue that is capable of accessing the CCTV system and is able to immediately review recordings and produce copies.
10. Immediate access to the CCTV system and the ability to review recordings on the system is to be granted to NSW Police, or other regulatory officer upon request.
11. The CCTV system shall be able to reproduce a copy of the recordings on compact disk, DVD, or USB memory stick and must be provided within one working day to NSW Police, or other regulatory officer upon request.

12. Prior to the commencement of trade each day, the CCTV system shall be checked to ensure the equipment is in full operating order. If during the daily check or at any other time, it is discovered that the equipment is not in full operating order, the consent holder or employee is to notify the Local Area Commander or delegate within 2 hours. All reasonable steps must be undertaken to repair the system as soon as practicable.

(Reason: NSW Police requirement, to facilitate law enforcement)

### **Waste Management – Needles**

I11. The consent holder is to ensure the compliance of the following:

- (a) The premises where skin penetration procedures are carried out are clean and hygienic;
- (b) The Premises where skin penetration procedures are carried out have a waste disposal bin;
- (c) The premises where skin penetration procedures are carried out must have a hand basin that has a supply of clean, warm, potable water;
- (d) The premises where skin penetration procedures are carried out must have a separate sink that has a supply of clean warm water for cleaning equipment (if equipment used in skin penetration procedures at the premises is cleaned at the premises);
- (e) Liquid soap/alcohol based hand cleaner is available for persons carrying out skin penetration procedures;
- (f) Single use towels/automatic hand dryer available for persons carrying out skin penetrations procedures;
- (g) Disposable gloves available for persons carrying out skin penetration procedures;
- (h) Adequate number of sharps containers must be present;
- (i) Reusable articles must be sterilised;
- (j) Tattooist must wear gloves (while performing tattooing procedures) that have never previously been worn; and
- (k) Tattooist must wear clean gown/apron while performing tattooing procedures.

(Reason: NSW Police requirements, public safety)

### **Premises Management Checklist**

I12. The management of the premises shall be conducted in accordance with the *Premises Management Checklist* received by Council on 21/6/18, except where otherwise amended by the conditions of this consent

(Reason: To ensure the ongoing operation of the premises is in accordance with the terms of this consent)

**Shopfront to be kept clear**

- I13. The glazed shopfront to Pacific Highway shall be kept clear at all times and not be obscured by signage (other than exempt signage under *SEPP (Exempt & Complying Development Codes) 2008*), stickers, decals, banners, posters, video screen(s), curtains or the like.

(Reason: Streetscape amenity)

**Location of Plant**

- I14. All plant and equipment (including but not limited to air conditioning equipment) is not to be located on balconies, awning or roof(s) where they plant or equipment is visible from Pacific Highway or Nicholson Place.

(Reason: Minimise impact on surrounding properties, improved visual appearance and amenity for locality)

**Noise from Plant and Equipment**

- I15. The use of all plant and equipment installed on the premises must not:
- (a) Contribute an LAeq(15min) which will cause the total LAeq(15min) from all plant and equipment operating contemporaneously on the site or in the strata scheme or in the mixed strata schemes to exceed the RBL by more than 5dB when measured at the boundary of any affected receiver. The modifying factor adjustments in Section 4 of the EPA Industrial Noise Policy shall be applied.
  - (b) Cause “offensive noise” as defined in the *Protection of the Environment Operations Act 1997*.

“affected receiver” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship, commercial premises and parks and such other affected receiver as may be notified by the Council in writing.

“boundary” includes any window or elevated window of an affected receiver.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.

(Reason: To maintain an appropriate level of amenity for adjoining land uses)