

**Original signed by David Hoy on 15/11/2019**

**Date determined: 8/11/2019**

**Date operates: 15/11/2019**

**Date lapses: 15/11/2024**

Alistair Robb  
Chartered Architect  
27 New Line Road  
WEST PENNANT HILLS NSW 2125

D165/19  
DWH (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
NOTICE OF DETERMINATION - Approval**

*Issued under 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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**Development Application Number:** 165/19

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**Land to which this applies:**

75 & 77-79 Christie Street, St Leonards  
Lot No.: 1, DP: 228176

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**Applicant:**

Alistair Robb, Chartered Architect

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**Proposal:**

Consolidation of two lots containing commercial premises and alterations and additions to extend existing licensed premises into adjoining premises with use of the premises as a pub increase in staff from 27 to 35 and hours of operation 10am to 3am (Mon to Sat) and 10am to 10pm (Sun) with maximum patrons of 450

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**Determination of Development Application:**

The development application was considered by the **North Sydney Local Planning Panel (NSLPP)** on 6 November 2019. 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.

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**Date of Determination:**

8 November 2019

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**Reason for approval:**

The Panel is satisfied with the conditions as recommended, and as amended above, environmental impacts are managed to a reasonable level. The trial period will provide the opportunity to assess the management of the operation and compliance with conditions.

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**Consent to operate from:** 8 November 2019

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**Consent will lapse on:** 8 November 2024

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**Period of Consent**

Subject to Section 4.20 of the Act, this consent becomes effective and operates from the date listed above. The consent lapses five years after the date of consent in accordance with Section 4.53 of the Act and cannot be extended. To activate this consent, works must physically commence onsite by 8 November 2024.

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**How community views were taken into account:**

The submissions received by Council were addressed in the NSLPP report (see Council's website: [https://www.northernlocalgovernment.nsw.gov.au/Council\\_Meetings/Meetings/NSLPP/2019/6\\_November\\_2019](https://www.northernlocalgovernment.nsw.gov.au/Council_Meetings/Meetings/NSLPP/2019/6_November_2019))

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**Review of determination and right of appeal:**

Within 6 months after the date of notification of the decision, 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. A review of determination should be lodged as soon as possible, and preferably no later two months after the date of notification of the decision to enable the review to be completed within the six-month period.

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Plans endorsed by the consent authority - please refer to condition A1.

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

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DATE

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Signature on behalf of consent authority  
DAVID HOY  
TEAM LEADER ASSESSMENTS

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**(i) Conditions**

Consent is granted subject to the following conditions imposed pursuant to Section 4.17 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 4.17 of the Act.

**(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.

***Principal Certifier*** for building or subdivision work means the certifier appointed as the principal certifier for the building work under section 6.6 (1) or for the subdivision work under section 6.12 (1).

*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.

**INDEX OF CONDITIONS**

	<b>Page No.</b>
<b>A. <i>Conditions that Identify Approved Plans</i></b>	
A1. Development in Accordance with Plans/documentation	7
A2. Plans on Site	7
A3. No Demolition of Extra Fabric	7
A4. External Finishes & Materials	8
<b>C. <i>Prior to the Issue of a Construction Certificate (and ongoing, where indicated)</i></b>	
C1. Dilapidation Report Damage to Public Infrastructure	8
C2. Dilapidation Survey Private Property (Neighbouring Buildings)	8
C3. Structural Adequacy of Existing Building	9
C4. Work Zone	9
C5. Stormwater Disposal	10
C6. Bond for Damage and Completion of Infrastructure Works - Stormwater, Kerb and Gutter, Footpaths, Vehicular Crossing and Road Pavement	10
C7. Upgrade of existing building - Fire Spread and Safe Egress	11
C8. Cleanliness and Maintenance of Food Preparation Areas	11
C9. Garbage and Recycling Facilities	12
C10. Noise from Plant and Equipment	12
C11. Noise Control (Licensed Premises)	13
C12. Compliance with Acoustic Report	13
C13. Provision of Accessible Paths of Travel	14
C14. Security Deposit/ Guarantee Schedule	14
<b>D. <i>Prior to the Commencement of any Works (and continuing where indicated)</i></b>	
D1. Public Liability Insurance - Works on Public Land	15
<b>E. <i>During Demolition and Building Work</i></b>	
E1. Parking Restrictions	15
E2. Road Reserve Safety	15
E3. Temporary Disposal of Stormwater Runoff	16
E4. Developer's Cost of Work on Council Property	16
E5. Special Permits	16
E6. Installation and Maintenance of Sediment Control	17
E7. Sediment and Erosion Control Signage	17
E8. Prohibition on Use of Pavements	18
<b>F. <i>Prescribed Conditions imposed under EP&amp;A Act and Regulations and other relevant Legislation</i></b>	
F1. National Construction Code	18
F2. Appointment of a Principal Certifier (previously known as a PCA)	18
F3. Construction Certificate	18
F4. Occupation Certificate	18
F5. Critical Stage Inspections	18
F6. Commencement of Works	19
F7. Excavation/Demolition	19

---

F8.	Protection of Public Places	19
F9.	Site Sign	19
F10.	Maximum Capacity Site Sign	20
<b><i>G. Prior to the Issue of an Occupation Certificate</i></b>		
G1.	Infrastructure Repair and Completion of Works	20
G2.	Damage to Adjoining Properties	20
G3.	Utility Services	20
G4.	Noise Certification	21
G5.	Certification for Mechanical Exhaust Ventilation	21
<b><i>I. On-Going / Operational Conditions</i></b>		
I1.	Hours of Operation (Generally)	21
I2.	Hours of Operation (Indoor) - trial period	21
I3.	Plan of Management (Licensed Premises)	22
I4.	Trade Waste	24
I5.	Noise and Vibration Impact	24
I6.	Noise Conditions for Licensed Premises	24
I7.	Loading Dock - Operational Management Plan	25
I8.	Patron Behaviour	25
I9.	Waste Collection	26
I10.	CCTV Coverage - NSW Police	26

**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>Rev</b>	<b>Title</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Received</b>
GH-01	A	Ground Floor Plan & Basement	Alastair Robb, Architect	April 2019	12-06-19
GH-02	A	First Floor plan	Alastair Robb, Architect	April 2019	12-06-19
GH-03	A	Elevations	Alastair Robb, Architect	April 2019	12-06-19
GH-04	A	Section	Alastair Robb, Architect	April 2019	12-06-19
GH-E1	A	Existing Floor Plans & Demolition Plan	Alastair Robb, Architect	June 2019	16-07-19

<b>Document Titled</b>	<b>Rev</b>	<b>Prepared by</b>	<b>Dated</b>	<b>Received</b>
Noise Impact Assessment	2	Rodney Stevens Acoustics Pty Ltd	14-05-19	12-06-19
Gilroys Hotel Plan of Management		Unknown author	June 2019	12-06-19

except where amended by the following conditions.

(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 of Extra Fabric**

A3. Alterations to, and demolition of the existing building shall be limited to that documented on the approved plans.

(Reason: To ensure compliance with the approved development)

### **External Finishes & Materials**

- A4. External finishes and materials must be in accordance with the submitted schedule undated, prepared by Alastair Robb Architect and received by Council on 12 June 2019 unless otherwise modified by Council in writing.

(Reason: To ensure that the form of the development undertaken is in accordance

### **C. *Prior to the Issue of a Construction Certificate (and ongoing, where indicated)***

#### **Dilapidation Report Damage to Public Infrastructure**

- C1. A dilapidation survey and report (including photographic record) must be prepared by a suitably qualified consultant which details the pre-developed condition of the existing public infrastructure in the vicinity of the development site. Particular attention must be paid to accurately recording any pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. A copy of the dilapidation survey and report is to be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The developer may be held liable for all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded and demonstrated as pre-existing under the requirements of this condition.

The developer shall bear the cost of carrying out works to restore all public infrastructure damaged as a result of the carrying out of the development, and no occupation of the development shall occur until damage caused as a result of the carrying out of the development is rectified.

A copy of the dilapidation survey and report must be lodged with North Sydney Council by the Certifying Authority with submission of the Construction Certificate documentation.

(Reason: To record the condition of public infrastructure prior to the commencement of construction)

#### **Dilapidation Survey Private Property (Neighbouring Buildings)**

- C2. A photographic survey and dilapidation report of adjoining properties Nos. 2 Atchison Street & 81-83 Christie Street, detailing the physical condition of those properties, both internally and externally, but limited to one level above the height of the proposed works and to within 5 metres of the common boundary, and including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The survey and report is to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining property. A copy of the report is to be provided to Council, if Council is not the Certifying Authority, prior to the issue of any Construction Certificate.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.



In the event that access for undertaking the photographic survey and dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only, and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: Proper management of records)

### **Structural Adequacy of Existing Building**

C3. A report prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction shall be submitted to the Certifying Authority for approval prior to issue of any Construction Certificate. The certified report must also include all details of the methodology to be employed in construction phases to achieve the above requirements. The methodology in the certified report must be complied with at all times.

(Reason: To ensure the structural integrity of the building is maintained)

### **Work Zone**

C4. If a Work Zone is proposed, an application must be made to the North Sydney Local Traffic Committee to install the 'Work Zone'. A Work Zone permit is required to be issued by the Council prior to the issue of any Construction Certificate.

Work Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Works Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Works Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the North Sydney Local Traffic Committee and submit a copy of this to the Certifying Authority to enable issue of the Construction Certificate.

Where approval of the 'Work Zone' is given by the Committee, the requirements of the Committee, including installation of the necessary 'Work Zone' signage and payment of any fees, must occur prior to commencement of any works on the site. Further, at the expiration of the Work Zone approval, the developer is required to remove the Work Zone signs and reinstate any previous signs, all at the developer's cost. The requirements imposed by the Committee on the Work Zone permit (or permits) must be complied with at all times.

(Reason: Amenity and convenience during construction)

### **Stormwater Disposal**

- C5. Stormwater runoff generated by the approved development must be conveyed by gravity to the existing site stormwater drainage disposal system. A licensed tradesman shall install plumbing components to achieve this requirement in accordance with the BCA and current plumbing standards and guidelines. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure appropriate provision for disposal and stormwater management arising from the development)

### **Bond for Damage and Completion of Infrastructure Works - Stormwater, Kerb and Gutter, Footpaths, Vehicular Crossing and Road Pavement**

- C6. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$100,000.00 to be held by Council for the payment of cost for any/all of the following:
- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
  - b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and [environmental controls](#)) required in connection with this consent
  - c) remedying any defects in any such public work that arise within 6 months after the work is completed.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of 6 months from the issue of any final Occupation Certificate or completion of public work required to be completed (whichever is the latest) but only upon inspection and release by Council's Engineers.

Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in circumstances including the following: -

- where the damage constitutes a hazard in which case Council may make use of the security immediately;
- the applicant has not repaired or commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works;
- works in the public road associated with the development are to an unacceptable quality; and

- the Certifying Authority must ensure that security is provided to North Sydney Council prior to issue of any Construction Certificate.

(Reason: To ensure appropriate security for works on public land and an appropriate quality for new public infrastructure)

### **Upgrade of existing building - Fire Spread and Safe Egress**

- C7. Pursuant to clause 94 of the EP&A Regulation 2000, aspects of the existing building must be brought into conformity with the Building Code of Australia (BCA).

Work must be carried out as part of the development so as to upgrade the building to bring it into compliance with Sections C, D & E of the NCC BCA 2019, Volume 1.

Plans and specifications showing the upgrading works which must be carried out under this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

Notes:

- 1) The Certifying Authority must be satisfied that the plans and specifications submitted prior to the issue of any Construction Certificate comply with the requirements of this condition.
- 2) The Certifying Authority issuing the Construction Certificate has no power to remove the requirements to upgrade the existing building as required by this condition.
- 3) Where this condition specifies compliance with the performance requirements of the BCA, the Certifying Authority, subject to their level of accreditation, may be satisfied as to such matters.

(Reason: Application of Regulations relating to Fire and Life Safety)

### **Cleanliness and Maintenance of Food Preparation Areas**

- C8. To ensure that adequate provision is made for the cleanliness and maintenance of all food preparation areas, all building work in connection with the occupation or use of the premises for the preparation and storage of food shall be designed and carried out in accordance with the requirements of: -

- a) the Food Act 2003;
- b) the Food Regulation;
- c) the relevant Australian Standards;
- d) Council's Food Premises Code;
- e) Sydney Water Corporation - Trade Waste Section;
- f) the Protection of the Environment Operations Act and associated Regulations; and
- g) the Building Code of Australia.

Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The Construction Certificate plans and documentation must incorporate details of the following: -

- a) construction, materials and finishes;
- b) installation of fixtures, fittings and equipment;
- c) washing facilities, other facilities and special requirements;
- d) mechanical ventilation and exhaust discharges; and
- e) temperature control

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure compliance with acceptable standards for the construction of food premises established under environmental health and safety legislation)

### **Garbage and Recycling Facilities**

C9. Adequate provision must be made for the storage of waste and recyclable material generated by the premises. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the provision of appropriate waste facilities and to ensure efficient collection of waste by collection contractors)

### **Noise from Plant and Equipment**

C10. 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)

**Noise Control (Licensed Premises)**

C11. The use of the premises must comply with the following:

- (a) The LA10 noise level emitted from the use of the premises must not exceed the background noise level (LA90) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 5dB between the hours of 7.00am and 12.00 midnight when assessed at the boundary of any affected residence.
- (b) The LA10 noise level emitted from the use must not exceed the background noise level (LA90) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) between the hours of 12.00 midnight and 7.00am when assessed at the boundary of any affected residence.
- (c) Notwithstanding compliance with (a) and (b) above, the noise from the use must not be audible within any habitable room or sleeping area in any affected residence between the hours of 12.00 midnight and 7.00am.
- (d) The LA10 noise level emitted from the use must not exceed the background noise level (LA90) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 3dB when assessed indoors at any affected commercial premises with windows closed.
- (e) The use of the premises must be controlled so that any emitted noise is at a level so as not to create an “*offensive noise*” as defined in the *Protection of the Environment Operations Act 1997*.

“affected residence” includes residential premises (including any lot in the strata scheme or any other strata scheme), premises for short-term accommodation and hospitals.

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

LA10 is the average maximum A-weighted Fast Response sound level emitted from the premises.

LA90 shall be measured in the absence of all noise from the premises (including mechanical plant noise).

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 ensure the amenity of surrounding land uses)

**Compliance with Acoustic Report**

C12. The recommendations contained in the acoustic report prepared by Rodney Stevens Acoustics dated 14 May 2019 must be implemented during construction and use of the development.

A statement from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, certifying that the acoustic mitigation measures outlined in the above stated report have been suitably incorporated into the development and that relevant noise criteria have been satisfied, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The Principal Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

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

### **Provision of Accessible Paths of Travel**

C13. The building must be designed and constructed to provide access and facilities in accordance with the Building Code of Australia and Disability (Access to Premises - Buildings) Standards 2010. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

Notes:

1. If, in complying with this condition, amendments to the development are required, the design changes must be submitted for the approval of Council prior to a Construction Certificate being issued. Approval of a modification application may be required.
2. It is not within Council's power to set aside National legislation which requires the upgrade of buildings to meet modern access standards. Such decisions remain the jurisdiction of the Building Professionals Board Access Advisory Committee who may grant an exemption in certain exceptional circumstances.
3. Information on making an application for an "unjustifiable hardship exemption" under the accessibility standards can be found in the website of the NSW Building Professional Boards at <http://www.bpb.nsw.gov.au/page/premises-standards>

(Reason: To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian Standards)

### **Security Deposit/ Guarantee Schedule**

C14. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

<b>Security deposit/ guarantee</b>	<b>Amount (\$)</b>
Infrastructure Damage Bond	\$100,000.00
<b>TOTAL BONDS</b>	<b>\$100,000.00</b>

The security required by the above schedule must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

(Reason: Compliance with the development consent)

***D. Prior to the Commencement of any 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)

***E. During Demolition and Building Work***

**Parking Restrictions**

E1. Existing public parking provisions in the vicinity of the site must be maintained at all times during 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)

**Road Reserve Safety**

E2. 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 development works, with no obstructions caused to the said footways and roadways. Construction materials and plant must not be stored in the road reserve without approval of Council. 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 construction site.

Where public infrastructure is damaged, repair works must be carried out in when and as directed by Council officers (at full Developer cost). Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "Traffic Control Devices for Work on Roads". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**

(Reason: Public Safety)

### **Temporary Disposal of Stormwater Runoff**

E3. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to reasonably manage and control runoff as far as the approved point of stormwater discharge. Such ongoing measures must be to the satisfaction of the Certifying Authority.

(Reason: Stormwater control during construction)

### **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)

### **Special Permits**

E5. Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development must occur entirely on the property.

The developer, owner or builder may apply for specific permits available from Council's Customer Service Centre for the undermentioned activities on Council's property. In the event that a permit is granted by Council for the carrying out of works, processes, storage of materials, loading and unloading associated with the development on Council's property, the development must be carried out in accordance with the requirements of the permit. A minimum of forty-eight (48) hours notice is required for any permit: -

#### **1) On-street mobile plant**

Eg. cranes, concrete pumps, cherry-pickers, etc. - restrictions apply to the hours of operation, the area of operation, etc. Separate permits are required for each occasion and each piece of equipment. It is the developer's, owner's and builder's responsibilities to take whatever steps are necessary to ensure that the use of any equipment does not violate adjoining property owner's rights.

(Reason: Proper management of public land)



2) **Hoardings**

Permits are required to erect Class A and Class B hoardings. If an 'A' Class hoarding is to alienate a section of Council's property, that section will require a permit for the occupation of Council's property.

(Reason: Proper management of public land)

3) **Storage of building materials and building waste containers (skips) on Council's property**

Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded by Council with no additional notice being given. Storage of building materials and waste containers on open space reserves and parks is prohibited.

(Reason: Proper management of public land)

4) **Kerbside restrictions, construction zones**

Attention is drawn to the existing kerbside restrictions adjacent to the development. Should alteration of existing kerbside restrictions be required, or the provision of a construction zone, the appropriate application must be made and the fee paid to Council. Alternatives to such restrictions may require referral to Council's Traffic Committee and may take considerable time to be resolved. An earlier application is suggested to avoid delays in construction programs.

(Reason: Proper management of public land)

**Installation and Maintenance of Sediment Control**

E6. Erosion and sediment controls must be installed and maintained at all times in accordance with the Sediment and erosion control plan submitted and approved with the Construction Certificate.

Erosion and sediment measures must be maintained in accordance with the publication Managing Urban Stormwater: Soils & Construction (4th edition, Landcom, 2004), commonly referred to as the "Blue Book" and can only be removed when development activities have been completed and the site fully stabilised.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

**Sediment and Erosion Control Signage**

E7. A durable sign must be erected during building works in a prominent location on site, warning of penalties should appropriate erosion and sedimentation control devices not be maintained. A sign of the type referred to in this condition is available from Council.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

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

- E8. Building materials must not be placed on Council's footpaths, roadways, parks or grass verges, (unless a permit is obtained from Council beforehand). A suitable sign to this effect must be erected adjacent to the street alignment.

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

### ***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)

#### **Appointment of a Principal Certifying Authority (PCA)**

- F2. Building work, demolition or excavation in accordance with the development consent must not be commenced until the developer has appointed a Principal Certifying Authority for the building work in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory; To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

#### **Construction Certificate**

- F3. Building work, demolition or excavation in accordance with the development consent must not be commenced until a Construction Certificate for the relevant part of the building work has been issued in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory; To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

#### **Occupation Certificate**

- F4. A person must not commence occupation or use of the whole or any part of a new building (*new building* includes an altered portion of, or an extension to, an existing building) unless an Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifying Authority appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory)

#### **Critical Stage Inspections**

- F5. Building work must be inspected by the Principal Certifying Authority on the critical stage occasions prescribed by the EP&A Act and its Regulations, and as directed by the appointed Principal Certifying Authority.

(Reason: Statutory)

### **Commencement of Works**

F6. Building work, demolition or excavation 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 the erection of the building.

(Reason: Statutory; To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

### **Excavation/Demolition**

- F7.
- 1) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
  - 2) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
  - 3) Demolition work must be undertaken in accordance with the provisions of AS2601-Demolition of Structures.

(Reason: To ensure that work is undertaken in a professional and responsible manner and protect adjoining property and persons from potential damage)

### **Protection of Public Places**

- F8.
- 1) A hoarding and site fencing must be erected between the work site and adjoining public place.
  - 2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
  - 3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
  - 4) Any such hoarding, fence or awning is to be removed when the work has been completed.
  - 5) No access across public reserves or parks is permitted.

Note: Prior to the erection of any temporary fence or hoarding over property owned or managed by Council, written approval must be obtained. Any application needs to be accompanied by plans indicating the type of hoarding and its layout. Fees are assessed and will form part of any approval given. These fees must be paid prior to the approval being given. Approval for hoardings will generally only be given in association with approved building works, maintenance or to ensure protection of the public. An application form for a Hoarding Permit can be downloaded from Council's website.

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

### **Site Sign**

- F9.
- 1) A sign must be erected in a prominent position on the site
    - a) stating that unauthorised entry to the work site is prohibited;

- b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
  - c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
- 2) Any such sign must be maintained while building work or demolition work is being carried out, but must be removed when the work has been completed.

(Reason: Prescribed - Statutory)

### **Maximum Capacity Site Sign**

- F10. A sign must be displayed in a prominent position in the building stating the maximum number of persons, as specified in this development consent as 450 patrons, that are permitted in the building.

(Reason: Prescribed - Statutory)

### ***G. Prior to the Issue of an Occupation Certificate***

#### **Infrastructure Repair and Completion of Works**

- G1. Prior to the issue of any Occupation Certificate any and all works relating to the development:
- a. in the road reserve must be fully completed; and
  - b. to repair and make good any damaged public infrastructure caused as a result of any works relating to the development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete vehicles) must be fully repaired;

to the satisfaction of Council Engineers at no cost to Council.

(Reason: Maintain quality of Public assets)

#### **Damage to Adjoining Properties**

- G2. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.

(Reason: To ensure adjoining owner's property rights are protected)

#### **Utility Services**

- G3. All utility services shall be adjusted, to the correct levels and/or location/s required by this consent, prior to issue of an occupation certificate. This shall be at no cost to Council.

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

### **Noise Certification**

- G4. Prior to issue of the any Occupation Certificate a certificate from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants is to be submitted to, and approved by, the Certifying Authority certifying that the noise and vibration from use of the development complies with the conditions of consent herein.

(Reason: To ensure acoustic amenity)

### **Certification for Mechanical Exhaust Ventilation**

- G5. Prior to issue of an 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 A2.2(a)(iii) of the Building Code of Australia, must be submitted to, and approved by, the Certifying Authority.

(Reason: To ensure compliance with acceptable standards for the construction and operation of mechanical plant)

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

#### **Hours of Operation (Generally)**

- I1. The hours of operation are restricted to:

##### **Indoor Areas**

Monday to Friday	10am to midnight
Saturday	10am to midnight
Sunday	10am to 10pm

##### **Outdoor Areas (including first floor terrace and existing balcony)**

Monday to Friday	10am to 11pm
Saturday	10am to 11pm
Sunday	10am to 10pm

Upon expiry of the permitted hours:

- (a) all restaurant service (and entertainment) 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.

#### **Hours of Operation (Indoor) - Trial Period**

- I2. Notwithstanding Condition I1 the approved use for indoor areas only, may operate between the following hours for a trial period of **twenty-four (24) months** from the date of issue of the first Occupation Certificate, being interim or otherwise, and subject to review. Council must be informed in writing of the date of commencing the trial period.

Monday to Friday	12.00 midnight to 3am (the following day)
Saturday	12.00 midnight to 3am (the following day)

In order for the above trial hours of operation to be confirmed as ongoing, a modification application must be lodged with Council prior to the expiration of the trial period. The assessment of the application to continue the use in accordance with the trial, will consider amongst other things, the impact of the use on surrounding areas the performance of the operation in relation to compliance with development consent conditions, including a complaints register referred to in the Plan of Management and the verification of noise criteria as required by Condition I6.

In the event that no modification application is lodged, or an application is not approved, then the hours of operation for the premises must revert to the standard hours of operation identified by this consent.

(Note: Any person acting on this consent is advised that any modification application to the trial hours of operation period should be submitted to Council a minimum of thirty (30) days prior to the expiration of the trial period otherwise the trial period must lapse)

(Reason: To ensure safety and security and protect the amenity of surrounding areas)

### **Plan of Management (Licensed Premises)**

13. The licensed premises must always be operated and managed in accordance with the Gilroys Hotel Plan of Management dated June 2019 and received by Council on 12 June 2019, and must comply with the requirements of the relevant legislation.

The Plan of Management is to be updated to include provision for a minimum number of qualified security staff to be employed at the premises during busy periods and events where patrons will exceed 200.

In accordance with NSW Police recommended conditions of operation the following control measures are to be implemented:

- security guards are to be employed by the licensee to undertake regular patrols around the hotel during late trading in particular on busy trade nights Thursday, Friday and Saturday nights as well as Sunday nights before a public holiday Monday.
- A CCTV System in accordance with NSW Police guidelines and the requirements of this consent is to be installed and maintained in accordance with the license requirements.
- Appropriate signage should be erected inside and around the perimeter of the entire property to warn of security treatments in place e.g. “This site is under 24 hour video surveillance”.
- All ‘Staff only’ areas should be clearly marked as such and physical barriers such as doors and gates should be erected to prevent unauthorised entry.

- Staff should be provided with a secure area in which to store their personal effects whilst working.
- Lighting in and around the proposed development should comply with Australian Standard AS:1158 and should provide for adequate, uniform illumination. External lighting should be of a 'white light' source.

*Note:* High or low pressure sodium 'orange' lighting is not compatible with quality surveillance systems.

- Internal lighting should be controlled from 'Staff only' areas, away from public access. If this is not possible, use tamper-resistant switches. Luminaries (light covers) should be designed to reduce opportunities for malicious damage.
- Internal after-hours security lighting should provide adequate illumination to allow inspection by security patrols.
- Doors should be of solid construction, and should be fitted with quality deadlock sets that comply with the Building Code of Australia and Australian Standards - Lock Sets AS:4145.
- Windows within the business should also be of solid construction. These windows should be fitted with quality window lock sets that comply with the Australian Standards - Lock Sets AS:4145.
- Glass within doors and windows should be reinforced to restrict unauthorised access. The glass can be either fitted with a shatter-resistant film or laminated to withstand physical attacks.
- An efficient and secure cash collection and storage system is to be implemented to minimise the risk of robbery offences and should include a safe designed and installed to the Australian Standards.
- An emergency control and evacuation plan should be implemented within the business. Management and staff should be trained in the execution of the plan in emergency situations.
- All recording made by the CCTV system should be stored for at least 30 days and ensure that the system is accessible by at least one member of staff at all times it is in operation, and provide any recordings made by the system to a police officer or inspector within 24 hours of any request by a police officer or inspector.
- The CCTV cameras will need to be placed in suitable locations to enhance the physical security and assist in positively identifying an individual, who may be involved in criminal behaviour.
- Wheelchair access (ramp) should at no time be blocked nor impede access to anyone with a disability.

- The proprietors/management of the premises must take all steps necessary to ensure that no increased noise emissions occur from persons entering or leaving the premises.
- Management must also ensure the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood and that patrons leave the vicinity in an orderly manner.
- An after-hours alarm system is to be installed.
- Balcony areas are to be well secured and nothing of value to be left in those areas while the hotel is not trading.

In the event of any inconsistency between the Plan of Management and the conditions of this consent or relevant legislation, then the stricter condition or regulation will prevail.

(Reason: Safety, security and amenity)

### **Trade Waste**

14. Trade waste water must be disposed of in accordance with the permit requirements of Sydney Water Corporation Ltd, Wastewater Source Control Branch.

(Reason: To ensure compliance with Sydney Water's requirements and protect the environment)

### **Noise and Vibration Impact**

15. 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)

### **Noise Conditions for Licensed Premises**

16. Appropriately qualified acoustic consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustic Society, Institution of Engineers Australia or the Australian Association of Acoustic Consultants must be appointed before the entertainment commences and details of that appointment submitted to Council.

During the first 60 days of entertainment being provided at the premises, the attended acoustic monitoring must be undertaken in accordance following:

- (a) The acoustic consultant must:
- (i) measure and verify that the noise emanating from the premises complies with the noise criteria specified in this consent; and
  - (ii) if necessary, make recommendations to ensure that the noise emanating from the premises will comply with the noise criteria at all times. specified in this consent.



- (b) The noise measurements must be:
  - (i) undertaken without the knowledge of the applicant, manager or operator of the premises; and
  - (ii) taken on at least three different occasions on three different days of the week (excluding Monday, Tuesday and Wednesday) from 11 pm until the end of the entertainment or the close of business, whichever occurs first.
- (c) If the acoustic consultant recommends that additional treatment or works be undertaken under condition (a)(ii) above, those recommendations must be implemented to the acoustic consultant's and Council's satisfaction.
- (d) If the acoustic consultant's recommendations are not implemented in accordance with this condition, the premises must not be used for entertainment until such time as the recommendations are implemented and verified.

(Reason: To manage the potential for ongoing noise impacts)

### **Loading Dock - Operational Management Plan**

17. The use and all loading and unloading operations must be carried out in accordance with the operational management plan referred to in Condition A1 and as modified by conditions of this consent. The loading dock hours of operation shall be limited in accordance with the following:

Monday to Thursday	6AM to 10PM
Friday	6AM to 10PM
Saturday to Sunday	6AM to 10PM

(Reason: For pedestrian and traffic safety, and to maintain residential and public amenity)

### **Patron Behaviour**

18. The proprietors/management of the premises must take all steps necessary to ensure that no noise nuisance occurs from persons entering or leaving the premises. The proprietors/management must ensure that:
- (a) A sign is placed in clearly visible position adjacent to the entry/exit of the premises requesting patrons upon leaving the premises to do so quickly and quietly, having regard to maintaining the amenity of the area.
  - (b) The licensee must ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood.
  - (c) The licensee must be responsible for the control of noise and litter generated by patrons of the premises and must ensure that patrons leave the vicinity of the premises in an orderly manner to the satisfaction of Council.
  - (d) If so directed by Council, the licensee is to employ private security staff to ensure that this condition is complied with.

(Reason: To ensure patrons do not interfere with the acoustic amenity of residents in the immediate locality)

**Waste Collection**

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

(Reason: To ensure the amenity of surrounding properties)

**CCTV Coverage (NSW Police): -**

110. The consent holder, licensee and licensee shall maintain a CCTV system that meets the following minimum requirements:

- (i) 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.
- (ii) In addition, CCTV cameras must be maintained throughout the premises with camera coverage to specifically record images of the following areas:
  - a. all other public entrances and exits, whether or not in use at the time
  - b. staircases in multilevel premises
  - c. all portions of the floor area accessible to the public where entertainment is provided
  - d. toilet external entrances
  - e. all general areas accessible by the public
  - f. the footpath area directly adjacent to the premises, and
  - g. all external beer gardens.
- (iii) 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.
- (iv) Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.
- (v) Camera recordings must meet the standards set in 1 and 3 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.
- (vi) Recordings must:
  - a. be in digital format
  - b. record at a minimum of twelve (12) frames per second, and
  - c. commence 1 hour prior to opening and operate continuously until at least one 1 hour after closure.

- (vii) 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.
- (viii) Recordings should be retained for a period of 30 days before being reused or destroyed. The licensee shall ensure that no person is able to delete or alter any recordings within the 30 day period.
- (ix) When the venue 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.
- (x) Immediate access to the CCTV system and the ability to review recordings on the system is to be granted to NSW Police, OLGR Inspectors or other regulatory officer upon request.
- (xi) 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, OLGR Inspectors or other regulatory officer upon request.
- (xii) 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 licensee 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.

The position of all surveillance cameras shall be made in consultation and agreement with the Commander, North Shore Police Area Command or his or her delegate.

(Reason: To ensure appropriate event recording and ongoing premises safety)