

Original signed by David Hoy on 3/8/2021

Date determined: 7/7/2021

Date operates: 7/7/2021

Date lapses: 7/7/2026

Urbanism Pty Ltd  
PO Box 1000  
CASTLE HILL NSW 1765

D56/21  
LD (CIS)

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

---

**Development Application Number:** 56/21

---

**Land to which this applies:** 23 Willoughby Road Crows Nest  
Lot No.: 3, DP: 24071

---

**Applicant:** Urbanism Pty Ltd

---

**Proposal:** Fit-out and use to a food and drink premises (small bar)

---

**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.

---

**Date of Determination:** 7 July 2021

---

This development application seeks approval for a food and drink premise, extension of operating hours and associated business identification signage to an existing single storey mixed use building. Council's notification of the proposal has attracted no submissions

**Reason for Approval**

The development application has been assessed against the *North Sydney Local Environmental Plan 2013* and the *North Sydney Development Control Plan 2013*. The proposal is generally in accordance with the provisions of Part B of DCP 2013, and the various regulatory requirements of that section of the DCP can be controlled by condition.

It is recommended that an initial twelve-month trial period only be granted to 1.00 am (Wednesday to Saturday) to monitor and manage any potential amenity impacts on the surrounding area.

---

---

The works and use are reasonably consistent with the surrounding area. Having regard to the provisions of Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, the proposed development will not have any unreasonable amenity or environmental impacts. Accordingly, the development application is considered to be reasonable in the circumstances and is recommended for **approval** subject to appropriate standard and site-specific conditions.

---

**Consent to operate from:** 7 July 2021

---

**Consent will lapse on:** 7 July 2026

---

**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 7 July 2026.

---

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

The owners of adjoining properties and the Holtermann Precinct were notified of the proposed development for a 14-day period. The notification resulted in no (0) submissions. Standard conditions can also adequately address any potential, unreasonable adverse impacts within the locality and ensure the protection of the public interest.

---

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

Within six 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.

---

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

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

---

DATE

---

Signature on behalf of consent authority  
DAVID HOY  
**TEAM LEADER (ASSESSMENTS)**

---

**(i) Conditions**

Consent is granted subject to the following conditions imposed pursuant to Section 4.17 of the Environmental Planning and Assessment Act 1979 (“the *Act*”) and the provisions of the Environmental Planning and 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. Terms of Consent	7
<b>C. <i>Prior to the Issue of a Construction Certificate (and ongoing, where indicated)</i></b>	
C1. Amended Plan of Management	8
C2. Dilapidation Report Damage to Public Infrastructure	8
C3. Waste Management Plan	9
C4. Bond for Damage and Completion of Infrastructure Works - Stormwater, Kerb and Gutter, Footpaths, Vehicular Crossing and Road Pavement	9
C5. Cleanliness and Maintenance of Food Preparation Areas	10
C6. Garbage and Recycling Facilities	11
C7. Noise from Plant and Equipment	11
C8. Vibration from Plant and Equipment	11
C9. Compliance with Noise Impact Assessment	12
C10. Mechanical Exhaust Ventilation	12
C11. Security Deposit/Guarantee Schedule	12
<b>D. <i>Prior to the Commencement of any Works (and continuing where indicated)</i></b>	
D1. Public Liability Insurance - Works on Public Land	13
D2. Commencement of Works' Notice	13
<b>E. <i>During Demolition and Building Work</i></b>	
E1. Parking Restrictions	13
E2. Road Reserve Safety	14
E3. Removal of Extra Fabric	14
E4. Noise and Vibration	14
E5. No Work on Public Open Space	14
E6. Developer's Cost of Work on Council Property	15
E7. Construction Hours	15
E8. Health and Safety	15
E9. Prohibition on Use of Pavements	15
E10. Plant and Equipment Kept Within Site	16
E11. Waste Disposal	16
<b>F. <i>Prescribed Conditions imposed under EP&amp;A Act and Regulations and other relevant Legislation</i></b>	
F1. National Construction Code	16
F2. Appointment of a Principal Certifying Authority (PCA)	16
F3. Construction Certificate	16
F4. Occupation Certificate	17
F5. Critical Stage Inspections	17
F6. Demolition	17
F7. Site Sign	17

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

G1.	Access to Premises	17
G2.	Noise Certification	18
G3.	Certification for Mechanical Exhaust Ventilation	18
G4.	Damage to Adjoining Properties	18
G5.	Utility Services	18

***I. Ongoing/Operational Conditions***

I1.	NSW Police Conditions	18
I2.	Hours of Operation	20
I3.	Hours of Operation - Trial Period	21
I4.	Windows and Doors Remaining Open - Trial Period	21
I5.	Trade Waste	22
I6.	Noise and Vibration Impact	22
I7.	Noise and Vibration Impact (Compliance)	22
I8.	No Entertainment	22
I9.	Patron Behaviour	23
I10.	Plan of Management	23
I11.	Daily Cleaning	23
I12.	Waste Collection	23
I13.	Trade Waste Collection (Crows Nest Trade Waste Policy)	24
I14.	Delivery Hours	24
I15.	Shop Premises Registration	24

**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>Title</b>	<b>Issue Date</b>	<b>Drawn by</b>	<b>Received</b>
Location Plan	19 February 2021	Complete Trade	22 April 2021
Site Plan	01 March 2021	Complete Trade	22 April 2021
Floor Plan	01 March 2021	Complete Trade	22 April 2021
Shopfront	19 February 2021	Complete Trade	22 April 2021

(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)

**Terms of Consent**

- A4. Approval is granted for fit out works for use as a food and drink premise (small bar) and associated business identification signage at 23 Willoughby Road, Crows Nest.

No approval is granted or implied for any outdoor seating and any other works not covered by this consent.

(Reason: To ensure that the terms of the consent are clear)

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

**Amended Plan of Management Plan**

C1. The Plan of Management submitted to Council on the 8 March 2021 is to be amended as follows:

1. One (1) security guard is to be employed at the premises between 12.00 pm midnight and 1.00 am (Wednesday to Saturday).
2. To provide specific details of the management of takeaway deliveries.
3. All windows/doors of the premise shall be closed by 8.00 pm every day.
4. There shall be no live entertainment on the “ground floor” level of the premises.
5. Music/amplified or otherwise shall be limited to no more than 75dB(A) at (1) one metre from any speaker.

A copy of the amended Plan of Management must be submitted to the Principal Certifying Authority for approval prior to the issue of any construction certificate. A copy is to also be provided to Council.

(Reason: To ensure that the terms of the consent are clear)

**Dilapidation Report Damage to Public Infrastructure**

C2. 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)

### **Waste Management Plan**

- C3. A Waste Management Plan is to be submitted for approval by the Certifying Authority prior to the issue of any Construction Certificate. The plan must include, but not be limited to:
- a) The estimated volume of waste and method of disposal for the construction and operation phases of the development;
  - b) The design of the on-site waste storage and recycling area; and
  - c) Administrative arrangements for waste and recycling management during the construction process.

The approved Waste Management Plan must be complied with at all times in the carrying out of the development.

(Reason: To encourage the minimisation of waste and recycling of building waste)

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

- C4. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of **\$1,500.00** 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 six 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 six 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)

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

C5. 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**

- C6. 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**

- C7. 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)

### **Vibration from Plant and Equipment**

- C8. The use of all plant and equipment to be installed on the premises must comply with the vibration limits specified in “Assessing Vibration: a technical guideline” issued by the NSW Environment Protection Authority, at the boundary of any affected receiver.

A certificate from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants must be submitted to the Certifying Authority, certifying that all plant and equipment on the site, together with the proposed plant and equipment, operating contemporaneously will comply with the requirements of this condition.

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.

“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 and commercial premises and such other affected receiver as may be notified by the Council in writing.

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

“contemporaneously” means *existing at or occurring in the same period of time* (Macquarie Dictionary 3rd rev. ed. 2004).

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

### **Compliance with Noise Impact Assessment**

C9. The recommendations contained in the noise impact assessment prepared by Broadcast Consulting Pty Ltd dated March 2021, must be implemented during construction and use of the development.

The noise emission criteria and noise control recommendation stated in the said Broadcast Consulting Pty Ltd assessment must be achieved at the development.

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

### **Mechanical Exhaust Ventilation**

C10. A statement from an appropriately qualified and practising Mechanical Engineer is required detailing how the exhaust ventilation system will be installed in accordance with AS1668. 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 and operation of mechanical plant)

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

C11. 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>
Footpath Damage Bond	\$1,500.00
<b>TOTAL BONDS</b>	<b>\$1,500.00</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)

**Commencement of Works' Notice**

D2. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least two days' notice to North Sydney Council of the person's intention to commence building work, demolition or excavation in accordance with this development consent.

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

***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)

### **Removal of Extra Fabric**

- E3. Should any portion of the existing building, trees, or curtilage of the site which is indicated on the approved plans to be retained be damaged for whatever reason, all the 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 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**

- E4. 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)

### **No Work on Public Open Space**

- E5. No work can be undertaken within adjoining public lands (i.e., Parks, Reserves, Roads etc) without the prior written consent of Council. In this regard the developer is to liaise with Council prior to the commencement of any design works or preparation of a Construction and Traffic Management Plan.

(Reason: Protection of existing public infrastructure and land and to ensure public safety and proper management of public land)

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

E6. 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 (Commercial Core and Mixed-use Zones)**

E7. Construction activities and works approved under this consent must be carried out only within the hours stipulated in the following table:

<b>Standard Construction Hours</b>		
<b>Location</b>	<b>Day</b>	<b>Hours</b>
<b>B3 Commercial Core Zone B4 Mixed-Use Zone</b>	Monday - Friday	7.00 am - 7.00 pm
	Saturday	8.00 am - 1.00 pm
	Sunday, Public holiday	No work permitted

Construction activities for development approved under this consent must be carried out in accordance with the standard construction hours above and any Construction Noise Management Plan required under this consent.

In the event of breach to the approved hours of construction Council take may take enforcement action under Part 9 of the EP&A Act 1979 and in accordance with Council's adopted Compliance and Enforcement Policy.

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

**Health and Safety**

E8. 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**

E9. 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)

### **Plant and Equipment Kept Within Site**

- E10. All plant and equipment used in the undertaking of the development/ works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc, must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

Details of Council requirements for permits on public land for standing plant, hoardings, storage of materials and construction zones and the like are available on Council's website at [www.northsydney.nsw.gov.au](http://www.northsydney.nsw.gov.au).

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

### **Waste Disposal**

- E11. 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***

#### **National Construction Code**

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

(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)

### **Demolition**

F6. 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)

### **Site Sign**

- F7. 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)

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

#### **Access to Premises**

G1. Prior to the issue of any Occupation Certificate, a certificate must be prepared by an appropriately qualified and practising Civil Engineer certifying that access and facilities for persons with a disability in accordance with the Building Code of Australia and AS Disability (Access to

Premises - buildings) Standards 2010 (Premises Standards) has been provided. This certificate must be submitted to, and approved by, the Certifying Authority prior to issue of the Occupation Certificate.

(Reason: Equitable access and facilities for people with a disability)

### **Noise Certification**

G2. 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**

G3. 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)

### **Damage to Adjoining Properties**

G4. 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**

G5. 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)

### **I. Ongoing/Operational Conditions**

#### **NSW Police Conditions**

I1. The operation of the food and drink premises must comply at all times with the following requirements of NSW Police:

1. The site should be clearly identified with the business name and street number visible from the street. This will enable all emergency services to locate the premises.

2. 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.”
3. The front windows of business should remain free of clutter and promotional material so as not to restrict sightlines into and out of the premises.
4. 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.
5. Staff should be provided with a secure area in which to store their personal effects whilst working.
6. 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 that 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.
7. Lighting in and around the site including the rear exit will need to be positioned in a way to reduce opportunities for offenders to commit crime; i.e., vandalism and graffiti. The lighting will need to be sufficient to enable people to identify signs of intoxication and anti-social behaviour. The lighting will also need to be sufficient to support images obtained from any CCTV footage. Please note that some low- or high-pressure lighting is not compatible with surveillance systems.
8. Doors to front entry and the rear exit 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.”
9. Windows within the businesses 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.
10. Tills should be positioned out-of-reach and should front customers to enable staff to maintain vision of the servicing area and beyond.
11. An efficient and secure Cash Collection and Storage system should be implemented to minimise the risk of robbery offences and should include a safe, designed and installed to the Australian Standards.

12. An electronic surveillance system should be included to provide maximum surveillance of all areas of the business including entry/exits and service areas, corridors and areas where cash is either kept or handled. Cameras should also cover public footpath areas around the premises. The system should be capable of recording high-quality images of events. The recording equipment should be locked away to reduce the likelihood of tampering. Monitors should be placed in the store/office areas to allow staff to view all areas under camera surveillance.
13. An intruder alarm system should be designed and installed to the Australian Standard “Domestic and Commercial Alarm Systems” to enhance the physical security of the premises.
14. 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.
15. All recording made by the CCTV system must 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 (including the rear exit) to enhance the physical security and assist in positively identifying an individual, who may be involved in criminal behaviour.
16. Wheelchair access should at no time be blocked nor impede access to anyone with a disability.
17. 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.
18. The toilet (including disabled) facilities should be positioned in areas that are easily accessed and supervised by staff. The toilets should be regularly monitored to detect any anti-social behaviour and ensure there are no issues with drug use i.e., if syringes are a problem, then the use of a sharps’ container should be considered.

(Reason: To ensure the safety of the owners, customers and general community)

### **Hours of Operation**

12. The hours of operation are restricted to:

<b>Day</b>	<b>Hours of Operation</b>
Sunday	6.00 am - 12.00 pm midnight
Monday	6.00 am - 12.00 pm midnight
Tuesday	6.00 am - 12.00 pm midnight
Wednesday	6.00 am - 12.00 pm midnight
Thursday	6.00 am - 12.00 pm midnight
Friday	6.00 am - 12.00 pm midnight
Saturday	6.00 am - 12.00 pm midnight

Upon expiry of the permitted hours:

- (a) all restaurant including bar service 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)

### **Hours of Operation - Trial Period**

- I3. Notwithstanding **Condition I2** above the approved use may operate between 12.00 pm midnight to 1.00 am (Wednesday to Saturday) for a trial period of twelve (12) months from the date of issue of the first Occupation Certificate, being interim or otherwise. Council must be informed in writing of the date of commencing the trial period.

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.

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)

### **Windows and Doors Remaining Open - Trial Period**

- I4. The windows and doors to the Willoughby Road frontage may remain open till 10.00 pm (all days of the week) on a trial period of twelve (12) months from the date of issue of the first Occupation Certificate, being interim or otherwise. Council must be informed in writing of the date of commencing the trial period.

In order for the above trial hours of doors and windows remaining opened, 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.

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 protect the amenity of surrounding areas)

### **Trade Waste**

15. Trade wastewater 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**

16. The ongoing 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 and Vibration Impact (Compliance)**

17. Within 60 days of commencement of operation of the premises, further acoustic testing must be undertaken and a report from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, prepared to demonstrate that the use of the premises complies with the conditions of this consent and/or the Noise Impact Assessment prepared by Broadcrest Consulting Pty Ltd dated March 2021.

The testing must be carried out when the premises is operating at full capacity. A copy of the report must be submitted to Council within 14 days of its completion.

If the use is found not to comply with the noise conditions, the use must cease immediately until appropriate measures to remedy the breach are implemented to the satisfaction of Council.

(Reason: To ensure compliance with acceptable noise levels to maintain the amenity of adjoining land uses)

### **No Entertainment and Amplified Music**

18. This approval is for a food and drink premise and does not authorise amplified music (beyond that specified in the amended plan of management or other forms of entertainment in the food and drink premise. A separate development consent is required for any proposed entertainment.

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

### **Patron Behaviour**

19. 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 management must ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood.
  - (c) The management 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 management 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)

### **Plan of Management**

- I10. The management of the food and drink premise shall be conducted in accordance with the Plan of Management received by Council on the 8 March 2021 except where otherwise amended by the conditions of this consent.
- (Reason: To ensure ongoing operation of the food and drink premise is in accordance with the terms of consent)

### **Daily Cleaning**

- I11. 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**

- I12. Waste and recyclable material, generated by this premises, must not be collected between the hours of 10.00 pm and 6.00 am on any day.
- (Reason: To ensure the amenity of surrounding properties)

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

- I13. 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 5.00 pm and no later than 10.00 pm on the day before collection.
- (b) All trade waste must be collected between the hours of 6.00 am and 10.00 am.
- (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**

- I14. No deliveries, loading or unloading associated with the premises are to take place between the hours of 10.00 pm and 6.00 am on any day.

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

**Shop Premises Registration**

- I15. The shop premises must be registered with Council and NSW Food Authority prior to commencement of operation of the approved activity. Shop Premises Registration must be maintained at all times.

Note:

- a) Council registration forms can be found at <http://www.northsydney.nsw.gov.au>.
- b) Notification is required to the NSW Food Authority under Standard 3.2.2 Division 2 Section 4 Notification. (see [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au)).

(Reason: To ensure compliance with environmental health legislation)