



Section 4.55 Consent

**Applicant: Night Stars Pty Ltd
Suite 110, Level 1
13a Montgomery Street
Kogarah, Nsw 2217**

S4.55 Consent No: MOD2024/0055

Approval Date: 27 June 2024

**Modification of Development Consent No. LDA2021/0276 under Section 4.55
of the Environmental Planning and Assessment Act, 1979**

Property: 100 Blaxland Road, Ryde Lot 1 DP 776548

Development: Alterations and additions to an approved function centre

Section 4.55 Modification: Section 4.55(2) modifications to LDA2021/0276, seeking to alterations and additions to rooftop lightweight Colorbond metal awning area (increase 14m²). Increase enclosed space at roof level for extended storage room (25m²). Alterations and additions to ground & first floor areas layout.

The City of Ryde as the Consent Authority pursuant to Section 4.55 of the Environmental Planning and Assessment Act, 1979 (as amended) hereby consents to the modification of Local Development Application No. LDA2021/0276 dated 01 December 2021 subject to modification of conditions of consent.

Attached is a copy of the modified development Consent which incorporates the original conditions as well as the conditions modified as a result of this application. The modified conditions appear in bold.

You are advised that failure to observe any condition of approval set out in the consent is an offence and Council may institute legal proceedings.

You are advised of your right of appeal to the Land and Environment Court under Section 8.9 of the Environmental Planning & Assessment Act, 1979, and your right to request a Review under Section 8.3 within 6 months after you have received the Consent.

**Mahbub Alam
Senior Town Planner**

The fees quoted at the time of issue of this Consent may be subject to variation. Council's annual fees and charges are published in the Management Plan. To confirm fees please contact Customer Service on 9952-8222.

Conditions of Consent for LDA2021/0276 :- MOD2024/0055

GENERAL

The following conditions of consent included in this Part identify the requirements, terms and limitations imposed on this development.

- 1. Approved Plans/Documents.** Except where otherwise provided in this consent, the development is to be carried out strictly in accordance with the following plans (stamped approved by Council) and support documents:

Document Description	Date	Plan No/Reference
Ground Floor Plan	4/8/2021	Revision 04, drawing No. A 301. Prepared by Foran Design
First Floor Plan	4/8/2021	Revision 04, drawing No. A 302. Prepared by Foran Design
Roof Plan	4/8/2021	Revision 04, drawing No. A 303. Prepared by Foran Design
Elevations 1	4/8/2021	Revision 04, drawing No. A 304. Prepared by Foran Design
Elevations 2 & Sections	4/8/2021	Revision 04, drawing No. A 305. Prepared by Foran Design
Acoustical Report	13/7/2021	Version V5, Project No. 4580 Prepared by Koikas Acoustics
Air Quality/Odour Assessment	13/7/2021	Prepared by Todoroski Air Sciences
BCA Report	5/8/2021	Revision R04, Ref No. 20/215483_Capstat_R04, prepared by Philip Chun
Operational Plan of Management	4/8/2021	Issue D prepared by Foran Design
Traffic and Parking Assessment	August 2021	Issue D, Ref No. 20275 prepared by Transport and Traffic Planning Associates
Waste Management Plan	15/10/2020	Issue A, prepared by Foran Design

Except where amended by that work shown in colour on the S.4.55 plans endorsed with Council's stamp, as listed below, and except where amended by other conditions of this consent:

Document Description	Date	Plan No/Reference
Site Plan	23/05/2024	Revision no. 10, Drawing no. A200, Prepared by Foran Design Architects

Ground Floor Plan	23/05/2024	Revision no. 10, Drawing no. A201, Prepared by Foran Design Architects
First Floor Plan	23/05/2024	Revision no. 10, Drawing no. A202, Prepared by Foran Design Architects
Roof Plan	23/05/2024	Revision no. 10, Drawing no. A203, Prepared by Foran Design Architects
Elevations 1	23/05/2024	Revision no. 10, Drawing no. A300, Prepared by Foran Design Architects
Sections	23/05/2024	Revision no. 10, Drawing no. A301, Prepared by Foran Design Architects
Finishes Colours	23/05/2024	Revision no. 10, Drawing no. A700, Prepared by Foran Design Architects

Prior to the issue of a **Construction Certificate**, the following amendments shall be made (as marked in red on the approved plans):

(a) The laminated glass louvre wall to the proposed outdoor smoking area on the roof of the building shall be set back 1m from the outside edge of the building so as to create a 1m wide non-trafficable strip on the Blaxland Road and Church Street rooftop frontages.

The Development must be carried out in accordance with the amended plans approved under this condition.

2. **Plans and conditions** – This consent for LDA2021/0276 must be read in conjunction with the consent for LDA2020/0372. In the event of any inconsistency that may arise between the consent under LDA2020/0372 and LDA2021/0276, this consent, being LDA2021/0276 prevails to the extent of the inconsistency.
3. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
4. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - a. Protect and support the adjoining premises from possible damage from the excavation, and
 - b. Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.
5. **Maximum number of persons.** A sign must be displayed in a prominent position in the building stating the maximum number of persons that are permitted in the building as specified in the development consent.

The maximum number of persons permitted in the building is:

- A maximum patronage of 110 people between 7:00am – 7:00pm Monday to Sunday

- A maximum patronage of 150 people between 7:00pm – 12:00am Monday to Sunday
6. **Fire Safety Matters/Changes in building use**
 - a. A building in respect of which there is a change of building use must comply with the Category 1 fire safety provisions applicable to the proposed new use.

NOTE: The obligation under this clause to comply with Category 1 fire safety provisions may require building work to be carried out even though none is proposed or required in the relevant development consent.
 - b. This clause does not apply to the extent to which an exemption is in force under clause 187 and 188 in the Environmental Planning and Assessment Regulations 2000.
 - c. In this case clause, “Category 1 fire safety provision” has the same meaning as it has in Clause 3 in the Environmental Planning and Assessment Regulations 2000 subject to any terms of any condition or requirement referred to in Clause 187(6) or 188(4).
 7. **Signage – not approved unless shown on plans.** This consent does not authorise the erection of any signs or advertising structures not indicated on the approved plans. Separate approval must be obtained from Council for any additional signs, unless such signage is “exempt development”.
 8. **Security Grilles.** This consent does not authorise the erection of any security grilles or barriers on the shopfront. Separate approval must be obtained for any such works.
 9. **Site Maintenance.** For the period the site remains vacant of any development the subject of this consent, the site is to be regularly maintained in a tidy manner such that it does not become overgrown with weeds or become a repository for the leaving or dumping of waste.
 10. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.
 11. **Hoardings.**
 - a. A hoarding or fence must be erected between the work site and any adjoining public place.
 - b. Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.
 12. **Illumination of public place.** Any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
 13. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.
 14. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.

15. **Public Utilities.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RMS, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.
16. **Roads Act.** Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 138 of the Roads Act 1993.
17. **Stormwater disposal.** Stormwater runoff from all impervious areas of the site is to be collected and piped to the existing or new underground stormwater drainage system in accordance with Council's DCP 2014 Part 8.2 (*Stormwater and Floodplain Management*) and associated annexures.
18. **Storage of garbage and recyclable materials** - A separate room or area must be provided in a convenient location on the premises for the storage of garbage and recyclable materials.
19. **Storage of commercial wastes** - A separate garbage room must be provided in a convenient location on the premises for the storage of commercial wastes.
20. **External garbage storage areas** - External areas used for the storage of garbage must be roofed and paved with concrete graded to a grated drain connected to the sewerage system. A hose cock must be provided adjacent to the garbage storage area to facilitate cleaning of the containers and storage area.
21. **Access for waste collection vehicles** - Safe easy access must be provided for waste collection vehicles to service the waste containers. The driveways and manoeuvring areas must be designed for maximum legal dimensions and weights and allow collection vehicles to enter and leave the premises in a forward direction. Additional clearances must be provided for overhead and side loading where appropriate.
22. **Installation of grease trap** - A grease trap must be installed if required by Sydney Water Corporation. The grease trap must be located outside the building or in a dedicated grease trap room and be readily accessible for servicing. Access through areas where exposed food is handled or stored or food contact equipment or packaging materials are handled or stored is not permitted.
23. **Requirement for Trade Waste Agreement** - A trade waste agreement shall be obtained from Sydney Water prior to the discharge of trade wastewater to the sewer system. Trade wastewater is defined as 'discharge water containing any substance produced through industrial or commercial activities or operation on the premises. Separator systems are to be bunded and where systems are placed outside, they are to be roofed to ensure that no rainwater can enter the bund.
24. **Provision for installation of kitchen exhaust systems** - Adequate provision must be made for the installation of kitchen exhaust systems to the proposed food premises.
25. **Design and Construction Standards.** All engineering plans and work inside the property shall be carried out in accordance with the requirements of the relevant Australian Standard. All Public Domain works or modification to Council infrastructure which may be located inside the property boundary, must be undertaken in accordance with Council's DCP Part 8.5 (*Public Civil Works*) and Part 8.2 (*Stormwater and Floodplain Management*), except otherwise as amended by conditions of this consent.

26. **Service Alterations.** All services or utilities required to be altered in order to complete the development works are to be undertaken in accordance with the requirements of the relevant service provider (eg Telstra, Jemena, Ausgrid, etc), with all costs associated with this alteration to be borne by the applicant.
27. **Restoration.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities, including repairs of damaged infrastructure as a result of the construction works associated with this development site, shall be undertaken by the Applicant in accordance with Council's standards and specifications, and DCP Part 8.5 (*Public Civil Works*), to the satisfaction of Council.
28. **Road Opening Permit.** In accordance with the requirements of the Roads Act, the applicant must obtain consent (*Road opening Permit*) from Council prior to any excavation being undertaken in the road reserve (this includes verge and public footpath areas). No works shall be carried out in the road reserve without this permit being paid and a copy kept on the site.
29. **Compliance with Acoustic Report** - All control measures nominated in the Acoustical Report No. (4580R20210215mj100BlaxlandRoadRyde_DAV5.docx), dated (13/07//2021), prepared by Koikas Acoustics must be implemented.
30. **Sale of liquor.** This consent does not authorise the sale of liquor. No bring your own (BYO) alcohol is permitted to be brought into the premises. A separate liquor licence must be obtained through NSW Liquor and Gaming.
31. **CCTV.** Surveillance cameras and recorders shall be installed and maintained in accordance with NSW Police requirements.
32. **Plan of management.** The operation of the premises shall be in accordance with the approved Operational Plan of Management (Revision D) for 100 Blaxland Road, Ryde dated 4/8/2021.

PRIOR TO CONSTRUCTION CERTIFICATE

A Construction Certificate must be obtained from a Principal Certifying Authority to carry out the relevant building works approved under this consent. All conditions in this Section of the consent must be complied with before a Construction Certificate can be issued.

Council Officers can provide these services and further information can be obtained from Council's Customer Service Centre on 9952 8222.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with the conditions in this Section of the consent.

Details of compliance with the conditions, including plans, supporting documents or other written evidence must be submitted to the Principal Certifying Authority.

33. **Compliance with Australian Standards.** The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the **Construction Certificate**.

34. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.
35. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (category: other buildings with delivery of bricks or concrete or machine excavation)
36. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:
 - a. Infrastructure Restoration and Administration Fee
 - b. Enforcement Levy
37. **Long Service Levy.** Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be submitted to the Certifying Authority prior to the issuing of the **Construction Certificate**.
38. **Sydney Water – Building Plan Approval.** The plans approved as part of the Construction Certificate must also be approved by Sydney Water prior to excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Please go to www.sydneywater.com.au/tapin to apply.
39. **Energy Efficiency.** The fittings, fixtures and materials installed in association with the development (including but not limited to hot water systems, ceiling/roof insulation, shower heads, toilet cisterns and the like) shall comply with the requirements of Council's DCP. Details are to be noted on the plans submitted with the **Construction Certificate**.
40. **Reflectivity of materials.** Roofing and other external materials must be of low glare and reflectivity. Details of finished external surface materials, including colours and texture must be provided to the Certifying Authority prior to the release of the **Construction Certificate**.
41. **Vehicle Access & Parking.** All internal driveways, vehicle turning areas, garages and vehicle parking space/ loading bay dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Offstreet Parking standards).

With respect to this, the following revision(s) / documentation must be provided with the plans submitted with the application for a Construction Certificate;

- a) The disabled space must have an adjoining shared clear of structures to ensure the loading / unloading from a vehicle. Notably the bollard located adjoining the doorway areas is to be removed/ deleted from the plan to allow clear access in accordance with AS 2890.6.

These amendment(s) must be clearly marked on the plans submitted to the Accredited Certifier prior to the issue of a Construction Certificate.

42. **Stormwater Management.** To ensure the management of stormwater runoff from the development is undertaken without impact to the subject site, neighbouring properties

or receiving drainage system, stormwater runoff from the development shall be collected and piped by gravity flow to public drainage infrastructure in accordance with the requirements of Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures.. Accordingly, detailed engineering plans and certification demonstrating compliance with this condition are to be submitted with the application for a Construction Certificate.

43. **Shop fit-out plans (Design)** - Detailed plans of all food preparation, beverage and waste storage areas shall be submitted to the principal certifying authority (PCA) prior to the issue of the construction certificate.

The fit-out of the food premises shall comply with:

- (a) Australian Standard AS4674-2004 - Design, Construction and Fit-out of Food Premises.
- (b) Food Safety Standards 3.2.3 Food Premises and Equipment
- (c) The cool rooms shall be provided with safety devices to comply with G1.2 of the BCA.

If a Private Certifier is to be used, the final inspection shall be carried out by a suitably qualified person to ensure that food standards are met. Council's Environmental Health Officer may be engaged to carry out the required inspection for a prescribed fee.

Note: Copies of AS 4764 - 2004 may be obtained from Standards Australia Copies of the Food Standards Code may be obtained from Australia and New Zealand Food Authority.

PRIOR TO COMMENCEMENT OF CONSTRUCTION

Prior to the commencement of any demolition, excavation, or building work the following conditions in this Part of the Consent must be satisfied, and all relevant requirements complied with at all times during the operation of this consent.

44. Site Sign

- a. A sign must be erected in a prominent position on site, prior to the commencement of construction:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work,
 - (ii) showing the name of the principal contractor (if any) or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.
- b. Any such sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

45. Excavation adjacent to adjoining land

- (a) If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must, at their own expense, protect and support the adjoining premises from possible damage from the excavation, and where necessary, underpin the adjoining premises to prevent any such damage.

- (b) The applicant must give at least seven (7) days notice to the adjoining owner(s) prior to excavating.
 - (c) An owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
46. **Pre-commencement dilapidation report.** The submission of a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public and private properties namely 116 Blaxland Road, Ryde, and public infrastructure (including roads, gutters, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of the affected adjoining private properties, prior to the commencement of construction.
47. **Safety fencing.** The site must be fenced prior to the commencement of construction, and throughout demolition and/or excavation and must comply with Safework NSW requirements and be a minimum of 1.8m in height.
48. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Any doors/ gates on the boundary must be installed so they do not open onto any footpath.

DURING CONSTRUCTION

Unless otherwise specified, the following conditions in this Part of the consent must be complied with at all times during the construction period. Where applicable, the requirements under previous Parts of the consent must be implemented and maintained at all times during the construction period.

49. **Critical stage inspections.** The person having the benefit of this consent is required to notify the Principal Certifying Authority during construction to ensure that the critical stage inspections are undertaken, as required under clause 162A(4) of the *Environmental Planning and Assessment Regulation 2000*.
50. **Noise from construction work.** All feasible and reasonable measures must be implemented to minimise the emission of noise from construction work.
51. **Survey of footings/walls.** All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.
52. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
53. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:
- a. Fill is allowed under this consent;
 - b. The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
 - c. the material is reused only to the extent that fill is allowed by the consent.
54. **Construction materials.** All materials associated with construction must be retained within the site.

55. **Stormwater Management.** Appropriate measures are to be implemented, such as the grading of surface levels in the vicinity of the works, to ensure that stormwater runoff from the development does not adversely impact downstream property and is managed in a manner which generally complies with the objectives of Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures.
56. **Stormwater Management - Construction.** The stormwater drainage system on the site must be constructed in accordance with the Construction Certificate version of the Stormwater Management Plan submitted in compliance to the condition labelled "*Stormwater Management.*" and any requirements of Council in relation to the connection to the public drainage system.
57. **Site Facilities**
The following facilities must be provided on the site:
- (a) toilet facilities in accordance with Safework NSW requirements, at a ratio of one toilet per every 20 employees, and
 - (b) a garbage receptacle for food scraps and papers, with a tight fitting lid.
58. **Site maintenance**
The applicant must ensure that:
- a. approved sediment and erosion control measures are installed and maintained during the construction period;
 - b. building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
 - c. the site is clear of waste and debris at the completion of the works.
59. **Work within public road.** At all times work is being undertaken within a public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site. Traffic control devices shall satisfy the minimum standards outlined in Australian Standard No. AS1742.3-1996 "Traffic Control Devices for Work on Roads".
60. **Waste data maintained** - A Waste Data file is to be maintained, recording building/demolition contractor's details and waste disposal receipts/dockets for any demolition or construction wastes from the site. These records must be retained and made available to Council on request.
61. **Storage and removal of wastes** - All demolition and construction wastes must be stored in an environmentally acceptable manner and be removed from the site at frequent intervals.

PRIOR TO OCCUPATION CERTIFICATE

An Occupation Certificate must be obtained from a Principal Certifying Authority prior to commencement of occupation of any part of the development, or prior to the commencement of a change of use of a building.

Prior to issue, the Principal Certifying Authority must ensure that all works are completed in compliance with the approved construction certificate plans and all conditions of this Development Consent.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with conditions in this Part of the consent. Details to demonstrate compliance with all conditions, including plans,

documentation, or other written evidence must be submitted to the Principal Certifying Authority.

62. **Fire safety matters.** At the completion of all works, a Fire Safety Certificate must be prepared, which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Each year the Owners must send to the Council and the Fire and Rescue NSW an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

63. **Post-construction dilapidation report.** The submission of a post-construction dilapidation report which clearly details the final condition of all property, infrastructure, natural and man-made features that were recorded in the pre-commencement dilapidation report. A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of the affected adjoining and private properties, prior to the issue of any **Occupation Certificate**.
64. **CCTV.** Surveillance cameras and recorders shall be installed in accordance with NSW Police requirements.
65. **Engineering Compliance Certificates.** To ensure that all engineering facets of the development have been designed and constructed to the appropriate standards, Compliance Certificates must be obtained for the following items and are to be submitted to the Accredited Certifier prior to the release of any Occupation Certificate. All certification must be issued by a qualified and practising civil engineer having experience in the area respective of the certification unless stated otherwise.
- a) Confirming that all components of the parking areas contained inside the site comply with the relevant components of AS 2890 and Council's DCP 2014 Part 9.3 (Parking Controls) unless approved otherwise under this consent.
 - b) Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including any on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.
 - c) Confirming that the connection of the site drainage system to the trunk drainage system complies with Section 4.7 of AS 3500.3 - 2003 (National Plumbing and Drainage Code), the relevant sections of the Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures and any requirements of Council pending on site conditions.
 - d) Confirming that the footings adjacent to drainage easements are founded below the zone of influence of this infrastructure, in accordance with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures.
 - e) Confirming that erosion and sediment control measures were implemented during the course of construction and were in accordance with the manual "*Managing Urban Stormwater: Soils and Construction*" by the NSW Department – Office of Environment and Heritage and Council's DCP 2014 Part 8.1 (Construction Activities).
 - f) Certification from a suitably qualified structural or geotechnical engineer confirming that any temporary soil/ rock anchors installed into public roadway, have been de-stressed and are no longer providing any structural support.

- g) Certification from a suitably qualified geotechnical engineer confirming that the Geotechnical Monitoring Program (GMP) was implemented throughout the course of construction and that all structures supporting neighbouring property have been designed and constructed to provide appropriate support of the neighbouring property and with consideration to any temporary loading conditions that may occur on that site, in accordance with the relevant Australian Standard and building codes.

OPERATIONAL CONDITIONS

The conditions in this Part of the consent relate to the on-going operation of the development and shall be complied with at all times.

66. **Hours of operation.** The hours of operation are to be restricted to:
- 7am to 12am (Monday-Sunday)
67. **Patronage.** The following maximum patronage is permitted within the approved hours of operation below:
- A maximum patronage of 110 people between 7:00am – 7:00pm Monday to Sunday; and
 - A maximum patronage of 150 people between 7:00pm – 12:00am Monday to Sunday
68. **Storage and disposal of wastes** - All wastes generated on the premises must be stored and disposed of in an environmentally acceptable manner.
69. **Waste containers** - An adequate number of suitable waste containers must be kept on the premises for the storage of garbage and trade waste.
70. **Recyclable wastes** - Wastes for recycling must be stored in separate bins or containers and be transported to a facility where the wastes will be recycled or re-used.
71. **Air pollution** - The use of the premises, including any plant or equipment installed on the premises, must not cause the emission of smoke, soot, dust, solid particles, gases, fumes, vapours, mists, odours or other air impurities that are a nuisance or danger to health.
72. **Standards of air impurities not to be exceeded** - Any discharge to atmosphere from the premises must comply with the requirements of the *Protection of the Environment Operations (Clean Air) Regulation 2010*.
73. **Offensive noise** - The use of the premises must not cause the emission of 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997*.
74. **Noise and vibration from plant or equipment** - Unless otherwise provided in this Consent, the operation of any plant or equipment installed on the premises must not cause:
- (a) The emission of noise that exceeds the background noise level by more than 5dBA when measured at, or computed for, the most affected point, on or within the boundary of the most affected receiver. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the *Noise Policy for Industry (EPA, 2017)*.
 - (b) An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS

2107:2000 *Acoustics – Recommended design sound levels and reverberation times for building interiors.*

(c) The transmission of vibration to any place of different occupancy.

75. **Patron noise control** - The proprietors of the venue shall be responsible at all times for the orderly dispersal of patrons from the venue.
76. **Council may require acoustical consultant's report** – Upon receipt of a justified complaint, Council may require the preparation and submission of an acoustic report from an appropriately qualified acoustical consultant demonstrating compliance with the relevant noise and vibration criteria.
77. **NSW Police – CCTV.** It is recommended that the premises install CCTV cameras as outlined below:
- At all times while the premises is open for trade, a staff member will be on the premises that is able to competently operate any CCTV system.
 - The applicant shall install and maintain surveillance cameras and recorders to monitor and record all entrance and exit points to the building. CCTV cameras should be utilised throughout the premises particularly around areas that monetary transactions take place. Recordings should be made twenty four (24) hours a day seven (7) days a week, irrespective of opening and closing times.
 - As a minimum, CCTV cameras at entry and exit points to the premises MUST record footage of a nature and quality in which it can be used to identify a person recorded by the camera. All other cameras MUST record footage of a nature and quality in which it can be used to recognise a person recorded by the camera.
 - The time and date must automatically be recorded on all recordings made whilst it is recording. All recordings are to be kept for a minimum period of thirty (30) days before they can be reused or destroyed. Any recordings made are to be promptly delivered to police as soon as possible following request. Notwithstanding this requirement, should any footage exist, regardless of whether it falls within the thirty (30) day period, it must be supplied to police or other regulatory officers upon request
 - If requested by police or any regulatory officer, the applicant is to archive any recording until such time as they are no longer required
 - Recordings are to be made in a common media format such as Windows Media Player or similar, or should be accompanied by applicable viewing software to enable viewing on any windows computer.
 - The CCTV control system should be located within a secured area of the premise and only accessible by authorised personnel. In addition, at all times whilst trading an authorised person MUST be on the premise with access to the system and ability to use the system and make copies of any recordings at the request of police or any other regulatory officer.
 - If the CCTV system is not operational, immediate steps are to be taken by the applicant to ensure that it is returned to a fully operational condition as soon as possible.
78. **Compliance with the approved plan of management.** The operation of the premises shall be in accordance with the approved Operational Plan of Management (Revision D) for 100 Blaxland Road, Ryde dated 4/8/2021.
79. **Preservation of Parking Restrictions.** The development consent is approved on the premise that the parking and servicing demands of the development can be contained wholly in the confines of the site or occasionally in the available publicly available parking surrounding the development. Accordingly any changes sought to the parking restrictions surrounding the property so as to accommodate the parking and servicing demands of the development will not be permitted.

80. **Registration of retail food business (Council)** - Prior to an Occupation Certificate being issued, the retail food business must submit a food business registration with Council.
81. **Certify mechanical ventilation installation** - Adequate ventilation to work areas and other occupied enclosures shall be provided in accordance with the requirements of the Building Code of Australia. Where any system of mechanical ventilation is installed, certification that the system functions in accordance with Australian Standard AS/NZS 1668.2.2012 is to be provided to the certifying authority prior to occupation of the premises.
82. **Certify fit-out complies with food safety standards** - Certification to be provided to the principal certifying authority (PCA), prior to occupation, that the fit-out of the food premises has been completed in accordance with plans complying with food safety standards prescribed under the Food Act 2003, and the requirements of Australian Standard AS 4674 - 2004. It is incumbent on the PCA to determine the competency of the person providing this certification, based on that person's qualifications, experience and currency of practice.
83. **All works/methods/procedures/control measures** - Prior to the issue of an occupation certificate (Interim or Final) written certification from a suitably qualified person(s) shall be submitted to the Principal Certifying Authority and Council, stating that all works/methods/procedures/control measures approved by Council in the following report has been completed:
 - (a) Acoustic Report No. (4580R20210215mj100BlaxlandRoadRyde_DAV5.docx), dated (13/7/2021), prepared by (Koikas Acoustics)
84. **Noise Limits** - Noise generated at the premises must not exceed the noise limits specified in the acoustic report No. (4580R20210215mj100BlaxlandRoadRyde_DAV5.docx), dated (13/7/2021), prepared by (Koikas Acoustics) submitted with the development application.
85. **Food premises** - The operation of the premises is to comply with the relevant provisions of the Food Act 2003, Food Regulation 2015 and the Australia New Zealand Food Authority Food Standards Code.
86. **Use is not to cause air impurities** - The operation of the premises is not to give rise to emissions of air impurities in contravention of the Protection of the Environment Operations Act 1997. Air emissions from the premises must not cause a nuisance from odours, nor be hazardous to human health or the environment.
87. **Use is not to cause offensive noise or vibration** - The use of the premises not giving rise to:
 - (a) transmission of unacceptable vibration to any place of different occupancy,
 - (b) a sound pressure level measured at any point on the boundary of any affected residential premises that exceeds the background noise level by more than 5 dB(A). The source noise level shall be assessed as an LAeq,15 min and adjusted in accordance with Environment Protection Authority (EPA) guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations, and temporal content as described in the NSW Environmental Planning & Assessment Act 1979: Noise Policy for Industry 2017 and the Protection of the Environment Operations Act 1997.

88. **Council may require acoustical consultant's report** - Council may require the submission of a report from an appropriately qualified acoustical consultant demonstrating compliance with the relevant noise and vibration criteria.
89. **Noise and vibration from plant or equipment** - Unless otherwise provided in this Consent, the operation of any plant or equipment installed on the premises must not cause:
- (a) The emission of noise that exceeds the background noise level by more than 5dBA when measured at, or computed for, the most affected point, on or within the boundary of the most affected receiver. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the *New South Wales Industrial Noise Policy* (EPA, 2000).
 - (b) An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2000 *Acoustics – Recommended design sound levels and reverberation times for building interiors*.
 - (c) The transmission of vibration to any place of different occupancy.
90. **No 'offensive noise'** - Noise and vibration from the use and operation of any plant and equipment and/or building services associated with the premises shall not give rise to 'offensive noise' as defined by the Protection of the Environment Operations Act 1997.
91. **Noise from mechanical equipment** - The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997.
92. **Patron noise control** - The proprietors of the venue shall be responsible at all times for the orderly dispersal of patrons from the venue.
93. **Noise from Customers** - Security personnel licensed under the Security Industry Act 1997 shall be engaged by the licensee to patrol the area to ensure that patrons do not cause nuisance, or annoyance to the quiet and good order of the neighbourhood.
94. **Neighbourhood Amenity near Licensed Premises** - Signs must be placed in clearly visible positions within the hotel requesting patrons upon leaving the premises to do so quickly and quietly, having regard to maintaining the amenity of the area. The management/licensee must ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood. In this regard, the management/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. If so directed by Council, the management/licensee is to employ private security staff to ensure that this condition is complied with.
95. **Noise to street** - There are to be no external speakers at the premises.
96. **Noise Limits (noise must not be audible)** - Notwithstanding compliance with any other noise conditions of this consent, noise from the premises or related activities must not be audible in any habitable room in any residential premises between the hours of 10pm and 7.00am
97. **Remove putrescible waste at sufficient frequency** - All putrescible waste shall be removed from the site with sufficient frequency to avoid nuisance from pests and odours.

98. **Management of waste storage facilities** - All waste storage areas are to be maintained in a clean and tidy condition at all times.
99. **Storage and disposal of wastes** - All wastes generated on the premises must be stored and disposed of in an environmentally acceptable manner.
100. **Waste containers** - An adequate number of suitable waste containers must be kept on the premises for the storage of garbage and trade waste.
101. **Storage of bins between collection periods** - Between collection periods, all waste/recyclable materials generated on site must be kept in enclosed bins with securely fitting lids so the contents are not able to leak or overflow. Bins must be stored in the designated waste/recycling storage room(s) or area(s) between collection periods.
102. **Trade Waste** - Trade wastewater shall be disposed of in accordance with the permit requirements of Sydney Water Corporation Ltd, Wastewater Source Control Branch.
103. **Disposal of liquid wastes** - All liquid wastes generated on the premises must be treated and discharged to the sewerage system in accordance with the requirements of Sydney Water Corporation or be transported to a liquid waste facility for recycling or disposal.

ADVISORY NOTES

Health Inspection Services:

Inspections and fees - Council officers may carry out periodic inspections of the premises to ensure compliance with relevant environmental health standards and Council may charge an approved fee for this service in accordance with Section 608 of the *Local Government Act 1993*.

The approved fees are contained in Council's Management Plan and may be viewed or downloaded at www.ryde.nsw.gov.au.

End of consent