

Original signed by:     David Hoy     Dated:.....9/05/2022
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Mr David Rippingill  
Toongame P/L  
C/- Design Collaborative  
Suite 304, 105 Pitt Street  
SYDNEY NSW 2000

D101/21  
DWH (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED**  
**SECTION 4.55 APPLICATION 101/21/2 - APPROVAL**

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<b>Development Consent Number:</b>	<b>101/21/2</b>
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<b>Land to which this applies:</b>	206 Blues Point Road, McMahons Point Lot No.: 1, DP: 565890
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<b>Applicant:</b>	Mr David Rippingill, Toongame P/L C/- Design Collaborative
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<b>Proposal:</b>	Modification of DA 101/21 to amend Condition I4 to retain existing hours of operation for the approved covered terrace to trade between 10am and 12 midnight Monday to Thursday, 10am and 1am the following day Friday to Saturday and between 10am and 10pm Sunday.
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The 4.55 application was considered by the **North Sydney Local Planning Panel (NSLPP)** on 4 May 2022.

Pursuant to Section 4.55 of the Act notice is hereby given of the determination by the consent authority of your request for a modification to Development Consent No. **101/21** and registered in Council's records as Application No. **101/21/2** relating to the land described as **206 Blues Point Road, McMahons Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 6 October 2021 has been determined in the following manner: -

1. *To amend condition I4 of the consent to read as follows:*

**Hours of Operation**

I4. The hours of operation are restricted to:

***Indoor areas***

*Monday to Thursday 10am and 12 midnight the following day*

*Friday to Saturday 10am and 1am the following day*

*Sunday 10am and 10pm Sunday*

***Outdoor terrace***

*Monday to Thursday 10am and 12 midnight the following day;*

*Friday to Saturday 10am and 1am the following day;*

*Sunday 10am and 10pm*

***Lower ground floor gaming room and sports bar***

*Monday to Thurs 10am and 11pm*

*Friday to Saturday 10am and 11pm*

*Sunday 10am and 10pm*

***Definitions***

***Outdoor Terrace*** *For the purpose of this condition, reference to the term “outdoor terrace” refers to the “covered terrace” shown the drawing numbered DA 1-02 D referenced in Condition A1 of this consent.*

*Upon expiry of the permitted hours:*

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

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

**2. To add Conditions I11A and I15 as follows:**

**Complaint and Incident Register to be maintained**

I11A On commencement of use approved by this consent, a Complaint and Incident Register is to be maintained which records the date, time and nature of any complaint received by the Manager or Licensee of the premises. The Register is required to include details of actions taken by the Manager or Licensee of the premises to address any complaints. The Register is to be maintained at all times during operation of the premises and is to be made available to Council on request.

(Reason: To ensure the complaint procedures referenced in the Plan of Management are reflected in the terms of this consent)

**Television screens and audio equipment not permitted under this consent**

I15 No consent is granted or may inferred under this consent for the installation of any television or audio equipment within the outdoor terrace area of the hotel.

(Reason: To clarify the terms of this consent)

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**Reason for approval:**

The Panel imposed a 12 month trial period which will allow a review of the operating conditions of premises and enforcement of the Plan of Management.

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

The submissions received by Council were addressed in the NSLPP report (see Council's website: [https://www.northsydney.nsw.gov.au/Council\\_Meetings/Meetings/NSLPP/2022/4\\_May\\_2022](https://www.northsydney.nsw.gov.au/Council_Meetings/Meetings/NSLPP/2022/4_May_2022))

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The conditions attached to the original consent for Development Application No. 101/21 by endorsed date of 6 October 2021 still apply.

**ADVISINGS**

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **David Hoy**. However, if you wish to pursue your rights of appeal in the Land and Environmental Court pursuant to Section 8.7 of the Environmental Planning and Assessment Act 1979 (as amended), you are advised that Council generally seeks resolution of such appeals through a Section 34 Conference, instead of a full Court hearing, subject to any further advice to the contrary from Council's Solicitors and senior staff. Such an approach is less adversarial, it achieves a quicker decision than would be the case through a Court hearing and it can give rise to considerable cost and time savings for all parties involved.

- (b) Pursuant to Section 8.2, an applicant is able to request Council to review its determination. An application for a review under Section 8.2 of the Act must be made no later than 28 days after the date on which the application for the modification of the development consent was determined.
- (c) Prior to commencing any building, subdivision or associated constructions works, the following provisions of the Environmental Planning and Assessment Act 1979 (the 'Act') are to be complied with:
  - (i) A Construction Certificate is to be obtained in accordance with Section 6.3 of the Act.
  - (ii) A Principal Certifier is to be appointed and Council is to be notified of the appointment in accordance with Section 6.6 of the Act.
  - (iii) Council is to be notified at least two (2) days of the intention to commence building works, in accordance with Section 6.6(2)(a) of the Act.
- (d) You are advised that changes to the external configuration of the building, changes to the site layout, density and unit configuration internal changes to the proposed building or any changes to the proposed operation of a use **MAY** require the submission of a further modification under Section 4.55 of the Environmental Planning & Assessment Act, 1979 (as amended).

Council staff would be pleased to assist in identifying such changes which may require the submission of a modification of a Development Application under Section 4.55 of the Environmental Planning & Assessment Act.

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

**9 May 2022**

\_\_\_\_\_  
DATE

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