

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2022/0568
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<b>Responsible Officer:</b>	Grace Facer
<b>Land to be developed (Address):</b>	Lot 6 DP 30579, 45 Mitchell Road BROOKVALE NSW 2100
<b>Proposed Development:</b>	Modification of Development Consent DA2020/0182 granted for Use of premises as an artisan food and drink premises and construction of signage
<b>Zoning:</b>	Warringah LEP2011 - Land zoned IN1 General Industrial
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Thomas John Hillard Lynette Ann Hillard Pacific Towers Real Estate Pty Ltd
<b>Applicant:</b>	Four Towns Pty Ltd

<b>Application Lodged:</b>	18/10/2022
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Refer to Development Application
<b>Notified:</b>	25/10/2022 to 08/11/2022
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### PROPOSED DEVELOPMENT IN DETAIL

The application seeks to modify DA2020/0182 with an increase in the hours of operation, increased patron numbers and new outdoor dining area. The specific changes are as follows:

#### Hours of operation:

Industrial operations for Brewery & Distillery

- 6:00 AM to 4:00 PM Monday to Friday
- 8:00 AM to 12:00 PM Saturday
- Closed Sunday

Tasting and Cellar Door

- 4:00pm to 10:00pm Monday to Wednesday
- 4:00 pm to 12:00 am Thursday and Friday (Currently approved to 10:00pm)
- 12.00pm to 12.00 am Saturdays (Currently approved to 10:00pm)
- 12:00pm to 10:00pm Sunday and Public Holidays

Maximum patron capacity

Existing approval for 100 patrons increased to 140 patrons.

**ASSESSMENT INTRODUCTION**

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

**SUMMARY OF ASSESSMENT ISSUES**

Warringah Development Control Plan - B7 Front Boundary Setbacks

Warringah Development Control Plan - C3 Parking Facilities

Warringah Development Control Plan - D3 Noise

**SITE DESCRIPTION**

<b>Property Description:</b>	Lot 6 DP 30579 , 45 Mitchell Road BROOKVALE NSW 2100
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the eastern side of Mitchell Road.</p> <p>The site is regular in shape with a frontage of 15.8m along Mitchell Road and a depth of 34.6m. The site has a surveyed area of 556m<sup>2</sup>. The site is relatively level with no vegetation upon the site.</p> <p>The site is located within the IN1 Light Industrial zone and accommodates a brick industrial unit with concrete car parking area within the front setback. The unit is currently being used as a Artisan food and drink industry. It is noted</p>

that the NSW employment zones reforms have been and will come into force on 26 April 2023. These reforms will result in this property changing from a IN1 zone to an E4 zone. The existing use will remain permissible in the new zone.

**Detailed Description of Adjoining/Surrounding Development**

Adjoining and surrounding development is characterised by warehouse units with varies industrial uses.

Map:



**SITE HISTORY**

**FOC2021/0081**

Occupation Certificate for use of premises as an artisan food and drink premises and construction of signage.

Approved by External Private Certifying Authority on 25 January 2021

**CC2021/0022**

Construction Certificate for use of premises as an artisan food and drink premises and construction of signage.

Approved by External Private Certifying Authority on 27 November 2020

**DA2020/0182**

Development Application for use of premises as an artisan food and drink premises and construction of signage.

Approved on 24 August 2020.

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)**

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

The application has been assessed in accordance with the requirements of the Environmental Planning

and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2020/0182, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, are:

<b>Section 4.55 (2) - Other Modifications</b>	<b>Comments</b>
<p>A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:</p>	
<p>(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and</p>	<p>The consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2020/0182 for the following reasons:</p> <ul style="list-style-type: none"> <li>• The proposal will retain the existing and approved use of the site as an artisan food and drinks premises</li> <li>• No building works are proposed</li> <li>• The modifications to the hours of operations and outdoor dining area are consistent with surrounding businesses of similar uses approved in the industrial zone</li> </ul>
<p>(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and</p>	<p>Development Application DA2020/0182 did not require concurrence from the relevant Minister, public authority or approval body.</p>

Section 4.55 (2) - Other Modifications	Comments
(c) it has notified the application in accordance with:  (i) the regulations, if the regulations so require,  or  (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, and the Northern Beaches Community Participation Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions were received in relation to this application.

### Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 96 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p>

Section 4.15 'Matters for Consideration'	Comments
	<p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p>
<p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan 2011 section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification &amp; Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 25/10/2022 to 08/11/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

## REFERRALS

Internal Referral Body	Comments
<p>Building Assessment - Fire and Disability upgrades</p>	<p><b><u>Amended BCA Report - MBC Group dated 31/1/2023</u></b></p> <p>The application has been further assessed having regards to the amended BCA Capability Statement prepared by MBC Group, dated 31/1/2023.</p> <p>There are no objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p> <p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. The application proposes an increase in patron numbers from 100 to 140 and in this regard an amended BCA Report is required to address the sanitary facilities which were previously based on a maximum capacity of 100 persons for a "Class 6 - Restaurant; Cafe; Bar" under F2.3 of the BCA.</p> <p>This report is required by Council for consideration prior to further determination of the DA.</p>
<p>Environmental Health (Industrial)</p>	<p><b>General Comments</b></p> <p>This application is for the modification of an existing Development Application (DA2020/0182). The premises has run as an artisan food and drinks premises since the final occupation certificate was granted with the same operators "Dad and Dave's Brewing". The proposal is for a minor extension of the hours of operation as noted in the proposal and also an increase to patron numbers by 40 patrons, with a total maximum patron capacity of 140 for the entire site.</p> <p>Artisan food and drink premises have the potential to create noise impacts on surrounding premises. This premises is proposed to be in an industrial area where the nearest residential receiver is over 200m away. As such, impacts on residential receivers is likely to be low.</p> <p>The applicant has provided an acoustic report which provides recommendations to limit the impact of noise and vibration effects on surround commercial premises.</p>

Internal Referral Body	Comments
Traffic Engineer	<p>The applicant seeks approval for a modification to allow for an extension of trading hours and an increase in patron capacity at the Artisan Food and Drink premises at 45 Mitchell Road Brookvale.</p> <p><u>Hours of Operation</u> The applicant seeks approval to amend condition 30 which restricts the hours of operation. The existing condition is as follows:</p> <p>Hours of Operation The hours of operation are to be restricted to: Industrial operations for Brewery &amp; Distillery - 6:00 AM to 4:00 PM Monday to Friday - 8:00 AM to 12:00 PM Saturday - Closed Sunday Tasting and Cellar Door - 4:00 PM to 10:00 PM Monday to Friday - 12.00pm to 10.00 PM Saturday and Sunday Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes. Reason: Information to ensure that amenity of the surrounding locality is maintained.</p> <p>The applicant proposes no change to the hours for Brewery and Distillery operations but seeks to extend the hours for tasting and cellar door as follows:</p> <p>Tasting and Cellar Door</p> <ul style="list-style-type: none"> <li>• 4:00pm to 10:00pm Monday to Wednesday</li> <li>• 4:00 pm to 12:00 am Thursday and Friday</li> <li>• 12.00pm to 12.00 am Saturdays</li> <li>• 12:00pm to 10:00pm Sunday and Public Holidays</li> </ul> <p>Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.</p> <p>The proposed hours of operation are similar to those which have been approved for other brewery and distillery uses in the Brookvale Industrial area and it is noted that there is no overlap between the hours of operation of the Industrial/Brewery operations and tasting/cellar door components of the business. The tasting and cellar door activities which are likely to generate greater levels of parking activity are also timed to operate at times when parking demands within the Industrial area are lower and accordingly there are no traffic engineering concerns with the extended hours of operation.</p> <p><u>Patronage</u> The applicant also seeks approval to increase the patronage for the</p>

Internal Referral Body	Comments
	<p>site from 100 persons to 140 persons. The increase in patronage is to be achieved by occupying the offstreet parking area with tables and chairs. This would mean the development would provide no offstreet parking during its busiest hours of operation. It is noted that the increased patronage numbers are achieved by occupying the carparking area and as such the carparking area, at these times would be counted as floor area and the parking requirement associated with the tasting/cellar door operations increases from 5 spaces to 10 spaces while the parking provided decreases from 5 spaces to 0 spaces.</p> <p>The parking surveys provided by the applicant reveal that on-street parking occupancy within 150-170m of the site on weekdays is still high at 4pm (only 10 spaces vacant of 93 on-street spaces) with occupancy rates dropping significantly after 6pm. On weekends parking occupancy rates are low at 12pm (only 6 spaces vacant of 93 on-street spaces) and parking occupancy rates do not drop off appreciably until after 4pm.</p> <p>Given the above and taking into account the absence of any offstreet parking to support the development during its busiest hours of operation there is potential for the increased patronage numbers to impact upon on-street parking supply. It is therefore considered that patronage levels should remain limited to 100 persons until 6pm on weekdays and until 4pm on weekends. i.e proposed condition 36 should be reworded as follows:</p> <p>The capacity of the premises for the tasting/cellar door shall be restricted to:</p> <ul style="list-style-type: none"> <li>• Total maximum patron capacity of 100 persons between 4pm and 6pm on weekdays and between 12pm and 4pm on weekends</li> <li>• Total maximum patron capacity of 140 persons after 6pm and on weekdays and after 4pm on weekends</li> </ul> <p>reason: to reduce potential on-street parking impacts</p>

External Referral Body	Comments
NSW Police - Licensing (Clubs, Hotels, Pubs)	The proposal was referred to NSW Police - Licensing who provided a response stating that Police have no objection to the modification application.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

All, Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council

Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

## State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

### SEPP (Resilience and Hazards) 2021

#### Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for industrial purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the industrial land use.

### Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

#### Compliance Assessment

Clause	Compliance with Requirements
5.4 Controls relating to miscellaneous permissible uses	Yes
6.1 Acid sulfate soils	Yes
6.4 Development on sloping land	Yes

### Warringah Development Control Plan

#### Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B5 Side Boundary Setbacks	Merit	Unchanged	N/A	N/A
B7 Front Boundary Setbacks	4.5m	Building Unchanged Car parking 0m	N/A Outdoor Dining Area 0m	N/A <b>Outdoor dining area: No</b>
B9 Rear Boundary Setbacks	Merit	Unchanged	N/A	N/A

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D8 Privacy	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D20 Safety and Security	Yes	Yes

### Detailed Assessment

#### **B7 Front Boundary Setbacks**

##### Description of non-compliance

Clause B7 of the DCP requires that a 4.5m front setback is to be provided for the site. The original development application approved the use of the front setback area for a car park, which proposed a nil setback from the front boundary. This modification application seeks consent to occupy the existing car parking area with tables and chairs to create a new outdoor dining area.

##### Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- ***To create a sense of openness.***

##### Comment:

No built structures are proposed in the front setback area which will retain a sense of openness on the site.

- ***To maintain the visual continuity and pattern of buildings and landscape elements.***

##### Comment:

The previously approved nil setback to the front boundary line will be unchanged by the proposed modification. Moreover, the proposed outdoor dining is anticipated to result in a more attractive streetscape than the existing car parking spaces. As Mitchell Road exhibits varying front setbacks and structures which encroach within the front setback area, the pattern of buildings is considered to be retained.

- ***To protect and enhance the visual quality of streetscapes and public spaces.***

Comment:

Subject to conditions imposed in the original development consent, the provision of street tree planting will assist in enhancing the visual quality of the proposal's street presentation.

- ***To achieve reasonable view sharing.***

Comment:

The proposal will not result in any impacts to existing view sharing arrangements.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

### **C3 Parking Facilities**

A car parking rate for the use 'Artisan Food and Drink Industry' is not specified within Appendix 1 of the Warringah DCP. Where the car parking rate is not specified in Appendix 1, car parking must be adequate for the development having regard to the objectives and requirements of this clause.

Under the assessment of the original Development Application, Council's Traffic Engineer assessed the use of the site as requiring the following comparative car parking rates as specified under the DCP, given that no specific parking requirement is specified:

Parking requirements:

- Required for Showroom & tasting -  $6.1 \text{ spaces} / 100\text{m}^2 = 5 \text{ spaces}$
- Required for Industry area -  $1.3 \text{ spaces} / 100\text{m}^2 = 3 \text{ spaces}$
- Total parking spaces required = 8 spaces

The proposed modification seeks to provide for an outdoor dining area and increase in patronage which involves occupying the off-street parking area with tables and chairs. The application has been referred to Council's Traffic Engineer given that the proposed development would provide no off-street parking during its busiest hours of operation. Furthermore, the increase in floor area would result in the parking requirement associated with the tasting/cellar door operations increasing from 5 spaces to 10 spaces.

Council's Traffic Engineer has assessed the parking surveys accompanying the application and notes that on-street parking occupancy within 150-170m of the site on weekdays is still high at 4pm (only 10 spaces vacant of 93 on-street spaces) with occupancy rates dropping significantly after 6pm. On weekends parking occupancy rates are low at 12pm (only 6 spaces vacant of 93 on-street spaces) and parking occupancy rates do not drop off appreciably until after 4pm.

Accordingly, this assessment finds that the proposal is supported in this particular instance, subject to the maximum patron capacity being restricted before 6pm on weekdays and 4pm on weekends to reduce potential adverse parking impacts. Subject to conditions of consent, the proposal will be consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979.

### **D3 Noise**

The proposal will retain the use of the site as an artisan food and drink premises, which has the

potential to create noise impacts on surrounding premises. As the premises is proposed to be in an industrial area where the nearest residential receiver is over 200m away, the impacts on residential receivers is likely to be low. Council's Environmental Health Officer has reviewed the proposal and considered the proposed extended trading hours and found that, subject to conditions of consent and recommendations in the accompanying updated Acoustic Report (dated 23 June 2022), the development will not have an unreasonable impact on surrounding properties with regard to noise.

## **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2022**

Section 7.12 contributions were levied on the Development Application.

## **CONCLUSION**

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

## RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2022/0568 for Modification of Development Consent DA2020/0182 granted for Use of premises as an artisan food and drink premises and construction of signage on land at Lot 6 DP 30579,45 Mitchell Road, BROOKVALE, subject to the conditions printed below:

### A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

#### a) Modification Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA01 - Rev B - Ground Floor Plan	9 August 2022	HAO Designs
DA02 - Rev C - First Floor Plan	24 January 2023	HAO Designs
DA03 - Rev A - Signage	6 February 2020	HAO Designs

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Acoustic Report	23 June 2022	Acoustic Dynamics
Operational Management Plan	8 August 2022	Dad and Daves Brewing
Traffic and Parking Impact Assessment Report	September 2022	ML Traffic Engineers

#### b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

### B. Add Condition No.18A - Acoustic Report Recommendations to read as follows:

Prior to the issuing of any Construction Certificate, documentation is to be submitted to the satisfaction of the Principal Certifying Authority that recommendations within the acoustic report by Acoustic Dynamics dated 23 June 2023 (4780R002.NW.220602) have been implemented/incorporated into the design of the premises.

Reason: To protect acoustic amenity of surrounding premises.

### C. Add Condition No.19A - Acoustic Report Certification to read as follows:

Prior to any occupation certificate being issued, a further acoustic assessment is to be undertaken by a qualified and experienced person(s) to confirm compliance with recommendations within the Acoustic

Report by Acoustic Dynamics dated 23 June 2023 (4780R002.NW.220602).

Any recommendations made by the consultant must be implemented prior to issuing the Occupation Certificate in order to achieve compliance with noted conditions of this consent.

The updated acoustic assessment is to be submitted to the satisfaction of the Principal Certifying Authority.

Reason: To protect acoustic amenity of surrounding premises.

**D. Add Condition No.36 - Maximum Patron Capacity to read as follows:**

The capacity of the premises for the tasting/cellar door shall be restricted to:

- Total maximum patron capacity of 100 persons between 4pm and 6pm on weekdays and between 12pm and 4pm on weekends
- Total maximum patron capacity of 140 persons after 6pm and on weekdays and after 4pm on weekends

Reason: To ensure that amenity of the surrounding locality is maintained.

**E. Modify Condition No.30 - Hours of Operation to read as follows:**

The hours of operation are to be restricted to:

Industrial operations for Brewery & Distillery

- 6:00am to 4:00pm Monday to Friday
- 8:00am to 12:00pm Saturday
- Closed Sunday

Tasting and Cellar Door

- 4:00pm to 10:00pm Monday to Wednesday
- 4:00pm to 12:00am Thursday and Friday
- 12:00pm to 12:00am Saturdays
- 12:00pm to 10:00pm Sunday and Public Holidays

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: Information to ensure that amenity of the surrounding locality is maintained.

In signing this report, I declare that I do not have a Conflict of Interest.

**Signed**



**Grace Facer, Planner**

The application is determined on 13/04/2023, under the delegated authority of:



**Maxwell Duncan, Acting Development Assessment Manager**