

## STATEMENT OF ENVIRONMENTAL EFFECTS

### FOR THE CONSTRUCTION OF ALTERATIONS AND ADDITIONS TO AN EXISTING RESTAURANT AND AMENDMENT OF THE HOURS OF OPERATION

LOCATED AT

1 & 1A NARRABEEN PARK PARADE, NORTH NARRABEEN

FOR

PETOBI PTY LTD



Prepared  
October 2019

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## 1.0 Introduction

This Statement of Environmental Effects accompanies details prepared by O2 Architecture, Job No 1610, Sheets DA-01 – DA-03, dated 12 June 2019, to detail the proposed construction of alterations and additions to the existing restaurant and amendment of the hours of operation and number of patrons for the existing approved restaurant on the land at **1 Narrabeen Park Parade & 1A Narrabeen Park Parade (Lake Park Reserve), North Narrabeen.**

This Statement describes the subject site and the surrounding area, together with the relevant planning controls and policies relating to the site and the type of development proposed. As a result of this assessment it is concluded that the development of the site in the manner proposed is considered to be acceptable and is worthy of the support of the Council.

In preparation of this document, consideration has been given to the following:

- *The Environmental Planning and Assessment Act, 1979 as amended*
- *The Environmental Planning and Assessment Regulation 2000*
- *State Environmental Planning Policy (Coastal Management) 2018*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*
- *State Environmental Planning Policy No. 55 – Remediation of Land*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX 2004)*
- *Pittwater Local Environmental Plan 2014*
- *Pittwater 21 Development Control Plan*

The application is supported by a letter (dated 29 August 2019 – Ref: 2019/491647) from Northern Beaches Council's Parks & Recreation Unit which grants Owner's Consent to carry out the work.

The Development Application is seeking development consent to carry out the construction of a new pergola and additional landscaping to enhance the amenity of the site.

The proposal also includes a request to amend the approved trading hours for the existing restaurant, which are detailed under DA 87/200, issued 17 June 1987 and then further modified 15 November 1990 and the number of seated patrons, which is currently limited to 50 persons.

The current approved hours of operation are detailed in Modification of Development Consent No. DA 87/200, dated 15 November 1990 under Condition 4 as:

4. *Restaurant trading hours including any take away meals service shall be confined to:*

- *12 midday- 3.00pm, Wednesday to Sunday*
- *6.30pm -10.30pm, Wednesdays, Thursdays and Sundays*
- *6.30pm -11.30pm, Fridays and Saturdays*

*All staff and customers are to vacate the restaurant premises by 12 midnight*

The revised trading hours are detailed further within this submission under Part 5.0 – Proposed Development and the proposal will seek to provide for the flowing trading hours (over):

The proposed trading hours are:

- Monday – Saturday: 6.30am – 12.00 midnight
- Sunday: 6.30am – 10.00pm
- New Year’s Eve – until 2.00am closing.

The current approved seating numbers within the restaurant is detailed in Modification of Development Consent No. DA 87/200, dated 15 November 1990 under Condition 5 as:

5. *Seating provision within the restaurant to not exceed 50 persons.*

The proposal includes a request to increase the seating number within the restaurant and the outdoor spaces to a maximum of 100 persons, spread over both the internal and external areas of the restaurant.

The site enjoys a current Outdoor Dining Approval under the Roads Act 1993 (NSW) issued by Northern Beaches Council and valid for the period of 1 September 2017 and expiring 1 September 2020 (Appendix 3). The approval provides for a rental area of 40m<sup>2</sup> and 10 tables with 40 chairs.

The proposal will incorporate the additional 40 chairs provided under the Outdoor Dining Approval and seeks a total of 100 persons for the site and the rental area.

The site is within the area covered by Council’s Ocean Beaches Plan of Management and in particular, Part 7.0 – North Narrabeen Rock Pool.

The current use is identified as a *“restaurant located at the entrance to the car park”*.

The POM at page 45 also notes:

***Proposed Outdoor Eating Area***

*This Plan of Management expressly authorises the future leasing of a proposed outdoor eating area in conjunction with the existing commercial outlet adjacent to the reserve.*

*Any lease agreement should be consistent with the Department of Land’s Policy on Food and Beverage Outlets on Crown Reserves which states that “any proposal for the establishment of a food and beverage outlet on a public purpose reserve should be contained in a Plan of Management made under the Crown Lands Act, 1989 to ensure that it is evaluated by the community and stakeholders and its scope defined by the plan.”*

*All income received from the lease of the premises is to be generated back into the reserve for maintenance/capital works etc”*

As noted above, the site enjoys an Outdoor Dining Approval under the Roads Act 1993 (NSW) issued by Northern Beaches Council and valid for the period of 1 September 2017 and expiring 1 September 2020 (Appendix 3).

The proposed work will enhance the function of the outdoor dining area and provide improved amenity for the patrons.

## **2.0 Property Description**

The subject allotment is described as 1 Narrabeen Park Parade, North Narrabeen, being Lot 1 within Deposited Plan 1058602 and 1A Narrabeen Park Parade, North Narrabeen (Lake Park Reserve), being Lot 7069 within Deposited Plan 1058602.

Lot 1 is zoned R2 Low Density Residential and Lot 7069 is zoned RE1 Public Recreation under the Pittwater Local Environmental Plan 2014.

The sites are not listed as a heritage items nor is are the sites within a conservation area.

The land is noted as being bushfire prone land and a Bushfire Assessment Statement has been prepared by Building Code & Bushfire Hazard Solutions, Reference No 200278 dated 30 September 2019 and accompanies this submission.

The site is identified as Low Risk Flood Prone Land. This matter will be discussed further within this report.

The site is identified as W Hazard H1 on Council's Geotechnical Hazard Map and as the minor works do not involve any significant site disturbance, a recent Preliminary Geotechnical Investigation prepared by Crozier Geotechnical Consultants, Reference No 2016-092.1, dated December 2016 is provided as background information for the site conditions.

The site is within the Class 3 and 5 Acid Sulfate Soils Area, and is noted as being within Council's Terrestrial Biodiversity Area. These matters will be discussed further within this Statement.

## **3.0 Site Description**

The property is rectangular in shape is located on the eastern side of Narrabeen Park Parade, with a fall towards the front, western boundary.

The subject site (Lot 1 DP 1005148) has an area of 345.3m<sup>2</sup> with a frontage to Narrabeen Park Parade of 9.82m. The southern boundary is a total of 41.15m in length, with the northern boundary being 36.11m.

The subject site currently contains a single storey brick and timber restaurant, with a detached garage building at the eastern end of property with access tom the garage gained via an existing driveway from the Council public car parking area.

The eastern portion of the site has a shared area with a ground level garage and awning area within the subject Lot 1 and a first floor level balcony over the garage being within the title of Lot 2 in DP 1005148.

The neighbouring properties to the north and east are residential properties, with the dwellings comprising a range of styles.

The details of the lots which comprise the parcel are contained within the survey report prepared by Usher & Company, Plan Reference 5551-DET, dated 8 April 2015, which accompanies the DA submission.



**Fig 1: Location of Subject Site**  
(Source: Google Maps)



**Fig 2: View of subject property, looking east from Narrabeen Park Parade**



Fig 3: View of subject property, looking north from public car park



Fig 4: View of existing restaurant and proposed outdoor seating area and location of new pergola, looking north-west from public car park



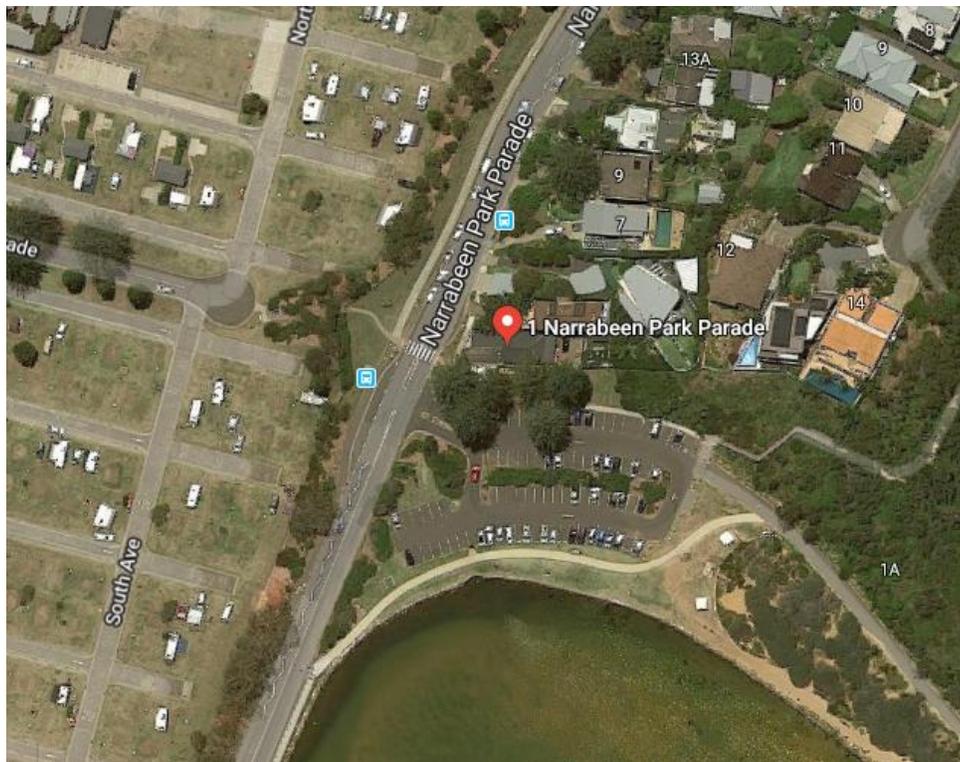
**Fig 5: View of existing restaurant and proposed outdoor seating area and location of new pergola, looking north from public car park towards existing garage**

#### 4.0 The Surrounding Environment

Narrabeen Park Parade is situated on the westerly slope of North Narrabeen Headland, enjoying a south-westerly aspect over Narrabeen Lagoon and Birdwood Park. To the west is Narrabeen Park Parade; neighbouring residential properties are to the north and east and a public car park to the south. North Narrabeen Headland Reserve is to the southeast and continues beyond Peal Place to the east.

In terms of the subject site's locality in the broader locational context, the following points are noteworthy:

- Public transport in the form of bus stops at the Narrabeen Park Parade frontage of the subject site
- Walking distance to recreational facilities such as ocean beaches, Narrabeen lagoon and ocean baths at Narrabeen Head.
- Walking distance to Rat Park
- Walking distance to primary and high schools
- Walking distance to Warriewood Square which contains retail, service outlets and medical facilities



**Fig 6: Aerial Photograph  
(Source: Google Maps)**

## 5.0 Proposed Development

As detailed within the accompanying plans, the proposal seeks to provide for the construction of alterations and additions to an existing restaurant.

The new works comprise:

- New pergola over existing tiled area
- New concrete path
- New landscaping

The existing building will remain otherwise unchanged.

Furthermore, the proposal seeks to amend the operating hours of the development.

The existing approved hours of operation are as follows:

- Wednesday to Sunday: 12 midday – 3.00pm
- Wednesday, Thursday and Sunday: 6.30pm – 10.30pm
- Friday and Saturday: 6.30pm – 11.30pm

The proposed hours of operation are as follows:

- Monday – Saturday: 6.30am – 12.00 midnight
- Sunday: 6.30am – 10.00pm
- New Year's Eve – until 2.00am closing.

The current approved seating numbers within the restaurant is detailed in Modification of Development Consent No. DA 87/200, dated 15 November 1990 under Condition 5 as:

5. *Seating provision within the restaurant to not exceed 50 persons.*

The site enjoys a current Outdoor Dining Approval under the Roads Act 1993 (NSW) issued by Northern Beaches Council and valid for the period of 1 September 2017 and expiring 1 September 2020 (Appendix 3). The approval provides for a rental area of 40m<sup>2</sup> and 10 tables with 40 chairs.

The proposal will incorporate the additional 40 chairs provided under the Outdoor Dining Approval and seeks a total of 100 persons for the site and the rental area.

The proposal includes a request to increase the seating number within the restaurant and the outdoor spaces to a maximum of 100 persons, spread over both the internal and external areas of the restaurant.

The toilet facilities within the restaurant have been recently upgraded to meet the needs of the proposed increase in patron numbers, including the installation of a fully compliant disabled toilet facility.

## Establishment of Existing Use Rights

The site is not listed as a heritage item or is it within a conservation area.

A previous Heritage Report prepared for the site by Colin Brady (provided with the DA for Council's information) identifies that the site has been occupied by the current building as far back as 1943.

The Heritage Report notes that the site is recorded as being a convenience store and residence in the 1960's, with the building being used as a refreshment room/convenience store and milk bar since the 1940's.

A review of the approval history for the site indicates that DA 87/200, issued by Warringah Council on 17 June 1987 (See Appendix 1) provided for "*Change of use from existing shop (milk bar) with attached dwelling to a refreshment room (restaurant) with attached dwelling and detached garage*".

DA 87/200 was further modified on 15 November 1990, with the approved hours of operation revised to provide for the following trading hours:

- 12 midday – 3.00pm, Wednesday to Sunday
- 6.30pm – 10.30pm, Wednesdays, Thursdays and Sundays
- 6.30pm – 11.30pm, Fridays and Saturdays

The modification is attached as Appendix 2.

It appears that the subject restaurant was lawfully erected (ie. within the Residential zone) in 1987 and the use of the land as a restaurant has continued since, without any abandonment.

The proposed alterations and additions to the existing restaurant on the subject site are not permissible uses under the R2 Residential zone.

The proposal however is able to be considered by Council under the existing use rights regulated within Section 4.65 and Section 4.66 of the Environmental Planning and Assessment Act 1979 ("the EP & A Act") and Clauses 40-43 of the Environmental Planning and Assessment Regulation 2000 ("the Regulation").

Under the provisions of Section 4.65 of the Environmental Planning and Assessment Act 1979, existing use means:-

- (a) *The use of a building, work or land for a lawful purpose immediately before becoming into force of an Environmental Planning Instrument which would, but for division 4 of this part, have the effect of prohibiting that use, and;*
- (b) *The use for building, work or land;*
  - (i) *For which Development Consent was granted before the commencement of the provision of an Environmental Planning Instrument having the effect of prohibiting the use, and*
  - (ii) *That has been carried out, within 1 year after the date on which that provision commenced in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the Development Consent would not lapse.*

The Pittwater Local Environmental Plan 1993 was gazetted on 4 February 1994. We note that the 2(a) Residential "A" zone under this instrument prohibits the erection or use of a restaurant on the property.

Accordingly, it is our opinion, that on 4 February 1994 the restaurant use/purpose of the property became an existing use. The continuance of the existing use is protected by Section 4.66 of the EPA Act despite the fact that the use is now prohibited by an environmental planning instrument.

The Pittwater Local Environmental Plan 2014 came into effect on 27 June 2014. The erection or use of a restaurant is prohibited in the R2 Low Density Residential Zone.

The proposed alterations and additions to the existing restaurant on the subject site are not permissible uses under the R2 Low Density Residential zone.

This current use has continued, unabandoned, until the present day and in accordance with the provisions of Section 4.65 of the EPA Act, the current use is considered to meet the requirements to benefit from the existing rights provisions.

It is therefore necessary to seek consent pursuant to Clause 43 of the Environmental Planning and Assessment Regulation 2000, for alteration and extension of the building on the property the subject of the existing use, in accordance with this development proposal.

The proposal seeks to rely on the existing use rights provisions to provide for the alterations to and extension of the subject building.

## 6.0 Zoning and Development Controls

### 6.1 State Environmental Planning Policy (Coastal Management) 2018

The subject site is identified as being within the Coastal Environment Area and therefore SEPP (Coastal Management) 2018 is applicable to the proposed development.

The stated Aim of the Policy under Clause 3 is to:

*The aim of this Policy is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by:*

- (a) managing development in the coastal zone and protecting the environmental assets of the coast, and*
- (b) establishing a framework for land use planning to guide decision-making in the coastal zone, and*
- (c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.*

The Coastal Management Act 2016 states within **Clause 3**:

The **objects** set out in **Clause 3** of the Coastal Management Act 2016 are:

- (a) to protect and enhance natural coastal processes and coastal environmental values including natural character, scenic value, biological diversity and ecosystem integrity and resilience, and*
- (b) to support the social and cultural values of the coastal zone and maintain public access, amenity, use and safety, and*
- (c) to acknowledge Aboriginal peoples' spiritual, social, customary and economic use of the coastal zone, and*
- (d) to recognise the coastal zone as a vital economic zone and to support sustainable coastal economies, and*
- (e) to facilitate ecologically sustainable development in the coastal zone and promote sustainable land use planning decision-making, and*
- (f) to mitigate current and future risks from coastal hazards, taking into account the effects of climate change, and*
- (g) to recognise that the local and regional scale effects of coastal processes, and the inherently ambulatory and dynamic nature of the shoreline, may result in the loss of coastal land to the sea (including estuaries and other arms of the sea), and to manage coastal use and development accordingly, and*
- (h) to promote integrated and co-ordinated coastal planning, management and reporting, and*
- (i) to encourage and promote plans and strategies to improve the resilience of coastal assets to the impacts of an uncertain climate future including impacts of extreme storm events, and*
- (j) to ensure co-ordination of the policies and activities of government and public authorities relating to the coastal zone and to facilitate the proper integration of their management activities, and*
- (k) to support public participation in coastal management and planning and greater public awareness, education and understanding of coastal processes and management actions, and*

- (l) to facilitate the identification of land in the coastal zone for acquisition by public or local authorities in order to promote the protection, enhancement, maintenance and restoration of the environment of the coastal zone, and
- (m) to support the objects of the Marine Estate Management Act 2016.

It is submitted that the assessment detailed under the Statement of Environmental Effects suggests that the proposed development is consistent with the objects of the SEPP (Coastal Management) 2018, as set out in Clause 3 of the Coastal Management Act 2016.

The matters for consideration under Division 1 of SEPP (Coastal Management) 2018 are:  
The relevant provisions of this clause are addressed as follows:

**Division 3 Coastal environment area**

**13 Development on land within the coastal environment area**

- (1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
  - (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
  - (b) coastal environmental values and natural coastal processes,
  - (c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
  - (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
  - (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
  - (f) Aboriginal cultural heritage, practices and places,
  - (g) the use of the surf zone.
- (2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
  - (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or
  - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
  - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.
- (3) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

**Comment:**

The proposal provides for the construction of alterations and additions to an existing restaurant. The proposed works will be carried out in accordance with the recommendations of the consulting Structural Engineer, which will ensure that appropriate structural integrity for the site will be maintained.

The collected stormwater will be directed to the existing stormwater system. The proposed stormwater management system will be designed to comply with Council's Water Management Policy.

Sediment and erosion control measures will be carried out if required to minimise the impact of the works on the waterway.

#### **Division 5 General**

#### **15 Development in coastal zone generally—development not to increase risk of coastal hazards**

*Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.*

#### **Comment**

The proposal provides for the construction of alterations and additions to an existing restaurant. The proposed new works are not considered to increase the risk of coastal hazards for the subject property or adjoining land.

#### **16 Development in coastal zone generally—coastal management programs to be considered**

*Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.*

**Comment:** No coastal management programs have been identified.

#### **17 Other development controls not affected**

*Subject to clause 7, for the avoidance of doubt, nothing in this Part:*

- (a) permits the carrying out of development that is prohibited development under another environmental planning instrument, or*
- (b) permits the carrying out of development without development consent where another environmental planning instrument provides that the development may be carried out only with development consent.*

## 6.2 State Environmental Planning Policy No. 55 – Remediation of Land

SEPP 55 – Remediation of Land and in particular Clause 7(1)(a) suggests that a consent authority must not grant consent to the carrying out of any development on land unless it has considered whether the land is contaminated.

Given the history of commercial use of the land and the fact that the works will not involve any substantial site disturbance, it is not considered that further investigation is not required at this stage.

## 6.3 Pittwater Local Environmental Plan 2014

### Clause 2.3 Zone objectives and land Use Table

The site is zoned as R2 Low Density Residential and RE1 Public Recreation under the provisions of the PLEP 2014, gazetted on 30 May 2014.

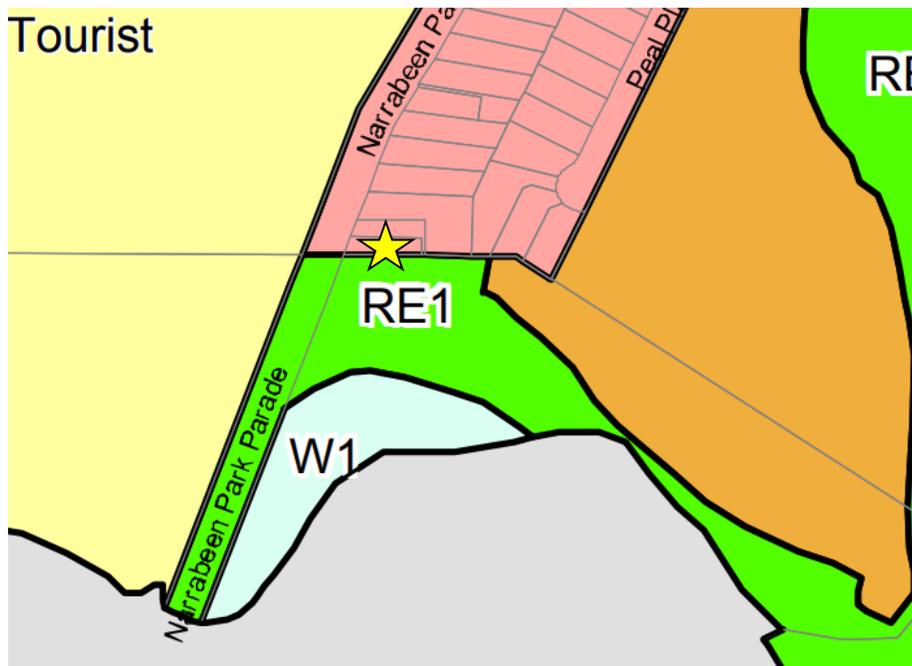


Fig 7: Extract from Pittwater Council Zoning Map

The development of and use of the land for a restaurant within the R2 Low Density Residential Zone is not noted as a permissible use, and therefore is considered to be prohibited.

This application seeks approval for additions and alterations to the existing restaurant will rely on the establishment of “existing use rights” for the building.

The modest additions to the existing restaurant are not considered to be inconsistent with the objectives of the R2 zone, which are noted as:

- *To provide for the housing needs of the community within a low density residential environment.*

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses.*

Furthermore, the modest additions to the existing restaurant are not considered to be inconsistent with the objectives of the RE1 zone, which are noted as:

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To allow development that does not substantially diminish public use of, or access to, public open space resources.*
- *To provide passive and active public open space resources, and ancillary development, to meet the needs of the community.*

This proposal for alterations and additions to an existing restaurant on the subject site relies upon the provisions of existing use rights regulated under Section 4.65 and Section 4.66 of the Environmental Planning and Assessment Act 1979 ('the EP& A Act') and clauses 40-43 of the Environmental Planning and Assessment Regulation 2000 ('the Regulation'). The relevant provisions relating to the application of Environmental Planning Instruments to developments relying upon existing use rights are as follows (over):-

**Section 4.65 of EP & A Act -**

- (1) *Except where expressly provided in this Act, nothing in this Act or an environmental planning instrument prevents the continuance of an existing use.*
- (2) *Nothing in subsection (1) authorises:*
  - (a) any alteration or extension to or rebuilding of a building or work, or*
  - (b) any increase in the area of the use made of a building, work or land from the area actually physically and lawfully used immediately before the coming into operation of the instrument therein mentioned, or*
  - (c) without affecting paragraph (a) or (b), any enlargement or expansion or intensification of an existing use, or*
  - (d) the continuance of the use therein mentioned in breach of any consent in force under this Act in relation to that use or any condition imposed or applicable to that consent or in breach of any condition referred to in section 4.17 (1) (b), or*
  - (e) the continuance of the use therein mentioned where that use is abandoned.*
- (3) *Without limiting the generality of subsection (2) (e), a use is to be presumed, unless the contrary is established, to be abandoned if it ceases to be actually so used for a continuous period of 12 months.*

The EP & A Act under Section 4.66 states that if provisions of an environmental planning instrument will derogate from the existing use rights provisions, then these provisions do not have any force or effect whilst the existing use rights remain.

**4.67 Regulations respecting existing use**  
*(cf previous s 108)*

- (1) *The regulations may make provision for or with respect to existing use and, in particular, for or with respect to:*
  - (a) *the carrying out of alterations or extensions to or the rebuilding of a building or work being used for an existing use, and*
  - (b) *the change of an existing use to another use, and*
  - (c) *the enlargement or expansion or intensification of an existing use.*
  - (d) *(Repealed)*
- (2) *The provisions (in this section referred to as the incorporated provisions) of any regulations in force for the purposes of subsection (1) are taken to be incorporated in every environmental planning instrument.*
- (3) *An environmental planning instrument may, in accordance with this Act, contain provisions extending, expanding or supplementing the incorporated provisions, but any provisions (other than incorporated provisions) in such an instrument that, but for this subsection, would derogate or have the effect of derogating from the incorporated provisions have no force or effect while the incorporated provisions remain in force.*
- (4) *Any right or authority granted by the incorporated provisions or any provisions of an environmental planning instrument extending, expanding or supplementing the incorporated provisions do not apply to or in respect of an existing use which commenced pursuant to a consent of the Minister under section 4.33 to a development application for consent to carry out prohibited development.*

The existing restaurant is believed to have been formally established in 1987 and has been continuously used as a restaurant.

The proposal seeks consent for the carrying out of alterations and additions to the building which is consistent with Section 4.67 of the Act.

#### **Clause 4.3 – Height of Buildings**

The maximum building height in this portion of North Narrabeen is 8.5m. The maximum height of the proposed new works is 2.7m and therefore complies with this control.

**Clause 7.1** relates to acid sulfate soils. The site has been identified within the Acid Sulfate Soils Map as being within the Class 3 and 5 Area. The minor extent of the works will not lower the water table, and it is therefore not anticipated that any acid sulfate soils will be disturbed.

**Clause 7.2** relates to earthworks. The works will be carried out in accordance with the recommendations of the consulting Structural Engineer and therefore satisfy the provisions of this clause.

**Clause 7.3** relates to flood planning. The site is identified as Low Risk Flood Prone Land. Council's Specialist Floodplain Engineer provided the following comments:

*The property at 1 Narrabeen Park Parade and the relevant area of reserve are only affected by the Low Flood Risk Precinct (based on the Probable Maximum Flood extent), shown in green. There would be no flood related development controls applicable for your development, and you would not need to submit a Flood Management Report.*

The proposal therefore satisfies the provisions of this clause.

### **Clause 7.6 – Biodiversity protection**

The land is noted within Council’s Biodiversity mapped area.

- (1) *The objective of this clause is to maintain terrestrial, riparian and aquatic biodiversity by:*
- (a) *protecting native fauna and flora, and*
  - (b) *protecting the ecological processes necessary for their continued existence, and*
  - (c) *encouraging the conservation and recovery of native fauna and flora and their habitats.*

The development is contained within an existing disturbed area of the site, and will not require the removal of any significant vegetation.

The works will introduce a new soft landscaped area. The proposal will not have an adverse impact on the terrain of the site, and the Objectives of Clause 7.6 will be achieved.

### **Clause 7.7 – Geotechnical hazards**

The site is identified on Council’s Geotechnical Hazard Map as ‘W Hazard H1’. The proposal does not involve any substantial site disturbance, other than minor works for footings etc. The site is identified as W Hazard H1 on Council’s Geotechnical Hazard Map and as the minor works do not involve any significant site disturbance, a recent Preliminary Geotechnical Investigation prepared by Crozier Geotechnical Consultants, Reference No 2016-092.1, dated December 2016 is provided as background information for the site conditions.

### **Clause 7.10 – Essential services**

This clause provides the following:

*Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:*

1. *the supply of water,*
2. *the supply of electricity,*
3. *the disposal and management of sewage,*
4. *stormwater drainage or on-site conservation,*
5. *suitable vehicular access.*

The site will retain the normal services which are available for the existing restaurant.

There are no other clauses of the PLEP 2014 that are considered to be relevant to the proposed development.

## 6.4 Pittwater 21 Development Control Plan

Council's Pittwater 21 DCP Section B (General Controls), Section C (Development Type Controls) and Section D14 Warriewood Locality Statement provides a range of outcomes and controls which form the primary criteria control for development within the subject locality.

### 6.4.1 Section A Introduction

The desired outcomes for the Warriewood Locality, in which this site falls, are as follows:

#### **A4.14 Warriewood Locality**

*The Warriewood locality will remain characterised by a mix of residential, retail, commercial, industrial, recreational, and educational land uses.*

*Existing residential areas will remain primarily low-density with dwelling houses a maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape. Secondary dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations. Any dual occupancies (detached) will be located on the valley floor and lower slopes that have less tree canopy coverage, species and habitat diversity and fewer other constraints to development. Any medium density housing will be located within and around commercial centres, public transport and community facilities.*

*Warriewood Square will meet the retail needs of the local and regional community as well as some smaller neighbourhood centres.*

*Future development will maintain a building height limit below the tree canopy and minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be integrated with the development. Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment. Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance. Development will be designed to be safe from hazards.*

It is considered that the proposal is consistent with the desired character of the locality by providing for alterations and additions to an existing restaurant which are consistent with the low density scale of the area and which will not be visually prominent within the Narrabeen Park Parade locality.

The proposed works are largely within the existing disturbed portion of the site and will not require the removal of any significant trees.

The works will be finished in a range of textures and finishes which will complement the existing surrounding development and the use of earthy tones will harmonise with the bushland/waterside setting of the locality.

## 6.4.2 Section B General Controls

The General Controls applicable to the proposed additions and alterations to the existing restaurant building are summarised as:

### **B1.4 Aboriginal Heritage Significance**

The controls seek to achieve the outcomes:

*Provide protection for 'Aboriginal Places and Objects'. (S)*  
*Potential Aboriginal Places and Objects are identified and protected. (S)*

The controls suggest:

*"If a property, the subject of a development application is identified as possibly meeting any of the criteria for being a potential Aboriginal place or containing an Aboriginal Object then additional independent information on the potential heritage significance may be requested.*

*Development must conserve the significance of any aboriginal place or object".*

The site has been disturbed by the introduction of the existing restaurant.

There is no obvious evidence of Aboriginal occupation or objects. The footprint of the new works is limited to the existing disturbed areas, with the construction works to be carried out in a sensitive manner and if any Aboriginal objects are located, they will be preserved and further advice sought to protect the items.

### **B3.1 Landslip Hazard**

The controls seek to achieve the outcomes:

*Protection of people. (S)*  
*Protection of the natural environment. (En)*  
*Protection of private and public infrastructure and assets. (S)*

The site is identified as W Hazard H1 on Council's Geotechnical Hazard Map and as the minor works do not involve any significant site disturbance, a recent Preliminary Geotechnical Investigation prepared by Crozier Geotechnical Consultants, Reference No 2016-092.1, dated December 2016 is provided as background information for the site conditions.

### **B3.2 Bushfire Hazard**

The controls seek to achieve the outcomes:

*Protection of people. (S)*  
*Protection of the natural environment. (En)*  
*Protection of private and public infrastructure and assets. (S)*

The land is noted as being bushfire prone land and a Bushfire Assessment Statement has been prepared by Building Code & Bushfire Hazard Solutions, Reference No 200278 dated 30 September 2019 and accompanies this submission.

**B3.11 Flood Prone Land**

The controls seek to achieve the outcomes:

*Protection of people. (S)*

*Protection of the natural environment. (En)*

*Protection of private and public infrastructure and assets. (S)*

The site is identified as Low Risk Flood Prone Land. Council's Specialist Floodplain Engineer provided the following comments:

*The property at 1 Narrabeen Park Parade and the relevant area of reserve are only affected by the Low Flood Risk Precinct (based on the Probable Maximum Flood extent), shown in green. There would be no flood related development controls applicable for your development, and you would not need to submit a Flood Management Report.*

The proposal therefore satisfies the provisions of this clause.

**B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land**

The controls seek to achieve the outcomes:

*The long-term viability and enhancement of locally native flora and fauna and their habitats. (En)*

The proposal will not require the removal of any significant vegetation to accommodate the new works, and is therefore not considered to impact on any wildlife corridors. New landscaping is to be provided.

**B5.9 Stormwater Management – Water Quality – Other than Low Density Residential**

The controls seek to achieve the outcomes:

*No increase in pollutants discharged with stormwater into the environment. (En)*

*Development is compatible with Water Sensitive Urban Design principles. (En)*

The requirements outlined in the controls seek to limit the extent and quality of stormwater run-off to the waterway. The proposal will not see a decrease in the pervious area of the site, and therefore there will not be any significant issue in terms of water quality.

### **B6.1 Access Driveways and Works on the Public Road Reserve – Low Density Residential**

This control seeks to achieve the outcomes:

*Safe and convenient access. (S)*

*Adverse visual impact of driveways is reduced. (En)*

*Pedestrian safety. (S)*

*An effective road drainage system. (En, S)*

*Maximise the retention of trees and native vegetation in the road reserve. (En, S)*

The site currently gains vehicular access to the garage adjoining the eastern boundary, from the public carpark. The access arrangements remain unchanged.

### **B6.3 Off-Street Vehicle Parking Facilities**

This control seeks to achieve the outcome:

*An adequate number of parking and service spaces that meets the demands generated by the development.*

*Functional parking that minimises rainwater runoff and adverse visual or environmental impacts while maximising pedestrian and vehicle safety.*

*Safe and convenient parking.*

The proposal provides for minor additions to an existing restaurant, which maintain the existing gross floor area of the use. The current approvals issued by Council provide for up to 90 patrons. The proposed increase to a total of 100 patrons is not considered to significantly alter the current parking demand in the area, with patrons being largely from the local area or holidaying at the local Council controlled Sydney Lakeside Holiday Park. The site adjoins a public car park, which provides adequate parking to meet the needs of the use.

### **B6.7 Transport and Traffic Management**

This control seeks to achieve the outcome:

*Safe and orderly traffic, pedestrian and cyclist access to and from all development via the surrounding road network and transport infrastructure. (En, S)*

*The developer meets the cost of upgrading the surrounding road, and traffic and transport infrastructure to meet the needs generated by the development. (S, Ec)*

The proposal will not see any change to the traffic generated by the existing land use.

### **B8.1 Construction and Demolition – Excavation and Landfill**

The controls seek to achieve the outcomes:

*Site disturbance is minimised. (En)*

*Excavation, landfill and construction not to have an adverse impact. (En)*

*Excavation and landfill operations not to cause damage on the development or adjoining property. (S)*

The proposal will not require any substantial excavation of the site to accommodate the new works. All works will be carried out in accordance with the recommendations of the consulting Structural Engineers, and therefore satisfy the provisions of this clause.

### **B8.2 Construction and Demolition – Erosion and Sediment Management**

The controls seek to achieve the outcomes:

*Waterways, coastal areas, watercourses, drainage systems and the public domain are protected from the transportation of sedimentation from development sites. (En)*

*Reduction of waste throughout all phases of development. (En)*

*Public safety is ensured. (S)*

*Protection of the public domain. (S, En)*

This clause requires that erosion and sediment controls are installed on site to prevent the migration of sediment to adjoining properties, roads or waterways. The proposal will not require any substantial excavation of the site to accommodate the new works. Erosion and sediment control measures will be carried out as required.

### **6.4.3 Section D Locality Specific Development Controls**

The **D14 Warriewood Locality Statement** contains a number of outcomes for development. The proposal has been assessed in regard to the Locality Statement and is summarised in the following table.

In support of the proposal, it is considered that this proposal is well designed, comprehensive and consistent with the community's vision for development in Pittwater in that it is:

- Proposing a form of development which is compatible with the existing character of the area by maintaining an appropriate development scale which is compatible with the vicinity.
- The proposal reasonably maintains existing views and amenity to nearby properties.
- The proposal will not result in additional run-off to adjoining properties or public spaces.
- The development will not place additional demands on local infrastructure or on the sewage disposal system for the site.

A summary of the DCP controls for the **D14 Warriewood Locality** is provided below:

#### **D14.1 Character as Viewed from a Public Place**

The control seeks to achieve the outcomes:

*Achieve the desired future character of the Locality.*

*The visual impact of the built form is secondary to landscaping and vegetation, or in commercial areas and the like, is softened by landscaping and vegetation. (En, S, Ec)*

*High quality buildings designed and built for the natural context and any natural hazards. (En, S)*

*Buildings do not dominate the streetscape and are at human scale. Within residential areas, buildings give the appearance of being two-storey maximum. (S)*

*Parking structures are minimised and secondary to the built form, landscaping and vegetation. (S)*

*Access to public places and spaces is clear and defined. (S)*

The required controls to achieve the outcomes are to ensure that the building maintains a compatibility with the locality through appropriate design relief including roof forms textures, materials, the arrangement of windows modulation, spatial separation, landscaping etc.

The elevations provided with the DA submission demonstrate that the proposed alterations and additions to the restaurant will be complementary in terms of bulk and scale to the existing surrounding development.

The new works will be finished in external materials and colours which match the existing building and will allow the works to integrate within the existing building's façade.

#### **D14.2 Scenic protection - General**

The controls seek to achieve the outcomes:

*Achieve the desired future character of the Locality.*

*Bushland landscape is the predominant feature of Pittwater with the built form being the secondary component of the visual catchment. (En, S)*

*Preservation of the visual significance of the Ingleside/Warriewood Escarpment. (En, S)*

The proposal seeks to provide for alterations and additions to the existing restaurant. The new works will not exceed the existing maximum ridge height, and the nature of the development will be complementary to existing surrounding development in the locality.

The proposal will not require the removal of any significant vegetation, and will provide new landscaping. The existing vegetation forward of the site will continue to soften the built form of the building.

#### **D14.3 Building Colours, Materials and Construction**

The controls seek to achieve the outcomes:

*Achieve the desired future character of the Locality.*

*The development enhances the visual quality and identity of the streetscape. (S)*

*To provide attractive building facades which establish identity and contribute to the streetscape.*

*To ensure building colours and materials compliments the visual character of its location with the natural landscapes of Pittwater.*

*The colours and materials of the development harmonise with the natural environment. (En, S)*

*The visual prominence of the development is minimised. (S)*

*Damage to existing native vegetation and habitat is minimised. (En)*

*The use of materials with low embodied energy is encouraged. (En)*

*New buildings are robust and durable with low maintenance requirements. (S)*

*In the North Narrabeen Commercial Centre, roofs of lighter colours are permitted to improve the thermal performance of the roof system. (En, Ec, S)*

The required controls to achieve the outcomes are to ensure that the external colours and materials shall be dark and earthy tones as indicated within the DCP.

It is considered that the development is appropriate as the works will match and be similar to the existing restaurant.

#### **D14.7 Front building line**

The controls seek to achieve the outcomes:

*Achieve the desired future character of the Locality. (S)*  
*Equitable preservation of views and vistas to and/or from public/private places. (S)*  
*The amenity of residential development adjoining a main road is maintained. (S)*  
*Vegetation is retained and enhanced to visually reduce the built form. (En)*  
*Vehicle manoeuvring in a forward direction is facilitated. (S)*  
*To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.*  
*To encourage attractive street frontages and improve pedestrian amenity.*  
*To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.*

The control to achieve this outcome is to provide a setback of 6.5m, or the established building line to the street frontage.

The front building line of the dwelling remains unchanged.

The proposed new works maintain the existing southern setback, with no change to the southern building line. The proposal provides for a new pergola over an existing tiled area, together with associated landscaping. The new works follow the siting of the existing outdoor seating area, and are therefore considered appropriate.

#### **D14.8 Side and Rear Building Line**

The controls seek to achieve the outcomes:

*To achieve the desired future character of the Locality. (S)*  
*The bulk and scale of the built form is minimised. (En, S)*  
*Equitable preservation of views and vistas to and/or from public/private places. (S)*  
*To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.*  
*To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)*  
*Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S)*  
*Flexibility in the siting of buildings and access. (En, S)*  
*Vegetation is retained and enhanced to visually reduce the built form. (En)*

*To ensure a landscaped buffer between commercial and residential zones is established. (En, S)*

The relevant controls to achieve this outcome are to maintain a minimum side boundary setback of 2.5m for at least one side and min 1.0m setback for the other side, and min 6.5m from the rear boundary.

The proposal will not see any change to the existing side and rear setbacks of the building.

#### **D14.11 Building envelope**

The controls seek to achieve the outcomes:

*To achieve the desired future character of the Locality. (S)*  
*To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.*  
*To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.*  
*The bulk and scale of the built form is minimised. (En, S)*  
*Equitable preservation of views and vistas to and/or from public/private places. (S)*  
*To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)*  
*Vegetation is retained and enhanced to visually reduce the built form. (En)*

The proposal will not see any change to the existing building envelope.

#### **D14.12 Landscaped Area – General**

The controls seek to achieve the outcomes:

*Achieve the desired future character of the Locality. (S)*  
*The bulk and scale of the built form is minimised. (En, S)*  
*A reasonable level of amenity and solar access is provided and maintained. (En, S)*  
*Vegetation is retained and enhanced to visually reduce the built form. (En)*  
*Conservation of natural vegetation and biodiversity. (En)*  
*Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels. (En)*  
*To preserve and enhance the rural and bushland character of the area. (En, S)*  
*Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management. (En, S)*

The proposal will not see any change to the existing landscaped area.

#### **D14.15 Fences – General**

The controls seek to achieve the outcomes:

*To achieve the desired future character of the Locality. (S)*  
*To ensure fences compliment and conserve the visual character of the street and*

*neighbourhood*

*To define the boundaries and edges between public and private land and between areas of different function.*

*To contribute positively to the public domain.*

*An open streetscape that allows casual surveillance of the street. (S)*

*Fences, where provided, are suitably screened from view from a public place. (S)*

*Safe sight distances and clear view of the street (including to and from driveways) for motorists and pedestrians. (S)*

*To ensure heritage significance is protected and enhanced. (S)*

*To ensure an open view to and from the waterway is maintained. (S)*

The proposal will not see any change to the existing landscaped area.

**7.0 Matters for Consideration under Section 4.15 of The Environmental Planning and Assessment Act, 1979**

**7.1 The provisions of any environmental planning instrument**

The proposal is subject to the provisions of the Pittwater Local Environmental Plan 2014 and the relevant supporting Council policies. It is considered that the provisions of this environmental planning instrument have been satisfactorily addressed within this report and that the proposal achieves compliance with its provisions.

The subject application is submitted under the provisions of Section 4.65 and 4.66 of the Environmental Planning and Assessment Act and Clauses 41 to 43 of the Environmental Planning and Assessment Regulation pertaining to existing use rights.

The proposal is considered to achieve the criteria necessary to establish existing use right pertain to the site.

There are no other environmental planning instruments applying to the site.

**7.2 Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and**

There are no draft instruments applicable to the proposal.

**7.3 Any development control plan**

The development has been designed to comply with the requirements of Council's Pittwater 21 Development Control Plan.

It is considered that the proposed design respects the desired character objectives of the DCP in that it reinforces the existing mixed recreational/residential character of the area and is compatible with the existing uses in the vicinity.

The development respects the streetscape character objectives of the DCP and will provide a cohesive and sympathetic addition to the site which will make a positive contribution to the area.

**7.4 Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4**

No matters of relevance are raised in regard to the proposed development.

**7.5 The regulations (to the extent that they prescribe matters for the purposes of this paragraph),**

No matters of relevance are raised in regard to the proposed development.

#### **7.6 The likely impacts of that development, including environmental impacts on both the natural and built environments, and the social and economic impacts in the locality.**

It is considered that the proposal, which seeks consent for construction of alterations and additions to the existing restaurant and amendment of the trading hours of operation and seated patron numbers, will not unreasonably impact upon the amenity of adjoining properties or upon the character of the surrounding area.

The proposal is considered to be well designed having regard to the relevant provisions of the Council's PLEP 2014 & the Pittwater 21 DCP and the Warriewood Locality.

#### **7.7 The suitability of the site for the development**

The subject land is currently zoned R2 Low Density Residential under the Pittwater Local Environmental Plan 2014 and is considered suitable for the proposed development.

The subject site does not exhibit any significant constraint to the construction of the proposed development.

#### **7.8 Submissions made in accordance with this Act or the regulations**

This is a matter for Council in the consideration of this proposal.

#### **7.9 The public interest**

The proposal will not impact upon the environment, the character of the locality or upon the amenity of adjoining properties and is therefore considered to be within the public interest.

#### **8.0 Conclusion**

The principal objective of this development is to provide for the construction of alterations and additions to the existing restaurant and amendment of the trading hours of operation and seated patron numbers.

It is considered that the proposed works satisfy the stated objectives of Council's Development Controls and reinforce the residential character of the area.

As the proposed development will not have any significant impact on the environment, scenic quality of the area or the amenity of the adjoining allotments, the issue of Development Consent under the delegation of Council is requested.

#### **VAUGHAN MILLIGAN**

Town Planner

Grad. Dip. Urban and Regional Planning (UNE)

**APPENDIX 1:  
DEVELOPMENT CONSENT NO. 87/200**



THE COUNCIL OF THE  
**SHIRE OF WARRINGAH**

**COP**  
TOWN PLANNING

All correspondence to be addressed to The General Manager,  
Civic Centre, Pittwater Road, Dee Why, 2099 DX 9118 Dee Why  
Telephone: (02) 982 0333 Fax: (02) 982 4770

File No: PF 3456/1 VI.mb/2390D  
Your Ref:

CONSENT NO: 87/200

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

NOTICE TO APPLICANT OF DETERMINATION

OF A DEVELOPMENT APPLICATION

Applicant's Name and Address: Louis Kitchen P/L, PO Box 348,  
Narrabeen

Being the applicant in respect of Development Application  
No. 1987/111.

Pursuant to section 92 of the Act, notice is hereby given of the  
determination by the Council of the Shire of Warringah, as the  
consent authority, of the Development Application No. 1987/111  
relating to the land described as follows:-

Lot 1, DP 16625, 1 Narrabeen Park Parade, North Narrabeen

For the following development:-

Change of use from the existing shop (milk bar) with attached  
dwelling to a refreshment room (restaurant) with attached dwelling  
and detached garage

The Development Application has been determined by granting of  
consent subject to the following conditions:-

1. Development being generally in accordance with plans  
unnumbered, undated, sketch submitted 10.3.1987, as modified  
by any conditions of this consent.
2. No signs to be displayed without a separate approval.
3. Payment of a cash contribution of \$6,498 in lieu of three  
carparking spaces; such payment to be made prior to release of  
Building Approval.
4. Restaurant trading hours including any take away meals service  
shall be confined to 6.30pm to 10.30pm, Wednesdays, Thursdays  
and Sundays, 6.30pm to 11.30pm, Fridays and Saturdays, closed  
Mondays and Tuesdays. All staff and customers must vacate the  
restaurant premises by 12.00pm midnight.

**CONSENT**



THE COUNCIL OF THE  
**SHIRE OF WARRINGAH**

All correspondence to be addressed to The General Manager,  
Civic Centre, Pittwater Road, Dee Why, 2099 DX 9118 Dee Why  
Telephone: (02) 982 0333 Fax: (02) 982 4770

File No: PF 3456/1 VI.mb/2390D  
Your Ref:

CONSENT NO: 87/200

5. Seating provision within the restaurant to not exceed 50 persons.
6. Detailed sections and elevations of all fixtures and fittings to the kitchen being submitted to Council within one month of the date of the consent.
7. Details of the proposed mechanical ventilation over the cooking appliances being submitted to Council within one month of the date of the consent.
8. A mechanical bell being fitted to the existing cool room.
9. Garbage being stored and disposed of to Council's satisfaction.
10. Consent in no way prejudicing Council's right to review the permitted hours of operation should noise nuisance occur from use of the carpark by patrons.
11. Noise emitted from the premises shall not be "offensive" as defined by the Noise Control Act when measured at any nearby residence at any time.
12. No offensive odours to be emitted from the building such as to cause nuisance to nearby residents.

The reason for the imposition of the above consent conditions is as follows:-

To ensure that the development consented to is carried out in such a manner as to achieve the objectives of the Environmental Planning and Assessment Act, pursuant to section 5(a) of the Act, having regard to the relevant matters for consideration contained in section 90 of the Act and the Environmental Planning Instrument applying to the land, as well as section 91(3) of the Act which authorises the imposing of the consent conditions.

Endorsement of date of consent 17 JUN 1987

IMPORTANT: You are advised to read these notes in addition to the Conditions of your consent.

CONSENT

**APPENDIX 2:  
MODIFICATION OF  
DEVELOPMENT CONSENT NO. 87/200**



# THE COUNCIL OF THE SHIRE OF WARRINGAH

TP  
0m006

File No: PF 3456/1 RM.CM/3001D  
Enquiries:

Telephone: (02) 982 0333

## MODIFICATION

### MODIFICATION OF DEVELOPMENT CONSENT NO. 87/200, DATED 17th June 1990

#### SECTION 102(1) OF THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

APPLICANT'S NAME & ADDRESS: Simply Fish, 15 Laurie Road, Manly Vale,  
NSW, 2093

PROPERTY DESCRIPTION: Lot 1, DP 16625, No 1 Narrabeen Park Parade,  
North Narrabeen

PROPOSED DEVELOPMENT: Change of use from the existing shop (milk  
bar) with attached dwelling to a refreshment room (restaurant) with  
attached dwelling and detached garage

Complete list of Conditions contained in Consent No. 87/200 as  
modified by Council on 12th November, 1990.

1. Development being generally in accordance with plans unnumbered, undated, sketch submitted 10.3.1987, as modified by any conditions of this consent.
2. No signs to be displayed without a separate approval.
3. Payment of a cash contribution of \$6,498 in lieu of three carparking spaces; such payment to be made prior to release of Building Approval.
4. Restaurant trading hours including any take-away meals service shall be confined to:
  - . 12 midday - 3.00pm, Wednesday to Sunday
  - . 6.30pm - 10.30pm, Wednesdays, Thursdays and Sundays
  - . 6.30pm - 11.30pm, Fridays and Saturdays.

All staff and customers are to vacate the restaurant premises by 12 midnight.

5. Seating provision within the restaurant to not exceed 50 persons.



## THE COUNCIL OF THE SHIRE OF WARRINGAH

File No: PF 3456/1 RM.CM/3001D  
Enquiries:

Telephone: (02) 982 0333

### MODIFICATION

6. Detailed sections and elevations of all fixtures and fittings to the kitchen being submitted to Council within one month of the date of the consent.
7. Details of the proposed mechanical ventilation over the cooking appliances being submitted to Council within one month of the date of the consent.
8. A mechanical bell being fitted to the existing cool room.
9. Garbage being stored and disposed of to Council's satisfaction.
10. Consent in no way prejudicing Council's right to review the permitted hours of operation should noise nuisance occur from use of the carpark by patrons.
11. Noise emitted from the premises shall not be "offensive" as defined by the Noise Control Act when measured at any nearby residence at any time.
12. No offensive odours to be emitted from the building such as to cause nuisance to nearby residents.

### NOTE:

- (1) It is to be clearly understood that the Consent as modified is not an approval to carry out any structural work. A formal building application must be submitted to Council and be approved before any structural work is carried out to implement the modified Consent. Also the applicant is not relieved of any obligation to obtain any other approval required under any other Act.
- (2) Section 102(5) of the Environmental Planning & Assessment Act confers on the applicant who is not satisfied with the determination of the Consent Authority a right of appeal to the Land & Environment Court exercisable within 12 months of receipt of this notice.
- (3) This modified Consent shall be effective and operative from the endorsement date of the original Consent; ie 17th June 1987.



## THE COUNCIL OF THE SHIRE OF WARRINGAH

File No: PF 3456/1 RM.CM/3001D  
Enquiries:

Telephone: (02) 982 0333

### MODIFICATION

- (4) For information about the circumstances in which this modified Consent may lapse; about commencement of a development granted consent; about extension of the Consent; and about the circumstances in which Council may require completion of the development, see Section 99 of the Act.

F L Thomson  
GENERAL MANAGER/  
SHIRE CLERK

per: *Regia Innes*

Date 15 NOV 1990

**APPENDIX 3:  
OUTDOOR DINING APPROVAL UNDER ROADS ACT 1993 (NSW)**



northern  
beaches  
council

Ref: Clare Morgan Tel: 9976 1662

Mr Ricky Yum  
Narrabeen Modern Chinese Café and Restaurant  
1 Narrabeen Park Parade  
**NORTH NARRABEEN NSW 2101**

Dear Mr Yum

**OUTDOOR DINING APPROVAL under the Roads Act 1993 (NSW)**

HK-Plus Pty Ltd ABN 80419750867  
Trading as **Narrabeen Modern Chinese Café & Restaurant**, 1 Narrabeen Park Parade  
**NORTH NARRABEEN NSW 2101**

Council is pleased to advise approval of your application for outdoor seating at the above-mentioned address. The approved footpath rental area will be 40m<sup>2</sup> in total with 10 tables and 40 chairs as shown on the plan below. The annual fee is \$9600.00. Your invoices must be paid quarterly in advance. The next quarterly invoice (for \$2400.00) for the period 1 Oct – 31 Dec 2017 will be issued shortly.

An interim payment to cover the period from the start of this approval to 1 Oct 2017 will also follow shortly. Please be reminded that non-payment of fees will result in the withdrawal of this approval.

Approval Start Date 1 September 2017  
Approval Expiry Date 1 September 2020

Operating Hours 7am to 10pm as per Council's restrictions for the use of outdoor dining.

This Approval is subject to you completing the following:-

- 1. Pay a refundable Security Bond of \$1000.00**
- 2. Provide Council with a copy of a Certificate of Currency for Public Liability Insurance specifically noting Northern Beaches Council as an interested party.**

**The conditions applying to rental of footpath are as follows:**

- The applicant must operate only within the designated area as identified on the application.
- The applicant must comply with their NSW Liquor Licensing conditions at all times. Failure to do so may lead to withdrawal of this Approval.
- Council accepts no liability or responsibility for loss, damage or theft at the site for which the Approval was approved.

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t 1300 434 434  
e council@northernbeaches.nsw.gov.au  
northernbeaches.nsw.gov.au  
PO Box 1336 Dee Why  
ABN 57 284 295 198

Dee Why Office:  
725 Pittwater Road  
Dee Why NSW 2099  
DX 9118 Dee Why  
f 02 9971 4522

Mona Vale Office:  
1 Park Street  
Mona Vale NSW 2103  
DX 9018 Mona Vale  
f 02 9970 1200

Manly Office:  
1 Belgrave Street  
Manly NSW 2095  
f 02 9976 1400



northern  
beaches  
council

- Adequate public liability cover must be maintained (\$20 Million).
- The lessee must notify Council promptly of a change of postal address or telephone number or change of business ownership.
- An access way of 2m minimum must be maintained at all times.
- The approval is for tables and chairs as shown on the approved plan (attached).
- Council reserves the right to terminate the rental agreement if any of the relevant conditions are breached or if the lessee misuses the facility in any way.
- A copy of this letter of approval must be held on site at all times and presented to council compliance officers on request (an Approval sticker will not be provided).
- If the footpath area is no longer required, please notify Council immediately.
- The footpath must be cleaned and maintained to Council's satisfaction.
- The Approval is based on and in accordance with Council's Policy for Footpath Occupation.

Thank you for your co-operation in this matter.

Yours faithfully

  
Christopher Nethery  
Senior Property Manager  
Northern Beaches Council  
Date

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t 1300 434 434  
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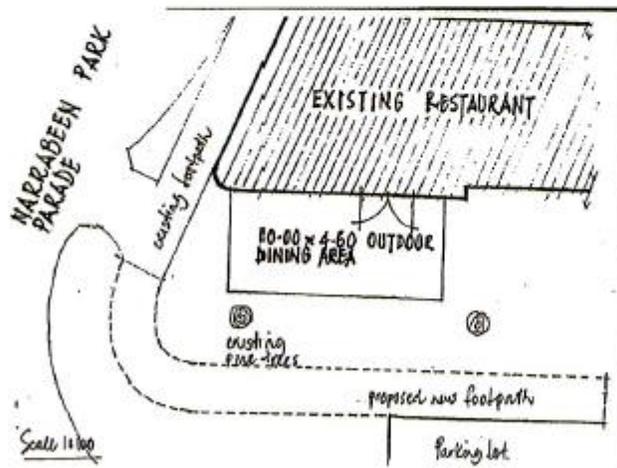
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### The Plan

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