

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2023/0476
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Responsible Officer:	Claire Ryan
Land to be developed (Address):	Lot 52 DP 1237461, 80 - 82 Mona Vale Road MONA VALE NSW 2103 Lot 51 DP 1237461, 84 Mona Vale Road MONA VALE NSW 2103 Lot 27 DP 5055, 22 Jubilee Avenue WARRIEWOOD NSW 2102
Proposed Development:	Modification of Development Consent DA2019/0123 granted for Use of part of the carparking area associated with the Pittwater RSL Club for the purposes of an organic food market.
Zoning:	R2 Low Density Residential SP2 Infrastructure SP4 Enterprise
Development Permissible:	Yes, under Clause 2.8 Temporary Use of Land of the Pittwater Local Environmental Plan 2014
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Pittwater RSL Club Ltd
Applicant:	Choulartons Australia Pty Ltd

Application Lodged:	21/09/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	27/09/2023 to 11/10/2023
Advertised:	Not Advertised
Submissions Received:	9
Clause 4.6 Variation:	Nil
Recommendation:	Approval

EXECUTIVE SUMMARY

This modification application seeks consent for modification of Development Consent No.

DA2019/0123, which granted consent for use of part of Pittwater RSL Club for the purposes of an organic food market.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) in accordance with the Local Planning Panels Direction, as the application falls under Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*, and seeks to modify a condition of consent imposed by the Panel.

Concerns raised in the objections predominantly relate to traffic and parking, noise, waste, adherence to conditions of consent, supporting documentation, owners consent, and previous applications.

The critical assessment issue is whether the proposal to operate the markets indefinitely constitutes a temporary use, given the approved use relies on Clause 2.8 Temporary Use of Land under the Pittwater Local Environmental Plan 2014.

This report recommends an extension of the consent period for a further 5 years, as indefinite operation constitutes a permanent part-time use, which would not be permissible under PLEP 2014.

This report concludes with a recommendation that the NBLPP grant approval to the application, subject to the modified conditions.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks to modify Development Consent No. DA2019/0123 with reference to the period in which the approved markets can operate.

The markets currently have consent to operate as follows:

- Sundays:
 - Set Up: 7:30am-8:30am
 - Trading: 8:30am to 1:00pm
 - Pack Down: 1:00pm-2:30pm
- Up to 42 instances per 12-month period
- Until 1 September 2024

The above operations are in accordance with DA2019/0123, as modified by Mod2020/0175 and Mod2021/0047.

The current modification application seeks to remove the market operation conclusion date so as to run 42 times per year indefinitely.

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

Pittwater Local Environmental Plan 2014 - 2.8 Temporary use of land

SITE DESCRIPTION

Property Description:	<p>Lot 52 DP 1237461 , 80 - 82 Mona Vale Road MONA VALE NSW 2103</p> <p>Lot 51 DP 1237461 , 84 Mona Vale Road MONA VALE NSW 2103</p> <p>Lot 27 DP 5055 , 22 Jubilee Avenue WARRIEWOOD NSW 2102</p>
Detailed Site Description:	<p>The subject site consists of three allotments located to the south-west of Mona Vale Road, north-west of Foley Street, and north of Jubilee Avenue.</p> <p>The site is irregular in shape with frontages of 267 metres along Mona Vale Road, 200 metres along Foley Street, and 100 metres along Jubilee Avenue. The site has an area of approximately 39,319m².</p> <p>The site is zoned part R2 Low Density Residential, part SP4 Enterprise, and part SP2 Classified Road, and accommodates the Pittwater RSL Club development, comprised of the club, sportsfields, bowling club and associated parking.</p> <p>The site slopes approximately 20m from east to south-west, and contains significant vegetation around the existing buildings, facilities and parking areas.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by industrial, commercial and low-density residential development.</p>

Map:



SITE HISTORY

The land has been used for commercial purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

- DA2019/0123 for use of part of the car parking area associated with the Pittwater RSL Club for the purposes of an organic food market was approved by the Northern Beaches Local Planning Panel on 19 June 2019.
- Mod2019/0547 for Modification of Development Consent DA2019/0123 was refused by the Northern Beaches Local Planning Panel on 5 February 2020.
- Mod2020/0175 for Modification of Development Consent DA2019/0123 was approved by the Northern Beaches Local Planning Panel on 29 July 2020.
- REV2020/0029 for Review of Determination of MOD2020/0175 was withdrawn by the Applicant on 24 March 2021.
- Mod2021/0047 for Modification of Development Consent DA2019/0123 was approved by the Northern Beaches Local Planning Panel on 14 April 2021.

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 DA2019/0123, 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:

Section 4.55 (2) - Other Modifications	Comments
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:	
(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	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 DA2019/0123 as it relates to extending the consent period only and does not propose any other material change to operation.
(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	Development Application DA2019/0123 did not require concurrence from the relevant Minister, public authority or approval body.
(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	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.

Section 4.55 (2) - Other Modifications	Comments
development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	
(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.	See discussion on "Notification & Submissions Received" in this report.

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 4.55 (2) 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	Pittwater 21 Development Control Plan 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&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p>

Section 4.15 'Matters for Consideration'	Comments
	<p><u>Clauses 36 and 94</u> of the EP&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&A Regulation 2021 requires the consent authority to consider AS 2601 - 2001: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&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 of 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) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact 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 & 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 application has been publicly exhibited from 27/09/2023 to 11/10/2023 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 process council is in receipt of 9 submission/s from:

Name:	Address:
Julie Miller	Address Unknown
Wen Xx	Address Unknown
Dolfi Benesh	10 Windsor Place ST IVES CHASE NSW 2075
Mr Anthony Hilliger	11 Buena Vista Avenue MONA VALE NSW 2103
Mrs Janice Lynette Bilton	8 / 6 Foley Street MONA VALE NSW 2103
Mr Philip Charles Walker	184 Warriewood Road WARRIEWOOD NSW 2102
Ms Valerie Jensen	185 Warriewood Road WARRIEWOOD NSW 2102
Ron Bode	19 Jubilee Avenue WARRIEWOOD NSW 2102
Dr Peter William McDonald	10 / 6 Foley Street MONA VALE NSW 2103

Nine (9) submissions were received in relation to the application.

Of those nine submissions, five submissions are in support of the proposal, and four are in opposition to the proposal.

The following issues were raised in the submissions that objected to the proposal:

- *Traffic congestion as a result of vendors and market customers.*
- *Insufficient parking on site for market customers, resulting in alleged illegal parking.*
- *Applicable conditions of consent are not complied with during market operation.*
- *Operation of the markets results in unreasonable noise and waste.*
- *The proposal is not supported by updated reports.*
- *The application is not supported by owners consent documentation.*
- *The previous requirement for construction of a footpath along Foley Street should be reinstated.*

Comments that infer the Applicant has a conflict of interest with Council and comments that are potentially defamatory against the Applicant are noted but remain unsubstantiated.

The above listed issues are addressed as follows:

Traffic and Parking

Comment:

The proposed modification application and supporting documentation has been reviewed by Council's Traffic Engineer, who has raised no objection to the proposal, subject to a condition of consent

requiring preparation of a Traffic Management Plan. The Traffic Management Plan will address proper management of traffic movements and parking for the purpose of the markets. Alleged illegal parking by market customers is not the responsibility of the market organisers and can be reported to Council for investigation by Rangers.

Conditions of Consent

Comment:

Council has record of four formal requests for investigation being made in 2019 to 2021 by one member of the public regarding operation of the markets. Two of the requests related to operation of the markets outside of the hours approved under DA2019/0123. The matters were investigated by Council on 8 September 2019 and 29 September 2019 and the markets were found to comply with approved hours of operation. The remaining two requests for investigation related to placement of signage on public land advertising the markets, which were resolved with the market organiser. Any further concerns that the markets are not operating in accordance with the applicable conditions of consent can be reported to Council for investigation by the Compliance Team.

Operation of the Markets

Comment:

The proposed modification application and supporting documentation has been reviewed by Council's Environmental Health Officer and Waste Officer, who have raised no objection to the proposal with respect to noise and waste impacts.

Updated Reports and Owners Consent

Comment:

No change is proposed to the intensity of the markets, so updated reports are not required. Owners consent in accordance with Council's Lodgement Requirements was submitted with the application.

Foley Street Footpath

Comment:

It is noted that the assessment report for the previous application, Mod2021/0047 recommended reinstatement of the requirement to construct a footpath along Foley Street. However, the recommendation was not adopted by the Northern Beaches Local Planning Panel in the Notice of Determination.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Industrial)	<i>Supported without conditions</i> This application is seeking consent for an extension to operating its lease with no set expiry date for the Organic Food Market. Environmental Health don't have concerns in relation to the extension of the land use for the markets. Environmental Health recommends approval.
Environmental Health (Food Premises, Skin Pen.)	<i>Supported, subject to conditions</i> This application is seeking consent for an extension to operating its lease with no set expiry date for the Organic Food Market. The temporary stall selling food can be managed from a food safety point of view with the right controls in place, therefore Environmental Health recommends approval subject to conditions.

Internal Referral Body	Comments
Traffic Engineer	<p><i>Supported, subject to conditions</i></p> <p>The applicant seeks consent to extend and modify the previous consent requesting that:</p> <ol style="list-style-type: none"> 1. the existing 5 year approval be amended with no expiry date on the approval 2. the markets be approved to operate on the maximum number of days permissible under any relevant LEP <p>An extension of the approval for the conduct of the Mona Vale markets is not opposed however it is considered prudent to extend the approval only for another 5 years rather than on an open ended basis. This gives an opportunity for ongoing review and refinement of the approval to account for changes in the operation of the markets or for any operational issues on the Pittwater RSL land which might impact upon the operation of the markets.</p> <p>In this respect, it is noted that the existing wording of consent condition 12 relating to the appointment of traffic wardens could be improved. A revised condition has been drafted.</p> <p><u>Assessing Officer's Comment:</u></p> <p>The Applicant requested that the recommended condition requiring a Traffic Management Plan (TMP) be amended to allow for the TMP to be prepared and submitted within six weeks of the consent being issued, rather than before the first market after the consent is issued. Council's Traffic Engineer was supportive of this amendment and the condition was modified accordingly.</p>
Waste Officer	<i>Supported without conditions</i>

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)

Nil

Pittwater Local Environmental Plan 2014

Is the development permissible?	No
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

There are no principal development standards under Part 4 of the PLEP 2014 to consider as part of this assessment.

Compliance Assessment

Clause	Compliance with Requirements
2.8 Temporary use of land	Yes

Detailed Assessment

2.8 Temporary use of land

The subject site is zoned R2 Low Density Residential, SP4 Enterprise and SP2 Infrastructure (Classified Road). The proposal is wholly contained within the R2 and SP4 zoned land, and does not impact upon the SP2 zoned portion of land. The use (markets) is not permissible in the R2 or SP4 zones. The proposal relies on Clause 2.8 Temporary Use of Land under the PLEP 2014 for permissibility. Clause 2.8 requires that development consent must not be granted unless the consent authority is satisfied that:

(a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and

Comment:

The proposed modification to the consent will not prejudice the subsequent carrying out of development on the land, as the use of the site will not involve any permanent physical works. Upon cessation of the market events, the land will be returned to its former state without any unreasonable impact.

(b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and

Comment:

Subject to adherence to conditions of consent and the Plan of Management, the development will not result in unreasonable impacts on the amenity of adjoining land or the neighbourhood. Objections to the proposal raised concern regarding traffic and noise impacts. These matters are responded to in the section of this report relating to Submissions, and have been considered by Council's Environmental Health and Traffic Engineering experts, who raise no concerns, subject to conditions of consent. The proposal does not pose any unreasonable view loss, overshadowing or visual privacy impacts.

(c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and

Comment:

The development will continue to involve temporary structures only, to be set up and removed for use

during operation of the markets only. In this way, the development will still not involve alteration to features of the land, nor increase the risk of natural hazards that may affect the land.

(d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.

Comment:

As above, the development will continue to involve temporary structures only, to be set up and removed for use during operation of the markets only. Given the temporary nature of the structures, at the cessation of operation of the markets, the land will be restored to the condition in which it was before the use commenced.

In addition to the above matters, it is prudent to consider whether the proposed modification (being to allow operation of the markets indefinitely) alters the use from being temporary. The intention of this clause is to provide for temporary consent for land uses that would otherwise be prohibited. The inference is that the use will only last for a limited time, and is therefore not permanent. It would be more accurate to describe consent for the markets to operate in perpetuity as permanent part-time, rather than temporary.

Based on the above, the consent expiry period set by Condition 10 has been extended for a further 5 years beyond the current end date, until 2 September 2029, inclusive. This provides a significant and meaningful extension to the use for the benefit of the Applicant, while retaining the temporary nature of the use. Additionally, by retaining a consent expiry date, should the Applicant wish to extend the consent period again, it provides Council with the opportunity to re-assess whether the use remains consistent with the requirements of Clause 2.8 (a) through (d) inclusive, being the key points to satisfy in order to carry out an otherwise prohibited land use.

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.

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;
- Pittwater Local Environment Plan;
- Pittwater 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

PLANNING CONCLUSION

This proposal is for the modification of Development Consent No. DA2019/0123, which was granted consent for use of part of Pittwater RSL Club for the purposes of an organic food market and has been referred to the Northern Beaches Local Planning Panel in accordance with the Local Planning Panels Direction, as the application falls under Section 4.55(2) of the Environmental Planning and Assessment Act 1979, and seeks to modify a condition of consent applied by the Panel.

The concerns raised in the objections have been addressed as not being determinative.

The critical assessment issue was whether the proposal to operate the markets indefinitely constitutes a temporary use, given the approved use relies on Clause 2.8 Temporary Use of Land under the Pittwater Local Environmental Plan 2014. The report recommends an extension of the consent period for a further 5 years, as indefinite operation constitutes a permanent part-time use, which would not be permissible.

Overall, the proposal (as modified by conditions of consent) performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment.

The proposal has therefore been recommended for approval.

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

RECOMMENDATION

THAT Northern Beaches Local Planning Panel as the consent authority grant approval to Modification Application No. Mod2023/0476 for Modification of Development Consent DA2019/0123 granted for Use of part of the carparking area associated with the Pittwater RSL Club for the purposes of an organic food market. on land at Lot 52 DP 1237461,80 - 82 Mona Vale Road, MONA VALE, Lot 51 DP 1237461,84 Mona Vale Road, MONA VALE, Lot 27 DP 5055,22 Jubilee Avenue, WARRIEWOOD, subject to the conditions printed below:

Modification Summary

The development consent is modified as follows:

MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN-366639 Mod2023/0476	The date of this notice of determination	Modification of the period for which this consent operates. Additional Conditions: <ul style="list-style-type: none">• Condition 1B Traffic Management• Condition 13 Food Safety Modified Conditions: <ul style="list-style-type: none">• Condition 4 Amendment to Plan of Management• Condition 8 Log Book• Condition 10 Consent Expiry Date
Mod2021/0047	14 April 2021	Modification of the period for which this consent operates. Modified Condition: <ul style="list-style-type: none">• Condition 10 Consent Expiry Date (previously titled 'Trial Period')
Mod2020/0175	29 July 2020	Modification of the period for which this consent operates and hours of operation. Additional Conditions: <ul style="list-style-type: none">• Condition 1A Modification of Consent - Approved Plans and Supporting Documentation• Condition 11 Operation• Condition 12 Traffic Warden(s)

		<p>Modified Condition:</p> <ul style="list-style-type: none"> • Condition 4 Amendment to Plan of Management • Condition 6 Noise Minimisation • Condition 7 Hours of Operation • Condition 10 Consent Expiry Date (previously titled 'Trial Period')
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Modified conditions

A. Add Condition 1B Traffic Management to read as follows:

The applicant is to prepare a Traffic Management Plan (TMP) for the control of traffic and pedestrian movements to and from the markets on days that the markets operate. The TMP to be submitted to and approved by Council's Traffic Engineer within 6 weeks of the date of this consent.

The traffic controls outlined in the TMP must be implemented by the applicant between the hours of 7:15am and 2:45pm on any day that the markets operate to ensure safety and minimise the effect of the markets on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with AS 1742.3 2009 Manual of Uniform Traffic Control Devices and the RMS' Manual – "Traffic Control at Work Sites

The TMP must include, as a minimum:

- Measures to manage traffic movements into and out of the RSL driveways used by stallholders and patrons of the markets. Such traffic control to be conducted by certified traffic controllers.
- Details of the times for bump in and bump out and any procedures or strategies to minimise congestion during these times.
- The proposed method of access to and egress from the site for stallholder's vehicles, including the size of vehicles and access routes to and from the site and Mona Vale Road and the location and type of traffic control measures, including any staggering of stallholder arrivals, for the purpose of minimising traffic congestion in the area.
- Measures to redirect traffic as required to reduce queueing and delays in Foley Street, Warriewood Road, Jubilee Avenue and Vineyard Street.
- Measures to physically prevent illegal parking activity on nature strips.
- Traffic Guidance Scheme(s) prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.

All fees and charges associated with the review of this plan is to be in accordance with Council's Schedule of Fees and Charges and are to be paid at the time that the Traffic Management Plan is submitted.

A copy of the approved TMP must be kept on-site at all times while the markets are being carried out.

Reason: To ensure pedestrian safety and continued efficient network operation.

B. Modify Condition 4 Amendment to Plan of Management to read as follows (underlined for emphasis of change):

The submitted Operational Management Plan is to be amended to include:

- Hours of Operation, being:
 - Access for stall traders: 7:30am-2:30pm; and
 - Trading hours: 8:30am-1:00pm.
- Methods for restricting access to the site prior to 7.30am and in relation to trading hours;
- Complaints Register: A complaints register is to be kept up to date at all times, logging complaints received, and action taken;
- Complaints Contact: A contact person is to be nominated in the Operational Management Plan along with a phone number;
- Stall Numbers: Market events are not to exceed 100 stalls at any time; and
- Market events must not exceed 42 days within a 12-month period in accordance with Clause 2.8 of the Pittwater LEP 2014, or not more than the maximum number of occurrences for temporary uses set by any future LEP, whichever applies at the time.

Reason: To ensure appropriate amenity, complaints resolution and consistency with the consent.

C. Modify Condition 8 Log Book to read as follows:

A log book detailing each market event is to be kept up to date for inspection by Council at any time. The markets are not to occur on more than 42 days within a 12-month period in accordance with Clause 2.8 of the Pittwater LEP 2014, or not more than the maximum number of occurrences for temporary uses set by any future LEP, whichever applies at the time.

Reason: To ensure consistency with Clause 2.8 temporary Use of Land of the Pittwater LEP 2014.

D. Modify Condition 10 Consent Expiry Date to read as follows:

This consent is extended for a further 5 years until and including 2 September 2029.

Reason: To limit the activity to a temporary use of the land.

E. Add Condition 13 Food Safety to read as follows:

All food stalls preparing and/or serving unpackaged ready to eat food must:

- Comply with the Guidelines for Food Businesses at Temporary Events written by the NSW Food Authority dated July 2020, and
- Have warm running water readily available onsite within 5 metres of food handling.

Reason: To ensure compliance with food safety.