

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2020/0644
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<b>Responsible Officer:</b>	Jordan Davies
<b>Land to be developed (Address):</b>	Lot 1 DP 34753, 158 Pacific Parade DEE WHY NSW 2099
<b>Proposed Development:</b>	Modification of Development Consent DA2015/0667 granted for alterations to an existing building and use of premises as a restaurant
<b>Zoning:</b>	Warringah LEP2011 - Land zoned B2 Local Centre
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Harrington Dee Why Pty Ltd
<b>Applicant:</b>	Planik Pty Ltd

<b>Application Lodged:</b>	19/01/2021
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Commercial/Retail/Office
<b>Notified:</b>	28/01/2021 to 11/02/2021
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### PROPOSED DEVELOPMENT IN DETAIL

The modification application seeks consent for modifications to development consent DA2015/0667 granted for alterations to an existing building and use of premises as a restaurant, specifically the following works:

- partial demolition of the existing western elevation, including the removal of three (3) windows;
- installation of two (2) bi-fold windows on the western elevation within the demolished portion of the wall;
- provision of an outdoor seating area comprising four (4) picnic tables with umbrellas above (subject to a separate approval process to be made as part of an Outdoor Dining Application); and
- installation of a new canvas roll-away awning above the outdoor seating area.

No change is proposed to the approved use, operating hours, or any other changes to the external built form.

## ASSESSMENT INTRODUCTION

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

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

## SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - B7 Front Boundary Setbacks  
Warringah Development Control Plan - C3 Parking Facilities

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 34753 , 158 Pacific Parade DEE WHY NSW 2099
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the northern side of Pacific Parade, bounded by The Strand and Griffin Parade.</p> <p>The site is irregular in shape with a frontage of 14.9m along Pacific Parade on the southern boundary, narrowing to a width of 2.695m on the rear northern boundary of the site. The site has an approximate area of 552m<sup>2</sup>.</p> <p>The site is located within the B2 Local Centre zone and accommodates two commercial buildings, currently occupied by a shop (laundromat) and an office (real estate agent).</p> <p>Surrounding development consists of medium-density residential development to the east and south of the site, a car repair station to the west and retail development to the north.</p>

The site is relatively flat with a slight northerly aspect. Vegetation on the site consists of areas for turf on the southeast and north boundaries and in the centre of the land.

Vehicular access to the site is provided by two (2) kerb crossings from the Strand, however no formal vehicular parking exists on the site.

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:

19 October 2015

Development Application DA2015/0667 for alterations to an existing building and use of premises as a restaurant was granted consent.

## 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 DA2015/0667, 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
<p>A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:</p>	
<p>(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and</p>	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2015/0667 for the following reasons:</p> <ul style="list-style-type: none"> <li>• The proposal remains substantially the same from a quantitative and qualitative perspective.</li> <li>• The approved use remains unchanged.</li> <li>• The approved hours of operation and patronage remains unchanged.</li> <li>• The building works are considered minimal within the context of the approved development.</li> </ul>
<p>(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and</p>	<p>Development Application DA2015/0667 did not require concurrence from the relevant Minister, public authority or approval body.</p>
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and</p>	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Warringah Environmental Plan 2011 and Warringah Development Control Plan.</p>
<p>(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by</p>	<p>No submissions were received in relation to this application.</p>

Section 4.55 (2) - Other Modifications	Comments
the development control plan, as the case may be.	

### Section 4.15 Assessment

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

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for commercial purposes for an extended period of time. The proposed development retains the commercial use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah 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 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 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> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 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 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
<p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification &amp; Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 28/01/2021 to 11/02/2021 in

accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p>
Environmental Health (Industrial)	<p>Environmental Health have been requested to provide comment on the proposed modification relating to noise and repositioning of patrons to an outdoor dining area.</p> <p>The Acoustic Report provided for DA2015/0667 by West and Associates Pty Ltd and referenced as Job No 2196/5 shows that noise from patrons sitting outside after 10.00 pm has the potential to impact some nearby residences, unless patrons are located within the central courtyard area, and a screen to a height of 1.6 metres is provided along the eastern boundary. As such, a 1.6 metre high frameless glass balustrade was proposed along the eastern boundary and was incorporated into the plans.</p> <p>As part of the previous consent it was proposed to close the outdoor front (northern) seating area at 10.00pm each night. This requirement can be satisfied through the outdoor dining approval. A niche condition is to be imposed on the outdoor dining approval stating: "At the western elevation of the indoor dining area, on the northern part of the subject site bi-fold openings are to be closed at 10:00pm to protect adjacent residential amenity."</p> <p>Environmental Health note that there may be a discrepancy between with the RW ratings of the closed bi-fold door and the existing solid brick wall which may lead to the conclusions drawn in the original acoustic report being compromised. As such a condition is to be imposed requiring the the bi-fold doors to be acoustically sealed and certification from a suitably qualified acoustic consultant that the RW ratings of the closed bi fold doors will not compromise the findings of the original acoustic report or to provide recommendations for further acoustic treatment which are to be completed prior to the issuing of the OC.</p> <p>Environmental Health recommend approval, subject to conditions being imposed.</p>
Property Management and Commercial	<p>The proposal is for modifications to the building, erection of retractable awning and use of footpath for outdoor dining.</p>

Internal Referral Body	Comments
	Property has no objections to the proposal, however it should be noted that any application for outdoor dining on Council's road reserve will require an Outdoor Dining Area Approval from Property. All aspects of the proposal relating to outdoor dining will be assessed and approved as part of the Outdoor Dining Area Approval, in accordance with the provisions of the Roads Act 1993. The Outdoor Dining Approval form and Outdoor Dining and Footpath Merchandise Guide are available on Council's website.

### **ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)\***

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

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

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

#### **SEPP 55 - Remediation of Land**

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for commercial purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the commercial land use.

#### **SEPP (Infrastructure) 2007**

##### Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:



As the modified development does not meet any of the above criteria, a referral to Ausgrid was not required.

**SEPP (Coastal Management) 2018**

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

**14 Development on land within the coastal use area**

- (1)
  - (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
    - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
    - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
    - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
    - (iv) Aboriginal cultural heritage, practices and places,
    - (v) cultural and built environment heritage, and
  - (b) is satisfied that:
    - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
    - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
    - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
  - (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The proposal is for a minor modification to an approved development. The proposal will not be sufficiently aware from the foreshore, beach, headland or rock platform to not impede on existing, safe access to and along these areas. The work will not overshadow or affect on the visual amenity or scenic qualities of the coast, while not impacting on Aboriginal cultural heritage, practices and places.

The design of the proposed amendments is appropriate to the coastal use area, while also being sited appropriately.

Overall, the modifications will not detract from the significance of the coastal and built environment, whilst maintaining a suitable bulk, scale and size of the proposed development.

As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

**Warringah Local Environmental Plan 2011**

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

aims of the LEP?	Yes
zone objectives of the LEP?	Yes

#### Principal Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	11m	4.35m	Unchanged	N/A	Yes

#### Compliance Assessment

Clause	Compliance with Requirements
6.4 Development on sloping land	Yes

#### Warringah Development Control Plan

##### Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B2 Number of storeys	3	1 storey	Unchanged	Yes
B3 Side Boundary Envelope	5m	No encroachments	Unchanged	Yes
	5m	No encroachments	Unchanged	Yes
B5 Side Boundary Setbacks	0.9m	The site has no side boundaries as it is surrounded by roads.	N/A	N/A
B7 Front Boundary Setbacks	6.5m	Nil	Unchanged	Yes
B7 Secondary Front Boundary Setbacks	3.5m	Nil	Unchanged	Yes
B9 Rear Boundary Setbacks	6m	The site has no rear boundary as it is surrounded by roads.	Unchanged	N/A
D1 Landscaped Open Space and Bushland Setting	50%	0%	Unchanged	Yes

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B2 Number of Storeys	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	Yes
C8 Demolition and Construction	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D9 Building Bulk	Yes	Yes
D20 Safety and Security	Yes	Yes
E10 Landslip Risk	Yes	Yes
F1 Local and Neighbourhood Centres	Yes	Yes

### Detailed Assessment

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

##### Description of non-compliance

The existing approved works provide a nil setback to the boundaries. The proposal will maintain these setbacks.

##### Merit consideration:

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

- *To create a sense of openness.*

##### Comment:

As the proposal will not alter the existing nil setbacks, the proposed minor modifications will maintain the current sense of openness.

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

##### Comment:

The proposed minor modifications will maintain the current visual continuity and pattern of buildings and landscape elements in the street.

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

##### Comment:

The works to the façade of the building will enhance the visual quality of the streetscape and the surrounding public spaces.

- *To achieve reasonable view sharing.*

##### Comment:

There will be no impact on view sharing from the proposed works.

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

### C3 Parking Facilities

The proposed modification includes the provision of an four additional (4) picnic tables located within the road reserve. These tables have the potential to provide for ~24 patrons, therefore generating a further parking demand. Noting the degree to which car parking demand as given attention as part of the DA approval process, it is noted that the applicant has not acknowledged the potential further parking demand as a result of the additional tables and seats. However, it is understood that the applicant has not requested a change to Condition 4 of the development consent restricting the maximum patronage to 121. Therefore, notwithstanding the additional seats, the applicant must continue to comply with the maximum patronage number under condition 4.

#### Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- *To provide adequate off street carparking.*

#### Comment:

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Restaurant	Which is the greater of: 15 spaces per 100m <sup>2</sup> gross floor area (GFA), or 1 space per 3 seats. The above rate may be reduced if there is, in the consent authority's opinion, suitable available parking in the vicinity	145 seats = 48.3 spaces	Nil	48.3

	during the operating hours of the proposed development.			
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- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*

Comment:

Not applicable to the proposed development.

- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

Comment:

Not applicable to the proposed development.

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

**THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

**CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

**POLICY CONTROLS**

**Northern Beaches Section 7.12 Contributions Plan 2019**

Section 7.12 contributions were levied on the Development Application.

**CONCLUSION**

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

**RECOMMENDATION**

THAT Council as the consent authority grant approval to Modification Application No. Mod2020/0644 for Modification of Development Consent DA2015/0667 granted for alterations to an existing building and use of premises as a restaurant on land at Lot 1 DP 34753,158 Pacific Parade, DEE WHY, subject to the conditions printed below:

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

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

a) Modification Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Sheet No. 100, Site Plan, Rev F	6 November 2020	Larry Weston Architect
Sheet No. 101, Existing, Rev F	6 November 2020	Larry Weston Architect
Sheet No. 102, Demolition, Rev F	6 November 2020	Larry Weston Architect
Sheet No 103, Proposed, Rev F	6 November 2020	Larry Weston Architect

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

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

**B. Add Condition 4A - 'Outdoor Dining Approval' under the heading 'Development Consent Operational Conditions' to read as follows:**

Prior to operation of any outdoor dining, and Outdoor Dining Area Approval shall be obtained from Council. The Outdoor Dining Area Approval form, and Outdoor Dining and Footpath Merchandise Guide are available from Council's website.

Reason: To ensure that outdoor dining on the public footpath is appropriately regulated under the provisions of the Roads Act 1993.

**C. Add Condition No 25A - 'Acoustic Report Certification' under the heading 'Conditions which must be complied with prior to the issue of the Occupation Certificate' to read as follows:**

Prior to any Occupation Certificate being issued, acoustic compliance testing is to be undertaken by a qualified and experienced person(s) to confirm that the findings within the Acoustic Report by West and Associates, referenced as Job No. 2196/5 and dated 3 July 2015, will not be compromised by the installed closed bi-fold door. Any recommendations made by the acoustic consultant to achieve compliance through soundproofing of the closed bi-fold door must be implemented prior to issuing the Occupation Certificate. Results of compliance testing and recommendations are to be submitted to the satisfaction of the Principal Certifying Authority for certification.

Reason: To protect the acoustic amenity of neighbouring properties.

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

**Signed**



**Jordan Davies, Planner**

The application is determined on 22/02/2021, under the delegated authority of:



**Lashta Haidari, Acting Development Assessment Manager**