

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2018/0350
<b>Responsible Officer:</b>	Nick Armstrong
<b>Land to be developed (Address):</b>	Lot 1 DP 72587, 1 Kalinya Street NEWPORT NSW 2106
<b>Proposed Development:</b>	Modification of consent N0037/16 granted for the construction of a new pavilion structure within the existing garden terrace. Modification includes alterations to the approved pavilion structure and the addition of an internal bar.
<b>Zoning:</b>	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>	Hemmes Trading Pty Ltd
<b>Applicant:</b>	Hemmes Trading Pty Ltd
<b>Application lodged:</b>	06/07/2018
<b>Integrated Development:</b>	Yes
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Commercial/Retail/Office
<b>Notified:</b>	12/07/2018 to 13/08/2018
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Recommendation:</b>	Approval

### 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 - 7.8 Limited development on foreshore area  
 Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements  
 Pittwater 21 Development Control Plan - C2.21 Food Premises Design Standards

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 72587 , 1 Kalinya Street NEWPORT NSW 2106
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the western side of Kalinya Street.</p> <p>The site is irregular in shape with a frontage of 51.31m along Kalinya Street and a depth of 105.485m. The site has a surveyed area of 1.04ha.</p> <p>The site is located within the B2 Local Centre zone and accommodates 'The Newport' hotel, which includes several bars, restaurants/food stalls, carparking and a large terrace/beer garden which occupies the majority of the rear of the site and is where subject works are located.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by a mix of uses including medium density residential development to the southeast, commercial premises to the north and east, a public carpark to the northeast and the Pittwater Waterway to the west.</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:

17/03/2016

Development Application N0037/16 for the construction of alterations and additions to an existing hotel was granted consent.

## PROPOSED DEVELOPMENT IN DETAIL

The application seeks to modify the original consent for alterations and additions to the existing commercial premises. In particular the modifications include:

- Alterations to approved pavilion structure within the outdoor terrace

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

## 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 N0037/16, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.15(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15(1A) - 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 proposed modification is of minimal environmental impact, and	<b>Yes</b> The modification, as proposed in this application, is considered to be of minimal environmental impact.
(b) 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 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 N0037/16.
(c) it has notified the application in accordance with:  (i) the regulations, if the regulations so require, or  (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Pittwater Local Environment Plan 2014 and Pittwater 21 Development Control Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions were received in relation to this application.

#### Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 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	None applicable.
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)(iia) – 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, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations.</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 clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 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 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</p>

Section 4.15 'Matters for Consideration'	Comments
	Certificate. This clause is not relevant to this application.
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>(i) <b>Environmental Impact</b> 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) <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>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## 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 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.

## MEDIATION

No requests for mediation have been made in relation to this application.

## REFERRALS

Internal Referral Body	Comments
Environmental Health (Food Premises, Skin Pen.)	<p><b>General Comments</b></p> <p>Proposed structure/development originally approved as an open metal</p>



Internal Referral Body	Comments
	<p>roof pavilion. The Statement of Environmental Effect for DA N00037/16 does not propose use of the pavilion as a Seafood restaurant/kitchen/bar however the development was referred to as a “seafood buffet/bar structure” in their Geotechnical report from Crozier Geotechnical Consultants, dated 8 January 2016, and “seafood bar” in the Heritage impact statement from City Plan Services, dated 22 January 2016. The Statement of Environmental Effects only refers to a Seafood kitchen when quoting the Heritage impact statement.</p> <p>Routine food inspections in 2017 and 2018 have revealed that a metal frame pavilion was constructed with a canvas roof, most recently at a re-inspection on 3 August 2018. At the time of inspection this structure was in use as a seafood kitchen and bar including use of 4 gas wok burners, beer taps, food preparation benches, fridges and seafood (prawns and oysters) display. The development also has a menu board advertising the food for sale.</p> <p>Currently the structure is not constructed in accordance with approved plans and is operating in contravention of the original DA condition B.2. Deletion of this condition would provide retrospective approval of the use however no new details have been provided such as an acoustic report on the increased use despite the developments current illegal use. Furthermore no details on how the development will comply with Australian Standards for design, construction and fit-out of the new food /beverage premises AS4674:2004. The current food premises in use does not comply with Australian Standards or the Food Standards Code, including but not limited to:</p> <ul style="list-style-type: none"> <li>· No controls in place to prevent pest entry;</li> <li>· Bar, benches and some food preparation surfaces were constructed with form ply which edges had not been adequately sealed and they could not be easily or effectively cleaned and sanitised;</li> <li>· No Mechanical ventilation provided for cooking equipment;</li> <li>· Canvas ceiling could not be easily or effectively cleaned and the inspections revealed grease, smoke and other visible staining;</li> <li>· Concrete floor was not sealed or finished with materials that can be easily and effectively cleaned.</li> </ul> <p>Significant works would be required to replace the existing structure and insufficient information has been provided to support its proposed</p>

Internal Referral Body	Comments
	<p>use. Considering the illegal building works and use of the food premises Environmental Health recommends refusal of this modification at which point a Notice will be issued to cease use of the pavilion as a Seafood Kitchen/bar.</p> <p><b>Further comments (Provided 05/10/2018)</b> Information has been supplied to Council confirming that the area will comply with the relevant Australian Standards. The temporary pavilion structure is being replaced with a permanent structure which will also change the existing internal layout.</p> <p>This has been conditioned accordingly.</p>
NECC (Development Engineering)	No Development Engineering objection to the modification to the DA with no conditions.
NECC (Riparian Lands and Creeks)	No objection to approval with no additional conditions recommended.
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	<p>This application has been referred to heritage as is a heritage item</p> <p><b><i>Item – Newport Arms Hotel</i></b></p>
	Details of heritage items affected
	<p>Details the heritage item as contained within the Pittwater Heritage Inventory, is:</p> <p><b><i>Newport Arms Hotel</i></b></p> <p><u>Statement of Significance</u> The Newport Arms is of high local historic and social significance due to its continuous operation as a pub in the Pittwater area since 1880 and as it is the oldest pub in the area. It hosted royal visitors touring the area in 1881, and was part of the recreational activities of day-trippers in the 1890s. It is also significant for its association with Sydney pioneer Edward Jeanerett, and its aesthetic contribution to the street and maritime landscape.</p> <p>The Newport Arms Hotel was rebuilt following extensive damage by fire in 1971 and the hotel building has undergone extensive alterations and additions, particularly over the past 25 years and, accordingly, the physical fabric including the exterior and interiors of the hotel building are not included in the listing.</p>



Internal Referral Body	Comments																		
	<p><u>Physical Description</u> The creative architectural design of the 1992-3 refurbishment has resulted in an attractive, stylish finish to both the buildings and surrounds. The gardens, incorporating the beer garden, extend down towards the water and the jetty, providing outstanding views from the upper floor of the hotel and the beer garden.</p>																		
	<p><u>Other relevant heritage listings</u></p>																		
	<table><tr><td>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</td><td>NO</td><td></td></tr><tr><td>Australian Heritage Register</td><td>NO</td><td></td></tr><tr><td>NSW State Heritage Register</td><td>NO</td><td></td></tr><tr><td>National Trust of Aust (NSW) Register</td><td>NO</td><td></td></tr><tr><td>RAIA Register of 20th Century Buildings of Significance</td><td>NO</td><td></td></tr><tr><td>Other</td><td>NO</td><td></td></tr></table>	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	NO		Australian Heritage Register	NO		NSW State Heritage Register	NO		National Trust of Aust (NSW) Register	NO		RAIA Register of 20th Century Buildings of Significance	NO		Other	NO	
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	RAIA Register of 20th Century Buildings of Significance	NO																	
	Other	NO																	
	<p><u>Consideration of Application</u> The proposal seeks consent for modifications to an existing pavilion by enclosing it and establishing a bar inside. The pavilion was approved as part of development application N0037/16. The listing of the Newport Arms as an item of heritage excludes its physical fabric but includes its social significance as a hotel with a beer garden. As such the proposed works are considered to neutral in their impact on the item. The proposal can be supported by Strategic Planning (Heritage).</p>																		
	<p><b>Consider against the provisions of CL5.10 of PLEP.</b></p>																		
	<p>Is a Conservation Management Plan (CMP) Required? No</p>																		
	<p>Has a CMP been provided? No</p>																		
<p>Is a Heritage Impact Statement required? Yes</p>																			
<p>Has a Heritage Impact Statement been provided? Yes – Was provided with original development application</p>																			
<p><u>Further Comments</u></p>																			

Internal Referral Body	Comments
	<p>COMPLETED BY: Brendan Gavin, Strategic Planner</p> <p>DATE: 25 July 2018</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
NSW Police - Local Command (CPTED)	No concerns raised.

### 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)

Nil

### Pittwater Local Environmental Plan 2014

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:	8.5m	7.58m	7.58m	N/A	Yes

### Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	Yes
7.10 Essential services	Yes
Schedule 5 Environmental heritage	Yes

#### Detailed Assessment

#### **7.8 Limited development on foreshore area**

The original assessment contained within N0037/16 indicated that the proposed pavilion structure would be located seaward of the Foreshore Building Line (FBL). However, based on aerial photography and Council's FBL map the structure appears to be located approximately 6m landward of the FBL. Despite this, the alterations to the existing structure do not seek to dramatically alter the approved built form, with the enclosure of the structure being the only describable change when viewed from the Pittwater Waterway. This is considered to be acceptable.

#### **Pittwater 21 Development Control Plan**

#### Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	3.5m	51m	unaltered	Yes
Rear building line	FBL	Within FBL	Outside FBL	Yes
Side building line	3m	44m	unaltered	Yes
	nil	50m	unaltered	Yes

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.1 Heritage Conservation - Heritage items, heritage conservation areas and archaeological sites listed in Pittwater Local Environmental Plan 2014	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B3.9 Estuarine Hazard - Business, Light Industrial and Other Development	Yes	Yes
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes
B4.20 Protection of Estuarine Water Quality	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C2.1 Landscaping	Yes	Yes
C2.2 Safety and Security	Yes	Yes
C2.5 View Sharing	Yes	Yes
C2.10 Pollution Control	Yes	Yes
C2.12 Protection of Residential Amenity	Yes	Yes
C2.21 Food Premises Design Standards	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.3 Scenic protection - General	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	Yes	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	Yes	Yes
D10.18 Scenic Protection Category One Areas	Yes	Yes

#### Detailed Assessment

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

While the enclosure of the existing partially open pavilion structure will technically increase the floor space by approximately 121m<sup>2</sup> the development is not seen as a means of intensifying the use of the site, as this existing area was previously used for the purpose of a publicly accessible beer garden/terrace. This area was partially covered by existing shade sails to protect patrons from inclement weather. The existing on-site parking facilities are considered to be consistent and satisfy the continual demand for parking generated by the this particular area and site as a whole.

### **C2.21 Food Premises Design Standards**

The application seeks to remove condition B2 of the previous consent which reads as follows:

*This consent does not authorise any change or intensification of use. Specifically, this consent does not authorise the use of the pavilion structure for the purpose of a Bar, Seafood Bar or any other sort of service area or food preparation area. With the exception of the south-eastern wall, no part of the structure or area beneath the structure is to be enclosed at any time.*

This condition was originally included at a time where the previous hotel 'Newport Arms' now 'The Newport' was undergoing substantial alterations and additions and no car parking was provided on site due to the presence of construction equipment and vehicles. The enclosure of any structure would increase the total amount of floor space provided and as such attract additional parking requirements. This has been further discussed under B6.3 Off-street parking facilities.

The original application did not seek to enclose the pavilion, which ruled out the opportunity for it to be used for the purposes of food preparation. As the modifications seek to enclose the pavilion, this area can be used for this purpose. Council's Environmental Health Officer has assessed the proposed modifications in relation to food premises design standards and considers it acceptable with conditions.

Condition B2 is therefore recommended to be removed and additional conditions requiring compliance with the relevant food and drink preparation Australian Standards have been included.

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

The proposal will not significantly effect 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**

#### **Pittwater Section 94 Development Contributions Plan**

### **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;
- 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

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. Mod2018/0350 for Modification of consent N0037/16 granted for the construction of a new pavilion structure within the existing garden terrace. Modification includes alterations to the approved pavilion structure and the addition of an internal bar. on land at Lot 1 DP 72587,1 Kalinya Street, NEWPORT, subject to the conditions printed below:

### A. Add Condition - 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

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
S4.55-D01 - Site Plan, Issue B	01/06/2018	Akin Creative
S4.55-M01 - Proposed Structure, Issue C	01/06/2018	Akin Creative

#### 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. (DACPLB01)

### B. Delete Condition B2 to read as follows:

Deleted.

Reason: Condition no longer required as structure is intended to be enclosed.

### C. Add Condition C7 to read as follows:

Prior to any Construction Certificate (CC) being issued, detailed plans that demonstrate compliance with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, the Food Act 2003 and Australian Standard AS 4674 'Design, construction and fit out of food premises', must be submitted to and approved by the Certifying Authority. These plans are to be prepared by a suitably qualified person.

The plans must detail adequate provision for storage including separate storage of food, equipment, chemicals and personal belongings.



Reason: To ensure that the Food premise complies with the design construction and fit-out requirements.

**D. Add Condition E5 to read as follows:**

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from a person who is eligible as a 'Member' of Environmental Health Australia (EHA) that the design, construction and fit out of food premises is compliant with the requirements of AS 4674 Design, construction and fit out of food premises.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure that the kitchen complies with the design requirements. (DACHPFPOC3)

**E. Add Condition E6 to read as follows:**

The food business must be registered with the Appropriate Regulatory Authority, prior to Occupation Certificate being issued.

Reason: Food premises are required to be registered with the Appropriate Regulatory Authority.

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

**Signed**




**Nick Armstrong, Planner**

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




**Matthew Edmonds, Manager Development Assessments**

**ATTACHMENT A**



Notification Plan	Title	Date
 2018/440151	Plans - Notification	10/07/2018

**ATTACHMENT B**

Notification Document	Title	Date
 2018/444542	Notification Map	12/07/2018

## ATTACHMENT C

Reference Number	Document	Date
 2018/470451	Heritage Referral Response - Mod2018/0350 - 1 Kalinya Street, Newport	18/06/2018
 MOD2018/0350	1 Kalinya Street NEWPORT NSW 2106 - Section 96 Modifications - Section 96 (1a) Minor Environmental Impact	06/07/2018
 2018/415527	DA Acknowledgement Letter - Hemmes Property Pty Ltd	06/07/2018
 2018/440143	Modification Application Form	10/07/2018
 2018/440145	Applicant Details	10/07/2018
 2018/440147	Report - Statement of Environmental Effects	10/07/2018
 2018/440149	Plans - Survey	10/07/2018
 2018/440151	Plans - Notification	10/07/2018
 2018/440153	Plans - External	10/07/2018
 2018/440155	Plans - Master Set	10/07/2018
 2018/448794	Environmental Health (Industrial) - Assessment Referral - Mod2018/0350 - 1 Kalinya Street NEWPORT NSW 2106	11/07/2018
 2018/448804	Environmental Health (Food Premises, Skin Pen.) - Assessment Referral - Mod2018/0350 - 1 Kalinya Street NEWPORT NSW 2106	11/07/2018
 2018/444513	Notification Letter - Mod (51)	12/07/2018
 2018/444542	Notification Map	12/07/2018
 2018/444549	ARP Notification Map	12/07/2018
 2018/444564	DA Acknowledgement Letter (integrated) - Hemmes Property Pty Ltd	12/07/2018
 2018/469580	Notification Letter - Gina Hay	25/07/2018
 2018/480783	Natural Environment Referral Response - Riparian	31/07/2018
 2018/525809	Intention regarding illegally built and operating seafood kitchen/bar - The Newport - Mod2018/0350 - FP0594	13/08/2018
 2018/516344	Environmental Health Referral Response - commercial use	13/08/2018
 2018/630987	Development Engineering Referral Response	02/10/2018
 2018/637261	RFI Environmental Health.pdf	04/10/2018
 2018/637263	RE181004 Food Safety Compliance.pdf	04/10/2018
 2018/639405	Environmental Health (Food Premises, Skin Pen.) - Assessment Referral - Mod2018/0350 - 1 Kalinya Street NEWPORT NSW 2106	04/10/2018

 2018/654288	Environmental Health (Food Premises, Skin Pen.) - Assessment Referral - Mod2018/0350 - 1 Kalinya Street NEWPORT NSW 2106	12/10/2018
 2018/654293	Environmental Health (Industrial) - Assessment Referral - Mod2018/0350 - 1 Kalinya Street NEWPORT NSW 2106	12/10/2018