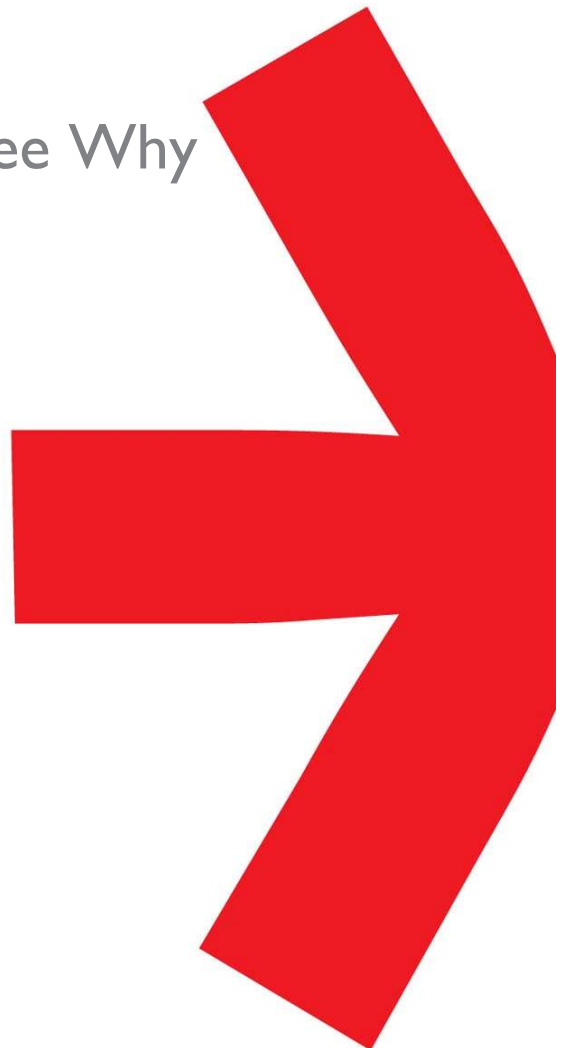


## Statement of Environmental Effects S4.55(2)

154-158 Pacific Parade, Dee Why

November 2020



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**Approval for issue**

Name	Signature	Date
Nicole Lennon		

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# 1 Introduction

Planik Pty Ltd has been engaged to prepare this Statement of Environmental Effects accompanying a Section 4.55(2) application for modification to an approved development (DA2015/0667) which approved alterations and additions to an existing building and use of the premises as a restaurant for *Beach Burrito Co Dee Why* at 154-158 Pacific Parade, Dee Why.

This modification application seeks the installation of bi-fold windows at the western elevation of the premises to match the existing bi-fold openings at the eastern elevation, and the installation of a canvas roll-away awning and outdoor seating area containing 4 x picnic tables with umbrellas above. The modification would increase ventilation within the indoor dining area of the existing restaurant premises, while also providing for outdoor seating for patrons of the restaurant to meet the demands of the business while maintaining relevant safety protocols within respect to COVID-19.

The application is accompanied by an Outdoor Dining Application to Council.

The site is legally referred to as Lot 1 in DP 34753 and has a total area of approximately 543.8m<sup>2</sup>. The site is an irregular allotment bound by Pacific Parade to the south, and The Strand to its east and west. The proposed modification relates to the northern indoor dining area of the Beach Burrito Co premises.

## 1.1 Background

The site is currently affected by Development Approval **DA 2015/0667** for alterations and additions to an existing building and use of the premises as a restaurant.

This application was approved on 19 October 2015. Bi-fold openings were approved along the eastern elevation of the indoor dining area subject to this modification application which seeks matching openings at the western elevation.

## 1.2 Modified Proposal

This Section 4.55 (2) application relates to DA 2015/0667 and proposes modifications as follows:

- New bi-fold openings in powder coated aluminium frame at the western elevation of the indoor dining area, at the northern part of the subject site.
- New outdoor seating area adjacent to the bi-fold windows containing 4 x picnic tables with umbrellas above.
- Installation of a new canvas roll-away awning above the outdoor seating area.

The proposed modification does not seek changes to the approved use of the site, operating hours, or any other changes to the external built form.

### 1.2.1 Substantially the same Development

In accordance with s4.55(2)(a) of the EP&A Act 1979:

*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*

s4.55(3):

*In determining an application for modification of a consent under this section, 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.*

Overall, the proposed changes keep the original DA significantly the same:

- The proposed modifications will retain the existing approved use – restaurant premises *Beach Burrito Co.*
- The proposal does not seek significant intensification of the existing use on the site, with the proposed outdoor seating area occupying 4 x picnic tables that will seat four additional groups of patrons compared to existing restaurant operations.
- The proposal does not seek any changes to the overall building envelope on the site, noting the proposed canvas roll-away awning is not a permanent solid structure.

### 1.2.2 Lapsing of consent

In accordance with s4.55(4) of the EP&A Act 1979:

(4) *Development consent for—*

- (a) *the erection of a building, or*  
 (b) *the subdivision of land, or*  
 (c) *the carrying out of a work,*

*does not lapse if building, engineering or construction work relating to the building, subdivision or work is physically commenced on the land to which the consent applies before the date on which the consent would otherwise lapse under this section.*

The works approved under DA 2015/0667 were approved on 19 October 2015 and have carried out on the site and so the proposed modifications can be carried out under Section 4.53(4) of the Environmental Planning and Assessment Act 1979.

## 1.3 Warringah Local Environment Plan 2011 Development Control Summary

**Table 1** Warringah LEP 2011 Planning Control Summary

<b>Applicable LEP Control</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Complies</b>
Maximum Height	11m	No change	Yes
Floor Space Ratio	N/A	No change	No change
Heritage Conservation	Not a heritage item	N/A	N/A

## 1.4 Consent Authority

The consent authority for this development is Northern Beaches Council.

## 1.5 Supporting documentation

This report should be read in conjunction with the following plans and documents below:

<b>Plan/Document Title:</b>	<b>Revision</b>	<b>Date:</b>	<b>Prepared by:</b>
Architectural Plans	F	06 11 20	Larry Weston Architect
Notification Plan	F	06 11 20	Larry Weston Architect
Statement of Environmental Effects	O	24 11 20	Planik Pty Ltd

## 1.6 Structure of the Report

This report is divided into six sections detailing the nature of the development in the following manner:

- Section 1 Introduction.
- Section 2 Examines the existing site conditions in terms of location, context, access and relevant legislation.
- Section 3 Describes the development proposal through development statistics, civil works and site conditions.
- Section 4 Assesses the development proposal against relevant planning controls.
- Section 5 Environmental Effects
- Section 6 Conclusion

## 2 Site and Context

### 2.1 Site Location and Description

The site is legally referred to as Lot 1 in DP 34753 and has a total area of approximately 543.8m<sup>2</sup>. The site is an irregular allotment bound by Pacific Parade to the south, and The Strand to its east and west. The proposed modification relates to the northern indoor dining area of the Beach Burrito Co premises



**Figure 1** Site Location Map. Source: SIX maps

### 2.2 Existing Uses, Building Layout and Surrounding Context

The subject site currently contains two separate restaurant premises, with the subject premises – Beach Burrito Co Dee Why located at the northern portion of the site. This premises contains a courtyard dining area, indoor dining, and outdoor seating.





**Figure 2** Subject site as viewed from The Strand looking south – Google Maps.



**Figure 3** Western elevation location of proposed bi-fold opening and outdoor seating area – Google Maps.

## 2.3 Relevant Legislation

### 2.3.1 State

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2000
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy 55 – Remediation of Land
- State Environmental Planning Policy 64 – Advertising and Signage

### 2.3.2 Local

- Warringah Local Environmental Plan 2011
- Warringah Development Control Plan 2011

This report demonstrates that the proposed modification is consistent with the relevant statutory planning policies and achieves the objectives of the relevant provisions.

# 3 Development Proposal

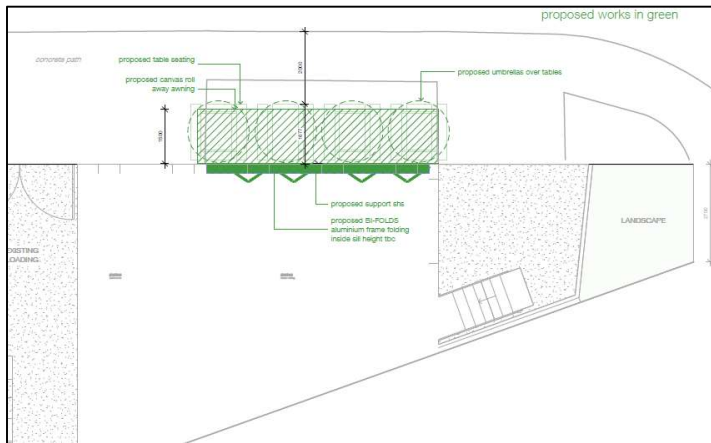
## 3.1 Summary of Modifications

This Section 4.55 (2) application relates to DA 2015/0667 and proposes modifications as follows:

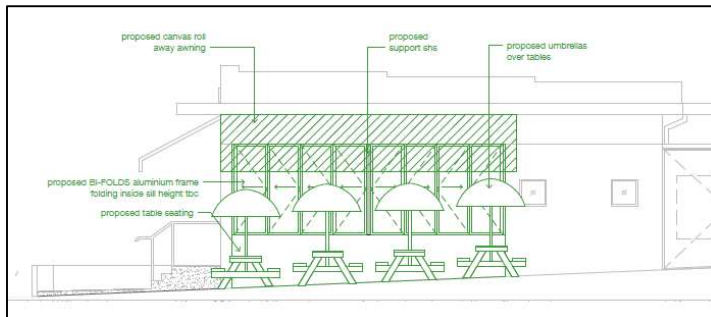
- New bi-fold openings in powder coated aluminium frame at the western elevation of the indoor dining area, at the northern part of the subject site.
- New outdoor seating area adjacent to the bi-fold windows containing 4 x picnic tables with umbrellas above.
- Installation of a new canvas roll-away awning above the outdoor seating area.

The proposed modification does not seek changes to the approved use of the site, operating hours, or any other changes to the external built form.

Refer to submitted plans.



**Figure 4** Floor Plan extract of proposed bi-fold windows and outdoor seating area.



**Figure 5** Elevation Plan extract of proposed bi-fold windows and outdoor seating area.

# 4 Statutory Planning Assessment

## 4.1 Zoning and Permissibility

The site is subject to the controls of the Warringah Local Environmental Plan 2011 and is zoned B2 – Local Centre under the LEP. *Restaurant* premises are a permissible form of development in the B2 zone and the proposal will not change the approved use of the site.



**Figure 6** Zoning B2 Local Centre zone – Warringah LEP 2011

## 4.2 State Environmental Planning Controls

### 4.2.1 State Environmental Planning Policy 55 – Remediation of Land

There have been no uses on the site which would give cause for concern of contamination. The proposed modifications do not involve any excavation or disturbance of soil. Accordingly, the development application is satisfactory having regard to the relevant matters for consideration under SEPP 55.

### 4.2.2 Warringah Local Environmental Plan 2011

The Warringah Local Environmental Plan 2011 (WLEP2011) is the primary planning instrument applicable to the subject site. The site is zoned B2 – Local Centre under the WLEP 2011 which permits *restaurants* with consent.

The following table provides applicable clauses from the WLEP2011.

**Table 2** Warringah Local Environmental Plan 2011 Applicable Controls.

WLEP 2011 Relevant Controls	Response	Compliant
Clause 1.2 [Relevant] Aims of Plan		

<b>WLEP 2011 Relevant Controls</b>	<b>Response</b>	<b>Compliant</b>
<p>(2) The particular aims of this Plan are as follows:</p> <p>(a) to create a land use framework for controlling development in Warringah that allows detailed provisions to be made in any development control plan made by the Council,</p> <p>(b) to recognise the role of Dee Why and Brookvale as the major centres and employment areas for the sub-region,</p> <p>(c) to maintain and enhance the existing amenity and quality of life of the local community by providing for a balance of development that caters for the housing, employment, entertainment, cultural, welfare and recreational needs of residents and visitors,</p> <p>(d) in relation to residential development, to—</p> <p style="padding-left: 20px;">(i) protect and enhance the residential use and amenity of existing residential environments, and</p> <p style="padding-left: 20px;">(ii) promote development that is compatible with neighbouring development in terms of bulk, scale and appearance, and</p> <p style="padding-left: 20px;">(iii) increase the availability and variety of dwellings to enable population growth without having adverse effects on the character and amenity of Warringah,</p> <p>(e) in relation to non-residential development, to—</p> <p style="padding-left: 20px;">(i) ensure that non-residential development does not have an adverse effect on the amenity of residential properties and public places, and</p> <p style="padding-left: 20px;">(ii) maintain a diversity of employment, services, cultural and recreational facilities,</p> <p>(f) in relation to environmental quality, to—</p> <p style="padding-left: 20px;">(i) achieve development outcomes of quality urban design, and</p> <p style="padding-left: 20px;">(ii) encourage development that demonstrates efficient and sustainable use of energy and resources, and</p> <p style="padding-left: 20px;">(iii) achieve land use relationships that promote the efficient use of infrastructure, and</p> <p style="padding-left: 20px;">(iv) ensure that development does not have an adverse effect on streetscapes and vistas, public places, areas visible from navigable waters or the natural environment, and</p> <p style="padding-left: 20px;">(v) protect, conserve and manage biodiversity and the natural environment, and</p>	<p>(a) Achieved.</p> <p>(b) Achieved.</p> <p>(c) Achieved – the proposal will maintain the existing use on the subject site, with the proposed bi-fold openings and outdoor seating area not resulting in any significant impacts upon the amenity of the surrounding residential properties.</p> <p>(d) N/A</p> <p>(e) Achieved – the proposal will not have a significant adverse impact upon the amenity of the surrounding locality and maintains the existing use on the site.</p> <p>(f) Achieved – the proposal would improve the streetscape presentation of the western elevation of the restaurant premises by providing activation of the street through bi-fold window openings and an outdoor dining area connected to the indoor dining area of the site. The proposal would not result in any adverse impacts upon environmental quality.</p>	<p>Yes</p>

<b>WLEP 2011 Relevant Controls</b>	<b>Response</b>	<b>Compliant</b>
<p>(vi) manage environmental constraints to development including acid sulfate soils, land slip risk, flood and tidal inundation, coastal erosion and biodiversity,</p> <p>(g) in relation to environmental heritage, to recognise, protect and conserve items and areas of natural, indigenous and built heritage that contribute to the environmental and cultural heritage of Warringah,</p> <p>(h) in relation to community well-being, to—</p> <p>(i) ensure good management of public assets and promote opportunities for social, cultural and community activities, and</p> <p>(ii) ensure that the social and economic effects of development are appropriate.</p>	<p>(g) N/A – The site is not identified as a heritage item.</p> <p>(h) Achieved.</p>	
<p><b>Zone B2 – Local Centre Objectives</b></p> <ul style="list-style-type: none"> <li>• To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.</li> <li>• To encourage employment opportunities in accessible locations.</li> <li>• To maximise public transport patronage and encourage walking and cycling.</li> <li>• To provide an environment for pedestrians that is safe, comfortable and interesting.</li> <li>• To create urban form that relates favourably in scale and in architectural and landscape treatment to neighbouring land uses and to the natural environment.</li> <li>• To minimise conflict between land uses in the zone and adjoining zones and ensure the amenity of any adjoining or nearby residential land uses.</li> </ul>	<p>The proposal is consistent with the objectives of the B2 Local Centre zone and the existing approved development and will not result in any land use conflicts or significant adverse amenity impacts.</p>	<p>Yes</p>
<p><b>4.3 Height of buildings</b></p> <p>(2) The height of a building on any land is not to exceed the maximum height shown for the land on the <u>Height of Buildings Map</u>.</p>	<p>The Height of Buildings Map lists the maximum height of buildings for the site as 11m.</p> <p>The proposed modifications do not result in an increase in the approved building height.</p>	<p>N/A</p>
<p><b>4.4 Floor space ratio</b></p> <p>(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the <u>Floor Space Ratio Map</u>.</p>	<p>No change is proposed to the approved FSR, noting the modifications relate to window openings.</p>	<p>N/A</p>
<p><b>5.10 Heritage conservation</b></p> <p>(2) Requirement for consent</p>	<p>The subject site is not identified as a heritage item or within a conservation area</p>	<p>N/A</p>

WLEP 2011 Relevant Controls	Response	Compliant
<p>Development consent is required for any of the following:</p> <p>(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):</p> <p>(i) a heritage item,</p> <p>(ii) an Aboriginal object,</p> <p>(iii) a building, work, relic or tree within a heritage conservation area,</p> <p>(e) erecting a building on land:</p> <p>(i) on which a heritage item is located or that is within a heritage conservation area, or</p> <p>(f) subdividing land:</p> <p>(i) on which a heritage item is located or that is within a heritage conservation area, or</p>		
<p><b>6.4 Development on sloping land</b></p> <p>(2) This clause applies to land shown as Area A, Area B, Area C, Area D and Area E on the Landslip Risk Map.</p> <p>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—</p> <p>(a) the application for development has been assessed for the risk associated with landslides in relation to both property and life, and</p> <p>(b) the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and</p> <p>(c) the development will not impact on or affect the existing subsurface flow conditions.</p>	<p>The subject site is located on land identified as Area A pursuant to the Landslip Risk Map. The proposed modifications would not result in any landslide risk or impacts upon the ground conditions of the site.</p>	<p>Yes</p>

#### 4.2.3 Warringah Development Control Plan 2011

The Warringah Development Control Plan 2011 (WDCP) is used to provide comprehensive planning and design guidelines for development within the LGA. The relevant provisions of the Warringah DCP are detailed in the table below, noting the built form, siting and design controls contained in Parts B, C, and D of the DCP are not applicable to the proposal which retains the approved setbacks, height, building envelope, and use on the site.

The table below assesses the proposed modifications against Part F of the DCP which relates to the B2 Local Centre zone.

**Table 3** Warringah Development Control Plan 2011 Applicable Controls.

WDCP 2011 Relevant Controls	Response	Compliant
<b>Part F Zones and Sensitive Areas</b>		
<b>F1 Local and Neighbourhood Centres</b>		
<p><b>Requirements</b></p> <p>1. Buildings are to define the streets and public spaces and create environments that are appropriate to the human scale as well as being interesting, safe and comfortable.</p> <p>2. The minimum floor to ceiling height for buildings is to be 3.0 metres for ground floor levels and 2.7 metres for upper storeys.</p> <p>3. The design and arrangement of buildings are to recognise and preserve existing significant public views.</p> <p>4. Development that adjoins residential land is not to reduce amenity enjoyed by adjoining residents.</p> <p>5. The built form of development in the local or neighbourhood retail centre is to provide a transition to adjacent residential development, including reasonable setbacks from side and rear boundaries, particularly above ground floor level.</p> <p>6. Buildings greater than 2 storeys are to be designed so that the massing is substantially reduced on the top floors and stepped back from the street front to reduce bulk and ensure that new development does not dominate existing buildings and public spaces.</p> <p>7. Applicants are to demonstrate how the following significant considerations meet the objectives of this control:</p> <ul style="list-style-type: none"> <li>• Scale and proportion of the façade;</li> <li>• Pattern of openings;</li> <li>• Ratio of solid walls to voids and windows;</li> <li>• Parapet and/or building heights and alignments;</li> <li>• Height of individual floors in relation to adjoining buildings;</li> <li>• Materials, textures and colours; and</li> <li>• Architectural style and façade detailing including window and balcony details</li> </ul> <p>8. Footpath awnings should be designed to allow for street tree planting.</p> <p>9. Awnings should be consistent in design, materials, scale and overhang with adjacent retail developments.</p> <p>10. Awnings should have an adequate clearance from the kerb.</p>	<p>C1. Achieved – the western street elevation will be activated through the proposed bi-fold openings and outdoor dining area.</p> <p>C2. No change</p> <p>C3. No change.</p> <p>C4. Achieved – the proposal would not result in significant acoustic impacts upon the residential properties, noting the western elevation of the site faces an existing petrol station. The acoustic impacts of the proposal will not be significant.</p> <p>C5. No change.</p> <p>C6. No change.</p> <p>C7. Achieved – the proposed bi-fold openings will be appropriate for the site with respect to the proportions of the existing western façade of the subject premises.</p> <p>C8. No change.</p> <p>C9. No change.</p> <p>C10. No change.</p>	<p>Yes</p>
<b>13. The Strand, Dee Why</b>	The proposed modification is consistent with the provisions for The Strand locality:	



<b>WDCP 2011 Relevant Controls</b>	<b>Response</b>	<b>Compliant</b>
<p>Ground floor premises along The Strand, Dee Why will be characterised by restaurants, cafes, shops and leisure-related uses that create active building fronts and contribute to the life of the streets. Housing will characterise upper floors.</p> <p>Despite Requirement 2, the minimum floor to ceiling height for buildings on land zoned B2 Local Centre at The Strand, Dee Why, is to be 3.6 metres for ground floor levels and 2.7 metres for upper storeys.</p> <p>The interrelationship between the beach and park and development along The Strand is an important aspect of the character of the area. The design of buildings and shopfronts will have a strong complementary relationship to their beach and parkland setting and help create comfortable, interesting and safe pedestrian environments. Outdoor eating areas in particular will be encouraged.</p> <p>Above the second storey, buildings will step back from The Strand, Oaks and Howard Avenues and Dee Why Parade and building height will be restricted to maintain solar access to the parklands and ensure the scale of buildings does not dominate public spaces or views from the park or beach.</p> <p>The corners of Howard Avenue and The Strand, however, are to be strongly defined by virtue of building height and design. Vehicular access for the purposes of servicing at the rear of commercial premises along The Strand needs to be retained.</p>	<ul style="list-style-type: none"> <li>- The proposal will retain the existing restaurant use at the ground floor of the western elevation. The bi-fold window opening and outdoor seating will activate this frontage and contribute to the activation of the pedestrian interface of the site.</li> <li>- N/A</li> <li>- The proposal will improve the appearance of the premises and the open windows and outdoor dining will create a more suitable setting for the western elevation.</li> <li>- N/A</li> <li>- N/A</li> </ul>	<p>Yes</p>

## 5 Environmental Effects

Under the provisions of Section 4.15(1) of the Environmental Planning and Assessment Act 1979 (EP&A Act), in determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development subject of the development application.

**Table 4** Section 4.15(1) Provisions to consider

<b>EPA Act 1979 - Section 4.15(1)</b>	
<b>a) The Provisions of</b>	
	<b>Response</b>
i) any environmental planning instrument	The key relevant planning instrument is the Warringah LEP 2011. The proposal supports the aims of the LEP and is in accordance with all other relevant provisions of the LEP, as discussed in section 4. The proposal has been assessed against all the relevant planning instruments and generally complies.
ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and	There is no draft planning instrument
iii) any development control plan	The proposal has been assessed against the relevant development control plans, as outlined in section 4.
iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and	There is no planning agreement.
iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),	There are no relevant matters prescribed by the regulations.
v) (Repealed)	N/A

The environmental impacts of the proposal have been considered throughout this SEE. The table below provides a summary of the assessment of potential impacts considered within Section 4.15(1)(b) of the EPA Act 1979.

**Table 5** Response to Potential Environmental Impacts

<b>Potential Impacts</b>	<b>Response</b>
<i>Context and Setting</i>	The site is zoned B2 Local Centre zone under the WLEP 2011. The proposed development will improve the streetscape activation of the western elevation of the subject premises and would be more characteristic of The Strand character statement.
<i>Access, Transport and Traffic</i>	The proposal would not result in any significant adverse parking or traffic impacts noting no additional floor area is proposed.
<i>Public Domain</i>	The proposal does not detract from the public domain and will improve street activation of the site.
<i>Utilities</i>	Utilities will be provided as required.
<i>Heritage</i>	No heritage impact will result from the proposal.
<i>Other Land Resources</i>	No other land resources will be impacted by the proposal.
<i>Water Quality</i>	Not impacted
<i>Air and Microclimate</i>	The air and microclimate will be maintained as a result of this proposal.
<i>Ecological</i>	The proposal will not impact any existing ecological areas in the vicinity of the site.
<i>Waste</i>	An approved contractor will dispose of all construction waste. Waste Management will occur on site as approved.
<i>Energy</i>	Energy saving devices will be utilised wherever possible.
<i>Noise and Vibration</i>	All construction activities will take place in accordance with the hours of operation stipulated in any consent to ensure the neighbourhood amenity is maintained.  The proposed bi-fold window openings and outdoor dining are unlikely to result in significant adverse acoustic impacts upon nearby residential properties noting the modified development does not significantly intensify the use of the site beyond the original approval.
<i>Natural Hazards</i>	The subject site is not identified as bushfire prone land and no change is proposed that would exacerbate the landslip risk affectation of the site.
<i>Technological Hazards</i>	All installations at this facility will be best practice and comply with relevant Australian Standards.
<i>Safety, Security and Crime Prevention</i>	The proposal will not result in any safety or security issues.

<b>Potential Impacts</b>	<b>Response</b>
<i>Social Impact in Locality</i>	The proposal will have a positive social impact in the locality as it will provide activation of the streetscape along the western elevation.
<i>Economic Impact in Locality</i>	The proposal will positively impact the locality during the construction phase by offering potential employment to trades people.
<i>Site Design and Internal Design</i>	The proposed development will improve the pedestrian interface of the existing restaurant
<i>Construction</i>	No off-site impacts will result from the very minor construction activities on the site.
<i>Cumulative Impacts</i>	No cumulative impacts are expected from this proposal.

## 6 Conclusion

The proposed modification to the subject premises has been assessed against the provisions of the Warringah LEP 2011 and Warringah DCP and is consistent with the overall aims and objectives of the plans. The development is suitable for the following reasons:

- The proposal will retain the existing approved use with no additional floor area proposed.
- The proposal will not result in any significant changes to the external built form on the site.
- The bi—fold window openings and outdoor dining area will improve the internal amenity of the indoor dining area and will improve the streetscape activation of the western elevation of the premises.
- The proposal will increase ventilation within the indoor dining area of the existing restaurant premises, while also providing for outdoor seating for patrons of the restaurant to meet the demands of the business while maintaining relevant safety protocols within respect to COVID-19.
- The proposal will not result in any significant external impacts with regard to amenity, particularly with respect to acoustic impacts.