



# INNER WEST COUNCIL

## DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	10.2018.051.1
<b>Address</b>	1 Lackey Street, Summer Hill
<b>Proposal</b>	Alterations and additions to existing bar, gambling area and bottle shop within the licensed premises known as the Summer Hill Hotel
<b>Date of Lodgement</b>	28 March 2018
<b>Applicant</b>	Planik
<b>Owner</b>	Laundy Trading (Bristol Arms PTY LTD - Arthur Laundy
<b>Number of Submissions</b>	Two (2)
<b>Value of works</b>	\$280,000
<b>Reason for determination at Planning Panel</b>	Proposal involves the partial demolition of a local heritage item
<b>Main Issues</b>	Hours of operation for new public terrace
<b>Recommendation</b>	Consent subject to conditions

Location Plan	Legend
	<b>Site</b> 
	<b>Objections</b> Neighbouring sites notified 



Picture 1 Site Photo – Lackey Street frontage

## 1. Executive Summary

This report concerns an application for alterations and additions to an existing licensed premises known as the Summer Hill Hotel.

The proposal generally complies with the aims, objectives and design parameters contained in the Ashfield Local Environment Plan 2013 (ALEP 2013) and the Comprehensive Inner West Development Control Plan (DCP) 2016. The main aspects of the development application revolve around creating a new 'open' gaming area and deletion of the existing on-site bottle shop to create a new public terrace with a vergola for a roof to allow for a semi-open environment. Council raises concerns around the proposed hours of operation for the new public terrace and recommended conditions which limit the operational hours of this new locality.

The proposal does not seek to increase the existing maximum patron capacity.

It is considered that, subject to conditions, the proposal will not result in any significant impacts on the streetscape or amenity of adjoining properties.

## 2. Proposal

The application seeks approval for alterations and additions to the ground floor and ground floor roof of the Summer Hill Hotel.

The proposed works involve the reconfiguration of the existing game room, deletion of the hotels existing bottle shop and creation of a new public terrace.

The proposed internal works include:

- The reconfigured gaming room along the southern wall of the ground floor, creating an 'open' gaming space.
- Extension of the existing public bar towards the south east.
- Creation of a new open public terrace within the footprint of the existing bottle shop
- Removal of sections of the wall along the southern end of the existing bar and existing bottle shop
- Installation of new glazed walls and automatic doors

The proposal also seeks consent for a numerous external works, these include:

- Removal of the existing doors that access the south eastern lobby.
- Construction of a new lobby within the south eastern corner of the site, with new double doors constructed further west, relating directly to the stairs providing access to the first floor of the premises
- Demolition of the existing external steps along the north west elevation (currently providing access to the bottle shop). The existing door to the bottle shop is proposed to be retained to form an external part of the new ground floor terrace
- Removal of the existing ramp leading to the existing bottle shop
- Demolition of the existing concrete roof above the existing bottle shop and instillation of an operable roof over the new public terrace
- Partial demolition of the roof above the reconfigured gaming area to form an 'open' gaming room.

### 3. Site Description

The site is located on the western side of Lackey Street and southern side of Carlton Crescent. The subject site is a rectangular shaped allotment with a splayed frontage to Lackey Street of 17.9m and a maximum depth of 60.9m, resulting in a total site area of 895.9m<sup>2</sup>.

Currently situated upon the site is a three storey commercial premises, identified as the Summer Hill Hotel. Currently operating within this premises is a bistro area, public bar, TAB and bottle shop. The site is identified as an item of local heritage significance (Item No. 542) and located within the Summer Hill general conservation area.

The character of development within the locality is one of a local centre, with neighbouring developments of a two and three storey nature, incorporating a commercial ground floor use and residential housing above. The site is located roughly 13m west of the pedestrian entrance to the Summer Hill train station. Business currently operating within the vicinity of the premises consist of 'Heritage Coffee Brewers', "Your Doctors" and Raine & Horne real-estate agency.

## 4. Background

### 4(a) Site history

The following application outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

#### Subject Site

Application	Proposal	Decision & Date
10.2006.082	Alterations and additions to the Summer Hill Hotel – including a new external terrace to the western side of Hotel, with new waste storage under car parking upgrade, new bistro and extension of an existing gaming room	Appeal Upheld - 28/2/2007
10.2002.372	Alteration to trading hours	Approved – 3/12/2002

### 4(b) Application history

The following table outlines the relevant history of the subject application.

Date	Discussion / Letter/ Additional Information
3/7/2018	Additional information letter – Additional elevation plan detailing the new balustrade proposed for the Lackey street elevation requested. The requested elevation was submitted on the 6/7/2018.

## 5. Assessment

The following is a summary of the assessment of the application in accordance with Section 79C of the Environmental Planning and Assessment Act 1979.

### 5(a) Environmental Planning Instruments

The application has been assessed against the relevant Environmental Planning Instruments listed below:

- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Ashfield Local Environmental Plan 2013; and
- Comprehensive Inner West Development Control Plan 2016.

The following provides further discussion of the relevant issues:

#### 5(a)(i) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

An assessment has been made of the matters set out in Clause 20 of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. It is considered that the carrying out of the proposed development is generally inconsistent with the objectives of the Plan and would not have an adverse effect on environmental heritage, the visual environmental, the natural environment and open space and recreation facilities.

**5(a)(ii) Ashfield Local Environment Plan 2013 (ALEP 2013)**

The application was assessed against the following relevant clauses of the Ashfield Local Environmental Plan 2013:

<b>Ashfield Local Environmental Plan 2013</b>				
<b>Summary Compliance Table</b>				
<b>Clause No.</b>	<b>Clause</b>	<b>Standard</b>	<b>Proposed</b>	<b>Compliance</b>
2.2	Zoning	B2 – Local Centre	The use is defined as a food and drink premises, which is a form of retail premises and is permitted within the zone	Yes
4.3	Height of buildings	10m	No change from existing	N/A
4.4	Floor space ratio	1.5:1	No change from existing	N/A
5.10	Heritage Conservation	The site is identified as an item of local heritage significance (Item No. 542) and located within the Summer Hill general conservation area.		
5.10(4)	Effect of proposed development on heritage significance	The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or the area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).	The proposal has been reviewed by Council's Heritage Advisors who outlined no objection to the proposal. The proposed works have been appropriately designed as to not impact upon the heritage significance of the building or the building's contribution to the conservation area.	Yes
5.10(5)	Heritage assessment	<p>The consent authority may, before granting consent to any development:</p> <ul style="list-style-type: none"> <li>(a) On land on which heritage item is located, or</li> <li>(b) On land that is within a heritage conservation area, or</li> <li>(c) On land that is within the vicinity of land referred to in paragraph (a) or (b),</li> </ul> <p>Require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p>	Appropriate documentation regarding heritage management and impacts upon heritage significance have been prepared and submitted as part of this development application. This documentation has been reviewed by Council's Heritage Advisors who outlined no objection to the proposal, subject to suitable conditions of consent.	Yes



### 5(c) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of the Comprehensive Inner West Development Control Plan (DCP) 2016:

DCP 2016 – Chapter A: Miscellaneous				
Control No.	Control	Standard	Proposed	Compliance
DS1.1	Parking for People with Disabilities	minimum rate of 5 designated spaces per 100 spaces as calculated from the car-parking requirement	No change from existing	N/A
DS3.4	Parking Rates	1 space per 40m <sup>2</sup>	No change from existing	N/A

DCP 2016 – Chapter E1: Heritage Items and Conservations Areas				
Control No.	Control	Standard	Proposed	Compliance
C1	External form and setting	Retain features (including landscape features) that contribute to the significance of the item.	Significant features of the heritage item retained.	Yes
C3		New work is to be consistent with the setback, massing, form and scale of the heritage item.	New works consistent with the massing and form of the existing building.	Yes
C6		Maintain the integrity of the building form (including the roof form and profile) so that the original building is retained and can be clearly discerned, particularly when viewed from the public domain.	The proposal maintains the integrity of the building form, with minimal changes to the existing form.	Yes
C1	Interior elements of heritage items	Minimise change to significant internal room configurations, layouts and finishes of heritage items.	Minimal change to significant room configurations and layout.	Yes
C2		Generally retain original significant building entrances and associated hallways.	Significant original entrances retained. Entrances altered are not considered to be significant.	Yes
C7		Allow for reversibility of internal changes to significant areas where possible	Proposed modifications allow for reversibility	Yes

### 5(d) The Likely Impacts

#### Hours of Operation

The premises currently has approval for the following hours of operation:

- Monday and Tuesday: 10:00am – 2:00am
- Wednesday and Thursday: 10:00am – 3:00am

- Friday and Saturday: 10:00am – 4:00am
- Sunday: 10:00am – midnight

The current development application seeks consent for the new 'open' gaming area and new public terrace to be open to the public for the same hours of operation that are listed above. Council has undertaken a review of the requested hours of operation in-conjunction with the provided acoustic report. In this instance the site is to be used as a licensed food and drink premises. The proposals location within the Summer Hill Town Centre and proximity to public transport make the site a suitable location for premises seeking late night trading hours. Notwithstanding the central location, the site is also in proximity of residential units and the open roof nature of the proposed public terrace (to be situated within the location of the existing bottle shop) may create the potential for amenity impacts for residents within the immediate locality.

The proposal incorporates automatic sliding glass doors to the north west and south west portions of the new public terrace, creating the opportunity for this portion of the food and drink premises to be closed before the remainder of the site.

In order to limit environmental impacts so that premises does impede upon neighbouring residents amenity, a condition limiting the hours of operation for the new public terrace is recommended.

The recommended hours of operation for the new public terrace are:

Monday to Thursday: 10:00am – 10:00pm

Friday and Saturday: 10:00am – Midnight

Sunday: 10:00am – 10:00pm.

Council raises no objection to the proposed 'open' gaming room being permitted to operate to the same hours of operation currently enjoyed by the remainder of the existing premises, subject to suitable conditions of consent regarding patron management and game machine noise emission limitations.

#### Number of Patrons

The applicant has provided correspondence to Council outlining that this application does not seek consent for an increase to the existing approved patron numbers. As such no additional conditions regarding security has been recommended for the consent.

#### 5(e) The suitability of the site for the development

The site is zoned B2 Local Centre. Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

#### 5(f) Any submissions

The application was notified from the 6 April 2018 to the 1 May 2018 in accordance Chapter B of the Comprehensive Inner West DCP2016. As a result of this notification a total of two (2) submissions were received.

The submissions raised the following concerns:

Issue: Amenity Impacts – additional noise and smoke generated from the alterations and additions

Comment: In order to minimise potential amenity impacts the hours of operation for the new public terrace have been recommended to be restricted further than the remainder of the premises (see above under hours of operation).

Conditions regarding the management of noise emission from altered 'open' gaming area have been recommended. These conditions revolve around noise emission from the machines themselves, adoption of recommendations provided by the acoustic report and further review of the acoustic emissions once the new space is constructed and operational. These conditions are satisfactory to ensure minimal amenity impacts for neighbouring residents.

### 5(g) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

## 6 Referrals

### 6(a) Internal

The application was referred to the following internal sections/officers and issues raised in those referrals have been discussed in section 5 above.

- *Heritage Advisor* – The proposal was referred to Council's heritage advisor who outlined no objection to the proposal.
- *Development Engineer* - The proposal was referred to Council's Development Engineer advisor who outlined no objection to the proposal, subject to suitable conditions of consent. These conditions have been incorporated into the recommended conditions of consent.
- *Environmental Health Officer* - The proposal was referred to Council's Environmental Health Officer who outlined no objection to the proposal, subject to conditions relating to acoustic management and mechanical plant management. These conditions have been incorporated into the recommended conditions.

### 6(b) External

The application was referred to the following external bodies:

- New South Wales Police (Burwood Local Area Command) – At the time of preparing this report no comments had been received from the NSW Police.

## 7. Section 94 Contributions

Based on the estimated value of works of \$280,000.00 a Section 7.12 Contribution fee of \$2,800.00 is payable to Council. An appropriate condition is recommended.



## 8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in Ashfield Local Environmental Plan 2013 (ALEP 2013). The proposal is generally consistent with the Comprehensive Inner West Development Control Plan 2016. The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape. The application is suitable for approval subject to the imposition of appropriate conditions.

## 9. Recommendation

- A. That the Panel, as the consent authority pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979 grant consent to Development Application No. 10.2018.051.1 for alterations and additions to an existing food and drink premises at 1 Lackey Street, Summer Hill, subject to the conditions listed in Attachment A below.

## Attachment A – Recommended conditions of consent

### CONDITIONS

**DA 2018.51.1**

1 Lackey Street SUMMER HILL 2130

#### Description of Work as it is to appear on the determination:

Alterations and additions to an existing food and drink premises

#### **A** **General Conditions**

##### **(1) Approved plans stamped by Council**

The development must be carried out only in accordance with the plans and specifications set out on drawing numbers

No.	Issue	Title	Prepared by	Dated
DA-001	Revision A	Site Plan	Vibe Architects	7/2/2018
DA-003	Revision A	Ground Level – Demolition	Vibe Architects	7/2/2018
DA-004	Revision A	Level 1 – Demolition	Vibe Architects	7/2/2018
DA-006	Revision A	Ground Level Proposed	Vibe Architects	7/2/2018
DA-007	Revision A	Level 1 – Proposed	Vibe Architects	7/2/2018
DA-008	Revision A	North & South Elevations	Vibe Architects	7/2/2018
DA-009	Revision A	East & West Elevations Section 1	Vibe Architects	7/2/2018
DA-010	Revision A	Sections 2 & 3	Vibe Architects	7/2/2018
DA-011	Revision A	Balustrading Detail	Vibe Architects	7/2/2018
80818252-HY-1001	Revision 2	Proposed Ground Floor Stormwater	Cardno	19/2/2018
80818252-HY-1002	Revision 2	Proposed first floor Stormwater	Cardno	19/2/2018

and any supporting documentation received with the application, except as amended by the conditions specified hereunder.

##### **(2) Compliance with BCA**

All architectural drawings, specifications and related documentation must comply with the Building Code of Australia (BCA). All work must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

##### **(3) Signs –approval required**

No approval is granted by this consent for signage associated with the site.

##### **(4) Recommendations from Acoustic Report**

All recommendations from the Acoustical Assessment report prepared by Rodney Stevens Acoustics, dated 16 February 2018, must be displayed upon the construction certificate drawings and be in operation before the issue of any final occupation certificate.

**(5) General Heritage**

- (a) The proposed works are to be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to the significant fabric of the existing building which is listed as a Heritage Item.
- (b) The fabric and features to be retained by the proposal must be properly protected during the process of demolition and construction. The protection measures are to be specified in the construction management plan.
- (c) All conservation and adaptation works are to be in accordance with the Articles of the Australian ICOMOS Burra Charter 1999.
- (d) New services are to be surface mounted rather than chased-in to existing walls to minimise impact on heritage fabric.
- (e) Appropriately qualified tradespersons (as appropriate) are to be commissioned who are skilled in traditional building and engineering trades to carry out the proposed scope of works
- (f) The new windows and doors on the existing building must match the original material.
- (g) The face brickwork/stone/tiles must not be rendered, painted or coated.
- (h) Where internal partitions meet external walls they must abut window mullions, columns or other such building elements and not glazing

**(6) Materials for Making Good**

New materials for making good and repairs, are to match the existing in terms of colours, finishes, sizes, profile and properties.

**B Design Changes****(1) Amendments required to approved plans**

The following design changes must be displayed on construction certificate drawings:

- i. Acoustic ceiling panels are to be installed in the proposed new 'open' gaming area. The panels must cover a minimum of 50% of ceiling space. Panels with a NRC rating of a minimum 0.75 are required and must be a minimum of 50mm thick. Material such as acoustic polyester will be sufficient.  
  
Precise design and location of the material must be reviewed by a qualified acoustic consultant at construction certificate stage and incorporated into the design.
- ii. Doors with self-closing mechanisms must be used on all new external doors. The self-closing mechanisms must be engaged after 8.00 pm.
- iii. Gaming machines to have volumes set to a maximum sound pressure level of 55dB(A) at 1 metre.
- iv. There is to be no amplified music in the gaming area
- v. Any new or relocated mechanical plant outdoor (condensers) items must be facing away from residential boundaries

Amended plans detailing compliance with this condition are to be approved by the principle certifying authority prior to the issue of a construction certificate.

**C Conditions that must be satisfied prior to issuing/releasing a Construction Certificate****(1) Permits - General**

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent shall obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993. Permits are required for the following activities:

- a) Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application.
- b) A concrete pump across the roadway/footpath
- c) Mobile crane or any standing plant
- d) Skip bins
- e) Scaffolding/Hoardings (fencing on public land)
- f) Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.
- g) Awning or street verandah over footpath
- h) Partial or full road closure
- i) Installation or replacement of private stormwater drain, utility service or water supply

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities.

Applications for such Permits shall be submitted and approved by Council prior to the commencement of the works associated with such activity or issue of the Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

**(2) Dilapidation – minor**

The person acting on this consent shall submit to the Principal Certifying Authority a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site before the issue of a Construction Certificate.

**(3) Alignment Levels**

Alignment levels for the site at all pedestrian and vehicular access locations shall match the existing back of footpath levels at the boundary

Note: This may require the internal site levels to be adjusted locally at the boundary to ensure that they match the above alignment levels. Failure to comply with this condition will result in vehicular access being denied.

**(4) Security Deposit**

Prior to the commencement of demolition works or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit and inspection fee must be paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit (FOOT)	\$7,860.00
Inspection fee (FOOTI)	\$225.00

Payment will be accepted in the form of cash, bank cheque, EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees must not have an expiry date.

The inspection fee is required for Council to determine the condition of the adjacent road reserve and footpath prior to and on completion of the works being carried out.

Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, or if

any road, footpath or drainage works required by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.

A request for release of the security may be made to the Council after all construction work has been completed and a final Occupation Certificate issued.

The amount nominated is only current for the financial year in which the consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

**(5) Public Liability Insurance**

Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands shall take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.

**(6) Plant and Equipment location**

All plant and associated equipment must be located within the approved building envelope and is not be located on the roof. Details on the location of all plant and equipment must be consistent with the approved plans and provided prior to the issue of a Construction Certificate.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

**(7) Section 7.12 Contributions**

A Section 7.12 Contribution fee of \$2,800.00 is to be paid in accordance with Section 7.12 of the *Environmental Planning and Assessment Act 1979*.

**D Conditions that must be complied with before work commences**

**(1) Asbestos Removal**

An Asbestos Survey prepared by a suitably qualified Occupational Hygienist shall be prepared for the premises. The Survey is to incorporate appropriate Asbestos removal and disposal methods in accordance with the requirements of WorkCover NSW, NSW Environmental Planning and Assessment Amendment (Asbestos) Regulation 2009 and NSW Environment Protection Authority, Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)] and conditions of this consent.

A copy of any WorkCover approval documents is to be included as part of the documentation.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to any works on site commencing or the issue of the Construction Certificate (whichever occurs first).

**E Conditions that must be complied with during construction or demolition**

**(1) Construction Hours**

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work shall only be permitted during the following hours:

- a) 7:00 am to 6:00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);



- b) 8:00 am to 1:00 pm on Saturdays with no demolition works occurring during this time; and
- c) at no time on Sundays or public holidays.

Works may be undertaken outside these hours where they do not create any nuisance to neighbouring properties in terms of dust, noise, vibration etc and do not entail the use of power tools, hammers etc. This may include but is not limited to painting.

In the case that a standing plant or special permit is obtained from Council for works in association with this development, the works which are the subject of the permit may be carried out outside these hours.

This condition does not apply in the event of a direction from police or other relevant authority for safety reasons, to prevent risk to life or environmental harm.

Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving shall be limited to:

8:00 am to 12:00 pm, Monday to Saturday; and  
2:00 pm to 5:00 pm Monday to Friday.

The Proponent shall not undertake such activities for more than three continuous hours and shall provide a minimum of one 2 hour respite period between any two periods of such works.

"Continuous" means any period during which there is less than an uninterrupted 60 minute respite period between temporarily halting and recommencing any of that intrusively noisy work.

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.

## **(2) New contamination evidence**

Any new information revealed during development works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.

## **(3) Vibration Criteria**

Vibration caused by excavation and construction at any residence or structure outside the site must be limited to:

- a) for structural damage vibration, German Standard DIN 4150 Part 3 Structural Vibration in Buildings. Effects on Structures; and
- b) for human exposure to vibration, the evaluation criteria set out in the Environmental Noise Management Assessing Vibration: a Technical Guideline (Department of Environment and Conservation, 2006).

Vibratory compactors must not be used in the vicinity of residential buildings unless vibration monitoring confirms compliance with the vibration criteria specified above.

## **F Conditions that must be complied with prior to installation of services**

### **(1) Fire alarm details - Principal Certifying Authority**

Details of the proposed Fire Alarm system shall be submitted to the Principal Certifying Authority for its consideration prior to installation including a certificate, prepared by a person competent to do so, setting out the:-

- (i) basis of design
- (ii) standard to which the system is to be installed; and
- (iii) including all relevant documentation including wiring diagram and details of detectors.

At the completion of the installation a certification shall be submitted to the Principal Certifying Authority containing the following:-

- (i) inspection, testing and commission details;
- (ii) date of inspection, testing and commissioning;
- (iii) the name and address of the individual who carried out the test;
- (iv) a statement that the service has been designed, installed and is capable of operating to the above standard.

**G      Conditions that must be complied with before the issue of a final occupation certificate**

**(1)      Disposal of soil**

Any soil proposed to be disposed off site must be classified, removed and disposed of in accordance with the *EPA Environmental Guidelines; Assessment, Classification and Management of Liquid and Non-Liquid Wastes 1999* and the *Protection of the Environmental Operations Act 1997*.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Occupation Certificate.

**(2)      Acoustic Testing in first 60 days**

During the first sixty (60) days of trading being provided at the premises, the following acoustic measures must be undertaken:

- a) A suitably qualified acoustic consultant must be appointed to:
  - i) measure and verify the noise emanating from the premises; and
  - ii) if necessary, make recommendations to ensure that the noise emanating from the premises complies with the noise criteria.
- b) The noise measurements must be:
  - i) undertaken without the knowledge of the applicant, manager or operator of the premises; and
  - ii) taken on at least three (3) different occasions on three (3) different days of the week (excluding Monday, Tuesday and Wednesday) from 11pm until the end of the public entertainment or close of business, whichever occurs first; and
  - iii) submitted to Council within seven (7) days of testing.
- c) If the acoustic consultant recommends that additional treatment or works be undertaken those recommendations must be:
  - i) submitted to Council with the noise measurements; and
  - ii) implemented to the acoustic consultant's satisfaction before the end of the first sixty (60) days of public entertainment provided on the premises.
- d) If the acoustic consultant's recommendations are not implemented in accordance with this condition, the relevant element of trading (ie outdoor area access on the premises must cease until such time as the recommendations are implemented and verified.

**(3)      Approval to use/occupy building**

The new game room and new terrace must not be used or occupied until an Occupation Certificate has been obtained from the Principal Certifying Authority.

Note: If Council is chosen as the Principal Certifying Authority a fee is applicable prior to the release of the Construction Certificate.

**H      Conditions that are ongoing requirements of development consents**

**(1) Acoustic requirements – Licensed premise**

The  $L_{A10}$  noise level emitted from the premises, measured between the hours of **7am and 12 midnight**, is not to exceed the background noise level in any octave band frequency (centred on 31.5Hz to 8 kHz inclusive) by more than 5 dB, when measured at the boundary of any adjoining residence.

The  $L_{A10}$  noise level emitted from the premises, measured between the hours of **midnight and 7am**, is not to exceed the background noise level in any octave band frequency (centred on 31.5Hz to 8 kHz inclusive), when measured at the boundary of any adjoining residence.

**(2) Acoustic impacts – compliance for business, retail**

The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.

In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background  $L_{A90, 15min}$  noise level, measured in the absence of the noise source/s under consideration by 5dB(A). The source noise level shall be assessed as an  $L_{Aeq, 15min}$  and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

**(3) Acoustic – Outdoor area of licensed premise – no amplified music, gaming machines**

There is to be no entertainment in the form of amplified music on any part of the outdoor area at any time.

There is to be no amplification from any gaming machines on any part of the outdoor area at any time.

Machines located within an approved outdoor gaming/smoking area must not be visible from the public domain and must not dispense coins, but be cashless.

There is to be an air lock entry from the outdoor gaming/smoking area into the main building fitted with self-closing device.

The number of patrons using the outdoor gaming area is restricted to 16 persons at any time.

**(4) Health Impacts**

The use of the premises must not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the Protection of the Environment Operations Act 1997 and Regulations. The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage other premises.

**(5) Vibration from plant and equipment**

The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage to other premises as defined in the Environment Protection Authority's Technical Guidelines for Assessing Vibration.

**(6) Hours of operation – New Public Terrace**

The hours of operation for the new public terrace are limited to the following:

- Monday – Thursday: 10:00am to 10:00pm
- Friday - Saturday: 10:00am to 12:00am (Midnight)
- Sunday: 10:00am to 10:00pm

**(7) Public address systems - prior consent required**

A public address system or sound amplifying equipment must not be installed in or upon the premises so as to cause or permit the emission of sound onto any public place unless the prior consent of Council has been obtained.

**(8) Air conditioners - noise control - Protection of the Environment Operations Act 1997**

The air conditioners as approved by this consent shall be installed and operated at all times so as not to cause "Offensive Noise" as defined by the *Protection of the Environment Operations Act 1997* that will adversely affect the amenity of the premises in close proximity to the property.

**(9) Discharge of condensate from air conditioning units**

Any condensate, moisture, etc shall not be permitted to be discharged onto the ground surface of the premises or into stormwater drainage systems in contravention of the requirements of the *Protection of the Environment Operations Act 1997*.

All such wastes must be discharged to sewers of the Sydney Water.

**I Advisory Notes**

**(1) Other approvals**

This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, including:

- an Application for Approval under Section 68 of the *Local Government Act 1993* for any proposed activity under that Act, including any erection of a hoarding. All such applications must comply with the *Building Code of Australia*.
- an Application for Approval under Section 68 of the *Local Government Act 1993* for a Place of Public Entertainment if proposed. Further building work may also be required for this use in order to comply with the *Building Code of Australia*. If there is any doubt as to what constitutes "Public Entertainment" do not hesitate to contact Council's Fire Officer.
- an application for an Occupation Certificate under Section 109(C)(2) of the *Environmental Planning and Assessment Act 1979*.  
**Note:** An application for an Occupation Certificate may be lodged with Council if the applicant has nominated Council as the Principal Certifying Authority.
- an Application for a Subdivision Certificate under Section 109(C)(1)(d) of the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed.
- an Application for Strata Title Subdivision under the *Strata Schemes (Freehold Development) Act 1973*, if strata title subdivision of the development is proposed.
- a development application for demolition approval under the *Environmental Planning and Assessment Act 1979* if consent for demolition is not granted by this consent.

**(2) Works and requirements of other authorities**

- Sydney Water may require the construction of additional works and/or the payment of additional fees. Other Sydney Water approvals may also be necessary prior to the commencement of construction work. You should therefore confer with Sydney Water concerning all plumbing works, including connections to mains, installation or alteration of systems, and construction over or near existing water and sewerage services.
- Contact Sydney Water, Rockdale (Urban Development Section) regarding the water and sewerage services to this development.
- Australia Post has requirements for the positioning and dimensions of mail boxes in new commercial and residential developments. A brochure is available from your nearest Australia Post Office.
- Energy Australia/AGL Electricity/AGL Retail Energy or other alternative service/energy providers have requirements for the provision of connections.
- Energy Australia has a requirement for the approval of any encroachments including awnings, signs, etc over a public roadway or footway. The Engineer Mains Overhead Eastern Area should be contacted on 9663 9408 to ascertain what action, if any, is necessary.

- Telstra has requirements concerning access to services that it provides.

**(3) Modifications to your consent - prior approval required**

Works or activities other than those authorised by the approval including changes to building configuration or use will require the submission and approval of an application to modify the consent under Section 4.55 of the *Environmental Planning & Assessment Act 1979*. You are advised to contact Council immediately if you wish to alter your approved plans or if you cannot comply with other requirements of your consent to confirm whether a Section 4.55 modification is required.

**Warning:** There are substantial penalties prescribed under the *Environmental Planning and Assessment Act 1979* for breaches involving unauthorised works or activities.

**(4) Occupational health and safety**

All site works must comply with the occupational health and safety requirements of the NSW Work Cover Authority.

**(5) Bulk bins on footpath and roadway**

Approval is required from Council prior to the placement of any bulk bins on Council's footpath and/or roadway.

**(6) Compliance with the Disability Discrimination Act - liability**

This decision does not ensure compliance with the Disability Discrimination Act. The owner, lessee, operator and/or manager of the premises is advised that under the *Disability Discrimination Act 1992*, it is illegal to discriminate against a person with a disability by means of restricting access to or within the building. If access is restricted the owner, lessee, operator and/or manager of the premises may be liable for prosecution and/or a successful appeal to the Human Rights and Equal Opportunities Commission. You should therefore investigate your liability under that Act. Australian Standard 1428 - Design for Access and Mobility, Parts 2, 3 and 4 may assist in determining compliance with the *Disability Discrimination Act 1992*.

**Reason for the imposition of conditions**

Unrestricted consent would be likely to cause injury:

- a) to the amenity of the neighbourhood
- b) to the heritage significance of the area
- c) to the heritage significance of the property
- d) to the amenity of the neighbourhood due to the emission of noise
- e) to the amenity of the neighbourhood due to the creation of a traffic hazard

and further, would not be in the public interest.

**Compliance with Building Code of Australia**

- (1) All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).
- (2) This clause does not apply to the extent to which an exemption is in force under clause 187 or 188 of the Environmental Planning and Assessment Regulation 2000, subject to the terms of any condition or requirement referred to in clause 187 or 188.

**NOTES**

- (i) This approval does not relieve an applicant of the obligation to obtain any other approval required under Section 68 of the Local Government Act, 1993 and Ordinances or Section 4.12 of the Environmental Planning & Assessment Act, 1979 or any other Act or Regulation.
- (ii) Further approval(s) – see above, may be required in addition to this development consent. Plans and specifications submitted for building works must comply with the Building Code of Australia, any relevant condition of development consent and/or other code or requirement of Council at the time of approval.



Ask Council if you are unsure of what procedures you need to follow.

**SECTIONS 8.2, 8.7 AND 4.53 OF THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979**

You are advised that:

- Under the provisions of Section 8.2 of the Environmental Planning and Assessment Act, 1979, an applicant may request Council to review a determination of the applicant's development application, other than an application for designated development. Any request for a review must be made within six (6) months of the date on which the applicant received notice, given in accordance with the regulations, of the determination of the application and be accompanied by the fee prescribed in Section 257 of the Regulations.
- If you are dissatisfied with this decision, Section 8.7 of the Environmental Planning and Assessment Act, 1979, gives you the right to appeal to the Land and Environment Court within six (6) months after the date on which you receive this notice.
- Under the provisions of Section 4.53 of the Environmental Planning and Assessment Act, 1979, unless the development, which is the subject of this consent, is commenced within five (5) years from the date of determination, the consent will lapse.

## Attachment B – Plans of proposed development





























