





	
DEVELOPMENT ASSESSMENT REPORT	
Application No.	MOD/2020/0174
Address	2-8 Weston Street BALMAIN EAST NSW 2041
Proposal	Modify hours of operation of restaurant to allow evening use
Date of Lodgement	03 June 2020
Applicant	The Fenwick Balmain Pty Ltd
Owner	Inner West Council
Number of Submissions	Initial: 69
Value of works	\$1,141,030.00
Reason for determination at Planning Panel	No of submissions received Council asset
Main Issues	Parking
Recommendation	Approval with Conditions
Attachment A	Recommended conditions of consent
Attachment B	Acoustic Report
Attachment C	Traffic and Parking Assessment
Attachment D	Plan of Management
Attachment E	Original Conditions of Consent
	
LOCALITY MAP	
Subject Site	
Objectors	
Notified Area	
Supporters	
 N	
Note: Due to scale of map, not all objectors could be shown.	

1. Executive Summary

This report is an assessment of the application submitted to Council to modify hours of operation of an restaurant to allow evening use at 2-8 Weston Street, Balmain East. The existing trading hours are from 7am to 5pm Monday to Sunday inclusive and public holidays for all indoor and outdoor areas. The proposal seeks to extend the hours of trading to 11pm, seven days a week.

The application was notified to surrounding properties and 69 submissions were received in response.

The main issues that have arisen from the assessment of the application include:

- Traffic and carparking
- Noise from outdoor trading

These issues are considered acceptable for the reasons outlined in this report and therefore the application is recommended for approval, subject to recommended conditions to permit a 12 month trial period for evening trade .

2. Proposal

The proposed development seeks to modify Condition 55 of D/2015/299 to enable evening trade for the indoor and outdoor areas. The existing trading hours are from 7am to 5pm Monday to Sunday inclusive and public holidays for all indoor and outdoor areas. The proposal seeks to extend the hours of trading to 11pm. No additional seating is proposed.

3. Site Description

The subject site is located on the eastern side of Weston Street, between Darling Street and Paul Street. The subject site consists of the Fenwick Building with lift access from Weston Street, accessible pathway and amenities. The subject site is irregular in shape with approximately 11.5m frontage to Weston Street however the Fenwick Building is oriented to the foreshore. Access to the building is available via the stairs or lift from Weston Street or from the foreshore pedestrian walkway.

Immediately to the north of the site is located the Darling Street Wharf and a bus turning area which is a major public transport interchange and a two storey serviced apartment building. The western side of Weston Street is occupied by a variety of two storey dwellings. Lands to the south comprise Illoura Reserve being a landscaped foreshore park with an existing playground located to the east of the existing access road.

The Fenwick stone building is listed as an item of state heritage significance, Illoura Reserve as a landscape heritage item, and the site is within a heritage conservation area. The site is not identified as a flood control lot.



LLEP 2013 Zoning Map Extract (subject site outlined in red)

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
D/2015/299	Adaptive reuse of Fenwicks stone building as a licenced cafe with gallery space including associated accessibility improvements, public toilet facilities, new access path and reconfiguration of car parking in Illoura Reserve.	Approved by Council 23/08/2016

There have been no planning determinations at the only adjoining property, 10 Darling Street Balmain East, since the determination of the original application.

5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 and 4.55 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:

- *State Environmental Planning Policy 55 (Remediation of Land)*
- *State Environmental Planning Policy (Coastal Management) 2018*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Leichhardt Local Environmental Plan 2013*

The following provides further discussion of the relevant issues:

5(a)(i) State Environmental Planning Policy No 55—Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. LDCP 2013 provides controls and guidelines for remediation works. *SEPP 55* requires the consent authority to be satisfied that “the site is, or can be made, suitable for the proposed use” prior to the granting of consent.

Consent has already been granted but, in any event, the proposed modification application seeks an extension to the approved hours of use with no building works proposed, as such it is considered that the site is suitable for the proposed use in accordance with *SEPP 55*.

5(a)(ii) State Environmental Planning Policy (Coastal Management) 2018

The subject site falls within the Coastal Environment Area and Coastal Use area under the provisions of the Coastal Management SEPP. The proposed development seeks to enable evening trading to the existing approved use for both the indoor and outdoor seating areas. No building works or additional seats are proposed as part of the proposal as such the proposal as modified will remain compliant with the aims of the Policy.

5(a)(iii) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The waterway adjoining the site is zoned W1 Maritime Waters. The proposed works are positioned above mean high water mark (MHWM) and therefore do not involve any works within a designated zoned area of SREP 2005.

The proposal does not fall within the definition of land-based development (i.e. boat sheds, reclamation works, sea walls, swimming pools and water front access stairs) of land/water interface development and therefore does not require consent pursuant to Clause 5(1) SREP 2005.

The proposed development seeks to enable evening trading to the existing approved use for both the indoor and outdoor seating areas. No building works or additional seats are proposed as part of the proposal as such the proposal would not have an adverse effect on environmental heritage, the visual environment, the natural environment or open space and recreation facilities and as such will remain compliant with the aims of the Policy.

5(a)(iv) Leichhardt Local Environment Plan 2013 (LLEP 2013)

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

- Clause 1.2 - Aims of the Plan

- Clause 2.3 - Zone objectives and Land Use Table
- Clause 2.5 - Additional permitted uses for land
- Clause 5.4 - Controls relating to miscellaneous permissible uses
- Clause 5.10 - Heritage Conservation
- Clause 6.5 - Limited development on foreshore area
- Clause 6.6 - Development on foreshore must ensure access

(i) Clause 2.3 - Land Use Table and Zone Objectives

The site is zoned RE1 - Public Recreation under the *LLEP 2011*. The *LLEP 2013* defines the development as a modification to an approved food and drink premises:

“Food and drink premises means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following—

- (a) a restaurant or cafe,*
- (b) take away food and drink premises,*
- (c) a pub,*
- (d) a small bar.*

Food and drink premises are not permitted with consent within the land use table. Despite this, Clause 5.10(10) Conservation incentives of Leichhardt LEP 2013 allows a consent authority to permit the use of a heritage item for any purpose provided that certain criteria are satisfied. The approved development application (D/2015/299) demonstrated the proposal satisfied the criteria under this part and is a satisfactory use within the zone.

The proposed development does not seek to intensify the occupancy of the approved food and drink premises rather extend the hours from 7am to 5pm to 7am to 11pm to accommodate evening trading. The proposal does not seek to hinder the use of the public recreational areas and is consistent with the objectives of the zone.

Clause 5.10 - Heritage Conservation

The Fenwick building is listed as an item of state heritage significance with the surrounds of the building and Illoura Reserve being listed as a landscaped item of heritage under Leichhardt LEP 2013. The subject site is also located within a heritage conservation area. The site is also listed on the State Heritage Register (SHR) under the Heritage Act 1977. The proposed development will have no impact on the heritage item or adjoining Illoura Reserve.

Clause 6.5 - Limited development on foreshore area

No additional outdoor seating is proposed as such the proposal does not encroach upon the foreshore building line along this section of the foreshore.

The application satisfies the provisions of the above Leichhardt Local Environmental Plan 2013.

5(b) Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)

The Draft IWLEP 2020 was placed on public exhibition commencing on 16 March 2020 and accordingly is a matter for consideration in the assessment of the application under *Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979*.

The amended provisions contained in the Draft IWLEP 2020 are not particularly relevant to the assessment of the application. Under the Draft IWLEP 2020 the subject site will remain as

a listed heritage item. Accordingly, the development is considered acceptable having regard to the provisions of the Draft IWLEP 2020.

5(c) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Leichhardt Development Control Plan 2013.

LDCP2013	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	N/A
Part C	
C1.0 General Provisions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	Yes
C1.11 Parking	No – see discussion
C1.13 Open Space Design Within the Public Domain	Yes
C1.20 Foreshore Land	Yes
Part C: Place – Section 2 Urban Character	
C2.2.2 Balmain East Distinctive Neighbourhood	Yes
Part C: Place – Section 3 – Residential Provisions	N/A
Part C: Place – Section 4 – Non-Residential Provisions	
C4.5 Interface Amenity	Yes
C4.20 Outdoor Dining Areas	Yes
Part D: Energy	N/A
Part E: Water	N/A
Part F: Food	N/A
Part G: Site Specific Controls	N/A

The following provides discussion of the relevant issues:

C1.11 Parking

The Fenwick building and surrounds are listed as heritage items of significant heritage value. Consequently there is little or no opportunity to provide on-site car parking facilities or to create any new facilities given its location along the foreshore and the value of this surrounding landscaped open space. The traffic and parking assessment provided with the application concluded:

“Parking surveys demonstrate that there has been no significant change in car parking demand or behaviour since the original approval of the site to operate between 7 AM and 5 PM. It is therefore unlikely that the extension of the operating hours of the site to 11 PM would

have a noticeable effect on the parking demand in the surrounding streets. Considering the site's inability to provide car parking and the previous contribution to public infrastructure in the surrounds of the site, the car parking impacts of the site are acceptable."

The application was referred to Council's Development Engineers for comment. It was noted that the proposal was not supported by them given that the development is not within a contributions area that would enable the parking shortfall to be offset. In addition, Council's Engineers advised the proposal is reliant on on-street parking in the vicinity which would set an undesirable precedent in the area as there is insufficient capacity within the surrounding streets to accommodate additional parking demand generated by proposed extended trading hours and the existing surrounding properties rely on on-street parking.

Further, it was noted that there is currently limited capacity for parking during the evening/night as the car parking spaces in Illoura Reserve have '4P 8.30am-6pm Mon-Fri' restrictions. The unrestricted parking after 6pm allows for a less turnover and availability of parking spaces particularly for the surrounding residential properties. Despite this, the site is well serviced by public transport and the proposal encourages use of public transport and less reliance on the motor vehicle. On site car parking opportunities are not available due to the heritage status of the site and the surrounding foreshore parklands.

Site inspections of the surrounding streets undertaken in the evening hours (between 6pm and 7pm) on a Friday and Thursday in October indicated on both occasions that there were between 25 and 30 kerbside parking spaces available within a 5 minute walk of the premises. It is recommended that on any consent issued that a 12 month trial period for evening trading is granted to allow the applicant to monitor the parking impacts of the proposal on the local street network. In addition, it is recommended that a green travel plan is implemented to encourage a more sustainable travel and reduce car dependence.

C4.5 Interface Amenity

The objectives of this Part of the LDCP 2013 are as follows:

"To ensure that development does not impact the surrounding area or cause unreasonable nuisance to any other use by way of:

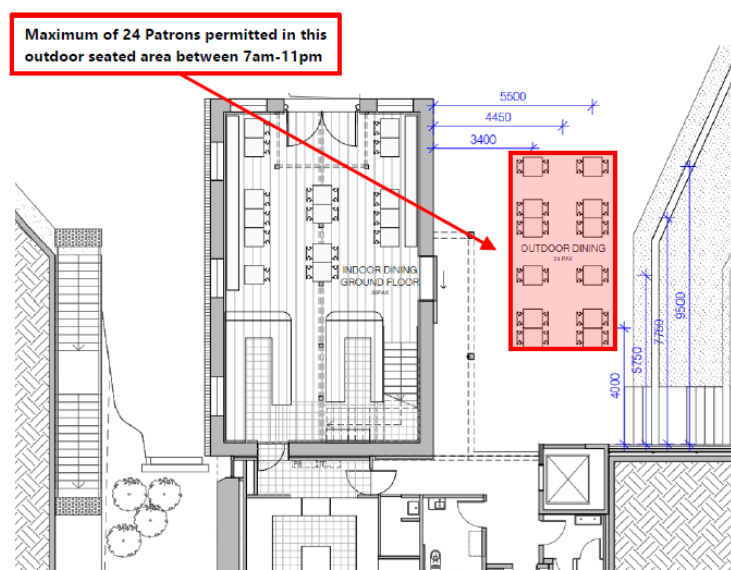
- a) noise;
- b) odour;
- c) vibration;
- d) overshadowing; and
- e) overly bulky or overbearing development that significantly reduces outlook or privacy

The proposed development to enable evening trade within the indoor and outdoor areas. The existing trading hours are from 7am to 5pm Monday to Sunday inclusive and public holidays for all indoor and outdoor areas, the proposal seeks to extend the hours of trading to 11pm. No additional seating is proposed.

An Acoustic Report has been submitted that provided the following recommendations:

- "Use of indoor and outdoor area to cease at 11pm;
- During the hour of operation (5pm – 11pm):
 - A maximum of 24 patrons are permitted to use the ground floor outdoor area on the southern side of the building (Appendix 2);
 - The southern outdoor dining area table layout and distance of each table from the retain wall much match the drawing show in Appendix 2. This will ensure the existing retaining wall to the western side of the dining area can provide noise screening between the outdoor dining areas and the residents to the west
 - The outdoor dining area is only for seated diners only.

- After 6pm, all windows and door on the northern, western and southern facades of the building are to remain closed when the café is in use. The door on the southern facade can be open for egress to the outdoor dining area.
- The doors and windows on the eastern facades of the building are allowed to be open.
- No music is to be played in the outdoor areas of the café.
- Only background music is allowed within the internal areas of the site, with a maximum southern pressure level of 65dB(A)Leq.
- Bottle and waste disposal not be done in external areas after 10pm.
- Management to install signs reminding patrons to respect neighbouring residents and leave the site quietly at night time."



Appendix 2 snapshot referenced in Acoustic Report conclusion.

These requirements are supportable and can be attached as conditions of consent as part of a 12 month trial, however the collection of garbage is to be retained as originally approved, this being limited to 8am to 9pm. Therefore the potential noise impacts onto nearby residential properties are likely to be within acceptable limits for residential receivers in accordance with NSW EPA Industrial Noise Policy with compliance with the recommendations outlined above.

C4.20 Outdoor Dining Areas

No change is proposed to the location of the outdoor dining area, which is positioned to the south of the building being appropriately located adjacent to the building, below street level and will not obstruct any pedestrian walkways. This outdoor area will be visible from within the building itself and enhances the use of the existing building as a café providing a pleasant outdoor area for dining.

5(e) Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)

Under Section 4.55 (1A) of the Environmental Planning and Assessment Act, 1979, Council, when considering a request to modify a Determination must:

- Be satisfied that the development as modified is of minimal environmental impact;*
- Be satisfied that the development as modified is substantially the same development as the development for which consent was originally granted*
- Notify the application in accordance with the regulations*
- Consider any submissions made*

- e) *Take into consideration the matters referred to in Section 4.15 that are relevant to the development the subject of the modification application.*

The development being modified is substantially the same development as the development for which consent was originally granted. No authorities or bodies were required to be consulted. The application was notified in accordance with the regulations and Council's notification policy, 67 submissions were received.

The heads of consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, as are of relevance to the application, have been taken into consideration in the assessment of this application.

5(e) The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will have minimal impact in the locality.

5(f) The suitability of the site for the development

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(g) Any submissions

The application was notified in accordance with Leichhardt Development Control Plan 2013 for a period of 14 days to surrounding properties. 69 submissions were received in response to the initial notification. This includes 12 submissions of support for the proposal, one petition with 480 signatures in support of the application, one petition with 11 signatures against the proposal.

The following issues raised in submissions have been discussed in this report:

- Loss of on street car parking
- Noise impacts from the use of the outdoor dining area
- Noise impacts from the waste collection
- Impacts of the proposal on the heritage significance of the building

In addition to the above issues, the submissions raised the following concerns which are discussed under the respective headings below:

Issue: Noise impacts from the mechanical ventilation and loading and unloading

Comment: Standard conditions have already been imposed as part of the original consent that require 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.

Issue: Parking enforcement within the local street network

Comment: Parking enforcement within the local street network falls outside the scope of the proposal and the assessment of the application.

Issue: Littering within the adjoining park

Comment: Public littering within the adjoining park falls outside the scope of the proposal and the assessment of the application.

5(h) 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.

The proposal is not contrary to the public interest.

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.

- Property
- Engineering
- Health

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions are not payable for the proposal.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Leichhardt Local Environmental Plan 2013* and *Leichhardt Development Control Plan 2013*.

The development will not result in any significant impacts on the amenity of the adjoining properties and the streetscape which are not able to be managed through appropriate conditions and is considered to be in the public interest.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

9. Recommendation

- A. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.55 of the *Environmental Planning and Assessment Act 1979*, approve Modification Application No. MOD/2020/0174 for Modified hours of operation of restaurant to allow evening use at 2-8 Weston Street BALMAIN EAST NSW 2041 subject to a modified determination being issued as per Attachment A.

Attachment A – Recommended conditions of consent

The application is considered suitable for approval subject to the imposition of appropriate conditions. Specifically, it is recommended that the following modifications are made to D/2015/299:

- Modify Condition 1 to include the Noise Impact Assessment prepared by Acoustic Logic, Report No. 20191151.1/1312A/R2/AS dated 13/12/2019 as part of the Schedule of Documents;
- Modify Condition 1 to include the Plan of Management prepared by SJB Planning, dated December 2019 as part of the Schedule of Documents;
- Add Condition 65:
The recommendations contained in the acoustic report prepared by Acoustic Logic reference 20191151.1/1312A/R2/AS dated 13/12/2019 must be implemented, including the following:
 - a. the recommendations No.7 within the report must implemented.
- Add Condition 66:
Any lighting of the premises complies with Australian Standard AS4282:1992: Control of Obtrusive Effects of Outdoor Lighting.
- Add Condition 67:
The Green Travel Plan must be implemented and kept in a suitable location on site at all times. A Green Travel Plan with Public Transport Routes and Bicycle Network is to be prepared and made available to the residents and commercial premises tenants. The Public Transport and Bicycle Network Plans are to be installed in common areas prior to the occupation of the premises. Use of alternative modes of transport are to be encouraged and to be clearly identified on the website for the business.
- Amend Condition 55 to include the following:
The premises including the outdoor area are only to be open for business and used for the purpose approved within the following hours.

•	• Indoor Area	• Outdoor Area
• Monday to Sunday	• 7:00am – 5:00pm	• 7:00am – 5:00pm
• Public Holidays	• 7:00am – 5:00pm	• 7:00am – 5:00pm

b) For a period of not more than 12 months from the determination of MOD/2020/0174 approved in this consent, the hours of operation of the premises must not exceed the following

•	• Indoor Area	• Outdoor Area
• Monday to Sunday	• 7:00am – 11.00pm	• 7:00am – 11.00pm
• Public Holidays	• 7:00am – 11.00pm	• 7:00am – 11.00pm

c) A continuation of the extended hours will require a further application under the Environmental Planning and Assessment Act 1979.

Set-up and clean-up operations must commence no earlier or later than 1 hour before opening and 1 hour after closing hours (as stipulated by this condition). All doors and windows must remain closed during set up and cleaning where possible.

Set up and clean up operations for outdoor areas must occur during the relevant operating hours.

Service is to cease 30 minutes before closing time /ceasing of operating hours.

Attachment B – Acoustic Report



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Project ID	20191151.1
Document Title	Noise Impact Assessment
Attention To	The Fenwick Pty Ltd

Revision	Date	Document Reference	Prepared By	Checked By	Approved By
0	21/10/2019	20191151.1/2110A/R0/AS	AS		
1	29/11/2019	20191151.1/2911A/R1/AS	AS		TT
2	13/12/2019	20191151.1/1312A/R2/AS	AS		TT

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1 INTRODUCTION

Acoustic Logic Consultancy (ALC) have been engaged to conduct an environmental noise emission assessment for the proposed extended trading areas from 5pm to 11pm at a licensed restaurant located at the Ferwick, 2-8 Weston Street, Balmain.

In this report we will:

- Identify relevant noise emission criteria applicable to the site.
- Identify nearby noise sensitive receivers and the operational noise sources with the potential to adversely impact them.
- Predict operational noise emissions (primarily patron and music noise) at the nearest residential receivers and assess the predicted noise levels against acoustic criteria.
- If necessary, determine building and/or management controls necessary to ensure ongoing compliance with the noise emission goals.

2 SITE DESCRIPTION AND PROPOSED WORKS

The project site is located at 2-8 Weston Street, Balmain. The café is currently operating until 5pm but is proposed to extend operation from 5pm until 11pm every night.

The operating capacity of the café will remain as 80 patrons (56 inside, 24 outside).

Sensitive noise receivers in the vicinity of the project site are:

- Receiver 1: Two storey residential development at 10 Darling Street, located approximately 11m north-west of the site.
- Receiver 2: Two storey residential development at 1-3 Weston Street, located approximately 25m west of the project site.

The Balmain East Wharf is located approximately 50m north east of the site.

The primary noise source from the project site will be patron/music noise from the indoor and southern outdoor dining area.

There is an existing 4m high retaining western wall which provides some noise screening between the southern outdoor dining area and the receiver 2 residents.

Refer to figure 1 below for an aerial view of the existing site.



Figure 1 – Site Map
(Sourced from Google Maps)

- Noise Monitor Location
- Attended Measurement Location

3 NOISE DESCRIPTORS

Environmental noise constantly varies. Accordingly, it is not possible to accurately determine prevailing environmental noise conditions by measuring a single, instantaneous noise level.

To accurately determine the environmental noise a 15-20 minute measurement interval is utilised. Over this period, noise levels are monitored on a continuous basis and statistical and integrating techniques are used to determine noise description parameters.

In analysing environmental noise, three-principle measurement parameters are used, namely L_{10} , L_{50} and L_{90} .

The L_{10} and L_{90} measurement parameters are statistical levels that represent the average maximum and average minimum noise levels respectively, over the measurement intervals.

The L_{10} parameter is commonly used to measure noise produced by a particular intrusive noise source since it represents the average of the loudest noise levels produced by the source.

Conversely, the L_{90} level (which is commonly referred to as the background noise level) represents the noise level heard in the quieter periods during a measurement interval. The L_{50} parameter is used to set the allowable noise level for new, potentially intrusive noise sources since the disturbance caused by the new source will depend on how audible it is above the pre-existing noise environment, particularly during quiet periods, as represented by the L_{90} level.

The L_{eq} parameter represents the average noise energy during a measurement period. This parameter is derived by integrating the noise levels measured over the 15 minute period. L_{eq} is important in the assessment of traffic noise impact as it closely corresponds with human perception of a changing noise environment; such is the character of environmental noise.

4 SURVEY OF AMBIENT NOISE

Background levels were conducted as part of the original development application (Ref: 20141055.1/2909A/R0/JL dated 29/09/2014). Additional background measurements have been conducted between the 24th September to 2nd October – measurement data shown in Appendix 1 (refer to figure 1).

A survey of existing ambient noise at the site was undertaken using a long-term noise logger installed on site. The logger was installed on the first floor of the existing building with the microphone sticking out of a window on the eastern facade.

Background noise levels measured here will be indicative of the background noise levels at nearby residences.

Monitoring was conducted from the 24th of September to the 2nd of October 2019 using an Acoustic Research Laboratories noise monitor set to A-weighted fast response. The monitor was calibrated at the start and end of the monitoring period using a Rion NC-73 calibrator. No significant drift was noted. Noise logger data is provided in Appendix 1.

Results are presented below:

Table 1 – Background Noise Levels at 2-8 Weston Street, Balmain

Location	Time	Background Noise Level dB(A) _{L₉₀}
2-8 Weston Street, Balmain	7am-6pm	51
	6pm-10pm	47
	10pm-11pm	44

In addition, a background noise spectrum on the site was measured on the 9th September 2014 at 9pm near residential receiver 1 (refer to figure 1). The background noise spectrum is presented below.

Table 2 – Background Noise Spectrum (dB)

31.5Hz	63Hz	125Hz	250Hz	500Hz	1kHz	2kHz	4kHz	8kHz	A-weighted level
53	53	50	46	42	41	36	28	18	46

5 NOISE EMISSION CRITERIA

5.1 PATRON/MUSIC NOISE

5.1.1 Leichhardt Municipal Council DCP

Part C, Section 4 of the Leichhardt Municipal Council DCP states the following with regards to noise emissions from licensed premises:

***C4.11 Licensed Premises**

C7. Where Premises are within 50m of residential properties, any outdoor seating area should cease trading and use by 10pm except where the seating is fronting a main commercial street. Outdoor seating areas should not be used for functions at any time and music, live or amplified should not be audible outside the premises.

5.1.2 OLGR Acoustic Requirements

When assessing noise emissions from a licensed premise, noise emissions must comply with the acoustic requirements imposed by the Office of Liquor Gaming and Racing:

These guidelines relate to noise generated by patrons and by music. The requirements are set out below:

- *That the L_{10} noise level emitted from the premises shall not exceed 5dB above the background L_{90} sound level in any Octave Band Centre Frequency (31.5kHz to 8kHz inclusive) between the hours of 7.00am to 12.00 midnight when assessed at the boundary of the nearest affected residential premises.*
- *L_{10} noise level emitted from the premises shall not exceed the background L_{90} sound level in any Octave Band Centre Frequency (31.5kHz to 8kHz inclusive) after midnight when assessed at the boundary of the nearest affected residential premises.*
- *After midnight, noise emissions from the Place of Public Entertainment are to be inaudible within any habitable rooms in nearby residential properties.*

The site is not proposed to operate after midnight. Corresponding noise emission goals from patrons/music is as follows:

**Table 3 – Background Noise Spectrum and Noise Emission Goals
Evening Time Period (6pm-10pm) - (dB)**

	31.5Hz	63Hz	125Hz	250Hz	500Hz	1kHz	2kHz	4kHz	8kHz	A-weighted level
Background Noise Level – dBL ₉₀	54	54	50	47	43	43	37	34	29	47
Noise Emission Goal – dBL ₁₀	59	59	55	52	48	48	42	39	34	52

**Table 4 – Background Noise Spectrum and Noise Emission Goals
Night Time Period (10pm-11pm) - (dB)**

	31.5Hz	63Hz	125Hz	250Hz	500Hz	1kHz	2kHz	4kHz	8kHz	A-weighted level
Background Noise Level – dBL ₉₀	51	51	47	44	40	40	34	31	26	44
Noise Emission Goal – dBL ₁₀	56	56	52	49	45	45	39	36	31	49

6 NOISE EMISSION ASSESSMENT

This section of the report presents our assessment of operational noise emissions from the restaurant.

Noise emissions at the nearest residences will be predicted based on the following assumptions:

- The average noise level per patron is 77dB(A)_{L₁₀}, which in our experience is typical of the noise level generated by patrons speaking in a restaurant with an unraised voice with background music. 1 in 2 patrons are assumed to be speaking at any one time.
- As recommended in section 7, patrons in outdoor areas to be limited as follows:
 - During the extended hours of operation (5pm-11pm):
 - A maximum of 24 patrons are permitted to use the ground floor outdoor area on the southern side of the building.
 - Seating layout is to be as per Appendix 2 so that the existing retaining wall along the western side of the outdoor area is able to provide noise screening for the residence to the west at receiver to location (see figure 1)
- Remaining patron capacity (56 patrons) evenly distributed throughout the indoor dining area of the café.
- Background music played within the cafe with a sound pressure level of approximately 65dB(A)_{L_{eq}}.
- No music in the outdoor areas.

Noise levels are predicted at the property boundaries of the nearest residential receivers:

- Predictions at receiver 1 are made at the first floor window
- Predictions at receiver 2 are made at the second floor window. These locations have been chosen because at an elevated location noise screening provided by the western retaining wall is reduced at these locations.

All predictions are based on the assumption that the acoustic treatments and management controls outlined in section 7 are adopted.

The noise emissions are predicted taking into account the noise screening between the outdoor area and the nearest residence provided by the retaining wall (along the western side of the outdoor dining area) and the restaurant building itself (along the northern side of the outdoor dining area).

6.1 PREDICTED NOISE LEVELS DURING NIGHT TIME PERIOD (10PM-11PM)

The noise emission goals of 6pm-10pm are less stringent than the noise emission goals from 10pm-11pm due to the higher background noise levels measured on site (see Table 3 and 4). Therefore, the predicted noise emissions were compared to the criterion of the night time period (10pm-11pm). If compliance is achieved for the 10pm-11pm period, it will also be achieved earlier in the evening.

The predicted noise levels at the nearest residential receivers during the night time period are presented in the tables below.

We note Condition C7 of the Leichardt DCP doesn't allow trading for outdoor seating areas after 10pm however in our opinion provided:

- The "background+5dB(A) octave band criteria (of the Office of Liquor and Gaming AND
- The inaudibility of music requirement of DCP Condition C7 are met,
- It should be considered reasonable to permit trading of the outdoor space until 11pm (on the basis that the internal areas would be permitted to generate this noise level in any event).

An assessment of operational noise until 11pm is presented below.

**Table 5 – Predicted Noise Emissions to The First Floor Window at Residential Receiver 1 to 11pm
(10 Darling Street)**

10pm-11pm	31.5Hz	63Hz	125Hz	250Hz	500Hz	1kHz	2kHz	4kHz	8kHz	A-weighted level
Noise Emission Goal – dBL ₁₀	56	56	52	49	45	45	39	36	31	49
Predicted Noise Emission – dBL ₁₀	30	30	27	27	28	23	20	9	-4	29
Complies	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Table 6 – Predicted Noise Emissions to The Second Floor Window at Residential Receiver 2 to 11pm (1-3 Weston Street)

10pm-11pm	31.5Hz	63Hz	125Hz	250Hz	500Hz	1kHz	2kHz	4kHz	8kHz	A-weighted level
Noise Emission Goal – dBL ₁₀	56	56	52	49	45	45	39	36	31	49
Predicted Noise Emission – dBL ₁₀	38	38	36	38	42	38	33	28	21	43
Complies	Yes	Yes	Yes	Yes	No	Yes	No	Yes	Yes	Yes

Provided the recommendations in section 7 are adopted operational noise is predicted to be compliant to 11pm and live and or amplified music will not audible after 10pm.

7 RECOMMENDATIONS

We recommend the following management controls in order to achieve compliance with the noise emission criteria outlined in section 5.1:

- Use of indoor and outdoor area to cease at 11pm
- During the hours of operation (5pm-11pm):
 - A maximum of 24 patrons are permitted to use the ground floor outdoor area on the southern side of the building (see appendix 2).
 - The southern outdoor dining area table layout and the distance of each table from the retaining wall must match the drawing shown in Appendix 2. This will ensure the existing retaining wall to the western side of the dining area can provide noise screening between the outdoor dining area and the residents to the west.
 - The outdoor dining area is only for seated diners only.
- After 6pm, all windows and doors on the northern, western and southern façades of the building are to remain closed when the café is in use. The door on the southern façade can be open for egress to the outdoor dining area.
- The doors and windows on the eastern façades of the building are allowed to be open.
- No music is to be played in the outdoor areas of the café.
- Only background music is allowed within the internal areas of the site, with a maximum sound pressure level of 65dB(A)_{Leq}.
- Bottle and waste disposal not to be done in external areas after 10pm.
- Management to install signs reminding patrons to respect neighbouring residents and leave the site quietly at night time.

8 CONCLUSION

Noise emissions associated with the licensed restaurant Fenwick at 2-8 Weston Street, Balmain have been assessed for proposed extended trading hours from 5pm-11pm with reference to the acoustic requirements of the NSW Office of Liquor, Gaming and Racing and the Leichhardt Municipal Council DCP

With the recommendations presented in section 7 of this report adopted, noise emissions from the operation of the site for the extended hours from 5pm-11pm will comply with acoustic criteria set out in section 5, ensuring no unacceptable noise impact on the amenity of the nearest surrounding properties.

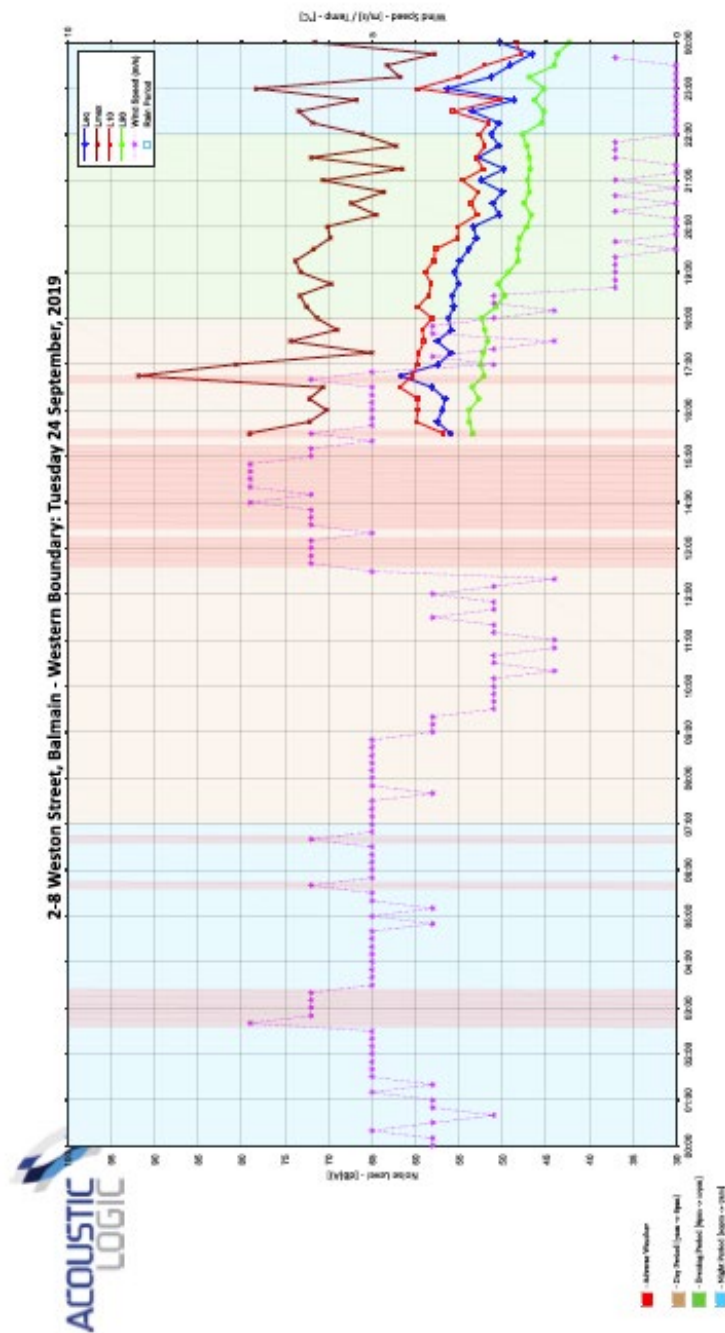
We trust this information is satisfactory. Please contact us should you have any further queries.

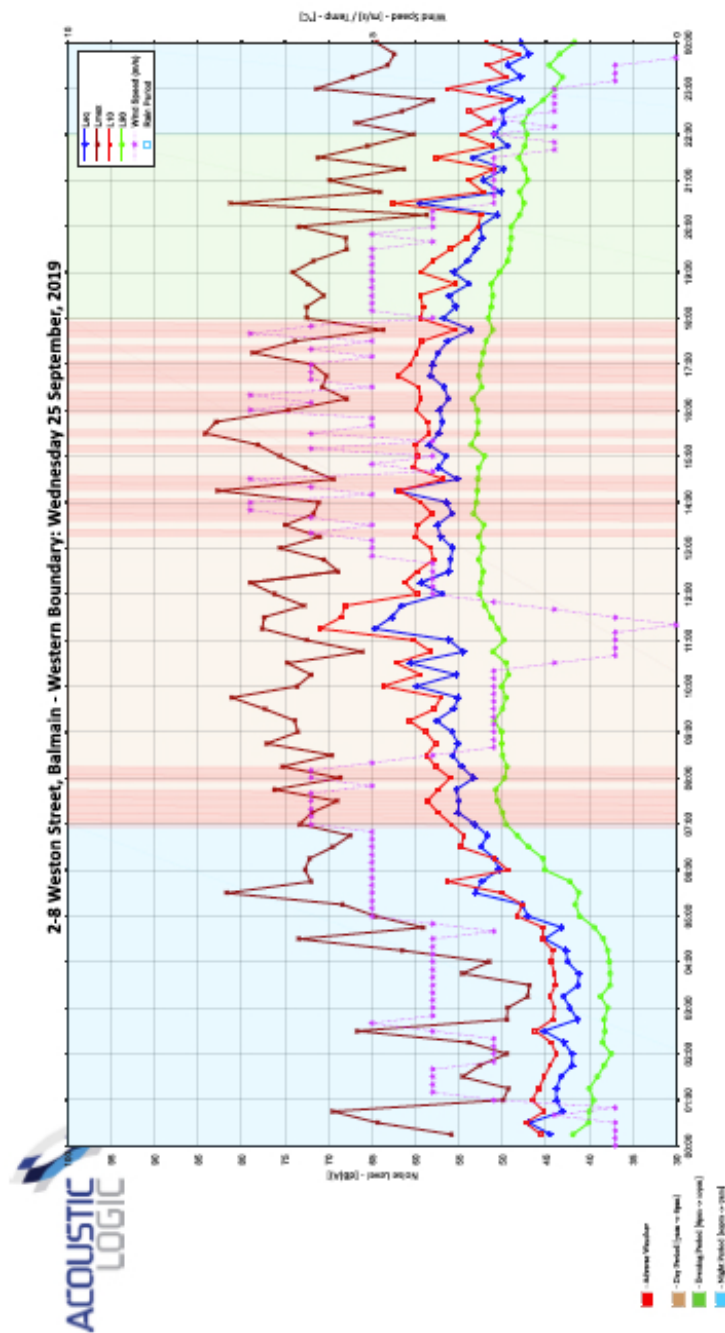
Yours faithfully,

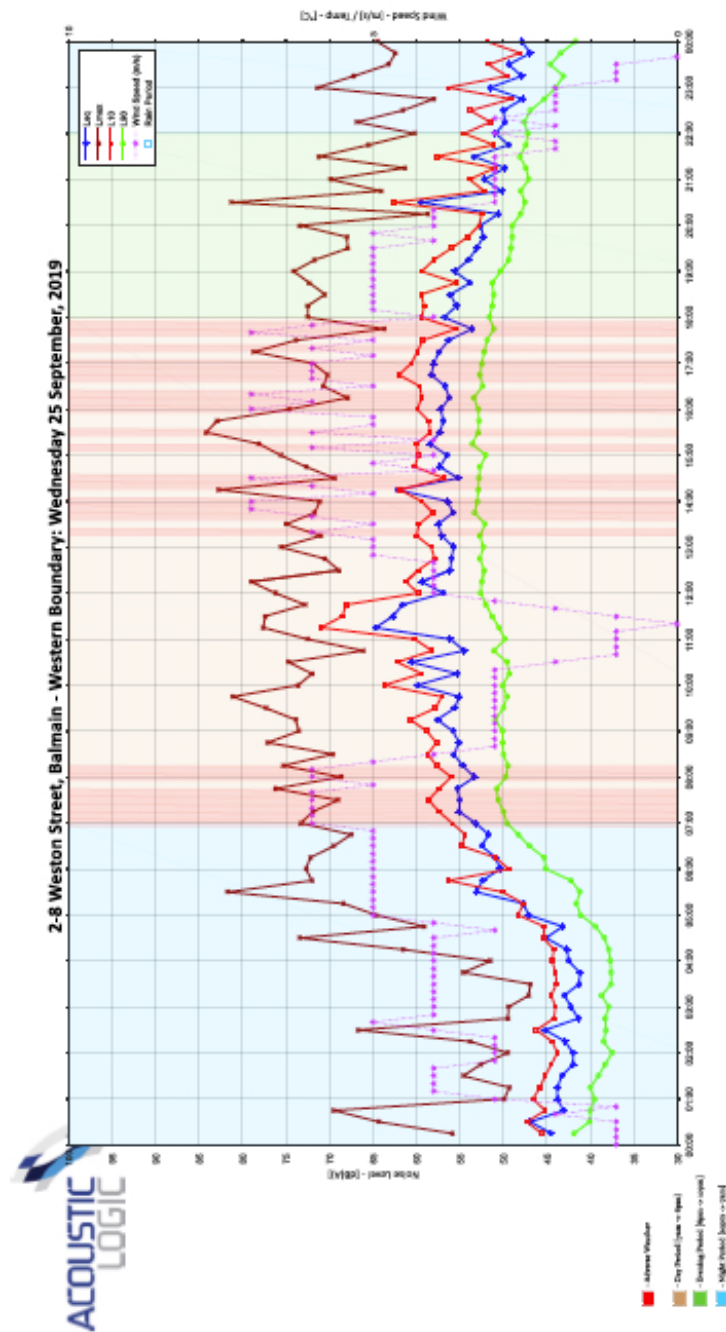


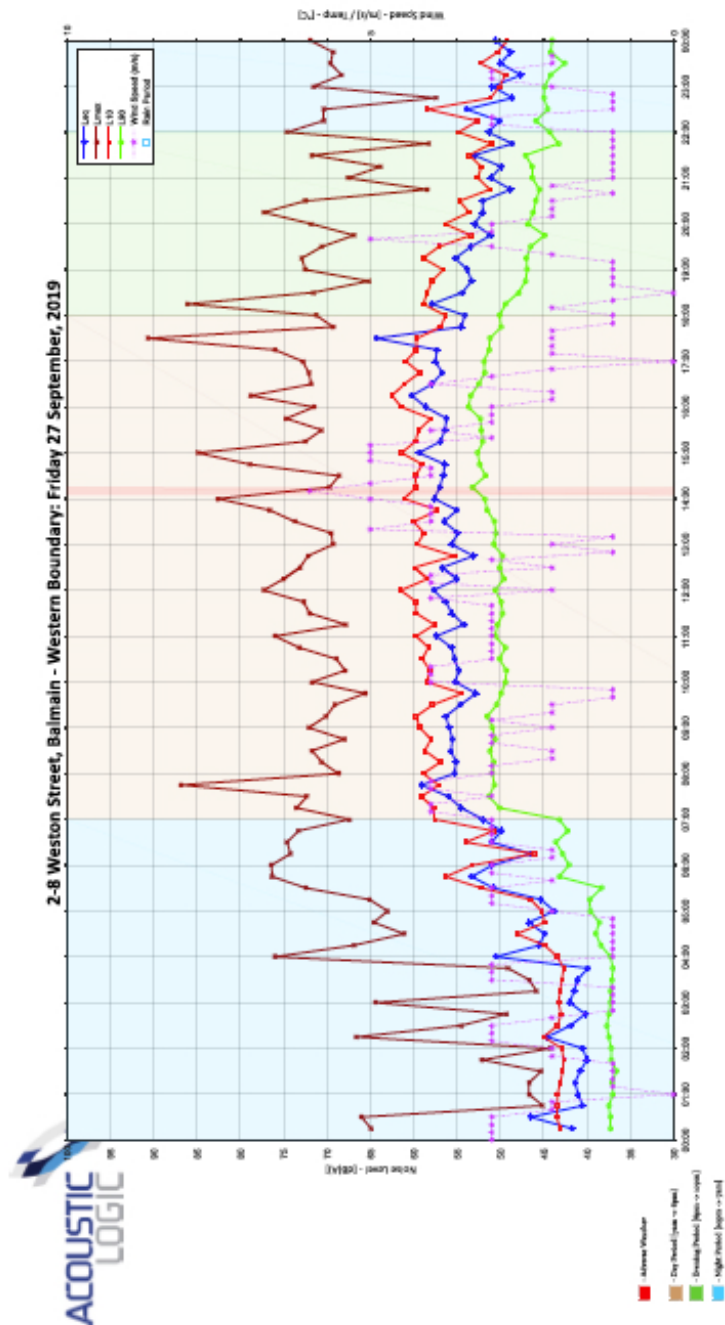
Acoustic Logic Consultancy Pty Ltd
Alex Salazar

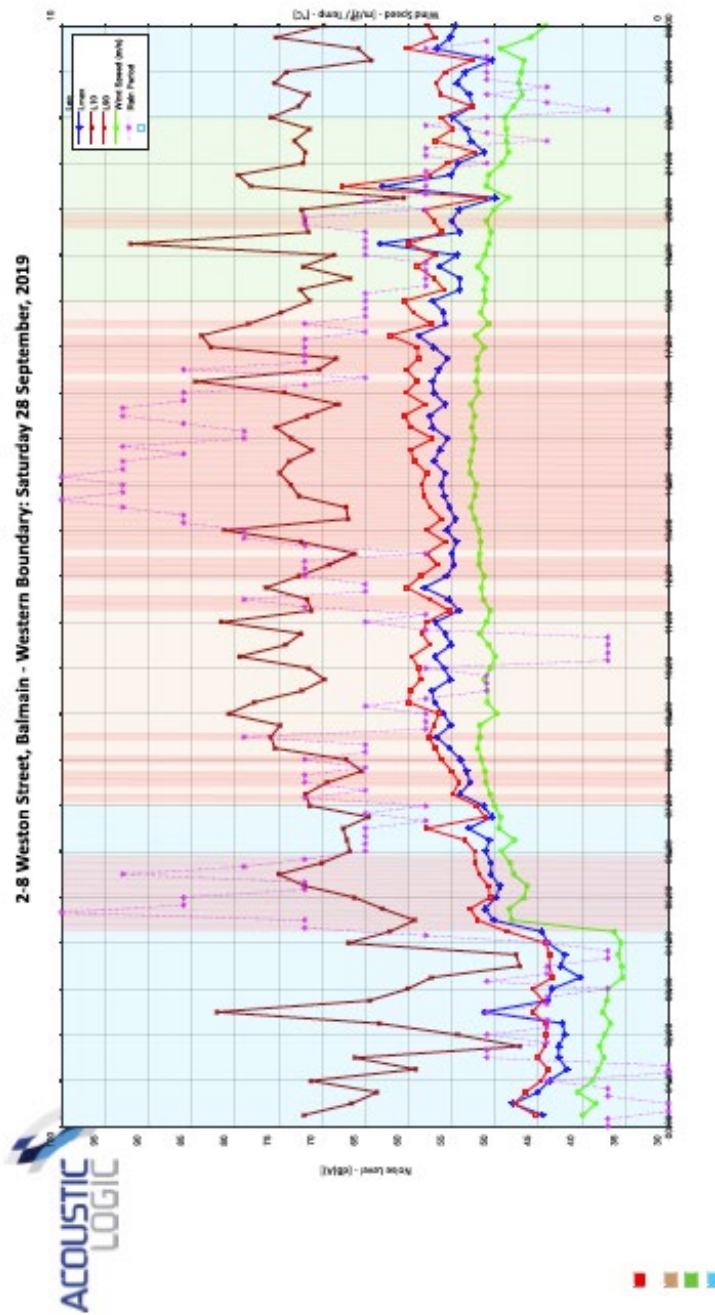
APPENDIX 1 – NOISE MONITOR MEASUREMENTS

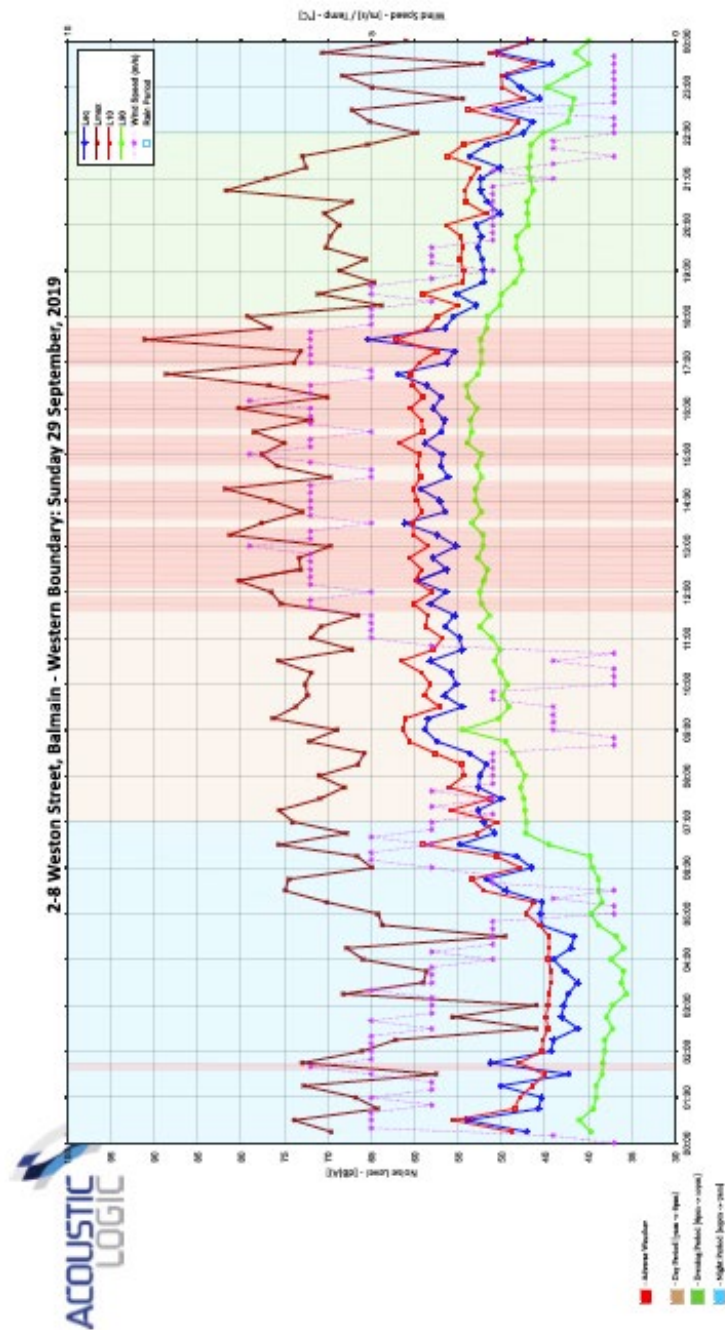


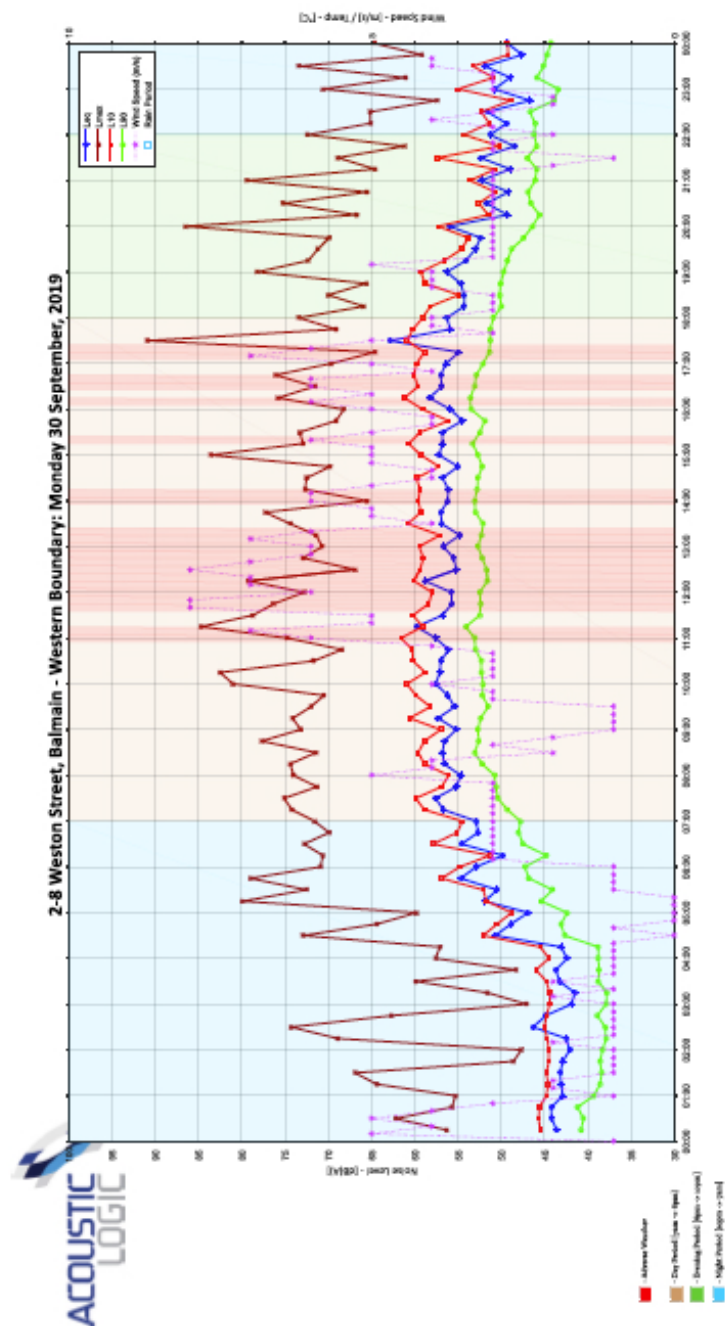


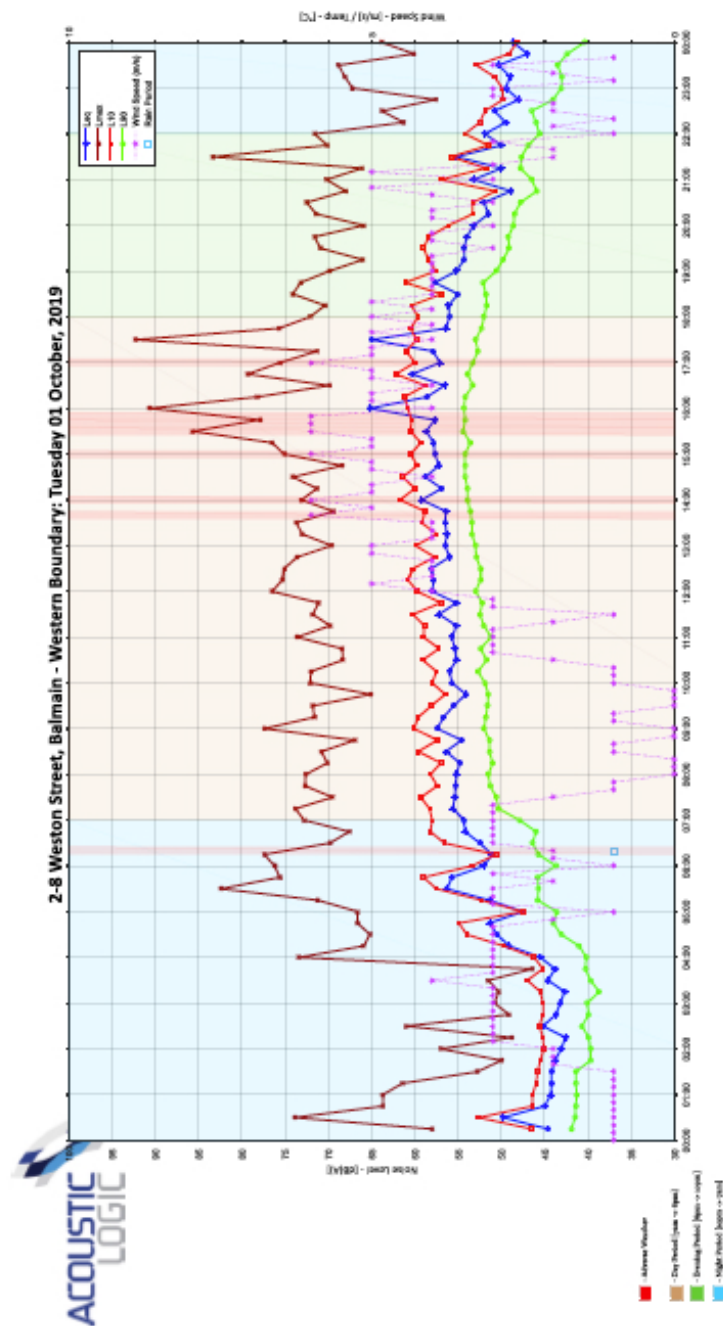


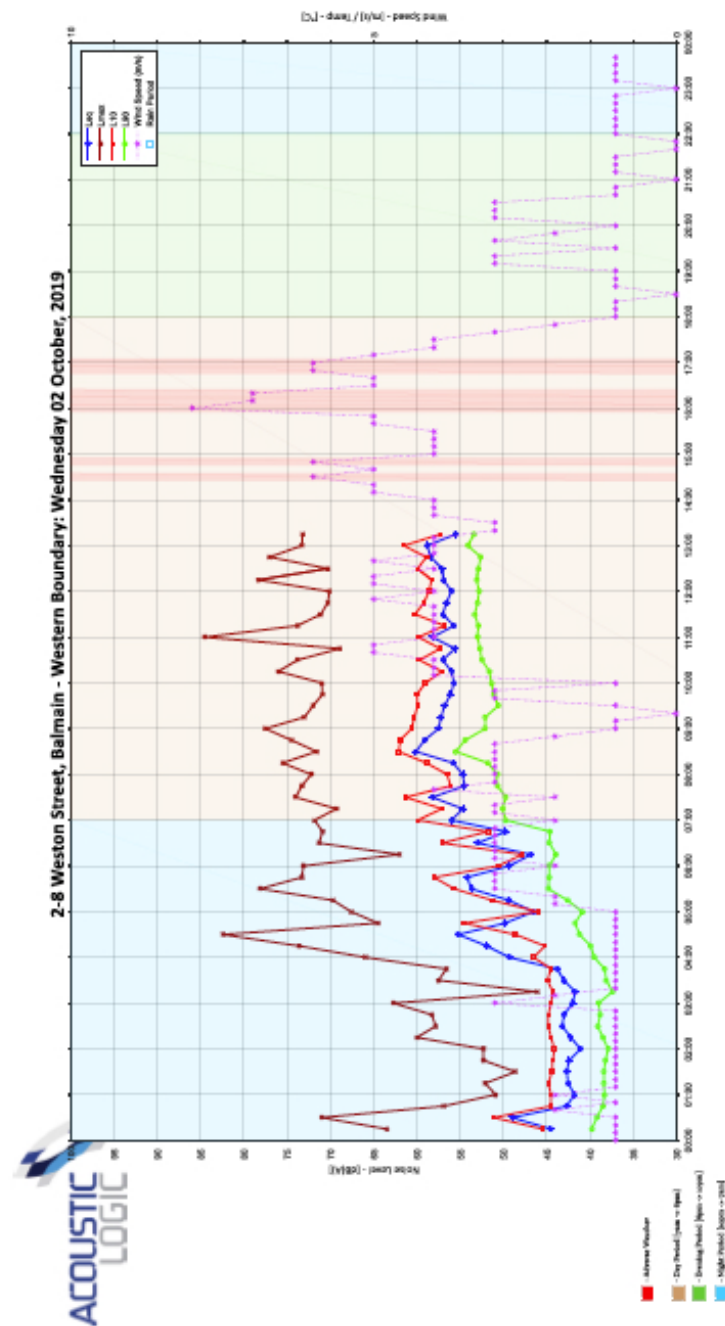












APPENDIX 2 – OUTDOOR SEATING AREA RESTRICTIONS
AND RECOMMENDED TREATMENTS

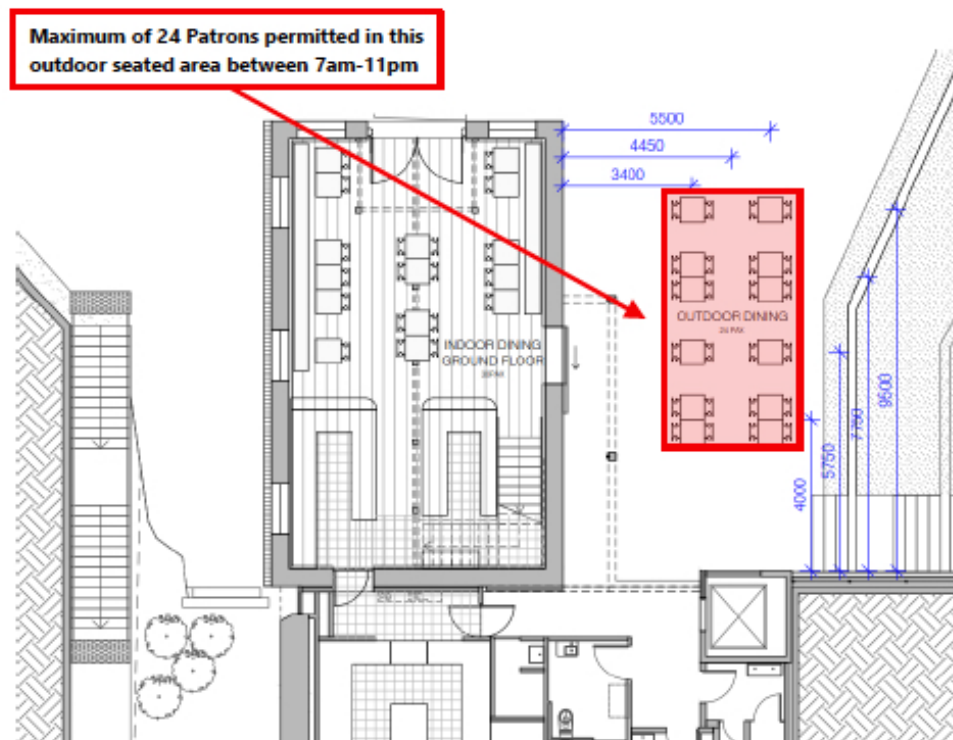


Figure 1 – Restrictions for Ground Floor Outdoor Seating Area

Attachment C – Traffic and Parking assessment



TRAFFIC AND PARKING IMPACT ASSESSMENT OF MODIFICATION TO APPROVED CAFE AT THE FENWICK AT 2 - 8 WESTON STREET, BALMAIN



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Transport Planning, Traffic Impact Assessments, Road Safety Audits, Expert Witness

190579.01FA - 14 January 2020

Document Set ID: 33708221
Version: 1, Version Date: 03/06/2020



Development Type: Modification to Approved Cafe
Site Address: The Fenwick at 2 - 8 Weston Street, Balmain
Prepared for: The Fenwick Balmain Pty Ltd
Document reference: 190579.01FA

Status	Issue	Prepared By	Checked By	Date
Draft	A	ME	TS	10 October 2019
Final	A	ME	TS	14 January 2020

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1 INTRODUCTION

McLaren Traffic Engineering was commissioned by The Fenwick Balmain Pty Ltd to provide a Traffic and Parking Impact Assessment of the proposed modification to the approved cafe at The Fenwick at 2 - 8 Weston Street, Balmain.

1.1 Description and Scale of Development

The proposed s4.55 modification application involves an extension of the existing hours of operation from 7:00 am – 5:00 pm to 7:00 am – 11:00 pm, seven days a week for the existing Fenwick restaurant development. There are no changes proposed to the existing building.

1.2 State Environmental Planning Policy (Infrastructure) 2007

The proposed development does not qualify as a traffic generating development with relevant size and/or capacity under *Clause 104* of the *SEPP (Infrastructure) 2007*. Accordingly, formal referral to the Roads and Maritime Services (RMS) is unnecessary and the application can be assessed by Inner West Council officers accordingly.

1.3 Site Description

The subject site is located on the eastern side of Weston Street and is currently occupied by the Fenwick, an existing and approved restaurant development with no off-street parking. The building also fronts Darling Street, where a bus stop and associated turning bay and Balmain East Ferry Wharf are located. The subject site is currently zoned *RE1 – Public Recreation* under the *Leichhardt Local Environmental Plan 2013*, as adopted by the Inner West Council.

Surrounding the property is generally low to medium density residential dwellings to the west, with the East Balmain Neighbourhood Centre to the west on Darling Street and Sydney Harbour to the east. The Balmain East Ferry Wharf is located next to the subject site.

1.4 Previous Approvals

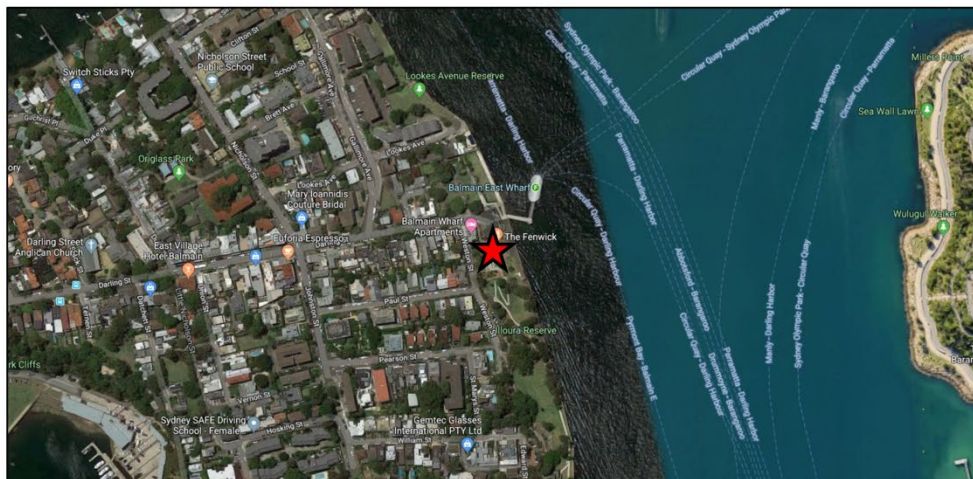
The subject café was approved in 2016 under DA D/2015/299, with that DA including the adaptive reuse of Fenwicks stone building as a licenced cafe with gallery space including associated accessibility improvements, public toilet facilities, new access path and reconfiguration of car parking in Illoura Reserve.

The approved DA is outlined in detail in **Section 2**.



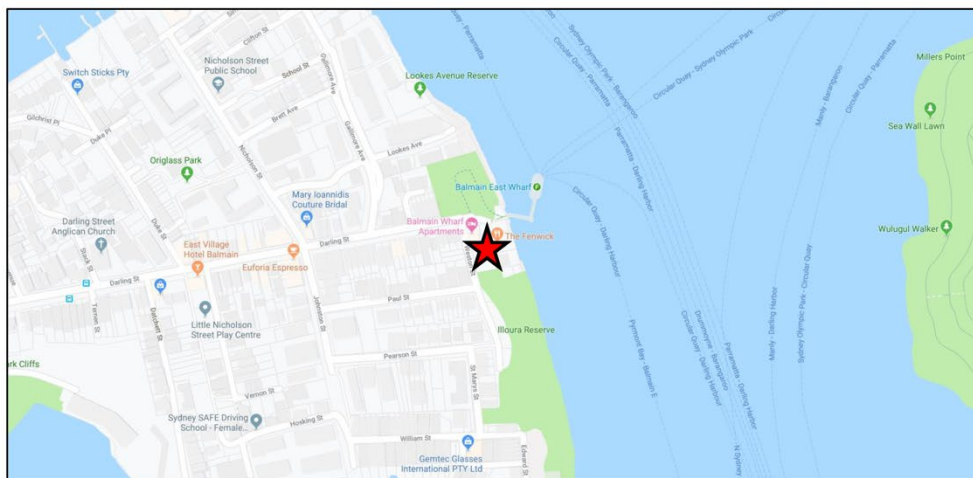
1.5 Site Context

The location of the site is shown on an aerial photo and a street map in **Figure 1** and **Figure 2** respectively.



Site Location

FIGURE 1: SITE CONTEXT – AERIAL PHOTO



Site Location

FIGURE 2: SITE CONTEXT – STREET MAP

Modification to Approved Cafe
The Fenwick at 2 - 8 Weston Street, Balmain
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2 PREVIOUS DEVELOPMENT APPLICATION

The subject site was approved on 23 August 2016 for use as a café/restaurant under DA D/2015/299. The determination approved the following:

- The adaptive reuse of Fenwicks stone building as a licenced cafe with gallery space;
 - Approved operating hours are from 7:00 am – 5:00 pm Monday to Sunday (including public holidays)
- Associated accessibility improvements;
- Public toilet facilities;
- A new access path;
- Reconfiguration of car parking in Illoura Reserve to provide for 6 car spaces including 1 disabled space and 1 car-share space, and 4 motorcycle spaces.

The approval was supported by a traffic and parking impact assessment by M^CLaren Traffic Engineering dated 20 April 2015 which included a detailed assessment of the prevailing parking conditions in the surrounds of the site.

2.1 2014 Parking Conditions

Parking surveys were undertaken on Friday 21st November – Sunday 23rd November 2014 inclusive and Tuesday 25th November 2014 at 1-hour intervals to provide an overview of the prevailing parking conditions in the surrounds of the site. The areas surveyed were the same as those surveyed in September 2019, as depicted in **Figure 3**. The results of the surveys are summarised in **Table 1**.

TABLE 1: RESULTS OF 2014 PARKING SURVEYS

Time	Cars Observed Parked			
	Tuesday	Friday	Saturday	Sunday
4:00pm	194	191	200	197
5:00pm	194	191	195	198
6:00pm	187	186	195	187
7:00pm	184	186	190	188
8:00pm	177	209	199	194
9:00pm	191	196	212	206
10:00pm	197	205	221	205
Peak Number of Cars Parked	197	209	221	206



3 EXISTING TRAFFIC AND PARKING CONDITIONS

3.1 Road Hierarchy

The road network servicing the site has characteristics as described in the following sub-sections.

3.1.1 Weston Street

- Unclassified LOCAL Road;
- Approximately 4-6m wide two-way carriageway and kerbside parking;
- 40km/h speed limit applies to the Peninsula Precinct;
- 'No Parking' permitted along the western side of the road between Darling Street and Paul Street;
- '2-P, 8 am – 6 pm' indented kerbside parking permitted along the site frontage on the eastern side of the road;
- '2-hour parking, 8 am – 8 pm' kerbside parking permitted along the western side of the road south of Paul Street;
- 'No Parking' permitted along the eastern side of the road south of Paul Street;
- Off-street car park adjacent to Illoura Reserve.

3.1.2 Darling Street

- Unclassified LOCAL Road;
- Approximately 9.5m wide two-way carriageway (one lane in each direction) and kerbside parking;
- 40km/h speed limit applies to the Peninsula Precinct;
- '2-P, 8 am-6 pm' kerbside parking permitted along both sides of the road.

3.1.3 Paul Street

- Unclassified LOCAL Road;
- Approximately 5m wide two-way carriageway and kerbside parking on the northern side of the road;
- 40km/h speed limit applies to the Peninsula Precinct;
- '2-hour parking, 8 am – 8 pm' kerbside parking permitted along the northern side of the road.

3.1.4 Existing Traffic Management

- Priority controlled intersection of Weston Street/Paul Street;
- Priority controlled intersection of Weston Street/Darling Street.



3.2 Existing Parking Environment

Parking surveys were undertaken on Thursday, Friday and Saturday the 19th, 20th and 21st of September 2019 at 15-minute intervals within 200m of the Fenwick restaurant development between the hours of 4:30 pm and 9:00 pm. These time periods are indicative of the peak period during the proposed hours of operation of the restaurant. The following areas were surveyed:

- Weston Street, from Darling Street to the end near Illoura Reserve
 - Including the off-street car park at Illoura Reserve;
- Darling Street, between Johnston Street and Weston Street;
- Paul Street, between Johnston Street and Weston Street;
- Pearson Street, between Johnston Street and St Marys Street;
- Johnston Street, between Darling Street and Pearson Street;
- St Marys Street, between Pearson Street and William Street;
- Gallimore Avenue, from Darling Street to Brett Avenue;
- Nicholson Street, from Darling Street to Brett Avenue;
- Lookes Avenue, from Nicholson Street to the end.

The results are summarised in **Table 2** below, with **Figure 3** depicting survey locations, and full results reproduced within **Annexure A** for reference.

**TABLE 2: EXISTING WEEKDAY PARKING SUPPLY & SPACE CAPACITY
(WITHIN 200M OF THE PROPOSED DEVELOPMENT)**

Time	Cars Observed Parked		
	Thursday	Friday	Saturday
16:30	189	184	227
17:00	190	188	221
17:30	188	191	216
18:00	181	191	215
18:30	184	193	210
19:00	181	193	210
19:30	183	196	212
20:00	181	199	211
20:30	188	203	213
21:00	188	200	211
Peak Number of Cars Parked	190	203	227



Site Location

Survey Areas

FIGURE 3: PARKING SURVEY – MARKUP

As shown in **Table 2**, the number of cars parked on the roads and in the off-street parking areas surrounding the site is generally similar to that observed in 2014. For the three survey periods, a peak of between 190 and 227 cars were observed, compared to 197 to 221 in 2014. There has therefore been no change in on-street parking behaviour or demand in the surrounds of the site since the approval of the original DA for the site.

3.3 Public Transport

The subject site has access to an existing bus stop (ID: 204133) located adjacent to the northern boundary of the subject site on Darling Street. The bus stop services existing bus route 442 (City QVB to Balmain East Wharf) provided by Transit Systems.

The Balmain East Wharf is located adjacent to the northern boundary of the subject site, servicing the CCLC route (Private ferry service between City and Lane Cove), F3 route (Parramatta River, between Rydalmere Wharf to Circular Quay) and F4 route (Cross Harbour between Watsons Bay Wharf and Pyrmont Bay Wharf).



The location of the site subject to the surrounding public transport network is shown in Figure 4 below.

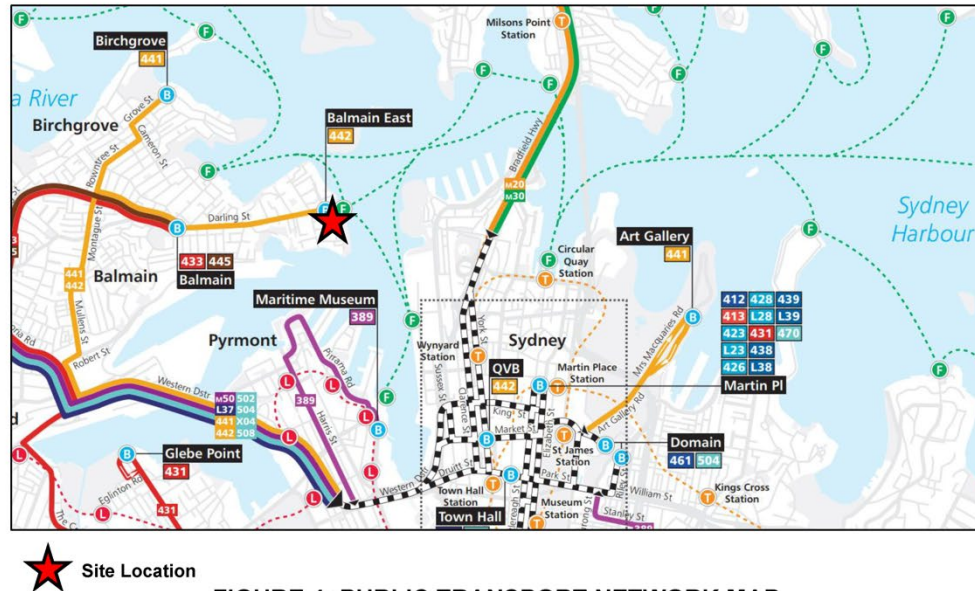


FIGURE 4: PUBLIC TRANSPORT NETWORK MAP

3.4 Future Road and Infrastructure Upgrades

From Inner West Council Development Application tracker and website, it appears that there are no future planned road or public transport changes that will affect traffic conditions within the immediate vicinity of the subject site.



4 **PARKING ASSESSMENT**

4.1 **Council DCP Parking Requirements**

Reference is made to the *Leichhardt Development Control Plan 2013* as adopted by the Inner West Council which designates the following parking rates applicable to the subject development:

Part C: Place - Section 1 – General Provisions

C1.11.1 General Vehicle Parking Rates

Small Bars, Restaurants or cafes

Minimum 1 space per 80 sqm

Maximum 1 space per 50 sqm

Table 3 presents the parking requirements of the existing development according to the above car parking rates.

TABLE 3: DCP PARKING RATES

Land Use	Scale	Rate	Parking Required
Restaurant / Café	197.75m ²	Min: 1 per 80m ²	3 (2.47)
		Max: 1 per 50m ²	4 (3.96)

Therefore, as shown, the required parking provision is in the order of **3 - 4** car parking spaces. The existing development does not and cannot provide any off-street car parking and in lieu of this provision has previously contributed to the public parking, toilet facilities and access facilities in close proximity to the site.

As detailed previously in **Section 3.2**, there has been no change in parking demand or behaviour in the surrounds of the site since the approval of the site to operate between the hours of 7 AM and 5 PM. It is therefore unlikely that the extension of the operating hours of the site to 11 PM would have a noticeable effect on the parking demand in the surrounding streets.

It should be noted that the previous construction of public facilities in the surrounds of the site provide a public benefit 24-hours per day, where the proposed operation of the site will be 16-hours per day.

4.1.1 **Recommended Management Initiatives**

It is recommended that alternative transport to and from the site be promoted through the implementation of initiatives and incentives, which could include:

- Notification of public transport options as part of any booking confirmation and emphasis that parking is in short supply surrounding the site;



- Discounts or other benefits for patrons that travel to and from the site by public transport, taxi or ride-sharing service;
- Establishment of a carpooling group for staff.

4.2 Disabled Parking

According to the *Building Code of Australia*, the proposed development uses are classified as the following building classes:

Class 6

A shop or other building for the sale of goods by retail or the supply of services direct to the public.

According to the *Building Code of Australia*, the Fenwick restaurant development is a Class 6 building and as such requires that the site provides “1 space for every 50 car parking spaces or part thereof” or a provision of one (1) disabled car parking space. Although no onsite car parking is provided, one (1) disabled car parking space is located within the Illoura Reserve carpark and can be accessed and utilised by visitors requiring this facility as per existing operations.

4.3 Bicycle and Motorcycle Parking Requirements

Reference is made to the Inner West Council's DCP which outlines the following requirements for bicycle parking spaces.

Table C6: Bicycle parking provision rates

Restaurants

<i>Staff</i>	<i>1 space per 10 staff</i>
<i>Visitors</i>	<i>2 spaces plus 1 space per 100 sqm over 100sqm GFA</i>

Applying this rate to the existing development would require no more than three (3) bicycle spaces, assuming a worst-case of 10 staff members for the purpose of requiring one (1) bicycle space.

As no change to the scale of the subject development is proposed, no change to existing bicycle parking provisions are required. It is further noted that the nearby on-street bicycle racks have adequate capacity to meet this demand, as assessed in MTE's previous Traffic and Parking report (ref: 2014/316, Final Issue: 2B).

Council's DCP also states that “motorbike parking is to be provided at a rate of one (1) space for developments that require between 1 to 10 vehicle spaces and 5% of the required vehicle parking thereafter”. Applying this rate requires the development to provide one (1) motorcycle parking space.



As no change to the scale of the subject development is proposed, no change to existing motorcycle parking provisions are required. In any case, the existing public carpark near Illoura Reserve provides four (4) formalised motorcycle parking spaces.

4.4 Servicing & Loading

No change to the existing servicing and loading operations are expected as a result of the proposed change in hours of operations of the Fenwick restaurant development.



5 TRAFFIC ASSESSMENT

The impact of the expected traffic generation levels associated with the subject proposal is discussed in the following sub-sections.

5.1 Traffic Generation Rates

Traffic generation rates for the relevant land uses are provided in the *Roads and Maritime Services (RMS) Guide to Traffic Generating Developments (2002)* and recent supplements and are as follows:

3.7.2 Restaurants

Rates.

Evening peak hour vehicle trips = 5 per 100 m² gross floor area

Applying these site-specific traffic generation rates to the subject site results in an estimated traffic generation as summarised in **Table 4**.

TABLE 4: RMS ESTIMATED PEAK HOUR TRAFFIC GENERATION

Land Use	Scale	Rate	Trips
Restaurant	197.75m ²	5 per 100m ²	10

As shown above, the traffic generation associated with the development is in the order of **10** vehicle trips during the evening peak period. In any case, this is deemed relatively low at one (1) vehicle every six (6) minutes and will not have a noticeable impact on the surrounding.

Additionally, the above RMS rate does not consider the sites proximity to public transport, particularly in the case of the subject site's close proximity to the Balmain East Ferry Wharf and associated bus route that service this wharf and the area.



6 CONCLUSION

The traffic and parking impacts of the subject modification to approved café at 2 - 8 Weston Street, Balmain have been assessed.

Parking surveys demonstrate that there has been no significant change in car parking demand or behaviour since the original approval of the site to operate between 7 AM and 5 PM. It is therefore unlikely that the extension of the operating hours of the site to 11 PM would have a noticeable effect on the parking demand in the surrounding streets. Considering the site's inability to provide car parking and the previous contribution to public infrastructure in the surrounds of the site, the car parking impacts of the site are acceptable.

It is recommended that the future operation of the site include initiatives to reduce the incidence of private car travel, with some recommendations provided in **Section 4.1.1**.

The traffic generation associated with the restaurant is estimated to be approximately **10** vehicles trips during the evening peak hour. This is relatively low, at approximately one (1) vehicle every six (6) minutes and will not noticeably affect the existing road network.

In view of the foregoing, the subject modification is fully supportable in terms of its traffic and parking impacts.



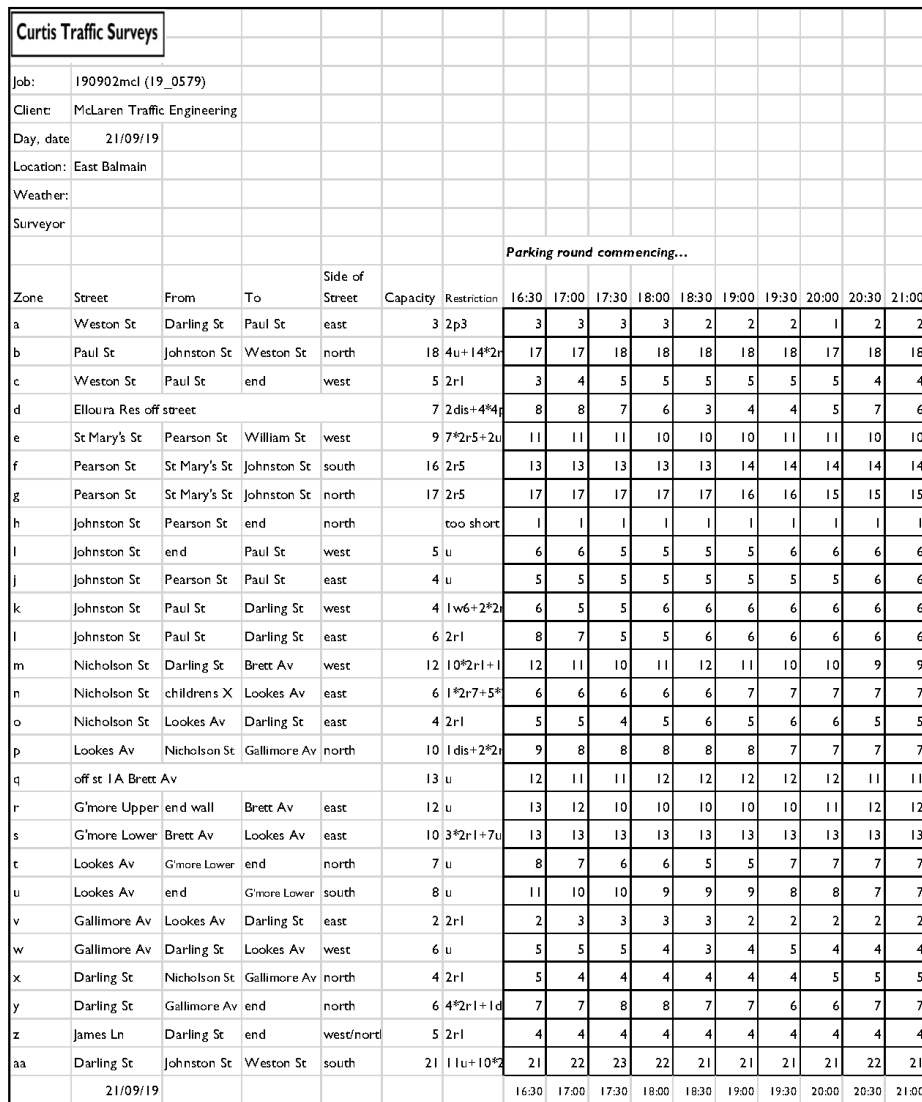
**ANNEXURE A: TRAFFIC SURVEY DATA
(3 SHEETS)**



Curtis Traffic Surveys																								
Job:	190902mcl (19_0579)																							
Client:	McLaren Traffic Engineering																							
Day, date:	19/09/19																							
Location:	East Belmain																							
Weather:	Fine																							
Surveyor:	MC																							
							Parking round commencing...																	
Zone	Street	From	To	Side of Street	Capacity	Restriction	16:30	17:00	17:30	18:00	18:30	19:00	19:30	20:00	20:30	21:00								
a	Weston St	Darling St	Paul St	east	3	2p3	2	2	3	2	2	2	1	1	2	2								
b	Paul St	Johnston St	Weston St	north	18	4u+14*2r	13	13	14	14	14	14	14	13	14	14								
c	Weston St	Paul St	end	west	5	2r1	3	3	3	3	3	3	3	4	4	4								
d	Elloura Res off street					7 2dis+4*4p	3	3	3	2	2	1	1	0	0	0								
e	St Mary's St	Pearson St	William St	west	9	7*2r5+2u	6	6	6	6	8	8	9	9	8	8								
f	Pearson St	St Mary's St	Johnston St	south	16	2r5	9	9	10	11	14	15	15	15	15	15								
g	Pearson St	St Mary's St	Johnston St	north	17	2r5	14	14	14	15	16	16	16	16	16	16								
h	Johnston St	Pearson St	end	north		too short	1	1	1	1	1	1	1	1	1	1								
i	Johnston St	end	Paul St	west	5	u	6	6	6	6	6	7	7	6	6	6								
j	Johnston St	Pearson St	Paul St	east	4	u	5	5	5	5	5	4	4	4	4	4								
k	Johnston St	Paul St	Darling St	west	4	1w6+2*2r	4	4	5	5	5	5	6	6	6	6								
l	Johnston St	Paul St	Darling St	east	6	2r1	7	7	7	6	6	7	6	7	7	7								
m	Nicholson St	Darling St	Brett Av	west	12	10*2r1+1	12	13	13	13	14	15	14	14	14	14								
n	Nicholson St	childrens X	Lookes Av	east	6	1*2r7+5*	5	5	5	6	6	6	7	7	7	7								
o	Nicholson St	Lookes Av	Darling St	east	4	2r1	5	5	5	5	4	4	5	5	6	6								
p	Lookes Av	Nicholson St	Gallimore Av	north	10	1dis+2*2r	8	8	7	7	7	7	7	7	7	7								
q	off st 1A Brett Av					13 u	13	13	10	8	7	7	6	6	6	6								
r	G'more Upper	end wall	Brett Av	east	12	u	9	9	8	6	5	4	7	7	7	7								
s	G'more Lower	Brett Av	Lookes Av	east	10	3*2r1+7u	11	11	11	10	9	8	7	8	10	10								
t	Lookes Av	G'more Lower	end	north	7	u	8	7	6	5	4	4	5	6	6	6								
u	Lookes Av	end	G'more Lower	south	8	u	9	9	8	7	6	5	5	6	7	7								
v	Gallimore Av	Lookes Av	Darling St	east	2	2r1	1	2	2	1	1	1	2	1	1	1								
w	Gallimore Av	Darling St	Lookes Av	west	6	u	6	6	6	6	6	6	6	6	6	6								
x	Darling St	Nicholson St	Gallimore Av	north	4	2r1	5	5	5	5	5	5	5	4	4	4								
y	Darling St	Gallimore Av	end	north	6	4*2r1+1d	5	6	6	6	6	6	6	6	6	6								
z	James Ln	Darling St	end	west/north	5	2r1	2	2	2	2	3	3	3	3	3	3								
aa	Darling St	Johnston St	Weston St	south	21	11u+10*2	19	18	19	20	22	20	18	16	18	18								
	19/09/19						16:30	17:00	17:30	18:00	18:30	19:00	19:30	20:00	20:30	21:00								



Curtis Traffic Surveys																					
Job:	190902mcl (19_0579)																				
Client:	McLaren Traffic Engineering																				
Day, date:	20/09/19																				
Location:	East Balmain																				
Weather:	Fine																				
Surveyor:	MC																				
							Parking round commencing...														
Zone	Street	From	To	Side of Street	Capacity	Restriction	16:30	17:00	17:30	18:00	18:30	19:00	19:30	20:00	20:30	21:00					
a	Weston St	Darling St	Paul St	east	3	2p3	1	2	3	3	3	3	2	3	3	2					
b	Paul St	Johnston St	Weston St	north	18	4u+14*2r	18	18	18	18	18	18	18	18	18	18	18				
c	Weston St	Paul St	end	west	5	2r1	2	3	4	4	3	3	3	4	4	4					
d	Elloura Res off street				7	2dis+4*4p	3	3	2	2	2	2	3	3	4	4					
e	St Mary's St	Pearson St	William St	west	9	7*2r5+2u	6	6	7	7	7	8	8	8	8	8					
f	Pearson St	St Mary's St	Johnston St	south	16	2r5	9	10	12	12	13	12	11	10	10	10					
g	Pearson St	St Mary's St	Johnston St	north	17	2r5	14	14	15	15	15	14	13	13	13	13					
h	Johnston St	Pearson St	end	north	too short		1	1	1	1	1	1	1	1	1	1					
i	Johnston St	end	Paul St	west	5	u	6	6	6	6	6	6	6	6	6	6					
j	Johnston St	Pearson St	Paul St	east	4	u	6	6	6	6	6	6	6	6	6	6					
k	Johnston St	Paul St	Darling St	west	4	1w6+2*2r	7	6	5	4	4	5	5	6	6	6					
l	Johnston St	Paul St	Darling St	east	6	2r1	5	6	6	6	6	6	7	7	7	7					
m	Nicholson St	Darling St	Brett Av	west	12	10*2r1+1	10	11	11	11	12	12	12	12	12	12					
n	Nicholson St	childrens X	Lookes Av	east	6	1*2r7+5*	7	7	6	6	7	7	7	7	7	7					
o	Nicholson St	Lookes Av	Darling St	east	4	2r1	4	5	5	5	6	5	5	6	6	6					
p	Lookes Av	Nicholson St	Gallimore Av	north	10	1dis+2*2r	10	10	7	7	6	6	7	7	7	7					
q	off st 1A Brett Av				13	u	10	9	7	7	6	7	8	8	9	6					
r	G'more Upper	end wall	Brett Av	east	12	u	10	8	9	9	10	11	11	11	11	11					
s	G'more Lower	Brett Av	Lookes Av	east	10	3*2r1+7u	8	9	10	11	11	10	10	10	11	11					
t	Lookes Av	G'more Lower	end	north	7	u	7	8	8	8	7	7	7	7	8	8					
u	Lookes Av	end	G'more Lower	south	8	u	8	8	9	8	8	7	7	7	7	7					
v	Gallimore Av	Lookes Av	Darling St	east	2	2r1	1	2	2	2	2	2	2	2	2	2					
w	Gallimore Av	Darling St	Lookes Av	west	6	u	3	3	3	4	5	5	5	6	6	6					
x	Darling St	Nicholson St	Gallimore Av	north	4	2r1	4	4	5	5	5	5	5	5	5	5					
y	Darling St	Gallimore Av	end	north	6	4*2r1+1d	5	5	6	6	5	6	6	6	6	6					
z	James Ln	Darling St	end	west/north	5	2r1	3	3	3	3	3	3	3	3	3	3					
aa	Darling St	Johnston St	Weston St	south	21	11u+10*2	19	18	18	18	19	19	21	20	20	21					
	20/09/19						16:30	17:00	17:30	18:00	18:30	19:00	19:30	20:00	20:30	21:00					



Attachment D – Plan of Management

SJB Planning

2-8 Weston Street, Balmain East

Plan of Management

December 2019

Document Set ID: 33708222
Version: 1, Version Date: 03/06/2020

Contact Details:

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SJB Planning (NSW) Pty Ltd
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Document Set ID: 33708222
Version: 1, Version Date: 03/06/2020

1.0 Introduction and Objectives of This Plan

1.1 Overview

This Plan of Management (POM) is for the operations of the food and drink premises at 2-8 Weston Street, East Balmain known as 'The Fenwick'.

The content of the Fenwick POM is informed by the Conditions of Consent for D/2015/299 issued by Inner West Council on 30 August 2016. D/2015/299 granted consent for the adaptive reuse of the Fenwick Building and its use as a licensed café with gallery space.

In the event of an inconsistency between the conditions of consent and this POM, the conditions of consent prevail. All managers and staff of the Fenwick are to familiarise themselves with the requirement of this POM.

1.2 Objectives of the Plan

The objectives of the plan are:

- To enable compliance with the relevant conditions of approval for the The Fenwick;
- Outline the relevant conditions of consent including patron numbers, staff numbers, waste disposal and waste transfer for retail premises;
- Minimise the potential impact of operations of the site on nearby residents;
- Minimise and manage antisocial behaviour;
- Manage and respond to resident complaints;
- Ensure responsible service of alcohol; and
- Outline patron management and security measures.

A copy of the POM will be kept in a readily accessible place on-site, and will be made available to all persons involved in the operation and management of the venue. It will be made available for inspection by the Police, inspectors of Liquor and Gaming New South Wales (L&GNSW) or Council upon request.

The venue shall be under the supervision of a suitably qualified Licensee or approved managers, who will be in attendance during the hours of operation to ensure that the venue is managed in accordance with this POM and its objectives. The primary focus of the venue is as a food and drink premises, with the service of alcohol accompanying meals.

1.3 Annual Review

This Plan of Management is to be reviewed annually by the venue management and owners

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2.0 Operation of the Premises

2.1 Hours of Operation

The hours of operation of the restaurant are as follows:

- 7:00am to 11:00pm, Monday to Sunday.

The outdoor dining area of the venue will also shut at 11:00pm.

The actual trading hours of the venue may vary from time to time such that it may close prior to 11:00pm, however any trading will always be between the hours detailed above.

2.2 Patron Capacity

The maximum total occupancy for patrons is 80 persons / seats. This is inclusive of the outdoor seating area.

The maximum occupancy of the outdoor area is 24 persons / seats.

2.3 Set-up and Clean-up

Set-up and clean-up of the retail premises are restricted to one (1) hour before and one (1) hour after opening and closing times. All doors and windows must remain closed during set-up and cleaning where possible.

Set-up and clean-up operations of the outdoor seating area is to occur during operating hours.

2.4 Closing Procedures

The following measures are to be incorporated for the closure of the food and drink premises;

- 30 minutes prior to closure – Service to cease;
- 15 minutes prior to closure – Patrons reminded that venue will be closing shortly;
- Closure time – Lights put on (if dimmed) and patrons asked to quietly vacate the premises;

In addition, signs are to be displayed at the entrance of the venue reminding patrons to minimise noise when departing the premises.

Patrons are not to remove glass, opened cans, bottles or alcohol from the premises.

Note: Similar procedures should be enacted for the closure of the outdoor dining area prior to the closure of the remainder of the venue.

2.5 Deliveries

Deliveries to the Fenwick are only permitted between 7:00am and 6:00pm daily, restricted to outside non-peak hours in this period.

Delivery vehicles are limited to a maximum B99 (large cars and utility vans).

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2.6 Waste Management

The following waste management procedures apply:

- The pickup of commercial waste and recyclables from the site is only permitted between 8:00am and 9:00pm daily; and
- Waste bins are only to be moved kerbside on the same day as waste collections. Empty waste bins are not to remain at the kerbside.

3.0 Amenity of Neighbourhood

3.1 Overview

At all times staff and the Licensee/Approved Manager of the venue shall consider the amenity of the neighbours and take all reasonable measures to eliminate the potential for adverse impact on surrounding areas.

The Licensee/Approved Manager shall take all reasonable measures to ensure that the behaviour of staff and patrons upon entering and leaving the venue does not adversely affect the amenity of the neighbourhood. The behaviour of contractors servicing the venue is also to be monitored by the manager on duty.

The email of the Licensee/Approved Manager of the venue will be distributed to neighbours in the immediate vicinity in order to let them know that any problems or issues that arise will be dealt with directly by the Licensee/Approved Manager, and that the Licensee should be contacted in the first instance if a concern arises.

3.2 Noise Emission Controls

The following noise emission controls will be imposed for the venue:

- Use of the indoor area is to cease at 11:00pm;
- Use of the outdoor area is to cease at 11:00pm;
- The outdoor dining area is for seated diners only;
- After 6:00pm, all windows and doors on the northern, western and southern facades of the building are to remain closed when the venue is in use. The door on the southern side can be open for egress to the outdoor dining area only until 11:00pm;
- No music is to be played on the outdoor areas of the venue;
- Only background music is allowed within the internal areas of the site, with a maximum sound pressure level of 65dB(A)Leq;
- Disposal of bottles/waste should be undertaken prior to 10:00pm; and
- Signs reminding patrons to leave the site quietly at night time will be installed at exit points.

4.0 Behaviour Of Patrons

4.1 Licensee/Approved Manager and Staff Expectations

The Licensee/Approved Manager will take all reasonable steps to manage the behaviour of patrons in the venue and when entering and leaving the venue. Staff shall encourage patrons to leave the vicinity of the venue promptly and quietly to minimise possible noise impacts on the local community.

The Licensee/Approved Manager and staff shall take all reasonable steps to ensure that persons do not loiter in the vicinity of the venue if they have been refused admittance or after leaving the venue. If patrons refuse to leave the vicinity the police will be contacted for assistance.

Staff are to encourage patrons to drink responsibly. Patrons will be required to leave the venue if they become intoxicated, violent or aggressive. If patrons refuse to leave police will be contacted for assistance.

Groups of patrons will be managed in the same manner as individuals due to the small nature of the restaurant. If the group or a member of the group becomes intoxicated, violent or aggressive they will be asked to leave. If they refuse the police will be contacted.

The majority of the venue's patrons especially at evening sittings are expected to be prior bookings. Walk-ins will be managed on the availability of seating. Should patrons arrive without a booking and no tables are available, staff will take the patrons phone number and contact them once a table becomes available. Patrons will be expected to leave the vicinity of the venue whilst waiting for a table to become available.

4.2 Venue Requirements

Low alcohol beer and non-alcoholic beverages will be available at all times. Drinking water will be available at all times without charge during opening hours.

4.3 House Policy

In the interest of patron and staff safety, the venue will adopt practices to ensure the responsible service of alcohol. The following measures are to ensure the enjoyment of the venue for staff and patrons and to minimise impact on surrounding residents.

It is the venue's policy to:

- Prevent underage drinking by requiring proof of age be provided by any person requested to do so, particularly any person who appears to be under the age of 25 years;
- Prevent intoxication by recognising the signs of intoxication and refusing service to patrons who reach this point. Any person who is already intoxicated when attempting to enter the venue will be refused entry;
- Non-alcoholic beverages will be available at all times the venue is open for trade within licenced hours. Drinking water will be available at all times without charge during opening hours;
- Harm minimisation and the Responsible Service of Alcohol (RSA);
- The prevention of intoxication on the premises;
- Prevent disruptive and/or antisocial behaviour of patrons within and when leaving the venue;

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- Ensure the noise from the operation of the venue does not unduly affect any residence or business within the vicinity of the venue; and
- Ensure the operation does not result in an increase in litter in the vicinity of the venue.

4.4 Responsible Service of Alcohol (RSA)

4.4.1 Licensee/Approved Manager's Responsibilities and Requirements

The restaurant Licensee/Approved Manager (the Licensee) will ensure that at all times alcohol is served responsibly and in accordance with the *Liquor Act 2007* ('the Act'), the Liquor Regulation 2008 ('the Regulation') and this Plan.

The Licensee/Approved Manager will ensure that all staff involved in the sale, service and supply of liquor have completed an approved RSA course.

The Licensee/Approved Manager will ensure that copies of Competency Cards and/or RSA certificates for the Licensee and all staff members engaged in the sale, supply or service of alcohol are kept in the venue at all times and are to be made available for inspection by request from Police Officers, Council Inspectors or L&GNSW Inspectors.

The Licensee/Approved Manager will ensure that all statutory signage required by the Act and/or Regulation is prominently displayed within the restaurant.

4.4.2 Staff

Staff must carry their Competency Card with them at all times during operating hours and will produce it when requested to do so by the relevant authorities.

Staff will ensure that the service of alcohol is monitored in such a way as to minimise inappropriate behaviour of patrons while at and when leaving the venue.

Staff will refuse entry to any person deemed intoxicated, aggressive or unruly by taking the following steps:

- Tell the person that the law does not allow them to enter the premises;
- Tell the person that the law requires them to move on more than 20m away from the venue and observe or supervise that person's removal to that point; and
- If the patron fails to comply, the police are to be called.

Staff will refuse service to any patron approaching intoxication or displaying unruly and/or aggressive behaviour by taking the following steps:

- Tell the patron that the law does not allow them to continue to be served alcohol;
- Tell the patron that the law requires them to leave the venue; and
- If the patron fails to comply, the police are to be called.

4.5 Preventing Underage Drinking

It is the responsibility of every staff member to ensure that alcohol is not supplied to a minor. Any patron suspected of being under the age of 25 years is to be asked to provide approved documentary proof of age before being supplied with liquor. Accepted forms of identification are:

- A current driver's licence;
- A current passport; or
- A photo card or similar issued by the NSW Government or by another state or territory of Australia which clearly displays the person's date of birth and a start and expiry date.

Failure by a person to provide suitable identification to a staff member upon being requested will result in alcohol not being served to that person and that they are asked to leave the venue.

If staff are in any doubt as to the age of the patron, they are to check the patron's identification. If the patron objects to providing identification, staff are to explain that it is a requirement of the law.

4.6 Preventing Intoxication

4.6.1 Overview

It is an offence to sell or supply liquor to any person who is in a state of intoxication. A "state of intoxication" is where that person's behaviour, balance, speech and coordination are noticeably affected through the consumption of alcohol.

4.6.2 Prevention Measures

The Licensee/Approved Manager and staff are to ensure that intoxication is prevented from occurring on the licensed premises by compliance with the venue's House Policy:

- Non-alcoholic beverages being available at the restaurant at all times;
- Refusal of service to patrons showing signs of intoxication; and
- Not allowing intoxicated persons to enter or remain on licensed premises.

Free drinking water will be available to patrons at all times during trading hours.

Any patron exhibiting signs of intoxication are to be refused service and requested to leave the venue. Failure to comply with the request to leave by a staff member will result in the police being called to remove the patron from the venue.

Patrons exhibiting signs of approaching a state of intoxication are to be advised by staff and offered an alternative to consuming alcohol, such as soft drinks or water. Any person who exhibits signs of approaching intoxication will be monitored and requested to leave the venue if signs of intoxication are subsequently exhibited.

4.7 Preventing Disruptive or Antisocial Behaviour

The Licensee/Approved Manager and staff are not to allow disruptive, violent or antisocial behaviour to occur within or in the vicinity of the venue by patrons who have been in attendance at the venue. Staff are to ensure that this is prevented by:

- Not tolerating any conduct or behaviour which a reasonable person would consider undesirable; and
- Identifying potential problems and taking steps to prevent this behaviour from escalating.

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4.8 Illicit Drugs

Illicit drugs are strictly prohibited in the venue at all times.

Any person found using, supplying or possessing illicit drugs shall be immediately removed and if necessary, the police called to escort the offender from the venue.

For the purpose of this Plan, "illicit drugs" includes any drugs made illegal by the laws of the State of New South Wales or the Commonwealth of Australia.

4.9 Transport

The Licensee/Approved Manager and Management shall endeavour to promote the use of alternative forms of transport to the venue as follows:

- Staff shall arrange (without charge) for taxis to collect any patron from the venue if requested to do so;
- Management and staff are to familiarise themselves with the operations including destinations and regularity of the ferry services from Balmain East Wharf to provide information to patrons as requested;
- Management and staff are to familiarise themselves with the operations including destinations and regularity of the bus services on Darling Street to provide information to patrons as requested; and
- If further specific information is requested regarding public transport, e.g. bus timetables, the patron is to be advised of the number for the Transport Info Line which is 131 500 and it's website <http://www.transportnsw.info/>. The website is configured to be used with smartphones.

5.0 Complaint Resolution

5.1 Complaint Handling Policy and Logbook

The Licensee/Approved Manager will implement a complaint handling policy to address any complaints received from residents or other business operators located in the vicinity of the venue. This policy will seek to resolve the complaint without the involvement of the Council or NSW Police.

The complaint handling policy will require a log book to be maintained that records the time, date and nature of each complaint together with the name and address of the complainant(s). Further, the log book will record the practices adopted by the Licensee and/or staff to resolve the complaint.

In addition to the above, any incident at the venue whereby medical assistance is required or the incident involved violence or antisocial behaviour will be recorded by the Licensee/Approved Manager or staff including details of the response from the venue in relation to the incident.

5.2 Complaint Response and Reporting

Any complaint received at the venue is to be responded to by the Licensee/Approved Manager (and in their absence by Management) within two (2) working days of its receipt. The Licensee/Approved Manager is to be available to meet with the complainant(s) at a reasonable time and mutually suitable date with a view to resolving any concerns regarding the operation of the venue.

In the event that a complaint is of a nature that local Council and/or Police should be notified, management will communicate to local Council and/or Police the details of the complaint.

6.0 Declaration of Licensee

The Licensee

Has read and agreed to the implementation of the Plan of Management dated for the operation of The Fenwick.

The Licensee will ensure the premises are managed in accordance with the Plan of Management and restrictions of the license dated

Licensee Date

Manager Date

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7.0 Declaration of Owner

The Owner

Has read and agreed to the implementation of the Plan of Management dated for the operation of the Fenwick at 2-8 Weston Street, Balmain East and will ensure that the Licensee or Manager implements and operates the premises in accordance with the Plan of Management.

Owner Date

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Attachment E - Original Conditions of Consent



Contact: Adele Cowie
Phone: 9367 9085
30 August 2016

Leichhardt Municipal Council
C/- Julian Oon
PO BOX 45
LEICHHARDT NSW 2040

**NOTICE OF DETERMINATION OF
DEVELOPMENT APPLICATION NO: D/2015/299
Issued under the Environmental Planning & Assessment Act 1979
(Section 81(1)(a))**

Applicant Name:	Leichhardt Municipal Council
Applicant Address:	C/- Julian Oon PO BOX 45 LEICHHARDT NSW 2040
Land to be Developed:	Lot 1 DP 722968, Lot 1 DP 89648, Lot 1 DP 83357 2-8 Weston Street, BALMAIN EAST NSW 2041
Proposed Development:	Adaptive reuse of Fenwicks stone building as a licenced cafe with gallery space including associated accessibility improvements, public toilet facilities, new access path and reconfiguration of car parking in Illoura Reserve.
Determination:	Approval
Date of Determination:	23 August 2016
Consent to Operate From:	23 August 2016
Consent to Lapse On:	23 August 2021

The following conditions have been included in response to development considerations and to ensure a high standard of development having regard to the effect upon the environment.

Customer Service Centres

Petersham | P (02) 9335 2222 | E council@marrickville.nsw.gov.au | 2-14 Fisher Street, Petersham NSW 2049

Leichhardt | P (02) 9367 9222 | E leichhardt@lmc.nsw.gov.au | 7-15 Wetherill Street Leichhardt NSW 2040

Ashfield | P (02) 9716 1800 | E info@ashfield.nsw.gov.au | 260 Liverpool Road Ashfield NSW 2131

CONDITIONS OF CONSENT

1. Development must be carried out in accordance with Development Application No. D/2015/299 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
1418 Cover Sheet	Welsh+Major	November 2014
1418 Dwg No. DA 01 Issue C Site Plan (also referred to as Issue D)	Welsh+Major	9/10/2015
1418 Dwg No. DA 02 Issue C Roof Plan (also referred to as issue D)	Welsh+Major	9/10/2015
1418 Dwg No. DA 03 Issue D Ground Floor Plan(also referred to as issue E)	Welsh+Major	9/10/2015
1418 Dwg No. DA 04 Issue C First Floor Plan (also referred to as issue D)	Welsh+Major	9/10/2015
1418 Dwg No. DA 05 Issue C Section AA (also referred to as issue D)	Welsh+Major	9/10/2015
1418 Dwg No. DA 06 Issue C Section BB (also referred to as issue D)	Welsh+Major	9/10/2015
1418 Dwg No. DA 07 Issue C South Elevation (also referred to as issue D)	Welsh+Major	9/10/2015
1418 Dwg No. DA 08 Issue C North Elevation(also referred to as issue D)	Welsh+Major	9/10/2015
1418 Dwg No. DA 09 Issue C West Elevation (also referred to as issue D)	Welsh+Major	9/10/2015
1418 Dwg No. DA 10 Issue C East Elevation (also referred to as issue D)	Welsh+Major	9/10/2015
DA 01 Accessible Walkway Concept	Leichhardt Council	2.12.14
DA 02 Sections Finish	Leichhardt Council	2.12.14
DA-01 Tree Planting Concept	Leichhardt Council	11.05.15
Proposed Angle Parking Dwg.No. A1-838	Leichhardt Council	4 December 2015
Survey Plan REF 23900 Over 6-8 Weston Street	Norton Survey Partners	11-7-14
Survey Plan Illoura Reserve Job Ref 34430DT	Lockley Land Title Solutions	11-11-2011
Stormwater Drainage Plans Rev A	Meinhardt	2.12.14
Document Title	Prepared By	Dated
Arborist Report	Sydney Metro Tree Services	Nov 2014
Heritage Impact Statement Fenwick's Stone Building	City Plan Services	23/11/15
Heritage Impact Statement Proposed Works Illoura Reserve East Balmain	Musecape	26/1/2016
Archaeological Assessment	Casey & Lowe	May 2016
Site Waste Minimisation &Management Plan	Julian Oon	Undated
BCA Compliance Report	Environet Consultancy Pty Ltd	Dec 2014

Accessibility Report	Accessibility Solutions (NSW) Pty Ltd	2 nd Dec 2014
Noise Impact Assessment	Acoustic logic	26/5/2015
Traffic & Parking Impact Assessment	Mc Laren Traffic Engineering	20 April 2015
Construction Environmental Management Plan	Consara	22 May 2015
Summary of Environmental Condition and Assessment of Suitability	Consara	22 May 2015
Interpretive Signage Balmain Foreshore	Deuce Design	19/7/2013

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

2. The proposed development shall comply with following conditions attached to Section 60 Approval issued by the Office of Heritage dated 7 July 2016.

a) SHADE STRUCTURES

No shade structures are approved as part of this application. A separate approval under the provisions of the Heritage Act is required for any shade structures.

b) ARCHAEOLOGY

- i) All archaeological works shall be in accordance with the approved research design and methodology outlined in Archaeological Impact Assessment, Research Design and s60 Documentation, 2-8 Weston Street and Illoura Reserve, Balmain, prepared by Casey and Lowe, dated May 2016 and revised in June 2016.
- ii) This archaeological approval does not cover the removal of any State significant relics. This approval covers the archaeological monitoring and salvage of locally significant relics only.
- iii) If substantial, intact State significant relics are discovered during works they must be left undisturbed in-situ and works must be re-designed around them.
- iv) The Heritage Council of NSW or its Delegate must be informed in writing of the start of the archaeological investigation at least five (5) days prior to the commencement of, and within five (5) days of the completion of on-site archaeological work.
- v) The Applicant must ensure that if substantial intact archaeological deposits and/or State significant relics not identified in 'Archaeological Impact Assessment, Research Design and s60 Documentation, 2-8 Weston Street and Illoura Reserve, Balmain, prepared by Casey and Lowe, May 2016 and revised in June 2016 are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.
- vi) The applicant must ensure that the nominated Excavation Director, Dr Nadia lacono is present at the site supervising all excavation activity likely to expose relics.
- vii) The Applicant must ensure that the nominated Excavation Director, Dr Nadia lacono takes adequate steps to record in detail relics, structures and features discovered on the site during the archaeological works in accordance with current best practice. This work must be undertaken in accordance with the NSW Heritage Office guidelines, 'How to Prepare

Archival Records of Heritage Items' (1998) and 'Guidelines for Photographic Recording of Heritage Items' (2006).

- viii) The Applicant is responsible for the safe-keeping of any relics recovered from the site. The Applicant must ensure that the nominated Excavation Director cleans, stabilises, labels, analyses, catalogues and stores any artefacts recovered from the site in a way that allows them to be retrieved according to both type and provenance.
 - ix) The Applicant must ensure that a final excavation report is prepared by the nominated Excavation Director, to publication standard, within one (1) year of the completion of the field based archaeological activity unless an extension of time or other variation is approved by the Heritage Council of NSW. Further copies of the report should be lodged with the local library and/or another appropriate local repository in the area in which the site is located.
 - x) Should any Aboriginal objects be uncovered by the work, excavation or disturbance of the area is to stop immediately and the Office of Environment & Heritage (Enviroline 131 555) is to be notified in accordance with Section 89A of the National Parks and Wildlife Act, 1974 (NPW Act). Aboriginal objects in NSW are protected under the NPW Act. Unless the objects are subject to a valid Aboriginal Heritage Impact Permit, work must not recommence until approval to do so has been provided by the Office of Environment & Heritage.
- c) NOMINATED HERITAGE CONSULTANT
- i) A heritage consultant is to provide advice on the detailed design, undertake on-site heritage inductions and inspect the demolition and removal of material to ensure that no significant fabric or elements are damaged or removed.
 - ii) A landscape heritage consultant with experience in cultural landscapes is to provide advice on the detailed design of Illoura Reserve, undertake on-site heritage inductions, identify significant plantings, and inspect the demolition and removal of material to ensure that no significant fabric or elements are damaged or removed.
 - iii) All work shall be carried out by suitably qualified tradespeople with practical experience in conservation and restoration of similar heritage items, structures and materials. The nominated heritage consultant shall be consulted prior to the selection of appropriate tradespeople.
- d) SITE PROTECTION & WORKS
- i) Significant building fabric and elements are to be protected during the works from potential damage. Protection systems must ensure historic fabric is not damaged or removed.
 - ii) Significant trees are to be protected during the works from potential damage. Tree Protection Zones must be established to ensure significant trees are not damaged or removed. Any aboriginal management required must be carried out by trained arborists with appropriate experience in cultural landscapes.
 - iii) The installation of new services shall be carried out in such a manner as to minimise damage to or removal of historic fabric and shall not obscure historic features.

e) COMMENCEMENT OF WORKS

This approval shall be void if the activity to which it refers is not physically commenced within five years after the date of the approval or within the period of consent specified in any relevant development consent granted under the Environmental Planning and Assessment Act 1979, which occurs first.

PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE

3. In accordance with the provisions of Section 81A of the *Environmental Planning and Assessment Act 1979* construction works approved by this consent must not commence until:

- a) A Construction Certificate has been issued by Council or an Accredited Certifier. Either Council or an Accredited Certifier can act as the "Certifying Authority."
- b) A Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment.
- c) At least two days notice, in writing has been given to Council of the intention to commence work.

The documentation required under this condition must show that the proposal complies with all Development Consent conditions, the Building Code of Australia and the relevant Australian Standards.

- 3A. Prior to release of a Construction Certificate confirmation of the appointment of the Heritage Consultant (referred to in condition 2) is to be received.
4. Pursuant to Clause 94 of the *Environmental Planning and Assessment Regulation 2000* new work is required to be brought into conformity with the Building Code of Australia. Plans and specifications demonstrating conformity are to be provided prior to the issue of a Construction Certificate for works to the Fenwick Building and the new toilets/kitchen facility.
5. Materials and finishes must closely match the original finishes and materials of the building. Highly reflective roofing materials must not be used. Details demonstrating compliance with this requirement must be provided prior to the issue of a Construction Certificate for works to the Fenwick Building and the new toilets/kitchen facility to the satisfaction of the Certifying Authority.
6. Consent is granted for the demolition of minor elements associated with the existing building, subject to strict compliance with the following conditions:
- a) The developer is to notify adjoining residents seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of and directly opposite the demolition site.
 - b) Written notice is to be given to Council / Certifying Authority for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact

telephone number and licence number of the demolisher. The following building inspections must be undertaken by Council / Certifying Authority:

- i) A *pre commencement* inspection when all the site works are installed on the site and prior to demolition commencing.
- ii) A *final* inspection when the demolition works have been completed.

NOTE: Council requires 24 hours notice to carry out inspections. Arrangement for inspections can be made by phoning 93679222.

- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves etc). Access to the site must be restricted to authorised persons only and the site must be secured against unauthorised entry when work is not in progress or the site is otherwise unoccupied.
- e) The demolition plans must be submitted to the appropriate Sydney Water Office, to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements. If the development complies with Sydney Water's requirements, the plans will be stamped indicating that no further requirements are necessary.
- f) Demolition is to be carried out in accordance with the relevant provisions of Australian Standard 2601:2001: *Demolition of structures*.
- g) The hours of demolition work are limited to between 7:00am and 6:00pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays.
- h) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Department of Environment and Climate Change NSW.
- i) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- j) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition.
- k) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site.
- l) The burning of any demolished material on site is not permitted and offenders will be prosecuted.

- m) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the applicant's expense.
 - n) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times.
 - o) Prior to demolition, a Work Plan must be prepared and submitted to Council / Certifying Authority in accordance with the relevant provisions of Australian Standard 2601:2001 *Demolition of structures* by a person with suitable expertise and experience. The Work Plan must identify hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
 - p) Following demolition activities, soil must be tested by a person with suitable expertise to ensure the soil lead levels are below acceptable health criteria for residential areas. Full certification is to be provided for approval by the Principal Certifying Authority prior to the commencement of building works.
 - q) If the property was built prior to 1987 an asbestos survey prepared by a qualified occupational hygienist is to be undertaken. If asbestos is present then:
 - i) A WorkCover licensed contractor must undertake removal of all asbestos.
 - ii) During the asbestos removal a sign "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400 mm x 300 mm is to be erected in a visible position on the site to the satisfaction of Council.
 - iii) Waste disposal receipts must be provided to Council / Certifying Authority as proof of correct disposal of asbestos laden waste.
 - iv) All removal of asbestos must comply with the requirements of WorkCover and Leichhardt Council.
 - v) An asbestos clearance certificate prepared by a qualified occupation hygienist must be provided at the completion of the demolition works
7. A total of one (1) car parking space for use by persons with a disability must be provided as part of the total car parking requirements.
- All details must be prepared in accordance with Australian Standard AS/NZS 2890.1:2004 *Parking Facilities – Off street car parking* and the relevant provisions of Australian Standard 1428.1:2001 *Design for Access and Mobility – General requirements for access - New building work* and Australian Standard 1428.4:2002 *Design for Access and Mobility – Tactile indicators*.
8. 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).

An acoustic report prepared by a suitably qualified and experienced acoustic consultant shall be provided to the satisfaction of the Principal Certifying Authority demonstrating that noise and vibration from the operation of the premises including the use, plant and equipment will satisfy the stipulated criteria above and relevant provisions of the Protection of the Environment Operations Act 1997 and Regulations and relevant state and local policies and guidelines. Recommendations must be consistent with the approved plans.

Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate for works to the Fenwick Building and the new toilets/kitchen facility/lift.

9. The LA_{10}^* noise level emitted from the premises must not exceed the background noise level in any octave band centre frequency (31.5Hz– 8k Hz inclusive) by more than 5dB between 7:00 am and 12:00 midnight at the boundary of any affected residence.

The LA_{10}^* noise level emitted from the premises must not exceed the background noise level in any octave band centre frequency (31.5Hz – 8k Hz inclusive) between 12:00 midnight and 7:00am at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the premises must not be audible within any habitable room in any residence between the hours of 12:00 midnight and 7:00am.

For the purposes of this condition, the LA_{10} can be taken as the average maximum deflection of the noise emission from the licensed premises or restaurant.

Details of the acoustic measures to be employed to achieve compliance with this condition must be provided prior to the issue of a Construction Certificate for works to the Fenwick Building and the new toilets/kitchen facility/lift. Such measures must be in accordance with the approved acoustic report and plans.

10. The premises are to be designed, constructed and operated in accordance with the:
- Food Act 2003
 - Food Regulation 2010
 - Australia and New Zealand Food Standards Code
 - Australian Standard AS 4674 – 2004 (Design, construction and fit-out of food premises)
 - Australian Standard AS 1668 Part 1 – 1998
 - Australian Standard AS 1668 Part 2 – 2012; and
 - Building Code of Australia

Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate for works to the Fenwick Building and the new toilets/kitchen facility/lift .

11. There are to be no emissions or discharges from the premises which will give rise to an offence under the *Protection of the Environment Operations Act 1997* and *Regulations*.

Emission control equipment shall be provided in the mechanical exhaust system serving the appliances, to effectively minimise the emission of odours, vapours and oils. Details of the proposed emission control equipment must be provided in the relevant plans and specifications for the Construction Certificate for works to the Fenwick Building and the new toilets/kitchen facility and shall be positioned away from nearby residential properties where possible.

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 for works to the Fenwick Building and the new toilets/kitchen facility.

12. A Plan of Management is to be provided to Council prior to the issue of a Construction Certificate for works to the Fenwick Building and the new toilets/kitchen facility/lift. The Plan of Management is to cover (but is not limited to) the following issues:

- Ensure compliance with the relevant conditions of approval,
- Minimise the potential impact of the operation of the premises on nearby residents,
- Effectively minimise and manage anti-social behaviour,
- Minimise noise emissions and associated nuisances,
- Effectively manage and respond to resident complaints,
- Ensure responsible service of alcohol and harm minimisation, and
- Patron conductivity and security.

a) Security Management

The plan must specify security patrol, surveillance and other security and response methods and security management of the public and private domain within and surrounding the site.

No signage visible from the public domain is to be installed that advertises directly or indirectly, the gaming machines on site.

b) Patron Management

Patrons must be prevented from removing glass, opened cans, bottles or alcohol from the premises (except from any approved bottle shop).

Signs must be placed in clearly visible positions within the premises requesting patrons upon leaving to do so quickly and quietly, having regard to the amenity of the area.

A sign detailing the maximum number of persons permitted in the premises, in letters not less than 25mm, must be displayed at the main front entrance of the premises within the building.

The management/licensee is responsible for the control of noise and litter generated by patrons of the premises and must ensure that patrons leave the

vicinity of the premises in an orderly manner to the satisfaction of Council. If so directed by Council, the management/licensee is to employ private security staff to ensure that this condition is complied with.

No automatic teller machines are permitted to be installed in the same room in single level premises and on the same floor in multi level premises containing gaming machines.

c) Recycling and Waste Collection

The sorting and/or collection of waste and recycling must only not occur after 6pm unless it can be done in a manner that does not have adverse acoustic impacts on surrounding properties or tenancies.

d) Public Entertainment

Details of how public entertainment will be managed to ensure minimal impacts on surrounding properties including acoustic impacts, parking and traffic. Details of sound limiters and/or acoustic provisions including management of patrons, closing of doors and windows etc. Such entertainment must be carried out in accordance with any approved acoustic reports & traffic reports identified within this consent.

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 for works to the Fenwick Building and the new toilets/kitchen facility/lift.

13. Any air conditioning unit on the site must 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. Domestic air conditioners must not be audible in nearby dwellings between 10:00pm to 7:00am on Monday to Saturday and 10:00pm to 8:00am on Sundays and Public Holidays.

Details of the acoustic measures to be employed to achieve compliance with this condition must be provided prior to the issue of a Construction Certificate for works to the Fenwick Building and the new toilets/kitchen facility/lift.

14. 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 provided prior to the issue of a Construction Certificate for works to the Fenwick Building and the new toilets/kitchen facility/lift.

15. A Soil and Water Management Plan must be provided prior to the issue of any Construction Certificate. The Soil and Water Management plan must be compatible with the Construction and Site Management Plan referred to in condition 16 of this Development Consent and must address, but is not limited to the following issues:

- a) Minimise the area of soils exposed at any one time.
- b) Conservation of top soil.
- c) Identify and protect proposed stockpile locations.
- d) Preserve existing vegetation. Identify revegetation technique and materials.
- e) Prevent soil, sand, sediments leaving the site in an uncontrolled manner.
- f) Control surface water flows through the site in a manner that:

- i) Diverts clean run-off around disturbed areas;

- ii) Minimises slope gradient and flow distance within disturbed areas;
 - iii) Ensures surface run-off occurs at non erodable velocities;
 - iv) Ensures disturbed areas are promptly rehabilitated.
 - g) Sediment and erosion control measures in place before work commences.
 - h) Materials are not tracked onto the road by vehicles entering or leaving the site .
 - i) Details of drainage to protect and drain the site during works.
 - j) A durable sign, available from Council must be erected during the works in a prominent location on site, warning of penalties should appropriate measures required by the Soil and Water Management Plan not be maintained.
16. Prior to the issue of any Construction Certificate, the applicant must prepare a Construction Management and Traffic Management Plan. The following matters should be addressed in the plan:
- a) A plan view of the entire site and frontage roadways indicating:
 - i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
 - ii) Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site.
 - iii) The locations of proposed work zones in the frontage roadways.
 - iv) Location of any proposed crane and concrete pump and truck standing areas on and off the site.
 - v) A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries.
 - vi) Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
 - vii) An on-site parking area for employees, tradespersons and construction vehicles as far as possible.
 - viii) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
 - ix) How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
 - x) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed by a Chartered Civil Engineer, with National Professional Engineering Registration (NPER) in the construction of civil works or a survey company of Registered Surveyors with "preliminary accreditation" from the Institution of Surveyors New South Wales Inc. or an accredited certifier.

- b) Construction Noise

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During excavation, demolition and construction phases, noise generated from the site must be controlled.

- c) Occupational Health and Safety
All site works must comply with the occupational health and safety requirements of the New South Wales Work Cover Authority.
- d) Toilet Facilities
During excavation, demolition and construction phases, toilet facilities are to be provided on the site, at the rate of one toilet for every twenty (20) persons or part of twenty (20) persons employed at the site.
- e) Traffic control plan(s) for the site
All traffic control plans must be in accordance with the Roads and Traffic Authority publication "Traffic Control Worksite Manual" and prepared by a suitably qualified person (minimum 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each stage.

Approval is to be obtained from Council for any temporary road closures or crane use from public property. Applications to Council shall be made a minimum of 4 weeks prior to the activity proposed being undertaken.

- 17. A Certificate prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposal additional, or altered structural loads must be provided prior to the issue of a Construction Certificate for works to the Fenwick Building and the new toilets/kitchen facility to the satisfaction of the certifying authority.
- 18. An Access Management Plan must be provided prior to the issue of any Construction Certificate. Details of the Access Management Plan must include:
 - a) Access to the building for people with disabilities.
 - b) Sanitary facilities for people with disabilities. Such facilities must be accessible to all persons working in or using the building.
 - c) One motor vehicle parking space within the Illoura Reserve car park for the exclusive use of people with disabilities.
- 19. Prior to the issue of a Construction Certificate for works to the Fenwick Building and the new toilets/kitchen facility/lift, the Certifying Authority must be satisfied that all outdoor lighting including lighting of the public toilets is designed and positioned to minimise any detrimental impact upon the amenity of other premises and adjacent dwellings and that the outdoor lighting complies with the relevant provisions of Australian Standard AS 1158.3:2005 *Pedestrian area (Category P) lighting – Performance and design requirements* and Australian Standard AS 4282:1997 *Control of the obtrusive effects of outdoor lighting*.
- 20. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Service Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped. For Quick Check

agent details please refer to the web site www.sydneywater.com.au see Building Developing and Plumbing then Quick Check or telephone 132092.

The Certifying Authority must ensure the Quick Check agent/Sydney Water has appropriately stamped the plans prior to the issue of a Construction Certificate for works to the Fenwick Building and the new toilets/kitchen facility/lift.

21. Details and location of the proposed garbage room and the on street collection area are to be provided prior to the issue of a Construction Certificate for works to the Fenwick Building and the new toilets/kitchen facility/lift. Rooms used for the storage of garbage and rooms used for the washing and storage of garbage receptacles are to be constructed of solid material, cement rendered and trowelled to a smooth even surface and subject to the following requirements:
 - a) The floor must be of impervious material coved at the intersection with the walls, graded and drained to an approved floor waste within the room.
 - b) Garbage rooms must be vented to the external air by natural or mechanical ventilation.
22. A stormwater drainage design prepared by a Civil Engineer must be provided prior to the issue of any Construction Certificate. The design must be prepared/ amended to make provision for the following:
 - a) The design must be generally in accordance with the stormwater drainage plan on Drawing No. 113251-00-MIE010 prepared by Meinhardt and dated 2 December 2014.
 - b) All plumbing within the site must be carried out in accordance with Australian Standard AS/NZS 3500.3-2003 Plumbing and Drainage – Stormwater Drainage
 - c) Plans must specify that any components of the existing system to be retained must be checked during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development, and be replaced or upgraded if required.
23. An engineering design of the reconstruction of the existing carpark in Illoura Reserve must be prepared by a qualified practicing Civil Engineer, generally in accordance with Drawing No A1-838 prepared by Leichhardt Council dated October 2014.

The design must be approved by Council under Section 138 of the Roads Act 1993 prior to the issue of a Construction Certificate for these works.
24. A landscape plan generally in accordance with the Tree Planting Concept is to be prepared by a qualified Landscape Architect or Landscape Consultant and must be approved by Council prior to the issue of any Construction Certificate. The plan must include:
 - a) Location of all proposed and existing planting delineating existing trees to be retained, removed or transplanted.
 - b) A detailed planting schedule including species by botanical and common names, quantities, pot sizes and estimated size at maturity.

- c) Any new soft landscaping shall be plant species appropriate to the locality to meet the following:
 - Known to be part of the original landscape design for the parklands;
 - Environmentally sustainable;
 - Non-invasive.
- d) Surface finishes and colours of the car park and pedestrian path be chosen from a colour palette to minimise visual impact when viewed from public domain.
- e) Details of planting procedure.
- f) Details of earthworks including mounding and retaining walls
- g) A landscape maintenance strategy for the owner / occupier to administer over a twelve (12) month establishment period.
- h) Details of drainage and watering systems.

25. The trees identified below are to be retained:

- a) Bangalay (*Eucalyptus botryoides*);
- b) Swamp mahogany (*Eucalyptus robusta*);
- c) Swamp mahogany (*Eucalyptus robusta*);
- d) Brushbox (*Lophostemon confertus*).

Details of the trees to be retained must be included on the landscape plan prior to the issue of any Construction Certificate.

PRIOR TO COMMENCEMENT OF WORKS

- 26. At least forty-eight (48) hours prior to the commencement of works, a notice of commencement form and details of the appointed Principal Certifying Authority shall be submitted to Council.
- 27. Prior to the commencement of works, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.
- 28. Prior to the commencement of works, a sign must be erected in a prominent position on the site on which the erection or demolition of a building is being carried out. The sign must state:
 - a) Unauthorised entry to the work site is prohibited.
 - b) The name of the principal contractor (or person in charge of the site) and a telephone number at which that person may be contacted at any time for business purposes and outside working hours.
 - c) The name, address and telephone number of the Certifying Authority for the work.

Any such sign must be maintained while the work is being carried out, but must be removed when the work has been completed.

29. The site must be secured and fenced prior to works commencing. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons on public property.

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public property to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property.

Separate approval is required to erect a hoarding or temporary fence on public property prior to the commencement of works. Approvals for hoardings, scaffolding on public land must be obtained and clearly displayed on site for the duration of the works.

Any hoarding, fence or awning is to be removed when the work is completed.

30. Trees 1, 2, 3 and 4 shall require trunk protection during construction works including the establishment of Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) and be implemented in accordance with the Arborist Report prepared by Sydney Metro Tress Services dated November 2014. If any retained tree is damaged a qualified Arborist should be contacted as soon as possible. The Arborist will recommend remedial action so as to reduce any long term adverse effect on the tree's health.

DURING WORKS

31. 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.
32. Excavation, building or subdivision work must be restricted to the hours of 7:00am to 5:30pm Monday to Friday inclusive, 7:00am to 1:00pm Saturday. Work is not be carried out on Sunday or Public Holidays.
33. A copy of the approved plans must be kept on site for the duration of site works and be made available upon request.
34. The development site must be inspected at the following stages during construction:
- a) At the commencement of the building work, and
 - b) Prior to covering any stormwater drainage connections, and
 - c) After the building work has been completed and prior to any occupation certificate being issued in relation to the building
34. 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.
35. The requirements of the Soil and Water Management Plan must be maintained at all times during the works and any measures required by the Soil and Water Management Plan shall not be removed until the site has been stabilised to the Principal Certifying

Authority's satisfaction.

36. No trees on public property (footpaths, roads, reserves etc) are to be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works unless specifically approved in this consent.
37. Measures shall be taken to ensure that during construction there is no runoff or spillage of concrete, adhesives or other waste from the site that might have a negative impact on the place or other adjoining areas.
38. Any arboricultural management during the proposed works should only be carried out by trained arborists with extensive experience in significant cultural landscapes. All work should be carried out in accordance with Australian Standard AS4373 Pruning of Amenity Trees.

PRIOR TO THE ISSUE OF OCCUPATION CERTIFICATE

39. An Occupation Certificate must be obtained prior to any use or occupation of the development or part thereof. The Principal Certifying Authority must ensure that all works are completed in compliance with the approved Construction Certificate plans and all conditions of this Development Consent.
- 40A. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be satisfied that a Fire Safety Certificate for all essential fire or other safety measures has been completed.
- 40B. Prior to the issue of an Occupation Certificate the nominated Heritage Consultant is to certify that the work has been carried out in accordance with this approval.
41. A report prepared by a suitably qualified and experienced acoustic consultant shall be submitted to Council prior to an Occupation Certificate being issued for the development which demonstrates and certifies that noise and vibration emissions from the development comply with the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Environment Protection Authority's Industrial Noise Policy and Noise Control Manual and conditions of Council's approval, including any recommendations of the acoustic report referenced in the conditions of the approval.

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

42. 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 Environment 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.

43. Food premises notification shall be obtained from the NSW Food Authority prior to commencement of business operations /issue of an Occupation Certificate and a copy of the notification shall be submitted to the Principal Certifying Authority. Notification

can be completed on the NSW Health Department's website at www.foodnotify.nsw.gov.au

Prior to the commencement of business operations/issue of an Occupation Certificate the owner of the business is to complete and submit Council's food business registration form which can be obtained from Council's website at www.leichhardt.nsw.gov.au. Evidence of registration must be submitted to the Principal Certifying Authority.

Should Council be the nominated Principal Certifying Authority, then the applicant shall notify Council not less than forty-eight (48) hours prior to the proposed occupation of the premises to arrange for a final compliance inspection.

The applicant shall not operate the food premises until an Occupation Certificate has been issued.

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

44. A validation report shall be prepared by a suitably qualified Environmental Consultant and be submitted to Council upon completion of remediation works and prior to the site being occupied. The validation report shall be prepared in accordance with relevant NSW Environment Protection Authority guidelines, including the guidelines 'Consultants Reporting on Contaminated Sites' and shall include:

- Description and documentation of all works performed
- Results of validation testing and monitoring
- Validation results if any imported fill was transferred to site
- Demonstrate how all agreed clean-up criteria and relevant regulations have been satisfied

Confirmation and justification as to the suitability of the site for the proposed use and the potential for off-site migration of any residual contaminates.

45. To ensure that adequate provision is made for the treatment of waste water from the premises, floor plans accompanying the Occupation Certificate application shall include provision for a Sydney Water approved grease trap.

The grease trap installation shall service all commercial sections of the development and be designed, constructed and operated in accordance with:

- Australian Standard AS 3500; and
- National Plumbing & Drainage Code

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

46. Prior to the issue of an Occupation Certificate, the Principle Certifying Authority must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards.

A plan showing pipe locations and diameters of the stormwater drainage system, together with certification by a Licensed Plumber or qualified practicing Civil Engineer that the drainage system has been constructed in accordance with the approved design and relevant Australian Standards, must be provided to the Principle Certifying Authority prior to the issue of an Occupation Certificate.

47. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that the reconstruction of the existing carpark in Illoura Reserve has been completed.

Written notification from the Leichhardt Council Manager – Parks and Assets, that the works have been completed to its satisfaction must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

ONGOING CONDITIONS OF CONSENT

48. 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.

49. 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).

50. There is to be no entertainment in the form of amplified music on any part of the outdoor area at any time. Only background music is allowed within the internal areas of the building, with a maximum sound pressure level of 65dB(A)Leq.
51. The number of patrons using the ground floor outdoor area is restricted to twenty (four) 24 persons at any time.

52. The rear deck shall not be used for outdoor dining or functions.

53. Deliveries of food products, equipment and the like are restricted to the following hours:

Monday to Sunday: 7:00am – 6:00pm and restricted to outside non peaking operating hours

Delivery vehicles shall be limited to a max B99 (large cars or utility van).

54. The use of the premises shall 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 shall not give rise to the transmission of a vibration nuisance or damage other premises.
55. The premises including the outdoor area are only to be open for business and used for the purpose approved within the following hours.

	Indoor Area	Outdoor Area
Monday to Sunday	7:00am – 5:00pm	7:00am – 5:00pm
Public Holidays	7:00am – 5:00pm	7:00am – 5:00pm

Set-up and clean-up operations must commence no earlier or later than 1 hour before opening and 1 hour after closing hours (as stipulated by this condition). All doors and windows must remain closed during set up and cleaning where possible.

Set up and clean up operations for outdoor areas must occur during the relevant operating hours.

Service is to cease 30 minutes before closing time /ceasing of operating hours.

56. This approval is for a restaurant/café only and does not authorise live musical or other forms of entertainment, separate Development Consent would be required for such activities/events. Background pre-recorded music may be played indoors subject to ensuring that it does not have adverse impacts on surrounding properties or tenancies.
57. Commercial waste and recyclable material generated by the premises must be collected between the hours 8am and 9pm only.
58. Waste bins shall be required to be placed and returned from the on street designated waste collection area on the same day as collection. Empty waste bins shall not remain kerbside.
59. An annual Fire Safety Statement must be given to Council and the New South Wales Fire Brigade commencing within twelve (12) months after the date on which the initial Interim / Final Fire Safety Certificate is issued.
60. All outdoor lighting must not detrimentally impact upon the amenity of other premises and adjacent dwellings and must comply with, where relevant, Australian Standard AS 1158.3:2005 *Lighting for roads and public spaces – Pedestrian Area (Category P) lighting – Performance* and design requirements and Australian Standard AS 4282:1997 *Control of the obtrusive effects of outdoor lighting*.
61. A full and current copy of the Development Consent for the operation of the licensed premises and the Plan of Management must be kept on-site and made available to Police or Council Officers upon request.

The use must always be operated and managed in accordance with the Plan of Management.

62. This approval is for a café and gallery only and does not authorise musical or other forms of entertainment.
63. The premises shall not be used for any purpose other than that stated in the Development Application, (i.e. café and gallery) without the prior consent of the Council unless the change to another use is permitted as exempt development under *Leichhardt Development Control Plan 35 – Exempt and Complying Development*.
64. The seating capacity of the restaurant is restricted to a maximum of 80 patrons at any one time.

A notice is to be displayed in the premises stating that:

- a) The maximum total occupancy of the premises allowed by this consent inclusive of all external seating is 80 persons / seats.
- b) The maximum occupancy of the outdoor area is 24 persons / seats.

PRESCRIBED CONDITIONS

A. BASIX Commitments

Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled. The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

In this condition:

- a) Relevant BASIX Certificate means:
 - (i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - (ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
- b) BASIX Certificate has the meaning given to that term in the Environmental Planning & Assessment Regulation 2000.

B. Building Code of Australia

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

C. Home Building Act

- 1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act 1989) must not be carried out unless the Principal Certifying Authority for the development to which the work relates has given Leichhardt Council written notice of the following:

- a) in the case of work for which a principal contractor is required to be appointed:
 - i) the name and licence number of the principal contractor, and
 - ii) the name of the insurer by which the work is insured under Part 6 of that Act, or
 - b) in the case of work to be done by an owner-builder:
 - i) the name of the owner-builder, and
 - ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- 2) If arrangements for doing residential building work are changed while the work is in progress so that the information submitted to Council is out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

Note: A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

D. Site Sign

- 1) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
 - c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
- 2) Any such sign must be maintained while the building work or demolition work is being carried out, but must be removed when the work has been completed.

E. Condition relating to shoring and adequacy of adjoining property

- (1) For the purposes of section 80A (11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (a) protect and support the adjoining premises from possible damage from the excavation, and
 - (b) where necessary, underpin the adjoining premises to prevent any such damage.
- (2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

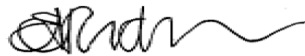
NOTES

1. This Determination Notice operates or becomes effective from the endorsed date of consent.
2. Section 82A of the *Environmental Planning and Assessment Act 1979* provides for an applicant to request Council to review its determination. This does not apply to applications made on behalf of the Crown, designated development, integrated development or a complying development certificate. The request for review must be made within six (6) months of the date of determination or prior to an appeal being heard by the Land and Environment Court. Furthermore, Council has no power to determine a review after the expiration of these periods. A decision on a review may not be further reviewed under Section 82A.
3. If you are unsatisfied with this determination, Section 97 of the *Environmental Planning and Assessment Act 1979* gives you the right of appeal to the Land and Environment Court within six (6) months of the determination date.
4. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.
5. Works or activities other than those approved by this Development Consent will require the submission of a new development application or an application to modify the consent under Section 96 of the *Environmental Planning and Assessment Act 1979*.
6. This decision does not ensure compliance with the *Disability Discrimination Act 1992*. Applicants should investigate their potential for liability under that Act.
7. This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):
 - a) Application for any activity under that Act, including any erection of a hoarding.
 - b) Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*.
 - c) Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*.
 - d) Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed.
 - e) Application for Strata Title Subdivision if strata title subdivision of the development is proposed.
 - f) Development Application for demolition if demolition is not approved by this consent.
 - g) Development Application for subdivision if consent for subdivision is not granted by this consent.

- h) An application under the Roads Act 1993 for any footpath / public road occupation.
A lease fee is payable for all occupations.
- 8. Prior to the issue of the Construction Certificate, the applicant must make contact with all relevant utility providers (such as Sydney Water, Energy Australia etc) whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained.

Have you made a political donation?

If you (or an associate) have made a political donation or given a gift to a Councillor, political party or candidate at the local government elections during the last two (2) years you may need to include with your application a full disclosure of this matter. For information go to Council's website at www.leichhardt.nsw.gov.au/Political-Donations.html. If you have made a reportable donation, failure to provide a completed declaration with your application is an offence under the Environmental Planning and Assessment Act, 1979 for which you may be prosecuted.



Elizabeth Richardson
MANAGER ASSESSMENTS