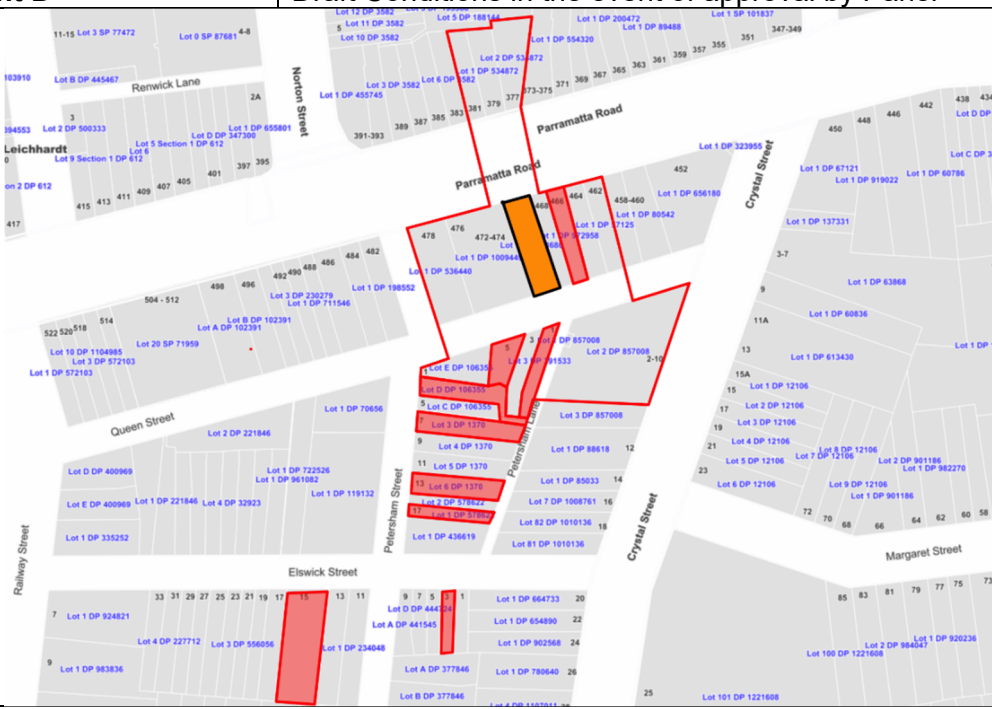





 DEVELOPMENT ASSESSMENT REPORT	
<b>Application No.</b>	REV/2021/0005
<b>Address</b>	470 Parramatta Road PETERSHAM NSW 2049
<b>Proposal</b>	Section 8.2 application to review the determination of DA/2020/0811 to fitout and use the ground floor of the premises as a restaurant and cafe
<b>Date of Lodgement</b>	06 April 2021
<b>Applicant</b>	Mr Tim Cooper
<b>Owner</b>	Ms Lucia C Chin
<b>Number of Submissions</b>	10
<b>Value of works</b>	\$50,000.00
<b>Reason for determination at Planning Panel</b>	Number of submissions S8.2 application where determination substantially unchanged
<b>Main Issues</b>	Heritage Conservation Amenity Impacts Hours of Operation Residential Interface
<b>Recommendation</b>	Refusal
<b>Attachment A</b>	Reasons for refusal
<b>Attachment B</b>	Plans of proposed development
<b>Attachment C</b>	DA/2020/0811 Delegated Authority Report
<b>Attachment D</b>	Draft Conditions in the event of approval by Panel
	
<b>LOCALITY MAP</b>	
Subject Site	  
Notified Area	 
Note: Due to scale of map, not all objectors could be shown.	

## 1. Executive Summary

A Development Application to fitout and use the ground floor of the premises as a restaurant and cafe at 470 Parramatta Road Petersham was refused under Delegated Authority by Determination No 2020/0811 on 5 February 2021 for the following reasons:

1. *The proposed development is inconsistent and has not provided adequate information to demonstrate compliance with the following Clauses of Marrickville Local Environmental Plan 2011, pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979:*
  - a. *Clause 1.2 – Aims of the Plan*
  - b. *Clause 5.10 – Heritage Conservation*
2. *The proposed development is inconsistent and has not provided adequate information to demonstrate compliance with the following Clauses of draft Inner West Local Environmental Plan 2020, pursuant to Section 4.15 (1)(a)(ii) of the Environmental Planning and Assessment Act 1979:*
  - a. *Clause 1.2 – Aims of the Plan*
  - b. *Clause 5.10 – Heritage Conservation*
3. *The proposed development is inconsistent and has not provided adequate information to demonstrate compliance with the Marrickville Development Control Plan 2011, pursuant to Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979:*
  - a. *Part 2.5 - Equity of Access and Mobility;*
  - b. *Part 2.6 – Acoustic and Visual Privacy; and*
  - c. *Part 5.3 - Commercial/Light Industrial/Residential Interface*
4. *The proposal has not provided adequate information to demonstrate it will not result in adverse environmental impacts in the locality, pursuant to Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979.*
5. *The adverse environmental impacts of the proposal mean that the site is not considered to be suitable for the development as proposed, pursuant to Section 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979.*
6. *The application as submitted has not provided adequate information in order to undertake a full and proper assessment of the application in accordance with the Environmental Planning & Assessment Act 1979.*

A copy of the delegated authority report on the application is included as Attachment C to this report.

The applicant has requested a review of the determination under Section 8.2 of the *Environmental Planning and Assessment Act, 1979*. It is noted that the plans and supporting documentation submitted with the application for review are largely the same as those originally assessed, though some design changes to the front and rear facades of the building have been made.

The application was notified to surrounding properties and 10 submissions were received in response to the initial notification.

The main issues that have arisen from the application include:

- The uses proposed are not clear with an area of the premises being used as a DJ stage and dancing area, which has not been identified as consistent with or ancillary to the food and drink premises use.
- The proposal has not adequately addressed impacts upon the heritage conservation area that the site is located within.
- The acoustic impact as a result of the use has not been adequately determined and may result in adverse amenity impacts to nearby residents.
- The formalisation of access from the rear of the site will result in adverse amenity impacts to the nearby residents.
- The hours of operation are excessive, are inconsistent with trading hours in the area and will result in adverse amenity impacts.
- The site is not adequately accessible, particularly via the Queen Street entrance.
- The proposed signage is not compatible with the building or area and information is lacking with regard to the finishes, colour and illumination of the proposed signage.
- The proposal does not provide any waste area or mechanical ventilation despite being a food premises.
- The proposal does not provide adequate car parking.

The identified impacts and non-compliances are considered unacceptable and therefore the application is recommended for refusal.

## 2. Proposal

The application seeks a review under Section 8.2 of the Environmental Planning and Assessment Act 1979 of the refusal of DA/2020/0811 to fitout and use the ground floor of the premises as a restaurant and café.

Specifically, the application includes:

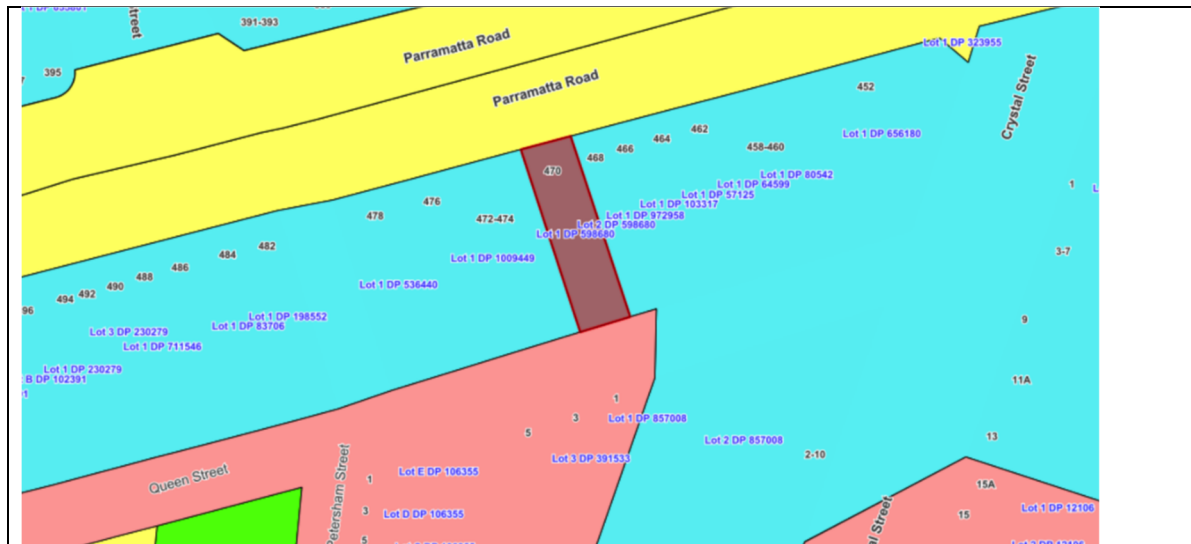
- Fit-out of the existing ground floor of the premises to provide a restaurant fronting Parramatta Road, a café fronting Queen Street, kitchen and bathroom facilities and a DJ stage and dance floor area.
- Construction of new bifold doors and access via the rear of the premises from Queen Street.
- Alterations to the front façade of the building include removal of existing signage and the provision of a new glazed shopfront and access door.
- To use the premises as restaurant and café with capacity for 200 patrons operating at maximum from 7.00am to 3.00am Mondays to Saturdays and 8.00am to 12.00am Sundays.
- Provision of a DJ stage and dance floor operating from 10.00pm to 3.00am Fridays and Saturdays

## 3. Site Description

The subject site is located on the southern side of Parramatta Road, between Crystal Street and Petersham Street. The site consists of 1 allotment and is generally rectangular with a total area of 233sqm and is legally described as 470 Parramatta Road, Petersham. The site has a frontage to Parramatta Road of 8 metres and a secondary (rear) frontage of approximately 8 metres to Queen Street, where it faces a residential area.

The site supports a two-storey mixed use building. The adjoining properties support two storey mixed use commercial buildings.

The property is located within the Parramatta Road Commercial Precinct Heritage Conservation Area (HCA 5).



## 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
DA/2020/0811	To fitout and use the ground floor of the premises as a restaurant and cafe	Refused – 5 February 2021
B 207/95	Application under Section 102 of the Environmental Planning and Assessment Act to modify a condition of consent to install two amusement machines within the coffee lounge	Approved – 15 August 1995
Permit No.4890	Alterations to first floor of premises to be used as extension of coffee lounge and restaurant conducted on the ground floor	3 May 1970

#### Surrounding properties

Property & Application	Proposal	Decision & Date
468 Parramatta Road – DA200100820	To carry out alterations to the premises and use the ground floor shop as a coffee lounge.	Approved – 4 March 2002

476 Parramatta Road – DA200100475	To carry out alterations to the premises at 476 Parramatta Road to convert the first floor level of the premises for use as a brothel in association with the existing brothel at 472-474 Parramatta Road.	Approved – 6 November 2001
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#### 4(b) Application history

Not applicable

### 5. Assessment

The following is a summary of the assessment of the application in accordance with Section 8.2 and 4.15 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 No. 55—Remediation of Land*
- *State Environmental Planning Policy No. 64 – Advertising and Signage*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *Marrickville Local Environmental Plan 2011*

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. MDCP 2011 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.

The site has not been used in the past for activities which could have potentially contaminated the site nor are any works proposed that would disturb the existing concrete slab on the site. It is considered that the site will not require remediation in accordance with SEPP 55.

#### 5(a)(ii) ***State Environmental Planning Policy No. 64 - Advertising and Signage (SEPP 64)***

The following is an assessment of the proposed development under the relevant controls contained in *SEPP 64*.

The application seeks consent for the erection of the following signage:

- 1 x wall sign measuring approximately 5400mm (width) by 600mm (height) fronting Parramatta Road reading “Harry and Meghan’s”
- 1 x awning fascia sign measuring approximately 3100mm (width) by 400mm (height) fronting Parramatta Road reading “Harry and Meghan’s”
- 1 x top hamper sign measuring approximately 6600mm (width) by 600mm (height) fronting Parramatta Road reading “Harry and Meghan’s”

It is noted that the application lacks specific details of the proposed signs including signage design and colour, illumination, and specific dimensions of the signs. The dimensions used for this assessment are taken from measuring the approximate sign area on the plans, but no schedule of signage has been provided.

Clause 3 of SEPP 64 states the aims and objectives of the policy as follows:

- (1) *This Policy aims:*
  - (a) *to ensure that signage (including advertising):*
    - (i) *is compatible with the desired amenity and visual character of an area, and*
    - (ii) *provides effective communication in suitable locations, and*
    - (iii) *is of high quality design and finish, and ...*

Additionally, the aims and objectives of SEPP 64 are generally reflected in the provisions for signage within MDCP 2011. Part 2.12 of MDCP 2011 specifies Council's objectives and requirements for the erection and display of advertising signs and the following are relevant to the proposal:

- O2** *To ensure signage does not dominate or detract from the architectural features of the building and from the white-way lighting found along some retail strips.*
- O5** *To ensure the use of corporate logos, colour and illumination schemes in signage are compatible with the architecture of the host building and do not adversely impact upon the local streetscape.*
- C3** *Signage location*
  - ... ii. *The scale and location of a sign must be compatible with the architectural design of the building to which it is affixed and consider nearby buildings, streets and other existing signs. Important architectural features must not be obscured by signage and must remain the dominant feature of the facade.*
- C18** *Signage area*
  - i. *The total permissible advertising area, excluding any permissible under awning sign, must not exceed a factor of 1m<sup>2</sup> for each 1.5 metres or part thereof of a frontage of that tenancy to the public road ...*

Overall, the proposed signage is not considered to be compatible with the desired amenity and visual character of the area and will result in additional visual clutter and dominant signage in a streetscape that is highly saturated with signage and advertisements. While the existing building contains a projecting wall sign which is highly detracting within the streetscape, which is proposed to be removed, the proposed signage has significant impact on the building and the conservation area.

The subject premises is located within a Heritage Conservation Area and based on the plans provided, the new wall sign would either obscure or require the removal of decorative elements of the contributory building and this heritage impact is inconsistent with the desired future character of the area, which is to conserve contributory commercial buildings. Furthermore, wall signs above the awning are not particularly common in this portion of Parramatta Road with the majority of signage being under awning signage and the provision of a large wall sign above the awning obscures the building and is a poor addition to the contributory building façade. As such, the signage is not considered to be of a high quality design and is not acceptable having regard to the aims and objectives of SEPP 64 and does not comply with Objectives 2 and 5 and Control 3 within Part 2.12 of MDCP 2011.

Furthermore, the provisions of Part 2.12 of MDCP 2011 permit a maximum signage area of 5.33sqm based on 8 metres frontage to Parramatta Road for the subject site. The signage proposed has a total area of 8.6sqm, breaching the maximum signage area by approximately 30%. Non-compliance with the signage area prescribed by Control 18 within Part 2.12 of MDCP 2011 indicates the level signage proposed is inappropriate to the building and contributes to visual clutter in the area.

Schedule 1 of *SEPP 64* specifies assessment criteria for signage relating to character of the area, special areas, views and vistas, streetscape, setting or landscaping, site and building, illumination and safety. For the reasons discussed above, the proposed signage is considered unsatisfactory having regard to the assessment criteria contained in Schedule 1 of *SEPP 64*.

The application is recommended for refusal.

### **5(a)(iii) State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure 2007)**

#### *Development with frontage to classified road (Clause 101)*

The site has a frontage to Parramatta Road, a classified road. Under Clause 101 (2) of SEPP Infrastructure 2007, the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that the efficiency and operation of the classified road will not be adversely affected by the development. Whilst the subject site has the potential to affect the provision of parking in surrounding streets this element of the application is discussed under the provisions of Part 2.10 of Marrickville Development Control Plan 2011 later in this report.

The site does not contain any vehicular access and as such the development will not affect the safety, efficiency and operation of Parramatta Road. In addition, the proposal is for a food and drink premises and as such is not sensitive to traffic noise or vehicle emissions. The application is considered acceptable with regard to Clause 101 of the SEPP Infrastructure 2007.

### **5(b) Reasons for Refusal of DA/2020/0811**

Given that the plans submitted with the application for review include minimal amendments to the refused application. It is considered appropriate that assessment against the provisions of *Marrickville Local Environment Plan 2011* (MLEP 2011) and Marrickville Development Control Plan 2011 (MDCP 2011) be in the form of an analysis against the reasons for refusal of the original determination.

The following provides an assessment of the review application against the reasons of refusal for DA/2020/0811 having regard to the relevant clauses of:

- *Marrickville Local Environmental Plan 2011.*
- *Draft Inner West Local Environmental Plan 2020.*
- *Marrickville Development Control Plan 2011.*

#### (i) Reason 1

1. *The proposed development is inconsistent and has not provided adequate information to demonstrate compliance with the following Clauses of Marrickville Local Environmental Plan 2011, pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979:*

- a. *Clause 1.2 – Aims of the Plan*
- b. *Clause 5.10 – Heritage Conservation*

#### Clause 1.2 – Aims of Plan

It is considered that the proposed development remains inconsistent with a number of aims of MLEP 2011 set out in Clause 1.2(2) including:

- (b) *to increase residential and employment densities in appropriate locations near public transport while protecting residential amenity,*
- (g) *to identify and conserve the environmental and cultural heritage of Marrickville,*
- (h) *to promote a high standard of design in the private and public domain.*

As a result of the intensity of the proposed use which includes a high number of patrons, extensive operating hours and onsite entertainment (DJ stage and dance floor) it is considered that the application has not demonstrated nearby residential amenity will be protected. The Acoustic Assessment submitted with the application does not capture the closest residential receivers and is inadequate to demonstrate the acoustic impacts of the proposal are acceptable or can be adequately managed. Additionally, the formalisation of access from Queen Street at the rear of the site for the café use has the potential to result in adverse amenity impacts as a result of further noise, foot traffic and general use of an active commercial frontage to Queen Street which is inconsistent with the generally residential character of the street and rear service only areas of other commercial premises. Amenity matters are discussed further under Reason 3.

The application also lacks information surrounding heritage conservation and modifications to the front façade of the building that is within a heritage conservation area. The application has not been accompanied by a Heritage Impact Statement and the proposed modifications and signage to the front façade of the building are unclear and may compromise contributory elements of the building. This is discussed further below.

#### Clause 5.10 – Heritage Conservation

The site is located within the Parramatta Road Commercial Precinct Heritage Conservation Area (C5) under MLEP 2011 and Part 8.4.2 of MDCP 2011 identifies the subject site as a contributory building within the conservation area.

Written documentation submitted with the review application provides limited discussion of heritage conservation and the suitability of the proposed works within the conservation area. It is noted that the review application includes amendments to the original application regarding works to the front façade, including the removal of a large intrusive sign.

However, removal of the sign alone is not sufficient to justify other proposed works to the façade. The application also includes new signage to the façade of the building, the largest of which is a wall sign above the awning which appears to be positioned in the same location as existing decorative elements of the building which provide a positive contribution to the streetscape and associated conservation area. Beyond the identification of new signage on the plans, there is no detail regarding the proposed signage material, colours or illumination which are pertinent to assessment of the proposed signage impact to the contributory building and the conservation area. It is also noted that the shopfront is proposed to be rebuilt with new glazing and an inset entrance door and the suitability of this design within the conservation area has not been addressed.

The application was referred to Council's Heritage Specialist who raised concerns with the lack of information submitted with the application surrounding heritage. The application should



have been accompanied by a Heritage Impact Statement (HIS), particularly given contributory nature of the building to the conservation area. The plans submitted with the application also do not depict the existing façade, with a number of decorative elements having been removed.

Based on the limited information provided, Council is unable to fully determine the heritage impacts of the proposal and whether the application is acceptable in this regard. However, based on the plans provided it is clear that the proposed large wall sign above the awning would compromise decorative elements of a contributory building within the conservation area and large wall signage is not consistent with the character of the conservation area.

As such, the application is inconsistent with the objectives of Clause 5.10(1) in that the proposal does not seek to:

- (a) *to conserve the environmental heritage of Marrickville,*
- (b) *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*

Additionally, inadequate information has submitted with the application, in particular the lack of a HIS, to demonstrate compliance with Clause 5.10. Consequently, the application is recommended for refusal.

(ii) Reason 2

2. *The proposed development is inconsistent and has not provided adequate information to demonstrate compliance with the following Clauses of draft Inner West Local Environmental Plan 2020, pursuant to Section 4.15 (1)(a)(ii) of the Environmental Planning and Assessment Act 1979:*
- a. *Clause 1.2 – Aims of the Plan*
  - b. *Clause 5.10 – Heritage Conservation*

It is noted that the Draft IWLEPP 2020 is largely a consolidation of Council's current 3 LEP's. As such, the provisions of Clause 5.10 are the same as those currently in MLEP 2011. The aims of the draft plan include additional aims that are not currently within MLEP 2011, however these additional aims are not relevant to this application.

For the reasons discussed above in relation to Reason 1, the application remains inconsistent with the following aims within Clause 1.2(2) of Draft IWLEP 2020:

- (h) *to identify, protect and conserve environmental and cultural heritage and significant local character,*
- (i) *to achieve a high-quality urban form and open space in the public and private domain by ensuring new development exhibits architectural and urban design excellence,*
- (j) *to protect and enhance the amenity, vitality and viability of Inner West for existing and future residents, workers and visitors,*

For the reasons discussed above in relation to Reason 1, the application remains inconsistent with the objectives of Clause 5.10(1) of Draft IWLEP 2020:

- (a) *to conserve the environmental heritage of Inner West,*
- (b) *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*

The application is recommended for refusal.

(iii) Reason 3

3. *The proposed development is inconsistent and has not provided adequate information to demonstrate compliance with the Marrickville Development Control Plan 2011, pursuant to Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979:*
- a. *Part 2.5 - Equity of Access and Mobility;*
  - b. *Part 2.6 - Acoustic and Visual Privacy; and*
  - c. *Part 5.3 - Commercial/Light Industrial/Residential Interface*

Part 2.5 – Equity of Access and Mobility

Part 2.5 of MDCP 2011 contains the following objectives and controls relevant to the development:

- O1** *To provide equitable access within all new development, and ensure substantial alterations to existing development, or an intensification of an existing land use, provides an improved level of access for all people.*
- C1** *When assessing a development application Council must take into account the following matters as relevant to the application:*
- i. *The provision for ease of use and comfort through appropriate gradients, rest areas, circulation space and user friendly entrances;*
  - ii. *Safety measures, including contrasting colours for points of danger, slip resistant travel surfaces and appropriate positioning of street furniture, public art installations, signage or any other obstacles, including those in the public domain;*
  - iii. *Legible design and way finding features, such as signs and international symbols and indicators, to assist in determining the location of handrails, guard-rails and tactile indicators where relevant;*
  - iv. *Opportunities for access through principal entrances of commercial buildings, public buildings and residential flat development;*
  - v. *The retention or improvement of existing accessible features; and*
  - vi. *The extent to which development may compromise or reduce the capacity for accessible features in future development.*

During assessment of the original application, an Access Report was requested, but has not been provided. It is noted that as part of this review application, the plans have been amended to show a ramped entry way at Parramatta Road and other access provisions in accordance with advice provided by Ergon Consulting P/L.

However, the proposal includes the provision of a café primarily fronting Queen Street which is to operate independently from the restaurant fronting Parramatta Road some of the time. During the hours of 7.00am to 10.00am Mondays to Saturdays and 8.00am to 10.00am Sundays, the Queen Street entrance is proposed to be the primary entrance to the site. The application does not address access via this entrance and there is no indication on the plans provided that the access from Queen Street is adequately accessible. As such, access to the development remains inadequate and is inconsistent with Objective 1 and Control 1 within Part 2.5 of MDCP 2011.

Part 2.6 – Acoustic and Visual Privacy

Part 2.6 of MDCP 2011 contains the following objectives and controls relevant to the development:

- O1** *To ensure new development and alterations and additions to existing buildings provide adequate visual and acoustic privacy for the residents and users of surrounding buildings.*
- O3** *To ensure new development does not unreasonably impact on the amenity of residential and other sensitive land uses by way of noise or vibration.*
- C7** *Noise impacts of commercial and industrial development on residential amenity*
- i. All development must comply with the relevant noise control guidelines.*
  - ii. Where sites adjoin a residential area or are located within a mixed use building, Council will consider the potential noise generation of any proposed activities including the use of equipment or machinery, the use of amplified music/noise on the site and proposed hours of operation...*
  - ...iv All applications for noise generating uses adjacent to or located in a building containing a residential use must be accompanied by documentation from a qualified acoustic engineer certifying that the acoustic standards can be met.*

The proposal includes the provision of a restaurant and café operating between the hours of 7.00am and 3.00am and a DJ stage and dance floor operating between the hours of 10.00pm and 3.00am. It is noted that access to the café is primarily provided from Queen Street at the rear of the site. Given the early morning and late night trade and that the site adjoins a R2 Low Density Residential zone at the rear of the site, the development has the potential to result in adverse acoustic impacts for surrounding residential properties.

An acoustic report was submitted with the original application which was identified as inadequate in the assessment report for DA/2020/0811 for the following reason:

*“...the acoustic report did not include an assessment of the trading hours of the café from 6.00am, the impact of plant and equipment and the location of speakers for the entertainment.”*

It is noted that the review application has slightly amended the operating hours to commence at 7.00am. The review application has been accompanied with an addendum to the original acoustic assessment, completed by Acoustic Consultants Australia P/L. However, the addendum report remains inadequate to demonstrate the acoustic impacts from the proposal to the nearby residences would be acceptable. The report was reviewed by Council's Environmental Health Officer and the following concerns are raised:

- The report has not captured the closest residential receivers with the report identifying the closest receiver on Parramatta Road as 504-512 Parramatta Road despite a number of shop-top housing buildings within closer proximity to the site and the impact on these properties has not been assessed.
- No information is included regarding speakers or attenuation of noise for the party area.
- No consideration has been made for the impacts of vibration or low frequency noise and internal noise and vibration transmission from the premises into most affected commercial and residential premises
- In Council's experience with proposals for similar development, the proposed noise limiter of 99dB(A) would cause significant amenity impacts to the neighbouring premises and is deemed to be and inappropriate for the proposed development, considering no attenuation is planned for the party area
- The report does not address plant and equipment in a meaningful way as it is stated mechanical ventilation will not be required (without any further details as to

why ventilation in accordance with AS1668 would not be required) and has not definitively identified the air-conditioning units to be installed at the site.

Given the above, despite a further report, the application remains unacceptable with regard to noise and vibration. The subject site is within very close proximity to residential properties on both Parramatta Road and Queen Street and the report has not adequately addressed the closest receivers or vibrations as discussed above. The cumulative impacts of the proposal (use and plant) have also not been fully resolved with outstanding information surrounding ventilation required and air-conditioning proposed have not been provided.

It is noted that the application only mentions the service of hot dogs thereby negating the need for mechanical ventilation however the café and restaurant hours are quite extensive and it is quite likely that other food goods would be prepared and served that would require cooking and the need for mechanical ventilation.

As such, the application has not demonstrated compliance with Objectives 1 and 3 and Control 7 of Part 2.6 of MDCP 2011. The application is recommended for refusal.

#### Part 5.3.1.1 – Plan of Management (POM)

Part 5.3.1.1 of MDCP 2011 contains the following objectives and controls relevant to the development:

- O64** *To ensure commercial and light industrial premises operate in the most efficient way without unreasonable amenity impacts on nearby residential land uses.*
- C71** *A POM must provide all details relevant to the operation of the commercial or light industrial premise. As a minimum the following must be included in a POM:*
- i. Title;*
  - ii. Objectives;*
  - iii. Operational details, including all machinery/equipment to be used;*
  - iv. Hours of operation;*
  - v. Staffing details;*
  - vi. Details of any music and/or entertainment to be provided on site;*
  - vii. Guidelines for staff for using the site facilities and equipment;*
  - viii. Deliveries and loading/unloading;*
  - ix. Managing customers or patrons, including access to and from the premises;*
  - x. Security details, including lighting plan for proposals with extended trading hours;*
  - xi. Complaint recording and handling process;*
  - xii. Clean-up procedures, and proposed training for staff in procedures, for situations where pollutants may escape from site for uses likely to handle significant quantities of potential pollutants;*
  - xiii. The review process to continuously improve the POM; and*
  - xiv. Any other matters specified by Council.*

The proposal includes a POM which largely addresses Control 71, however there is significant concern surrounding the use of the rear of the premises at Queen Street as an active frontage and the only operational entrance to the premises during the hours of 7.00am and 10.00am Mondays to Saturdays and 8.00am to 10.00am Sundays. During this time, Point 9 of the POM indicates the café functioning at the rear of the site will be the only portion of the site functioning and access will only be provided from Queen Street.

Further, the Queen Street entrance is to remain operational throughout the day until 10.00pm. It is noted that this review application has included further works to the rear façade of the

building to formalise the Queen Street entrance by introducing an increased high level of glazing.

The use of Queen Street as a primary entrance to the site and its use as separately functioning occupancy for a portion of the day has not been adequately rationalised. The rear of the premises at Queen Street is in very close proximity to residences, with low density residential dwellings immediately opposite the site. Additionally, the northern side of Queen Street (the rear of commercial properties fronting Parramatta Road) generally sees service areas of commercial premises and not active uses which present greater opportunities for amenity impacts to residents. The northern side of Queen Street has no formalised footpath, is dominated by driveways and has limited lighting and does not appear to have the infrastructure or facilities to support ingress and egress of potentially up to 200 proposed patrons during the hours of 7.00am to 10.00am as well as operating late into the evening to 10.00pm.

It is also noted that there are some inconsistencies in the POM as to the whether deliveries or staff are proposed to use the Queen Street entrance after 10.00pm, which presents further amenity and acoustic concerns for adjacent residents. The POM also lacks the following detail regarding access from Queen Street which was raised in the original assessment report for DA/2020/0811:

- Management strategies to ensure patrons don't loiter on Queen Street have not been included.
- It is unclear whether the door at the rear of the premises will be open or closed during trade.
- Details on the management of delivery drivers and where they will wait has not been included.

Given the above, the management arrangements proposed and access via Queen Street are inconsistent with Objective 64 within Part 5.3.1.1 of MDCP 2011 as well as presenting general amenity concerns as a result of the intensity of the use proposed in a street with minimal infrastructure to support such a use. Additionally, the PoM submitted with the application is inconsistent with Control 71 of Part 5.3.1.1 of MDCP 2011. The application is recommended for refusal.

#### Part 5.3.1.3 – Environmental Protection

Part 5.3.1.3 of MDCP 2011 contains the following objectives and controls relevant to the development:

- O67** *To ensure development takes account of and minimises any adverse effects upon the environment.*
- O68** *To minimise air (including odour), groundwater, soil and surface water pollution caused by new development.*
- C81** *Commercial or light industrial developments likely to emit air pollutants (including odour) must demonstrate the best practicable means of control of air pollutants (and odour) that will be applied to the proposed development. The applicant must outline the type, quantity and quality of air pollutants likely to be emitted, the collection and treatment proposed prior to discharge and methods to be employed to minimise fugitive emissions.*

The application proposes the fitout and use of the premises as a restaurant and café that could accommodate up to 200 patrons at any time. The PoM submitted with the application also indicates the café and restaurant will serve multiple food menus. The application does not include any information surrounding the provision of mechanical ventilation, grease

trap/arrestor or other facilities used to manage the waste, pollution and odour generated for food uses. The application was referred to Council’s Environmental Health Officer who has confirmed that given the size of use, mechanical ventilation would likely be required. No provision for mechanical ventilation is illustrated on the submitted plans.

As such, the application has not demonstrated compliance with Objectives 67 and 68 and Control 81 within Part 5.3.1.3 of MDCP 2011. The application is recommended for refusal.

Part 5.3.1.4 – Hours of Operation

Part 5.3.1.4 of MDCP 2011 contains the following objectives and controls relevant to the development:

- O69** *To ensure the operations of the proposed development will not cause nuisance to residents during opening hours.*
- C85** *Hours of operation for the use of a site will be restricted by Council if it is likely that the use will cause an impact on any nearby residential or other sensitive use.*
- C86** *Applications for uses outside of traditional trading hours must demonstrate the proposed development will not unreasonably affect the amenity of residential land uses.*
- C87** *Uses proposed to extend beyond traditional hours of operation must not negatively impact on nearby residential land uses by way of noise or vibration, including from patrons and staff, foot or vehicular traffic movements, excessive lighting, on-site music or entertainment or security measures.*

The application seeks approval for the following hours of operation:

Use	Proposed Hours
Restaurant	10.00am to 3.00am Mondays to Saturdays 10.00am to 12.00am Sundays
Café	7.00am to 3.00am Mondays to Saturdays 8.00am to 12.00am Sundays
DJ Booth and Dance Floor ('Party Area')	10.00pm to 3.00am Fridays and Saturdays

As discussed in detail earlier in the report, the application has not demonstrated the use will not result in adverse impacts to nearby residents as a result of noise, vibration, patrons and the use of Queen Street as a primary entrance to the site. For these reasons, the proposed hours of operation, particularly the late night trade, are not consistent with Objective 69 and Controls 86 and 87 within Part 5.3.1.4 of MDCP 2011.

However, given the residential interface of the site, it is also pertinent to consider the appropriateness of the extended hours sought in the context of the current commercial operations of the area. The below table summarises the approved uses and operating hours of adjoining development on Parramatta Road:

Address	Application & Date	Approved Use	Hours of Operation
452 Parramatta Road	DA795/98 9 March 1999	Office	8.00am to 6.00pm Mondays to Fridays 8.00am to 5.00pm Saturdays

466 Parramatta Road	336/97 9 September 1997	Manufacturing	8.00am to 5.30pm Mondays to Wednesdays 8.00am to 9.00pm Thursdays 8.00am to 4.00pm Fridays 10.00am to 3.00pm Saturdays
468 Parramatta Road	DA200100820 4 March 2002	Food and Drink Premises	10.00am to 8.00pm Mondays to Saturdays
470 Parramatta Road	Permit 4890 13 May 1970	Restaurant	10.00am to 12.00am Mondays to Sundays
472-474 Parramatta Road	LEC 10568 of 1998	Brothel	24 Hours Monday to Sunday
476 Parramatta Road	Permit 11253 28 October 1987	Office	9.00am to 5.00pm Mondays to Saturdays
478 Parramatta Road	DA200000795 29 January 2001	Office	9.00am to 5.00pm Mondays to Wednesdays, Fridays and Saturdays 9.00am to 7.00pm Thursdays

As demonstrated by the above table, the commercial activities surrounding the subject site are generally not as extensive as the hours proposed by this application and the area does not exhibit early morning or late night trade. The neighbouring site of 472-474 Parramatta Road does exhibit 24 hour trade but this premises is a brothel and as such is highly controlled with limited patrons as a result of the use. The subject site (based on the previous approval) currently has the most extensive hours for the locality under the most recent consent from 1970. However, even this consent is limited to 12.00 midnight and is for a coffee lounge only with limited seating and no additional entertainment or access from Queen Street.

Given the above, in the context of the locality and given the close proximity to residents it is considered that any substantial late night trade is not appropriate to the locality and would likely result in adverse amenity impacts simply as a result of the intensity of the use proposed.

Given the above, the proposal and extensive late night trading would cause a nuisance to the residents in the area and is inconsistent with Objective 69 within Part 5.1.3.4 of MDCP 2011. The application is recommended for refusal.

(iv) Reason 4

4. *The proposal has not provided adequate information to demonstrate it will not result in adverse environmental impacts in the locality, pursuant to Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979.*

The proposal lacks the following information to demonstrate it will not result in adverse impacts:

- An adequate Acoustic Report
- A POM which includes clear details on the use of the Queen Street entrance and management of impact as a result of that entrance.
- Providing hours of operation consistent with the locality and that do not result in amenity impacts.

The application is recommended for refusal.

(v) Reason 5

5. *The adverse environmental impacts of the proposal mean that the site is not considered to be suitable for the development as proposed, pursuant to Section 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979.*

The site is not considered suitable for the proposed development as discussed throughout this report due to the intensity of the proposed use, the site's proximity to residential properties and the use of Queen Street as primary entrance to the site. The application is recommended for refusal.

(vi) Reason 6

6. *The application as submitted has not provided adequate information in order to undertake a full and proper assessment of the application in accordance with the Environmental Planning & Assessment Act 1979.*

The application lacks the following information to enable a full and proper assessment of the proposal:

- Details of the proposed entertainment use within the premises and how that use is captured within the definition of a *food and drink premises* (discussed in more detail below).
- A Heritage Impact Statement.
- Plans clearly showing the proposed works to the building façade, accurately depicting the existing building façade and specific details of the signage proposed.
- Details of mechanical ventilation and other related food use equipment.

### 5(c) Additional Matters

The following provides an assessment of additional matters that are of concern there were not raised in the reasons of refusal for DA/2020/0811 having regard to the relevant clauses of:

- *Marrickville Local Environmental Plan 2011.*
- *Draft Inner West Local Environmental Plan 2020.*
- *Marrickville Development Control Plan 2011.*

(i) Proposed Use

The application seeks approval for a food and drink premises. The definition of a *food and drink premises* under MLEP 2011 is as follows:

***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.*

However, the proposal includes a DJ stage and dance floor which is designated on the plans as 'party area'. This area, while accessible from the restaurant and café, is a dedicated space



within the tenancy showing (as illustrated on the plans) a potential capacity for 72 people and it is questioned how such an activity is commensurate with the proposed food and drink premises use without becoming the predominant use such as an entertainment facility or function centre.

The documentation submitted with the application does not explore either:

- The classification of this element of the proposal as a different use that has a definition more aligned with the activity (e.g. an entertainment facility); or
- A qualitative and quantitative assessment of the activity to demonstrate it is truly an ancillary function of the food and drink premises, having regard to Planning Circular PS 13-001 which provides guidance on determining ancillary uses.

As such, the application is not clear as to the proposed use and the consent sought. The application lacks information for Council to determine the uses proposed.

However, it is noted that it is unlikely that the 'party area' could be classified as an ancillary use as suggested by the application, as it is difficult to see how a clearly delineated space for live music and dancing serves the dominant purpose of the site which is premises used for the preparation and retail sale of food or drink.

(ii) Car Parking

Part 2.10 of MDCP 2011 sets out objectives and controls relating to car parking, including the provision of car parking for uses in particular zones.

One (1) car parking space per 80sqm of GFA is required for the proposed use as a food and drink premises. Based on the GFA of the premises, 2 car parking spaces are required. The site currently has no provision for onsite car parking.

Given the site is well serviced by public transport during the day and early evening it is not considered necessary to provide onsite parking and a variation to the requirements would be acceptable. However, the proposal seeks late trade after 12.00 midnight 6 days a week during which time the site is not well serviced by public transport. On Friday and Saturday nights when the 'party area' is proposed to operate would potentially be the most intensive use of the site and this is during the times when public transport to the site would not be viable and extremely limited.

As such, give the late night trade proposed and the high number of patrons potentially using the site during late night hours, the lack of onsite car parking is not supported and the application does not comply with Control 1 within Part 2.10 of MDCP 2011. The application is recommended for refusal.

As noted earlier in this report, it has not been adequately demonstrated that the use sought is truly a food and drink premises and entertainment facilities or function centres have different parking rates that would apply which the proposal would clearly not conform to. It is considered the proposed use is not suitable for the subject site.

(iii) Waste Management

Part 2.21 of MDCP 2011 contains the following objectives and controls relevant to the development:

- 01** *To ensure adequate provision is made for site facilities.*

**C28** *Applications for commercial, industrial and other non-residential development must provide recycling/waste containers that can accommodate the quantity of recycling/waste material required for the type of use specified, using Table 2 as a guide, justified in the Statement of Environmental Effects.*

**C31** *Recycling/waste containers must be stored in recycling/waste storage room(s) or area(s), designed in accordance with the specific requirements in Appendix 4.*

In accordance with the above, a waste storage area is to be provided on site. The plans have not identified a waste storage area on the plans. As such, it has not been demonstrated that the site can accommodate adequate facilities and the application is inconsistent with Part 2.21 of MDCP 2011.

(iv) Patron Numbers

The proposed patronage of 200 persons has not been justified having regard to requirements of the BCA and no information has been submitted with the application to demonstrate the patron numbers proposed are acceptable. The application was reviewed by Council's Building Surveyor who provided the following comments in this regard:

*The [application] does not satisfactorily discuss whether the proposed population is acceptable. It is considered from a high level review that the proposed population is not acceptable. A population study is to be included within [a] BCA report ... taking into consideration available floor area, aggregate egress widths, and sanitary facilities. A satisfactory population is to be proposed and the plans amended accordingly to suit.*

Given the above, the application has not demonstrated the development is acceptable having regard to the provisions of the BCA and lacks information justifying the proposed patron numbers. The application is recommended for refusal.

5(d) The Likely Impacts

The assessment of the s8.2A review demonstrates that the proposal will have an adverse impact on the locality in the following way:

- The development does not respond to the aims of the MLEP 2011 and the Draft IWLEP 2020.
- The development provides signage that is incompatible with the building and locality.
- The development would result in adverse impacts to a contributory building within a heritage conservation area.
- The proposed use, entrance from Queen Street and the extensive hours of operation would result in adverse acoustic and general amenity impacts to the surrounding residences.
- The development would not be adequately accessible for all persons.
- The development would result in adverse environmental impacts due to the lack of mechanical ventilation and lack of waste management
- The development does not provide adequate carparking and is not well served by public transport during all the hours of operation proposed resulting in greater demand for on-street parking which is limited in the vicinity of the site (particularly for the 200 patrons proposed).

5(e) Submissions

The application was notified in accordance with Marrickville Development Control Plan 2011 for a period of 14 days to surrounding properties. 10 submissions were received in response to the initial notification.

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

- Hours of operation – See Reason 3.
- Acoustic and general amenity impacts – See Reason 3.
- Access from Queen Street – See Reason 3.
- Management of the premises and possibility for amenity impacts on Queen Street – See Reason 3.
- Lack of detail surrounding mechanical ventilation – See Reason 3.
- Waste Management – See Reason 3.
- Use of the DJ booth and dance floor within a restaurant – See Other Matters.
- The potential for use of the premises as a nightclub – See Other Matters.

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

Issue: The use is within close proximity of a school

Comment: There is no fundamental issue with the proposed commercial use being within close proximity of a school. However, the potential amenity impacts and non-compliance with planning controls has been identified by this report and the application is recommended for refusal for these reasons.

## 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.

- Building
- Heritage
- Health
- Engineering
- Waste

## 6(b) External

The application was referred to the following external bodies who did not respond to Council's request for comment:

- NSW Police

## 7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions/7.12 levies are not payable for the proposal.

## 8. Conclusion

The proposal does not comply with the aims, objectives and design parameters contained in *Marrickville Local Environmental Plan 2011* and Marrickville Development Control Plan 2011.

The development would result in significant impacts on the amenity of the adjoining premises/properties and the streetscape and is not considered to be in the public interest.

The application is considered unsupportable and in view of the circumstances, refusal of the application is recommended.

## 9. Recommendation

That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s8.2 of the *Environmental Planning and Assessment Act 1979*, refuse Development Application No. REV/2021/0005 to review the determination of DA/2020/0811 to fitout and use the ground floor of the premises as a restaurant and cafe at 470 Parramatta Road PETERSHAM NSW 2049 for the reasons in Attachment A.

## Attachment A – Recommended reasons of refusal

### REASONS FOR REFUSAL

1. The proposed development is inconsistent with the following Clauses of *Marrickville Local Environmental Plan 2011*, pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*:
  - a. Clause 1.2 – Aims of the Plan, in that the proposal does not protect residential amenity, preserve cultural heritage of the area or promote a high standard of design.
  - b. Clause 5.10 – Heritage Conservation, in that the works and signage to the front facade are detrimental to the contributory building within the Parramatta Road Commercial Precinct Heritage Conservation Area.
2. The proposed development is inconsistent with the following Clauses of draft *Inner West Local Environmental Plan 2020*, pursuant to Section 4.15 (1)(a)(ii) of the *Environmental Planning and Assessment Act 1979*:
  - a. Clause 1.2 – Aims of the Plan, in that the proposal does not protect residential amenity, preserve cultural heritage of the area or promote a high standard of design.
  - b. Clause 5.10 – Heritage Conservation, in that the works and signage to the front facade are detrimental to the contributory building within the Parramatta Road Commercial Precinct Heritage Conservation Area.
3. The proposed development does not comply with the following Parts of *Marrickville Development Control Plan 2011*, pursuant to Section 4.15 (1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*:
  - a. Part 2.5 - Equity of Access and Mobility, in that the premises does not provide equitable access for all persons via the principal entrances of the building.
  - b. Part 2.6 - Acoustic and Visual Privacy, in that the development has not demonstrated through the submission of suitable acoustic testing and management techniques that the proposed use will not result in acoustic impacts to residents.
  - c. Part 2.10 - Parking, in that the development does not provide any onsite parking and is not well served by public transport at all times during the proposed operational hours.

- d. Part 2.12 - Signage and Advertising Structures, in that the proposed signage is not consistent with the desired future character of the area; is not well sited on the building; and the extent of signage is excessive.
  - e. Part 2.21 - Waste Management, in that the development provides no waste area or provisions for waste management.
  - f. Part 5.3 - Commercial/Light Industrial/Residential Interface, in that the Plan of Management and use of Queen Street as a primary entrance is inadequate; there is no mechanical ventilation; and the hours of operation are excessive and inconsistent with the locality.
  - g. Part 8 - Heritage, in that the proposed modification and signage to the facade of the building are not sympathetic to the contributory building.
4. The proposal has not provided adequate information to demonstrate it will not result in adverse environmental impacts in the locality, pursuant to Section 4.15 (1)(b) of the *Environmental Planning and Assessment Act 1979* in that:
    - a. An adequate Acoustic Report has not been submitted.
    - b. A Plan of Management including clear details on the use of the Queen Street entrance and management of impacts as a result of that entrance.
    - c. Providing hours of operation consistent with the locality that do not result in amenity impacts.
  5. The adverse environmental impacts of the proposal mean that the site is not considered to be suitable for the development as proposed, pursuant to Section 4.15 (1)(c) of the *Environmental Planning and Assessment Act 1979*.
  6. The application as submitted has not provided adequate information in order to undertake a full and proper assessment of the application in accordance with the *Environmental Planning & Assessment Act 1979* in that the following has not been provided with the application:
    - a. Details of the proposed entertainment use within the premises and how that use is captured within the definition of a *food and drink premises*.
    - b. A Heritage Impact Statement.
    - c. Plans clearly showing the proposed works to the building façade, accurately depicting the existing building façade and specific details of the signage proposed.

- d. Details of mechanical ventilation and other related food use equipment.
  - e. A population assessment under the BCA to demonstrate the high number of patrons proposed at the site is acceptable.
7. Having regard to submissions received and the adverse environmental impacts of the proposal, the application as proposed is not in the public interest, pursuant to Section 4.15 (1)(e) of the *Environmental Planning and Assessment Act 1979*.
8. The proposed signage does not comply with the aims, objectives and assessment criteria contained within *State Environmental Planning Policy - No. 64* in that the proposed signage is not consistent with the desired future character of the area, is not well sited on the building within a conservation area and contributes to visual clutter.



Attachment B – Plans of proposed development

# 470 PARRAMATTA ROAD

**GRAPHICAL REPRESENTATION ONLY**

**CLIENT**

NAME: DENNIS PAHOS

DATE: \_\_\_\_\_

**GENERAL NOTES:**

\* ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED

\* ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED

\* ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED

**SHEET**

COVER PAGE

HOUSE TYPE: LICENSING APPLICATION

PROPERTY ADDRESS: 470 PARRAMATTA ROAD

CLIENT: DENNIS PAHOS

**SCALE**

SCALE: 1:1

DATE: 2019

DRAWN: EE

CHECKED: MS

**ISSUE DATE**

19-01-18

**JOB NUMBER**

19-0118

**REVISIONS**

NO.	DATE	DESCRIPTION	INITIALS
1	19-01-18	ISSUE FOR PERMIT	J

**draftree**

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 Email: info@draftree.com.au  
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 407 COLLINS STREET  
 MELB 3002

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**GENERAL NOTES.**

DO NOT SCALE DRAWINGS. USE WRITTEN DIMENSIONS ONLY.

THE OWNER, BUILDER AND/OR SUB-CONTRACTORS SHALL VERIFY ALL DIMENSIONS, LEVELS, SETBACKS AND ANY SPECIFICATIONS PRIOR TO COMMENCING ANY WORK OR ORDERING MATERIALS. THE BUILDER SHALL BE RESPONSIBLE FOR OBTAINING ALL BUILDING WORKS COVERED BY THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS CODES (CURRENT EDITIONS), BUILDING REGULATIONS LOCAL BY-LAWS AND RESCUE REQUIREMENTS. REPORT ALL DISCREPANCIES TO THIS OFFICE FOR CLARIFICATION. ALL CONSTRUCTION DETAILS MUST COMPLY WITH THE NCC2019 - 9 - STANDARDS WITHIN.

1. THESE PLANS SHALL BE READ IN CONJUNCTION WITH ANY STRUCTURAL OR CIVIL ENGINEERING COMPUTATIONS AND DIMENSIONS.

2. THESE PLANS SHALL BE READ IN CONJUNCTION WITH THE SOIL REPORT FOOTINGS ARE TO BE FOUND AT THE MINIMUM DEPTHS INDICATED IN THE SOIL REPORT.

3. WHERE THE BUILDING (OTHER THAN A CLASS 10) IS ADJACENT TO AN EXISTING BUILDING, THE BUILDING SHALL BE PROTECTED IN ACCORDANCE WITH THE RELEVANT AUSTRALIAN STANDARDS.

4. DISCHARGE SHALL BE TAKEN TO THE LEGAL POINT OF AUTHORITY.

5. SEWER OR SEPTIC SYSTEMS SHALL BE IN ACCORDANCE WITH THE RELEVANT AUTHORITY REQUIREMENTS.

6. FOOTINGS ARE NOT TO ENDOURCH OVER ANY TITLE BOUNDARIES AND/OR EASEMENT LINES.

7. FOR BUILDINGS IN CLOSE PROXIMITY TO THE SEA, ENSURE THAT ALL STEELWORK, BRICK CAVITY TIES, STEEL LINTELS ETC. THAT ARE IMBEDDED OR FIXED TO MASONRY BE PROTECTED WITH AN APPROPRIATE FINISH. UNPAINTED STEEL SHALL BE GALVANIZED, STAINLESS STEEL OR CADMIUM COATED.

8. BUILDING SETBACKS ARE FROM TITLE LINE (NOT FENCE LINE) UNLESS OTHERWISE SPECIFIED IN THE SOIL REPORT.

9. ALL WALL AREAS ARE TO COMPLY WITH B.C.A. 3.8.1 OR A.S. 2740-2010. WALL FINISHES SHALL BE IMPERVIOUS TO A HEIGHT OF 1800MM ABOVE FLOOR LEVEL TO ANY SHOWER ENCLOSURE, BATH, WASHING, SINKS AND TROUGHES IF WITHIN 750MM OF THE WALL.

10. RISERS (OTHER THAN CLASS 10) SHALL BE A MINIMUM OF 1150MM. RISERS AND TREADS ARE TO BE CONSTANT IN SIZE THROUGHOUT THE ENTIRE FLOORING FINISH OR SUITABLE NON-SLIP SURFACE FINISH. PROVIDE A MINIMUM GAP BETWEEN RISERS IS NOT TO EXCEED 125MM OR USE CLOSED RISERS PROVIDE BALCONIES AND DECKS WHICH ARE 1000MM OR GREATER ABOVE GROUND LEVEL. HANDRAILS ARE TO BE A MINIMUM OF 860MM ABOVE FINISH FLOOR LEVELS. MAXIMUM GAP BETWEEN BALUSTERS SHALL BE 150MM.

11. SMOKE ALARMS ARE TO BE PROVIDED AND INSTALLED IN ACCORDANCE WITH THE NCC2019 - 9 - STANDARDS WITHIN AN EXISTING PART OF A CLASS 1, 2 OR 3 BUILDING OR A CLASS 4 PART OF A BUILDING THE SMOKE ALARM SHALL BE HARD-WIRED WITH A BATTERY BACK-UP INTERCONNECTED.

**ROOFING: PART 3.5**

METAL ROOF OVER ROOF BATTENS AT 300 CTRS. TYPICAL THRU-OUT UNLESS NOTED OTHERWISE. ROOF BATTENS TO BE USED & FIXED IN ACCORDANCE WITH THE MANUFACTURERS DETAILS & SPECIFICATIONS & PROVIDE APPROVED CAPPING & FLASHING TO ALL ROOF EDGES. PROVIDE 600mm MAX CTRS. TO MANUFACTURERS SPECIFICATIONS UNLESS NOTED OTHERWISE. PROVIDE 600mm MAX CTRS. TO MANUFACTURERS SPECIFICATIONS UNLESS NOTED OTHERWISE. SELECTED PROFILE MUST ALLOW FOR WATER & FASCIA TO THE PERIMETER OF THE ROOF AREA.

1. ALL BRICKWORK SHOULD BE INSTALLED IN ACCORDANCE WITH AS3700-2011.

2. ALL BRICKWORK AND ARTICULATION JOINTS MUST BE CONSTRUCTED AND COMPLY WITH AS3700 & AS4773.1. MASONRY CODES IN BUILDINGS.

**TIMBER FRAMING:**

ALL TIMBER FRAMING THROUGH-OUT IS TO BE IN ACCORDANCE WITH THE ENGINEERS DETAILS AND DRAWINGS.

**FLOORING & FOOTINGS: PART 3.2**

FINISHED FLOOR LEVELS ARE NOMINAL ONLY AND SHOULD BE READ IN ACCORDANCE WITH THE SOIL REPORT REQUIREMENTS. FOOTING SIZE & DETAILS TO BE DETERMINED BY THE ENGINEERS DETAILS AND DRAWINGS.

**WALL LINTELS & SUPPORT STUDS THRU-OUT:**

FOR ALL EXTERNAL PERIMETER LOAD-BEARING LINTELS AND SUPPORT STUDS TO BE INSTALLED IN ACCORDANCE WITH THE ENGINEERS DETAILS AND DRAWINGS AND TO GENERAL SPECIFICATIONS.

**INTERNAL DOORS:**

ALL INTERNAL DOORS ARE TO BE 2040mm HIGH UNLESS NOTED OTHERWISE ON THE PLAN.

**WC DOORS:**

HINGED DOORS THAT OPEN INWARDS TOWARDS THE PAN BUT WITH THE PAN AT ITS NEAREST POINT, MUST HAVE DEMOUNTABLE HINGES TO ALLOW EASY REMOVAL OF THE DOOR FROM THE OUTSIDE OF THE WC COMPARTMENT.

**CLADDING:**

ALL EXTERNAL CLADDING BOARD OR SHEET TO BE IN ACCORDANCE WITH PART 3.5.4

**BRICKWORK: PART 3.3**

ALL BRICKWORK SHOULD BE INSTALLED IN ACCORDANCE WITH THE ENGINEERS DETAILS AND DRAWINGS.

**GEOTECHNICAL:**

THESE DRAWINGS ARE TO BE READ IN CONJUNCTION WITH A GEOTECHNICAL REPORT. IT IS THE BUILDER'S RESPONSIBILITY TO OBTAIN SUCH REPORTS PRIOR TO COMMENCEMENT OF WORKS.

**LINTEL NOTES:**

BUILDER IS TO NOTE THAT LINTELS SELECTED BY THE ENGINEER ARE DESIGNED TO CARRY ONLY STANDARD TILE, ROOFINGS & SNOW LOADS WHERE ARE AT 600mm MAXIMUM CTRS. IF ANY SNOW LOADS ARE LOCATED DIRECTLY ON ANY LINTELS.

ENGINEERS DRAWINGS TAKE PRECEDENCE OVER NOMINAL SIZES INDICATED ON THESE PLANS.

**WINDOWS:**

ALL GLAZING IS TO BE IN ACCORDANCE WITH AS 2208-2006. ALL WINDOW SIZES SHOWN ARE NOMINAL DEPENDING ON THE TYPE OF GLAZING. PROVIDE MANUFACTURERS CLOSEST STANDARD SPECIFICATIONS.

1. ALL GLAZING IS TO BE IN ACCORDANCE WITH AS 2208-2006.

2. ALL WINDOW SIZES SHOWN ARE NOMINAL DEPENDING ON THE TYPE OF GLAZING. PROVIDE MANUFACTURERS CLOSEST STANDARD SPECIFICATIONS.

**WALLING: TO AS1684.2 2010**

90 X 35 MSP-0 COMMON STUDS  
70 X 35 FR NOODINGS  
2 (90 X 45) MSP-2 TOP PLATES - INTERNAL LOAD BEARING WALLS  
2 (90 X 45) MSP-0 JAMB STUDS  
3 (90 X 45) MSP-0 JAMB STUDS TO GREATER TRUSS

**LININGS:**

ALL EXTERNAL CLADDING BOARD OR SHEET TO BE IN ACCORDANCE WITH PART 3.5.4

**HEATING & COOLING: PART 3.12**

ALL HEATING & COOLING UNITS, SIZES, TYPES & LOCATIONS ARE TO BE CONFIRMED BETWEEN THE BUILDER & THE SUPPLIER.

**SOIL CLASSIFICATION**

REFER TO SOIL REPORT ATTACHED

**SAFETY:**

THE DESCRIBED REQUIREMENTS IN RELATION TO THE ELECTRICAL REQUIREMENTS OF A ROOMING HOUSE ARE THAT ALL POWER CIRCUITS OF THE CIRCUITS OF OR IN A ROOMING HOUSE ARE CONNECTED TO:

- (A) A SWITCHBOARD TYPE CIRCUIT BREAKER THAT COMPLIES WITH THE ELECTRICAL INSTALLATIONS, AS PUBLISHED FROM TIME TO TIME, AND
- (B) A SWITCHBOARD TYPE RESIDUAL CURRENT DEVICE THAT COMPLIES WITH (-) AS/NZS 3:30 APPROVAL AND TEST REPORTS AND IS INSTALLED IN ACCORDANCE WITH THE OPERATED EARTH-LEAKAGE DEVICES, AS PUBLISHED FROM TIME TO TIME OR (-) RESIDUAL CURRENT OPERATED CIRCUIT BREAKERS WITHOUT INTEGRAL OVERCURRENT PROTECTION FOR HOUSEHOLD AND SIMILAR USE (RCBBS);

**ENERGY REPORT**

INSULATION TO BE INSTALLED TO THE FOLLOWING AREAS:

- EXTERNAL WALL
- INTERNAL WALL
- INTERNAL GARAGE WALL
- ROOF

**6 STAR ENERGY UPGRADE:**

1. ALL EXTERNAL GAPS & CRACKS TO WINDOW/DOOR STOPPER STRIPS/SEALS TO ALL EXTERNAL HINGED DOORS AND GAPS OVER EXHAUST FANS.
2. STOPPER STRIPS/SEALS TO ALL WALLS & GAPS/JOINTS SEALS.
3. INSULATION APPLIED TO ALL WALLS & GAPS/JOINTS.
4. WEATHER EXHAUST FANS THROUGHOUT OR DRAFT STOPPER STRIPS/SEALS TO ALL EXTERNAL HINGED DOORS AND GAPS OVER EXHAUST FANS.
5. ALL DOWNLIGHTS OF 'CLOSED-RING' TYPE.
6. INSULATION LEVELS AS DETAILED IN ATTACHED ENERGY RATING ASSESSORS REPORT.



**GENERAL NOTES:**

DO NOT SCALE DRAWINGS. USE WRITTEN DIMENSIONS ONLY.

**ROOFING: PART 3.5**

METAL ROOF OVER ROOF BATTENS AT 300 CTRS. TYPICAL THRU-OUT UNLESS NOTED OTHERWISE. ROOF BATTENS TO BE USED & FIXED IN ACCORDANCE WITH THE MANUFACTURERS DETAILS & SPECIFICATIONS & PROVIDE APPROVED CAPPING & FLASHING TO ALL ROOF EDGES. PROVIDE 600mm MAX CTRS. TO MANUFACTURERS SPECIFICATIONS UNLESS NOTED OTHERWISE. PROVIDE 600mm MAX CTRS. TO MANUFACTURERS SPECIFICATIONS UNLESS NOTED OTHERWISE. SELECTED PROFILE MUST ALLOW FOR WATER & FASCIA TO THE PERIMETER OF THE ROOF AREA.

1. ALL BRICKWORK SHOULD BE INSTALLED IN ACCORDANCE WITH AS3700-2011.

2. ALL BRICKWORK AND ARTICULATION JOINTS MUST BE CONSTRUCTED AND COMPLY WITH AS3700 & AS4773.1. MASONRY CODES IN BUILDINGS.

**TIMBER FRAMING:**

ALL TIMBER FRAMING THROUGH-OUT IS TO BE IN ACCORDANCE WITH THE ENGINEERS DETAILS AND DRAWINGS.

**FLOORING & FOOTINGS: PART 3.2**

FINISHED FLOOR LEVELS ARE NOMINAL ONLY AND SHOULD BE READ IN ACCORDANCE WITH THE SOIL REPORT REQUIREMENTS. FOOTING SIZE & DETAILS TO BE DETERMINED BY THE ENGINEERS DETAILS AND DRAWINGS.

**WALL LINTELS & SUPPORT STUDS THRU-OUT:**

FOR ALL EXTERNAL PERIMETER LOAD-BEARING LINTELS AND SUPPORT STUDS TO BE INSTALLED IN ACCORDANCE WITH THE ENGINEERS DETAILS AND DRAWINGS AND TO GENERAL SPECIFICATIONS.

**INTERNAL DOORS:**

ALL INTERNAL DOORS ARE TO BE 2040mm HIGH UNLESS NOTED OTHERWISE ON THE PLAN.

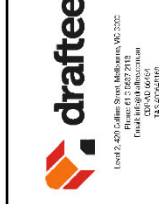
**WC DOORS:**

HINGED DOORS THAT OPEN INWARDS TOWARDS THE PAN BUT WITH THE PAN AT ITS NEAREST POINT, MUST HAVE DEMOUNTABLE HINGES TO ALLOW EASY REMOVAL OF THE DOOR FROM THE OUTSIDE OF THE WC COMPARTMENT.

**CLADDING:**

ALL EXTERNAL CLADDING BOARD OR SHEET TO BE IN ACCORDANCE WITH PART 3.5.4

SHEET NUMBER		JOB NUMBER	
1	1-1	2019	19-0118
SCALE		DATE	JOB ISSUE
1:1		2019	J
DOWN		REVISION	REVISION DESCRIPTION
MS		NO.	DESCRIPTION
MS		1	ISSUE
MS		2	REVISION
MS		3	REVISION
MS		4	REVISION
MS		5	REVISION
MS		6	REVISION
MS		7	REVISION
MS		8	REVISION
MS		9	REVISION
MS		10	REVISION



Level 2, 40/72 Bunn Street, Marrickville, NSW 2204  
 Level 2, 40/72 Bunn Street, Marrickville, NSW 2204  
 Level 2, 40/72 Bunn Street, Marrickville, NSW 2204  
 Level 2, 40/72 Bunn Street, Marrickville, NSW 2204

**GENERAL NOTES:**

- 1. ALL DIMENSIONS, LEVELS, SETBACKS AND ANY SPECIFICATIONS PRIOR TO COMMENCING ANY WORK OR ORDERING MATERIALS.
- 2. THESE PLANS SHALL BE READ IN CONJUNCTION WITH THE SOIL REPORT FOOTINGS ARE TO BE FOUND AT THE MINIMUM DEPTHS INDICATED IN THE SOIL REPORT.
- 3. WHERE THE BUILDING (OTHER THAN A CLASS 10) IS ADJACENT TO AN EXISTING BUILDING, THE BUILDING SHALL BE PROTECTED IN ACCORDANCE WITH THE RELEVANT AUSTRALIAN STANDARDS.
- 4. DISCHARGE SHALL BE TAKEN TO THE LEGAL POINT OF AUTHORITY.
- 5. SEWER OR SEPTIC SYSTEMS SHALL BE IN ACCORDANCE WITH THE RELEVANT AUTHORITY REQUIREMENTS.
- 6. FOOTINGS ARE NOT TO ENDOURCH OVER ANY TITLE BOUNDARIES AND/OR EASEMENT LINES.
- 7. FOR BUILDINGS IN CLOSE PROXIMITY TO THE SEA, ENSURE THAT ALL STEELWORK, BRICK CAVITY TIES, STEEL LINTELS ETC. THAT ARE IMBEDDED OR FIXED TO MASONRY BE PROTECTED WITH AN APPROPRIATE FINISH. UNPAINTED STEEL SHALL BE GALVANIZED, STAINLESS STEEL OR CADMIUM COATED.
- 8. BUILDING SETBACKS ARE FROM TITLE LINE (NOT FENCE LINE) UNLESS OTHERWISE SPECIFIED IN THE SOIL REPORT.
- 9. ALL WALL AREAS ARE TO COMPLY WITH B.C.A. 3.8.1 OR A.S. 2740-2010. WALL FINISHES SHALL BE IMPERVIOUS TO A HEIGHT OF 1800MM ABOVE FLOOR LEVEL TO ANY SHOWER ENCLOSURE, BATH, WASHING, SINKS AND TROUGHES IF WITHIN 750MM OF THE WALL.
- 10. RISERS (OTHER THAN CLASS 10) SHALL BE A MINIMUM OF 1150MM. RISERS AND TREADS ARE TO BE CONSTANT IN SIZE THROUGHOUT THE ENTIRE FLOORING FINISH OR SUITABLE NON-SLIP SURFACE FINISH. PROVIDE A MINIMUM GAP BETWEEN RISERS IS NOT TO EXCEED 125MM OR USE CLOSED RISERS PROVIDE BALCONIES AND DECKS WHICH ARE 1000MM OR GREATER ABOVE GROUND LEVEL. HANDRAILS ARE TO BE A MINIMUM OF 860MM ABOVE FINISH FLOOR LEVELS. MAXIMUM GAP BETWEEN BALUSTERS SHALL BE 150MM.
- 11. SMOKE ALARMS ARE TO BE PROVIDED AND INSTALLED IN ACCORDANCE WITH THE NCC2019 - 9 - STANDARDS WITHIN AN EXISTING PART OF A CLASS 1, 2 OR 3 BUILDING OR A CLASS 4 PART OF A BUILDING THE SMOKE ALARM SHALL BE HARD-WIRED WITH A BATTERY BACK-UP INTERCONNECTED.

**CLIENT:**

NAME: DENNIS PAHOS  
 ADDRESS: 470 PARRAMATTA ROAD  
 DATE: 2019

**SIGN OFF:**

DATE: 2019

**GENERAL NOTES:**

1. ALL DIMENSIONS, LEVELS, SETBACKS AND ANY SPECIFICATIONS PRIOR TO COMMENCING ANY WORK OR ORDERING MATERIALS.

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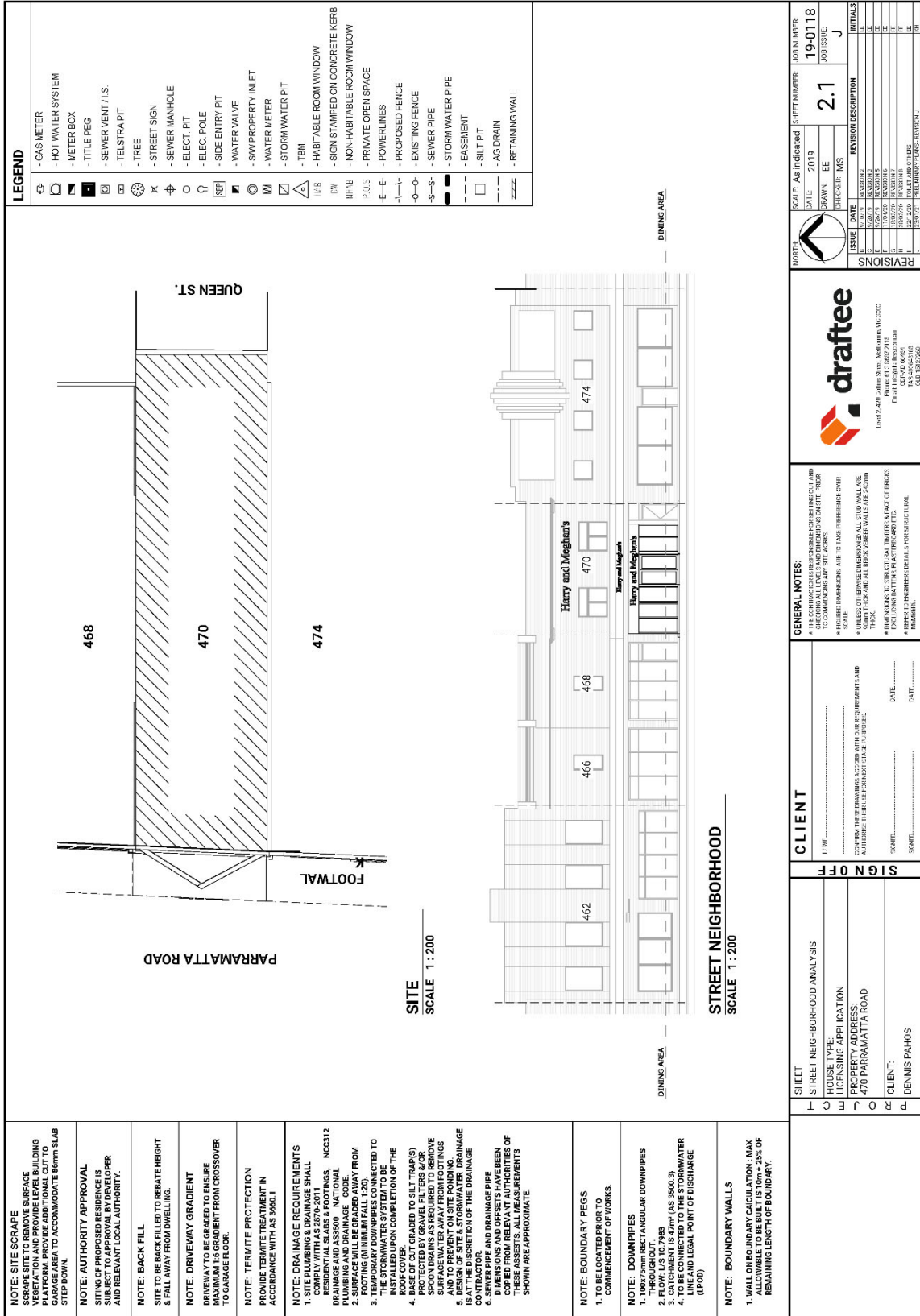
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**NOTE: SITE SCRAPE**  
SCRAPE SITE TO REMOVE SURFACE VEGETATION AND PROVIDE LEVEL BUILDING PLATFORM. PROVIDE ADDITIONAL CUT TO PLATFORM TO ACCOMMODATE 60mm SLAB STEP-DOWN.

**NOTE: AUTHORITY APPROVAL**  
SITING OF PROPOSED RESIDENCE IS SUBJECT TO APPROVAL BY DEVELOPER AND RELEVANT LEGAL AUTHORITY.

**NOTE: BACK FILL**  
SITE TO BE BACK FILLED TO REBATE HEIGHT & FALL AWAY FROM DWELLING.

**NOTE: DRIVEWAY GRADIENT**  
DRIVEWAY TO BE GRADED TO ENSURE MAXIMUM 1:5 GRADIENT FROM CROSSOVER TO GARAGE FLOOR.

**NOTE: TERMITE PROTECTION**  
PROVIDE TERMITE TREATMENT IN ACCORDANCE WITH AS 3665.1

**NOTE: DRAINAGE REQUIREMENTS**  
1. SITE PLUMBING & DRAINAGE SHALL COMPLY WITH AS 2870-2011 RESIDENTIAL SLABS & FOOTINGS. NO312 SHALL BE USED FOR ALL PLUMBING AND DRAINAGE CODE.  
2. SURFACE WILL BE GRADED AWAY FROM FOOTING MINIMUM FALL 1:200.  
3. THE STORMWATER SYSTEM TO BE INSTALLED UPON COMPLETION OF THE ROOF COVER. GRADED TO SILT TRAPS) PROTECTED BY GRAVEL FILTERS &/OR SPOON DRAINS AS REQUIRED TO REMOVE SURFACE WATER AWAY FROM FOOTINGS.  
4. ALL DOWNPIPES SHALL BE CONNECTED TO DESIGN OF SITE & STORMWATER DRAINAGE CODE.  
5. DESIGN OF SITE & STORMWATER DRAINAGE CONVEYANCE AND DRAINAGE PIPE DIMENSIONS AND OFFSETS HAVE BEEN COPIED FROM RELEVANT AUTHORITIES OF COMPETENT JURISDICTION. DIMENSIONS SHOWN ARE APPROXIMATE.

**NOTE: BOUNDARY PEGS**  
1. TO BE LOCATED PRIOR TO COMMENCEMENT OF WORKS.

**NOTE: DOWNPIPES**  
1. THROUGHOUT.  
2. FLOW: L/S TO 7983  
3. CATCHMENT IS 70m<sup>2</sup> (AS 500.3)  
4. ALL DOWNPIPES TO BE STORMWATER LINE AND LEGAL POINT OF DISCHARGE (LPD)

**NOTE: BOUNDARY WALLS**  
1. WALL ON BOUNDARY CALCULATION: MAX LENGTH OF BOUNDARY WALLS OF REMAINING LENGTH OF BOUNDARY.

**LEGEND**

- GAS METER
- HOT WATER SYSTEM
- METER BOX
- TITLE PEG
- SEWER VENT / I/S
- TELSTRA PIT
- TREE
- STREET SIGN
- SEWER MANHOLE
- ELECT. PIT
- ELEC. POLE
- SIDE ENTRY PIT
- WATER VALVE
- S/W PROPERTY INLET
- WATER METER
- STORM WATER PIT
- TBM
- HABITABLE ROOM WINDOW
- SIGN STAMPED ON CONCRETE KERB
- NON-HABITABLE ROOM WINDOW
- 3.0.3
- PRIVATE OPEN SPACE
- POWERLINES
- PROPOSED FENCE
- EXISTING FENCE
- SEWER PIPE
- STORM WATER PIPE
- EASEMENT
- SILT PIT
- AG DRAIN
- RETAINING WALL

SCALE: AS INDICATED | SHEET NUMBER: | PDS NUMBER: |

DATE: 2019 | DRAWN: EE | CHECKED: MS |

ISSUE DATE: | REVISION DESCRIPTION: | INITIALS: |

REVISIONS

NO.	DATE	DESCRIPTION	INITIALS
1	19/01/18	ISSUE FOR PERMIT	J

**draftree**

Level 4, 207 Collins Street, Melbourne, VIC 3000  
 03 9443 6666  
 From the High Performance  
 O&B 12427650

**GENERAL NOTES:**

- \* ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.
- \* ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.
- \* ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.
- \* ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.

**CLIENT**

1. BY: DENNIS PAHOS

2. FROM: DENNIS PAHOS

3. TO: DENNIS PAHOS

4. DATE: 19/01/18

**SIGN OFF**

1. STREET NEIGHBORHOOD ANALYSIS

2. HOUSE TYPE

3. LICENSING APPLICATION

4. PROPERTY ADDRESS: 470 PARRAMATTA ROAD

5. CLIENT: DENNIS PAHOS

**SHEET**

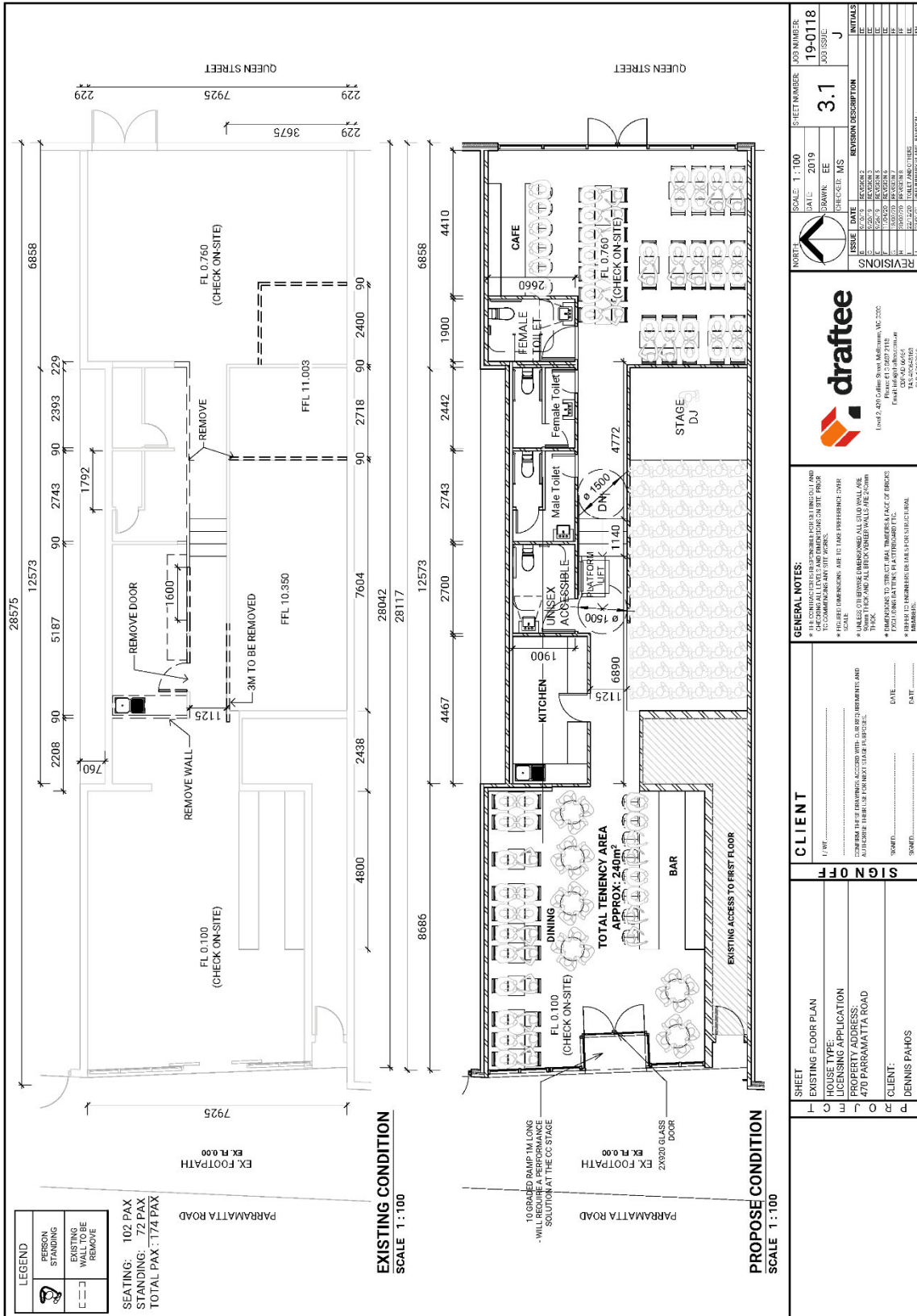
1. STREET NEIGHBORHOOD ANALYSIS

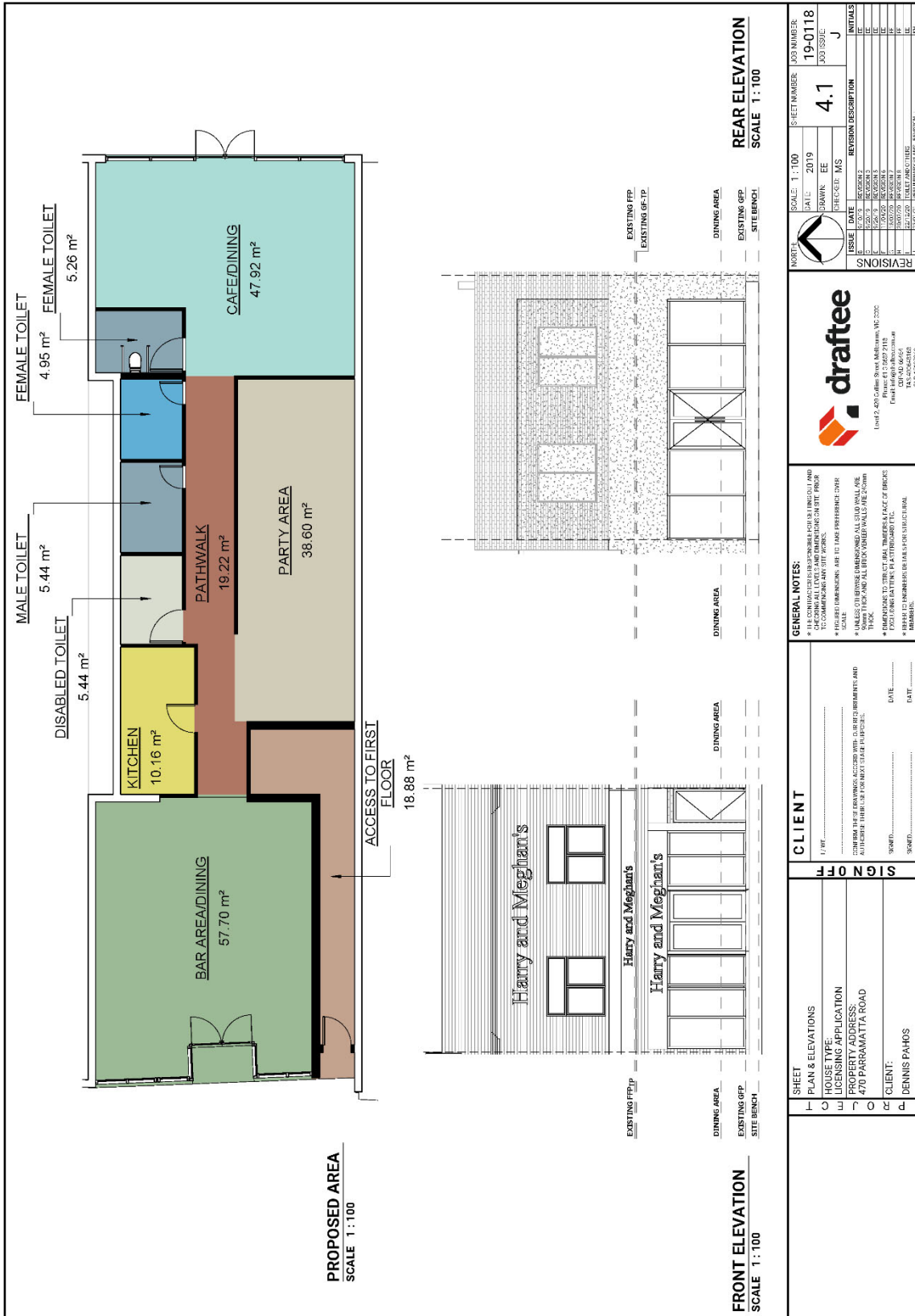
2. HOUSE TYPE

3. LICENSING APPLICATION

4. PROPERTY ADDRESS: 470 PARRAMATTA ROAD

5. CLIENT: DENNIS PAHOS





**INTERIOR A**  
SCALE 1 : 100

**INTERIOR B**  
SCALE 1 : 100

**INTERIOR C**  
SCALE 1 : 100

**INTERIOR D**  
SCALE 1 : 100

**GENERAL NOTES:**

- \* DIMENSIONS LESS SETTING OUT AND CHECKING ALL LEVELS AND DIMENSIONS ON SITE PRIOR TO COMMENCING ANY SITE WORKS
- \* ALL DIMENSIONS ARE TO FINISH SURFACE UNLESS OTHERWISE DIMENSIONED ALL STUD WALLS ARE 100mm THICK AND ALL BRICK/CONCRETE WALLS ARE 200mm
- \* DIMENSIONS TO STRUCTURAL, UNLESS SPECIFIED OTHERWISE
- \* EXCEEDING REGULATIONS ETC.
- \* REFER TO ENGINEERS DETAILS FOR STRUCTURAL MEMBERS.

**CLIENT**

NAME: ..... DATE: .....

CONFIRM THESE DRAWINGS ACCORD WITH OUR REQUIREMENTS AND AUTHORISE THEIR USE FOR THE ABOVE PURPOSES

SIGNED: ..... DATE: .....

SIGNED: ..... DATE: .....

**SIGN OFF**

SHEET CONTENT: INTERIOR ELEVATION

HOUSE TYPE: HOUSE TYPE

LICENSING APPLICATION: LICENSING APPLICATION

PROPERTY ADDRESS: 470 PARAMATTA ROAD

CLIENT: DENNIS PAHOS

SCALE	DATE	CHECKED	DATE	ISSUE	DATE	REVISION DESCRIPTION	INITIALS
1:100	2019	MS	MS	51	19-0118		J

**REVISIONS**

NO.	DATE	BY	DESCRIPTION
1	19/01/19	MS	ISSUE FOR PERMIT
2	19/01/19	MS	ISSUE FOR PERMIT
3	19/01/19	MS	ISSUE FOR PERMIT
4	19/01/19	MS	ISSUE FOR PERMIT
5	19/01/19	MS	ISSUE FOR PERMIT
6	19/01/19	MS	ISSUE FOR PERMIT
7	19/01/19	MS	ISSUE FOR PERMIT
8	19/01/19	MS	ISSUE FOR PERMIT
9	19/01/19	MS	ISSUE FOR PERMIT
10	19/01/19	MS	ISSUE FOR PERMIT

**draftree**

Level 6, 400 Collins Street, Melbourne, VIC 3000  
Phone: 61 3 3462 7318  
Email: info@draftree.com.au  
www.draftree.com.au

## Attachment C- Assessment report for DA/2020/0811



## Development Assessment Report

<b>Application No:</b>	DA/2020/0811	<b>Applicant:</b>	Chapman Planning
<b>Date of lodgement:</b>	24 September 2020	<b>Cost of works:</b>	\$50,000
<b>Assessing Officer:</b>	Ellen Shannon	<b>Peer Reviewer:</b>	Martin Amy
<b>Subject Site:</b>	470 Parramatta Road Petersham		
<b>Proposal:</b>	Change of use of ground floor of premises to a restaurant and a cafe.		

### 1. Synopsis

This report concerns an application for change of use to the ground floor of the premises to a restaurant and a cafe. The application was notified in accordance with Council's Notification Policy and no submissions were received.

The application has failed to provide sufficient information to demonstrate there will be no adverse impact to the surrounding neighbourhood.

As a result, the proposal has not demonstrated it is consistent with Marrickville Local Environmental Plan 2011 and Marrickville Development Control Plan 2011 as the proposed development will result in unacceptable amenity impacts to the surrounding area in terms of noise and operation.

The application is considered unsupportable and in view of the circumstances, refusal of the application is recommended.

## **PART A – THE SITE AND ITS ENVIRONMENT**

### 1. Site History

Previous relevant building and development applications submitted to Council for the subject site and surrounds include:

Address	Date	Proposal	Decision
470 Parramatta Road B207/95	15 August 1995	Application under Section 102 of the Environmental Planning and Assessment Act to modify a condition of consent to install two amusement machines within the coffee lounge	Approved
468 Parramatta Road DA200100820	4 March 2002	To carry out alterations to the premises and use the ground floor shop as a coffee lounge.	Approved
476 Parramatta Road DA200100475	6 November 2001	To carry out alterations to the premises at 476 Parramatta Road to convert the first floor level of the premises for use as a brothel in association with the existing brothel at 472-474 Parramatta Road.	Approved

### 2. Site and Surrounding Development

# INNER WEST

## Development Assessment Report

The subject site is located on the southern side of Parramatta Road, close to the intersection with Petersham Street. The site area is approximately 234 sqm with a primary frontage to Parramatta Road and a secondary frontage to Queen Street. An existing commercial premises is located on the site.

Surrounding land uses are predominantly retail and commercial land uses.



Location plan

Site photo

### PART B – THE PROPOSAL

#### 1. Application History

Date	Details
24 September 2020	Application lodged.
20 October to 3 November 2020	Application notified.
25 November 2020	Council requested that the following additional information and amended plans be submitted: <ul style="list-style-type: none"> <li>• Clarification on the proposed use;</li> <li>• Amended Plan of Management to clarify how the site will be managed to minimise impacts to the residential properties at the rear of the site;</li> <li>• Amended acoustic report to enable an assessment of all noise sources;</li> <li>• An access report to clarify any upgrades that are required;</li> <li>• Clarification on waste storage area;</li> <li>• Amended plans to clarify any works to the façade; and</li> <li>• Signage details.</li> </ul>
17 December 2020	An extension to submit documents was requested by the applicant given the time of year and availability of relevant consultants.
4 January 2020	An extension of time to submit the additional documentation was granted. All documentation was required to be submitted by 15



## Development Assessment Report

	January 2020. No further documentation had been submitted at the time of the preparation of this report.
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### 2. Description of Proposal

The application seeks development consent for change of use to the ground floor of the premises to a restaurant and a cafe.

Specifically, the following works are proposed:

- Proposed restaurant located at the front of the site adjoining Parramatta Road including an area nominated for entertainment. The proposed hours of operation are 10.00am to 3.00am Monday to Saturday and 10.00am to 12.00 midnight Sundays;
- Proposed café located at the rear of the site adjoining Queen Street with proposed operating hours 6.00am to 10.00am Mondays to Sundays;
- Internal fit-out; and
- Replacement of existing signage.

### **PART C – ASSESSMENT**

The following is an assessment of the application with regard to the heads of consideration under the provisions of Section 4.15 of the *Environmental Planning & Assessment Act 1979 (EP&A Act 1979)*.

#### 1. State Environmental Planning Policies

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

- *State Environmental Planning Policy No. 55 – Remediation of Land;*
- *State Environmental Planning Policy No. 64 – Advertising and Signage; and*
- *State Environmental Planning Policy (Infrastructure) 2007.*

##### (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. MDCP 2011 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.

The site has not been used in the past for activities which could have potentially contaminated the site. It is considered that the site will not require remediation in accordance with SEPP 55.

##### (ii) State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64)

SEPP 64 specifies aims, objectives, and assessment criteria for signage as addressed below. Schedule 1 of SEPP 64 specifies assessment criteria for signage relating to character of the area, special areas, views and vistas, streetscape, setting or landscaping, site and building, illumination and safety.





## Development Assessment Report

As detailed within the Statement of Environmental Effects the application proposes to replace the existing signage. No details have been submitted with the application to clarify whether the proposed replacement signage will be exempt development. As such, inadequate information has been submitted to demonstrate if the proposal is consistent with SEPP 64 and Part 2.12 of MDCP 2011.

(iii) State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure 2007)

*Development with frontage to classified road (Clause 101)*

The site has a frontage to Parramatta Road, a classified road. Under Clause 101 (2) of SEPP Infrastructure 2007, the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that the efficiency and operation of the classified road will not be adversely affected by the development.

The site does not contain any vehicular access and as such the development will not affect the safety, efficiency and operation of Parramatta Road. In addition, the proposal is for a food and drink premises and as such is not sensitive to traffic noise or vehicle emissions. The application is considered acceptable with regard to Clause 101 of the SEPP Infrastructure 2007.

### 2. Marrickville Local Environmental Plan 2011

The application was assessed against the following relevant clauses of the *Marrickville LEP 2011* (MLEP 2011).

Control	Proposed	Compliance
Clause 1.2 Aims of Plan	The proposal is inconsistent with the relevant aims of the plan, in particular Clause 2(b) as the application has not included adequate information to demonstrate that it will not have an adverse impact on surrounding residential amenity.	No
Clause 1.8A Savings provision relating to development applications	During the assessment of the application <i>MLEP 2011</i> was amended. The amendments are not relevant to this application.	Yes
Clause 2.3 Zone objectives and Land Use Table  <i>B2 Local Centre</i>	<ul style="list-style-type: none"> <li>The application proposes a restaurant and cafe which are permissible with consent in the B2 Local Centre zone; and</li> <li>The proposal is consistent with the relevant objectives of the zone, as it will assist to provide for the needs of the people who live in, work in and visit the local area.</li> </ul>	Yes
Clause 2.7 Demolition requires development consent	The proposal satisfies the clause as follows: <ul style="list-style-type: none"> <li>Demolition works are proposed, which are permissible with consent; and</li> <li>Standard conditions relating to demolition should be imposed on any consent granted.</li> </ul>	Yes
Clause 4.3 Height of building (max. 14m)	The application proposes internal fit out works only and as such does not involve any changes to the height of the building.	Yes
Clause 4.4 Floor space ratio	The application proposes internal fit out works only and as such does not involve any changes to the floor	Yes



**Development Assessment Report**

(max. 1.5: 1 (351m <sup>2</sup> ))	space ratio.	
Clause 4.5 Calculation of floor space ratio and site area	The site area and floor space ratio for the proposal has been calculated in accordance with the clause.	Yes
Clause 5.10 Heritage conservation	The Statement of Environmental Effects (SEE) submitted with the application identifies that no changes are proposed to the façade of the development. However, the plans submitted with the application illustrate a facade that doesn't reflect the existing façade. Therefore, it is unclear if there are proposed external changes to the building and thus an assessment of the impact on the heritage conservation area could not be undertaken.  Given the circumstances, the application has not provided adequate information to demonstrate it satisfies the objectives 1(a) and 1(b) of Clause 5.10 of MLEP 2011.	No
Clause 6.5 Development in areas subject to aircraft noise	The site is located within the ANEF 25-30 contour. Given the nature of the works being for fit out only, it is not considered necessary to noise attenuate the premises and the proposal is considered acceptable with regard to Clause 6.5.	Yes

**3. 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 Draft LEP Amendment contains provisions for amendments to the Clause 1.2 - Aims of the Plan and Clause 5.10 – Heritage Conservation and the application was assessed against the following relevant clauses of the *Draft IWLEP 2020*:

Control	Proposed	Compliance
Clause 1.2 Aims of Plan	The proposal is inconsistent with the relevant aims of the plan, in particular Clause 2(j) as the application has not included adequate information to demonstrate that it will not have an adverse impact on surrounding residential amenity.	No
Clause 5.10 Heritage Conservation	The application has not provided adequate information to demonstrate it satisfies the objectives 1(a) and 1(b) of Clause 5.10 of the Draft IWLEP 2020 as the plans submitted have not clearly outlined whether any changes are proposed to the façade of the building and thus an assessment against Clause 5.10 could not be undertaken.	No

**4. Marrickville Development Control Plan 2011**

The proposal has been assessed against the relevant provisions of the Marrickville Development Control Plan 2011 (MDCP 2011). The table below is an assessment of the key



## Development Assessment Report

matters.

Control	Proposed	Compliance
<i>Part 2 – Generic Provisions</i>		
Part 2.3 – Site and Context Analysis	The applicant submitted a site and context analysis as part of the application that satisfies the controls contained in Part 2.3 of MDCP 2011.	Yes
Part 2.5 – Equity of Access and Mobility	See discussion below under 4(i).	No
Part 2.6 – Acoustic and Visual Privacy	See discussion below under 4(ii)	No
Part 2.10 – Parking	Part 2.10 of MDCP 2011 requires one car parking space per 80sqm of GFA be provided for the use. Therefore, the development is required to provide two car parking spaces. No car parking spaces are proposed. Given the site is located within close proximity to public transport and bus services and given the site cannot accommodate any parking, it is not considered necessary to provide parking on site. The proposal is considered to be consistent with Part 2.10 of MDCP 2011.	Yes
Part 2.21 – Site Facilities and Waste Management	See discussion below under 4(iii).	Yes
<i>Part 5 – Commercial and Mixed Use</i>		
Part 5.3.1.1 – Plan of Management	See discussion below under 4(iv).	No
Part 5.3.1.2 – Noise and vibration generation	This matter is discussed below under 4(ii) against Part 2.6 of MDCP 2011.	No
Part 5.3.1.4 – Hours of Operation	See discussion below under 4(v).	No
<i>Part 8 - Heritage</i>		
Part 8.2.7 – Parramatta Road Commercial Precinct Heritage Conservation Area - HCA 5	This matter is discussed above under Clause 5.10 of MLEP 2011.	No

(i) Part 2.5 - Equity of Access and Mobility

Part 2.5 of MDCP 2011 contains the following objectives and controls relevant to the development:

*O1 To provide equitable access within all new development, and ensure substantial alterations to existing development, or an intensification of an existing land use, provides an improved level of access for all people.*

*C1 When assessing a development application Council must take into account the following matters as relevant to the application:*

- i. The provision for ease of use and comfort through appropriate gradients, rest areas, circulation space and user friendly entrances;*



## Development Assessment Report

- ii. *Safety measures, including contrasting colours for points of danger, slip resistant travel surfaces and appropriate positioning of street furniture, public art installations, signage or any other obstacles, including those in the public domain;*
- iii. *Legible design and way finding features, such as signs and international symbols and indicators, to assist in determining the location of handrails, guard-rails and tactile indicators where relevant;*
- iv. *Opportunities for access through principal entrances of commercial buildings, public buildings and residential flat development;*
- v. *The retention or improvement of existing accessible features; and*
- vi. *The extent to which development may compromise or reduce the capacity for accessible features in future development.*

The plans and documentation submitted with the application do not illustrate that appropriate access is provided for all persons through the principal entrance and there is no Continuous Access Path of Travel provided throughout the premises. During assessment of the application an Access Report was requested to be submitted to clarify whether any upgrades would be required to ensure compliance with the Premises Standards. An Access Report was not submitted to confirm any upgrades that would be required.

Given the above, the proposal is inconsistent with Part 2.5 of MDCP 2011 as it has not been demonstrated that the proposal provides equity of access throughout the premises.

### (ii) Part 2.6 – Acoustic and Visual Privacy

Part 2.6 of MDCP 2011 contains the following objectives and controls relevant to the development:

*O1 To ensure new development and alterations and additions to existing buildings provide adequate visual and acoustic privacy for the residents and users of surrounding buildings.*

*O3 To ensure new development does not unreasonably impact on the amenity of residential and other sensitive land uses by way of noise or vibration.*

*C7 Noise impacts of commercial and industrial development on residential amenity*

- i. *All development must comply with the relevant noise control guidelines.*
- ii. *Where sites adjoin a residential area or are located within a mixed use building, Council will consider the potential noise generation of any proposed activities including the use of equipment or machinery, the use of amplified music/noise on the site and proposed hours of operation...*
- ...iv *All applications for noise generating uses adjacent to or located in a building containing a residential use must be accompanied by documentation from a qualified acoustic engineer certifying that the acoustic standards can be met.*

The proposal includes proposing a restaurant and café operating between the hours of 6.00am and 3.00am. Given the early morning and late night trade and that the site adjoins a R2 Low Density Residential zone at the rear of the site, the development has the potential to result in adverse acoustic impacts for surrounding residential properties.



## Development Assessment Report

An acoustic report was submitted with the application. However, the acoustic report did not include an assessment of the trading hours of the café from 6.00am, the impact of plant and equipment and the location of speakers for the entertainment. Given the acoustic report did not address these matters, the overall noise impact of the development could not be confirmed. Therefore, the development has not provided adequate information to demonstrate the proposal will not adversely impact surrounding properties. As such, the proposal has not demonstrated consistency with Part 2.6 of MDCP 2011.

### (iii) Part 2.21 – Site Facilities and Waste Management

Part 2.21 of MDCP 2011 contains the following objectives and controls relevant to the development:

*O1 To ensure adequate provision is made for site facilities.*

*C28 Applications for commercial, industrial and other non-residential development must provide recycling/waste containers that can accommodate the quantity of recycling/waste material required for the type of use specified, using Table 2 as a guide, justified in the Statement of Environmental Effects.*

*C31 Recycling/waste containers must be stored in recycling/waste storage room(s) or area(s), designed in accordance with the specific requirements in Appendix 4.*

In accordance with the above, a waste storage area is to be provided on site. The plans have not identified a waste storage area on the plans. As such, it has not been demonstrated that the site can accommodate adequate facilities and the application is inconsistent with Part 2.21 of MDCP 2011.

### (iv) Part 5.3.1.1 - Plan of management

Part 5.3.1.1 of MDCP 2011 contains the following objectives and controls relevant to the development:

*O64 To ensure commercial and light industrial premises operate in the most efficient way without unreasonable amenity impacts on nearby residential land uses.*

*C71 A POM must provide all details relevant to the operation of the commercial or light industrial premise. As a minimum the following must be included in a POM:*

- i. Title;*
- ii. Objectives;*
- iii. Operational details, including all machinery/equipment to be used;*
- iv. Hours of operation;*
- v. Staffing details;*
- vi. Details of any music and/or entertainment to be provided on site;*
- vii. Guidelines for staff for using the site facilities and equipment;*
- viii. Deliveries and loading/unloading;*
- ix. Managing customers or patrons, including access to and from the premises;*
- x. Security details, including lighting plan for proposals with extended trading hours;*
- xi. Complaint recording and handling process;*
- xii. Clean-up procedures, and proposed training for staff in procedures, for*



## Development Assessment Report

*situations where pollutants may escape from site for uses likely to handle significant quantities of potential pollutants;*

- xiii. The review process to continuously improve the POM; and*
- xiv. Any other matters specified by Council.*

The proposed development is located adjoining an R2 Low Density Residential zone at the rear on Queen Street. Given the proposed early morning and late night trade and access being provided from the rear lane the development has the potential to result in adverse amenity impacts for the residential properties at the rear. A Plan of Management (POM) was submitted with the application however the POM does not provide adequate details to demonstrate that the development will not have adverse impacts on the residential properties at the rear. These details include:

- Management strategies to ensure patrons don't loiter on Queen Street have not been included;
- It is unclear whether access is provided from the rear lane during early morning and late evening;
- It is unclear whether the door at the rear of the premises will be open or closed during early morning and late evening;
- It is unclear whether the areas used for the café and restaurant components are operating independently;
- Details on the management of delivery drivers and where they will wait has not been included.

Given the above, the POM submitted with the application is inconsistent with Part 5.3.1.1 of MDCP 2011.

(v) Part 5.3.1.4 - Hours of Operation

Part 5.3.1.4 of MDCP 2011 contains the following objectives and controls relevant to the development:

*O69 To ensure the operations of the proposed development will not cause nuisance to residents during opening hours.*

*C85 Hours of operation for the use of a site will be restricted by Council if it is likely that the use will cause an impact on any nearby residential or other sensitive use.  
C86 Applications for uses outside of traditional trading hours must demonstrate the proposed development will not unreasonably affect the amenity of residential land uses.*

*C87 Uses proposed to extend beyond traditional hours of operation must not negatively impact on nearby residential land uses by way of noise or vibration, including from patrons and staff, foot or vehicular traffic movements, excessive lighting, on-site music or entertainment or security measures.*

The application seeks approval for the following hours of operation:

- Restaurant - 10.00am to 3.00am Monday to Saturday and 10.00am to 12.00 midnight Sundays;
- Café - 6.00am to 10.0am Mondays to Sundays



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The proposed hours of operation include late night and early trade. As discussed throughout this report the development has not included adequate information within the acoustic report to demonstrate there will be no adverse noise impacts for surrounding properties. In addition, the POM has not included adequate details to demonstrate the proposal will not impact the amenity of the residential properties at the rear. Therefore, inadequate information has been submitted to demonstrate the hours of operation will not result in adverse amenity impacts and the proposal is inconsistent with Part 5.3.1.4 of MDCP 2011.

### 5. Inadequate Information

As discussed throughout this report the application has provided inadequate information and documentation to illustrate that the development complies with the relevant controls and will not have significant adverse impacts on the amenity of the surrounding residential properties. Specifically, the following has not been included with the application:

- Details of upgrade requirements to comply with the Premises Standards and Part 2.5 of MDCP 2011;
- Details of the proposed signage have not been included with the application to demonstrate consistency with SEPP 64 and Part 2.12 of MDCP 2011;
- An assessment of the early morning trade, mechanical plant and speakers has not been included within the acoustic report to demonstrate compliance with Part 2.6 of MDCP 2011;
- Location of waste storage has not been included to demonstrate compliance with Part 2.21 of MDCP 2011; and
- The POM has not included adequate management strategies to minimise impacts to the residential properties at the rear of the site and demonstrate compliance with Part 5.1 of MDCP 2011.

As such, the application as submitted lacks information in order to undertake a full and proper assessment of some aspects of the application in accordance with the *Environmental Planning & Assessment Act 1979*.

### 6. Referrals

#### (i) Internal Referrals

The application was referred to the following internal referral bodies and their comments have been discussed throughout the report:

- Building;
- Engineering;
- Health; and
- Waste Management.

#### (ii) External Referrals

The application was referred to the following external referral bodies:

- NSW Police – conditions of consent provided which should be included on any consent granted.



## Development Assessment Report

### 7. Notification and Advertising

The application was advertised, an on-site notice was displayed on the property, and residents/property owners in the vicinity of the property were notified of the development in accordance with Council's policy. No submissions were received.

### 8. The Likely Impacts

These matters have been considered as part of the assessment of the development application. It is considered that the proposed development will have significant adverse impacts upon the locality for the reasons discussed throughout this report.

### 9. The Suitability of the Site for the Development

The proposal is of a nature in keeping with the overall function of the site. The premises is in a commercial surrounding and amongst similar uses to that proposed.

### 10. 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 proposed development is not considered to be in the public interest for the reasons discussed throughout this report.

### 11. Conclusion

The application has been assessed in accordance with the provisions of the *EP&A Act 1979* with all matters specified under Section 4.15(1), Clauses (a) to (e), as are of relevance to the application, having been taken into consideration.

It is considered that the proposal for change of use to the ground floor of the premises to a restaurant and a cafe does not satisfy the relevant controls and is not acceptable. The development has not provided adequate documentation to demonstrate that the development will not result in any significant impacts on the amenity of the adjoining properties and is not considered to be in the public interest.

Therefore, the application is unsupportable and in view of the circumstances, refusal of the application is recommended for the following reasons:

1. The proposed development is inconsistent and has not provided adequate information to demonstrate compliance with the following Clauses of *Marrickville Local Environmental Plan 2011*, pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*:
  - a. Clause 1.2 – Aims of the Plan
  - b. Clause 5.10 – Heritage Conservation
2. The proposed development is inconsistent and has not provided adequate information to demonstrate compliance with the following Clauses of draft *Inner West Local Environmental Plan 2020*, pursuant to Section 4.15 (1)(a)(ii) of the *Environmental*





## Development Assessment Report

### *Planning and Assessment Act 1979:*

- a. Clause 1.2 – Aims of the Plan
  - b. Clause 5.10 – Heritage Conservation
3. The proposed development is inconsistent and has not provided adequate information to demonstrate compliance with the Marrickville Development Control Plan 2011, pursuant to Section 4.15 (1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*:
  - a. Part 2.5 - Equity of Access and Mobility;
  - b. Part 2.6 – Acoustic and Visual Privacy; and
  - c. Part 5.3 - Commercial/Light Industrial/Residential Interface
4. The proposal has not provided adequate information to demonstrate it will not result in adverse environmental impacts in the locality, pursuant to Section 4.15 (1)(b) of the *Environmental Planning and Assessment Act 1979*.
5. The adverse environmental impacts of the proposal mean that the site is not considered to be suitable for the development as proposed, pursuant to Section 4.15 (1)(c) of the *Environmental Planning and Assessment Act 1979*.
6. The application as submitted has not provided adequate information in order to undertake a full and proper assessment of the application in accordance with the *Environmental Planning & Assessment Act 1979*.

**Attachment D – Draft conditions in the event of approval**

**CONDITIONS OF CONSENT**

**DOCUMENTS RELATED TO THE CONSENT**

**1. Documents related to the consent**

The development must be carried out in accordance with plans and documents listed below:

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
3.1 Issue J	Floor Plan	23.01.2021	Draftee
4.1 Issue J	Floor Plan and Elevations	23.01.2021	Draftee
5.1 Issue J	Sections	23.01.2021	Draftee
11.00191L-01	Addendum Noise Report	04.02.2021	Acoustic Consultants Australia
-	Plan of Management	08.02.2021	Chapman Planning P/L

As amended by the conditions of consent.

**DESIGN CHANGE**

**2. Design Change**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating the following:

- a. Deleting the proposed signage above the awning.
- b. Deleting the rear entrance from Queen Street.
- c. Deleting the proposed DJ stage and dance floor.

**FEES**

**3. Long Service Levy**

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid at the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more.

**4. Security Deposit - Custom**

Prior to the commencement of demolition works or prior to the issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

<b>Security Deposit:</b>	\$8,266.00
<b>Inspection Fee:</b>	\$236.70

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

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

Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, or if any road, footpath or drainage works required by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.

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

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

#### **GENERAL CONDITIONS**

##### **5. Waste Management Plan**

Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a Recycling and Waste Management Plan (RWMP) in accordance with the relevant Development Control Plan.

##### **6. Erosion and Sediment Control**

Prior to the issue of a commencement of any works (including any demolition works), the Certifying Authority must be provided with an erosion and sediment control plan and specification. Sediment control devices must be installed and maintained in proper working order to prevent sediment discharge from the construction site.

##### **7. Verification of Levels and Location**

Prior to the pouring of the ground floor slab or at dampcourse level, whichever is applicable or occurs first, the Principal Certifier must be provided with a survey levels certificate prepared by a Registered Surveyor indicating the level of the slab and the location of the building with respect to the boundaries of the site to AHD.

##### **8. Works Outside the Property Boundary**

This development consent does not authorise works outside the property boundaries on adjoining lands.

##### **9. Noise – Consultant's Recommendations**

The recommendations contained in the acoustic report prepared by Acoustic Consultants Australia, reference 11.00191L-01 dated 4 February 2021 must be implemented.

##### **10. Boundary Alignment Levels**

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

**11. Stormwater Drainage System – Simple**

Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, down pipe, pits and pipelines discharged by gravity to the kerb and gutter of a public road.

Any existing component of the stormwater system that is to be retained, including must be checked and certified by a Licensed Plumber or qualified practising Civil Engineer to be in good condition and operating satisfactorily.

If any component of the existing system is not in good condition and /or not operating satisfactorily the drainage system must be upgraded to discharge legally by gravity to the kerb and gutter of a public road. New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm.

**PRIOR TO ANY DEMOLITION****12. Dilapidation Report**

Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the adjoining properties to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.

**13. Advising Neighbors Prior to Excavation**

At least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

**14. Construction Fencing**

Prior to the commencement of any works (including demolition), the site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property.

**PRIOR TO CONSTRUCTION CERTIFICATE****15. Structural Certificate for retained elements of the building**

Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with a Structural Certificate prepared by a practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction. The certificate must also include all details of the methodology to be employed in construction phases to achieve the above requirements without result in demolition of elements marked on the approved plans for retention.

**16. Sydney Water – Tap In**

Prior to the issue of a Construction Certificate, the Certifying Authority is required to ensure approval has been granted through Sydney Water's online 'Tap In' program 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.

*Note: Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 13 20 92*

**17. Mechanical Ventilation Provision**

Prior to the issue of a Construction Certificate, the mechanical exhaust systems and shafts must be designed to allow for the discharge of effluent air above roof level and must be designed with capacity to accommodate exhaust ducts and mechanical ventilation systems for the commercial tenancy. Systems must be designed in accordance with AS1668.2 – The Use of Ventilation and Air-conditioning in Buildings – Mechanical Ventilation in Buildings, and AS1668.1 – The Use of Mechanical Ventilation and Air-Conditioning in Buildings – Fire and Smoke Control in Multi-compartment Buildings.

**18. Food Premises – Additional Sinks and Hand Wash Basins**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended scale plans confirming the position of all sinks and hand wash basins within the food premises in accordance with Australian Standard AS 4674 – 2004 (Design, construction and fit-out of food premises) and Australia and New Zealand Food Standards Code.

**19. Food Premises – Odour Emission Control**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with details demonstrating that emission control equipment has been provided in the mechanical exhaust system that effectively minimises the emission of odours, vapours and oils.

**20. Light Spill**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with details demonstrating that any lighting of the premises complies with Australian Standard AS4282:1992: Control of Obtrusive Effects of Outdoor Lighting.

**21. Fire Safety Upgrade**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a report and plans detailing how the buildings, which are subject to the consent, will be brought into full or partial conformity with the Building Code of Australia. The report must include:

- a. A fire safety audit which shall cover Sections C, D and E of Building Code of Australia and to identify general areas of non-compliance against the deemed to satisfy fire safety provisions, and address the performance requirements of the BCA where relevant. The recommendations for the fire safety upgrade shall be indicated on amended plans;
- b. Review the current on site fire safety measures including their relevant standard of performance; and
- c. The report shall include an updated Fire safety schedule stipulating the existing and proposed essential fire safety measures, including their relevant standards of performance.

**22. Access Report**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an Access Management Plan prepared by an Accredited Access Consultant. The Access Management Plan must address:

- a. Confirmation whether the Disability (Access to Premises – Buildings) Standards 2010 is applicable to the development, in particular whether the Standards apply to the affected part;
- b. Proposed requirements for access to the building or part of building for people with a disability in accordance with Part D3 of Building Code of Australia;
- c. Assessment and identification of non-compliances with the Disability Standards 2010 and/or the BCA where applicable and provide recommendations to achieve compliance with the relevant performance requirements; and

- d. Any exemptions, alternative solutions or deemed-to-satisfy provisions affecting access.

### **23. Dilapidation Report – Pre-Development – Minor**

Prior to the issue of a Construction Certificate or any demolition, the Certifying Authority must be provided with a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site.

## **DURING DEMOLITION AND CONSTRUCTION**

### **24. Construction Hours – Class 2-9**

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

- a. 7:00am to 6.00pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
- b. 8:00am to 1:00pm on Saturdays with no demolition works occurring during this time; and
- c. at no time on Sundays or public holidays.

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

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

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

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

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



The person acting on this consent must not undertake such activities for more than three continuous hours and must provide a minimum of one 2 hour respite period between any two periods of such works.

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

#### **25. Survey Prior to Footings**

Upon excavation of the footings and before the pouring of the concrete, the Certifying Authority must be provided with a certificate of survey from a registered land surveyor to verify that the structure will not encroach over the allotment boundaries.

### **PRIOR TO OCCUPATION CERTIFICATE**

#### **26. Smoke Alarms - Certification of upgrade to NCC requirements**

Prior to the issue of any Occupation Certificate, the Principal Certifier is required to be satisfied the existing building has been upgraded to comply with the provisions of the National Construction Code (Building Code of Australia) in relation to smoke alarm systems.

#### **27. Licensed Premises – Plan of Management**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a Plan of Management for the operation of the licensed premises that addresses the following:

- a. Compliance with the relevant conditions of approval;
- b. Minimise the potential impact of the operation of the premises on nearby residents;
- c. Effectively minimise and manage anti-social behaviour;
- d. Minimise noise emissions and associated nuisances;
- e. Effectively manage and respond to resident complaints;
- f. Ensure responsible service of alcohol and harm minimisation; and
- g. Patron conductivity and security.

#### **28. Noise – Acoustic Report**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an acoustic report prepared by suitably qualified acoustic consultant 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 Noise Policy for Industry and Noise Control Manual and conditions of

Council's approval, including any recommendations of the acoustic report referenced in the conditions of the approval. The acoustic report is to be prepared by a suitably qualified and experienced acoustic consultant and any recommendations must be consistent with the approved plans.

**29. No Encroachments**

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any encroachments on to Council road or footpath resulting from the building works have been removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.

**30. Redundant Vehicle Crossing**

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that all redundant vehicular crossings to the site (Queen Street) have been removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications". Where the kerb in the vicinity of the redundant crossing is predominantly stone the replacement kerb must also be in stone.

**31. Protect Sandstone Kerb**

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any damaged stone kerb has been replaced.

**ON-GOING**

**32. Hours of Operation**

- a. The hours of operation of the premises must not exceed the following:

Day	Hours
Mondays to Sundays	8.00am to 10.00pm

**33. Noise General**

The proposed use of the premises and the operation of all plant and equipment must not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations, NSW EPA Noise Policy for Industry and NSW EPA Noise Guide for Local Government.

**34. Noise – Licensed Premises (7am – 12midnight)**

The LA10 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.

**35. Noise – Licensed Premises/Entertainment Venues – Acoustic Report**

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

- a. A suitably qualified acoustic consultant must be appointed to:
  - i. measure and verify the noise emanating from the premises; and
  - ii. if necessary, make recommendations to ensure that the noise emanating from the premises complies with the noise criteria.
- b. The noise measurements must be:
  - i. undertaken without the knowledge of the applicant, manager or operator of the premises;
  - ii. taken on at least three (3) different occasions on three (3) different days of the week (excluding Monday, Tuesday and Wednesday) from 11pm until the end of the public entertainment or close of business, whichever occurs first, and
  - iii. Submitted to the Certifying Authority within four (4) weeks of testing.
- c. If the acoustic consultant recommends that additional treatment or works be undertaken those recommendations must be:
  - i. submitted to Certifying Authority with the noise measurements;
  - ii. implemented to the acoustic consultant's satisfaction before the end of the first sixty (60) days of public entertainment provided on the premises; and
  - iii. If the acoustic consultant's recommendations are not implemented in accordance with this condition, the relevant element of trading (ie outdoor area access)/ public entertainment on the premises must cease until such time as the recommendations are implemented and verified.

**36. Licensed Premises – Plan of Management - Operation**

The operation of the premises complying at all times with the approved Plan of Management. The Plan of Management is not to be further amended without the prior written approval of the

Council. If there is any inconsistency between the Plan of Management and the conditions of this consent, the conditions of consent shall prevail to the extent of that inconsistency.

### **37. Commercial Waste/Recycling Collection**

The collection of waste and recycling must only occur between 7:00am and 8:00pm weekdays and 9:00am and 5:00pm weekends and public holidays, to avoid noise disruption on the surrounding area,

Garbage and recycling must not be placed on the street for collection more than one (1) hour before the scheduled collection time. Garbage bins and containers are to be removed from the street within one (1) hour after collection.

### **38. Additional Management Controls**

- a. There is to be no live entertainment on the premises at any time.
- b. The premises is restricted to a maximum of 100 patrons at any one time.
- c. All patrons must enter and exit the premises via Parramatta Road with no ingress or egress via Queen Street, except in the event of an emergency.
- d. The staff and security must ensure that patrons do not loiter and/or smoke outside neighbouring properties on Parramatta Road or Queen Street.

## **ADVISORY NOTES**

### **Prescribed Conditions**

This consent is subject to the prescribed conditions of consent within clause 98-98E of the *Environmental Planning and Assessment Regulations 2000*.

### **Notification of commencement of works**

At least 7 days before any demolition work commences:

- a. the Council must be notified of the following particulars:
  - i. the name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
  - ii. the date the work is due to commence and the expected completion date; and
- b. a written notice must be placed in the letter box of each directly adjoining property identified advising of the date the work is due to commence.

### **Storage of Materials on public property**

The placing of any materials on Council's footpath or roadway is prohibited, without the prior consent of Council.

**Toilet Facilities**

The following facilities must be provided on the site:

- a. Toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees; and
- b. A garbage receptacle for food scraps and papers, with a tight fitting lid.

Facilities must be located so that they will not cause a nuisance.

**Infrastructure**

The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be undertaken before occupation of the site.

**Other Approvals may be needed**

Approvals under other acts and regulations may be required to carry out the development. It is the responsibility of property owners to ensure that they comply with all relevant legislation. Council takes no responsibility for informing applicants of any separate approvals required.

**Failure to comply with conditions**

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.

**Other works**

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 4.55 of the *Environmental Planning and Assessment Act 1979*.

**Obtaining Relevant Certification**

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; or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

#### **Disability Discrimination Access to Premises Code**

The *Disability Discrimination Act 1992* (Commonwealth) and the *Anti-Discrimination Act 1977* (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.

#### **National Construction Code (Building Code of Australia)**

A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out. All building works approved by this consent must be carried out in accordance with the requirements of the National Construction Code.

#### **Notification of commencement of works**

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the PCA (not being the council) has given the Council written notice of the following information:

- 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.
- 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.

**Dividing Fences Act**

The person acting on this consent must comply with the requirements of the *Dividing Fences Act 1991* in respect to the alterations and additions to the boundary fences.

**Permits from Council under Other Acts**

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

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

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. A lease fee is payable for all occupations.

**Noise**

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.

**Amenity Impacts General**

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

**Fire Safety Certificate**

The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, must:

- a. Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and
- b. Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

Every 12 months after the Final Fire Safety Certificate is issued the owner must obtain an Annual Fire Safety Certificate for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Certificate must be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

**Boarding House – Registration with Fair Trading**

Boarding houses with two or more residents who have additional needs or five or more residents who do not have additional needs are required to register with the Department of Fair Trading.

**Construction of Vehicular Crossing**

The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for *Construction of a Vehicular Crossing & Civil Works* form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, prior to commencement of works.

**Lead-based Paint**

Buildings built or painted prior to the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.

**Dial before you dig**

Contact "Dial Prior to You Dig" prior to commencing any building activity on the site.



**Useful Contacts**

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm <a href="http://www.basix.nsw.gov.au">www.basix.nsw.gov.au</a>
Department of Fair Trading	13 32 20 <a href="http://www.fairtrading.nsw.gov.au">www.fairtrading.nsw.gov.au</a> Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 <a href="http://www.dialprior toyoudig.com.au">www.dialprior toyoudig.com.au</a>
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Corporation	Payments 131441 <a href="http://www.lspc.nsw.gov.au">www.lspc.nsw.gov.au</a>
NSW Food Authority	1300 552 406 <a href="http://www.foodnotify.nsw.gov.au">www.foodnotify.nsw.gov.au</a>
NSW Government	<a href="http://www.nsw.gov.au/fibro">www.nsw.gov.au/fibro</a> <a href="http://www.diysafe.nsw.gov.au">www.diysafe.nsw.gov.au</a> Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555 <a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>
Sydney Water	13 20 92 <a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a>

Waste Service - SITA 1300 651 116  
Environmental Solutions [www.wasteservice.nsw.gov.au](http://www.wasteservice.nsw.gov.au)

Water Efficiency Labelling and Standards (WELS) [www.waterrating.gov.au](http://www.waterrating.gov.au)

WorkCover Authority of NSW 13 10 50  
[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

Enquiries relating to work safety and asbestos removal and disposal.

#### **Asbestos Removal**

A demolition or asbestos removal contractor licensed under the Work Health and Safety Regulations 2011 must undertake removal of more than 10m<sup>2</sup> of bonded asbestos (or otherwise specified by WorkCover or relevant legislation).

Removal of friable asbestos material must only be undertaken by a contractor that holds a current Class A Friable Asbestos Removal Licence.

Demolition sites that involve the removal of asbestos must display a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos has been removed from the site to an approved waste facility.

All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 2014. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.

#### **Street Numbering**

If any new street numbers or change to street numbers (this includes unit and shop numbers) are required, a separate application must be lodged with and approved by Council's GIS Team before being displayed.

#### **Food Premises Certification**

The food premises design, construction and operation is in accordance with the following:

- a. *Food Act 2003*;
- b. *Food Regulation 2010*;
- c. Australia and New Zealand Food Standards Code;
- d. Australian Standard AS 4674 – 2004 (Design, construction and fit-out of food premises);
- e. Australian Standard AS 1668 Part 1 – 1998; and
- f. Australian Standard AS 1668 Part 2 – 2012.

**Food Premises Waste Storage Area**

To ensure adequate storage and collection of waste from the food premises, all garbage and recyclable materials must be stored in a designated waste storage area. The designated waste storage area must be designed and constructed in accordance with the Australian Standard AS 4674 – 2004 (Design, construction and fit-out of food premises) and Australia and New Zealand Food Standards Code.

**Mechanical Ventilation System Certification**

The mechanical ventilation systems are to be designed, constructed and operated in accordance with the following:

- a. Australian Standard AS 1668 Part 1 – 1998;
- b. Australian Standard AS 1668 Part 2 – 2012;
- c. Australian Standard 3666.1 – 2011;
- d. Australian Standard 3666.2 – 2011; and
- e. Australian Standard 3666.3 - 2011.

The system must be located in accordance with the approved plans and/or within the building envelope, design and form of the approved building. Any modifications to the approved plans required to house the system must be the subject of further approval from Council.

**Change of use**

Pursuant to Clause 93 of the *Environmental Planning and Assessment Regulation 2000*, the building subject to the change of use must comply with the Category 1 fire safety provisions and structural adequacy provisions as required by Clause 143 of the Regulations.

**Accessibility**

The Access to Premises Code is applicable to this development as new work is proposed. The applicant(s) should investigate whether there are any exemptions for the requirement to upgrade the 'affected' part and principal pedestrian entrance.

The applicant should be made aware of their legislative requirements and shall provide an Accessibility Report from an accredited Access Consultant prior to issue of the DA

determination / with the CC documentation to investigate the implications relating to their proposed development.

Building Access requirements:

- a. Table D3.1 requires an accessway to the building and within all areas normally used by the occupants of the building at the main point(s) of entry, car parking area, and sanitary compartments in accordance with Part D3, BCA Vol 1 and AS 1428.1;
- b. **Class 2:** Table D3.1 requires an accessway from a common use pedestrian entrance required to be accessible to at least 1 floor containing sole-occupancy units and to the entrance doorway of each sole-occupancy unit located on that level. Further, where a passenger lift is installed, access to the entrance doorway of each sole-occupancy unit and common areas/rooms served by the lift; and
- c. This may include compliant accessways, walkways, ramps, stairs, doorways and circulation space, braille & tactile design, signage, and all associated finishes and fittings throughout the building.

#### **Public Domain and Vehicular Crossings**

The vehicular crossing and/or footpath works are required to be constructed by your contractor. You or your contractor must complete an application for *Design of Vehicle Crossing and Public Domain Works – Step 1* form and *Construction of Vehicle Crossing and Public Domain Works – Step 2* form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.

You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be at no cost to Council

Any damage caused during construction to Council assets on the road reserve or on Council or Crown land must be repaired at no cost to Council.

Any driveway crossovers or other works within the road reserve must be provided at no cost to Council.

No consent is given or implied for any Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, eaves, awnings, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever, including when open.

#### **Permits**

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in

accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

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

If required contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. Applications for such Permits must be submitted and approved by Council prior to the commencement of the works associated with such activity.

#### **Insurances**

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

#### **REASONS FOR REFUSAL**

1. The proposed development is inconsistent with the following Clauses of *Marrickville Local Environmental Plan 2011*, pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*:
  - a. Clause 1.2 – Aims of the Plan, in that the proposal does not protect residential amenity, preserve cultural heritage of the area or promote a high standard of design.
  - b. Clause 5.10 – Heritage Conservation, in that the works and signage to the front facade are detrimental to the contributory building with

- the Parramatta Road Commercial Precinct Heritage Conservation Area.
2. The proposed development is inconsistent with the following Clauses of draft *Inner West Local Environmental Plan 2020*, pursuant to Section 4.15 (1)(a)(ii) of the *Environmental Planning and Assessment Act 1979*:
    - a. Clause 1.2 – Aims of the Plan, in that the proposal does not protect residential amenity, preserve cultural heritage of the area or promote a high standard of design.
    - b. Clause 5.10 – Heritage Conservation, in that the works and signage to the front facade are detrimental to the contributory building with the Parramatta Road Commercial Precinct Heritage Conservation Area.
  3. The proposed development does not comply with the following Parts of Marrickville Development Control Plan 2011, pursuant to Section 4.15 (1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*:
    - a. Part 2.5 - Equity of Access and Mobility, in that the premises does not provide equitable access for all persons via the principal entrances of the building.
    - b. Part 2.6 - Acoustic and Visual Privacy, in that the development has not demonstrated through submission of suitable acoustic testing and management techniques that the proposed use will not result in acoustic impacts to residents.
    - c. Part 2.10 - Parking, in that the development does not provide any onsite parking and is not well served by public transport at all time during the proposed operational hours.
    - d. Part 2.12 - Signage and Advertising Structures, in that the proposed signage is not consistent with the desired future character of the area; are not well sited on the building; and the extend of signage is excessive.
    - e. Part 2.21 - Waste Management, in that the development provides no waste area or provisions for waste management.
    - f. Part 5.3 - Commercial/Light Industrial/Residential Interface, in that the Plan of Management and use of Queen Street as a primary entrance is inadequate; there is no mechanical ventilation; and the hours of operation are not consistent with the locality and excessive.

- g. Part 8 - Heritage, in that the proposed modification and signage to the facade of the building are not sympathetic to the contributory building within a conservation area.
- 4. The proposal has not provided adequate information to demonstrate it will not result in adverse environmental impacts in the locality, pursuant to Section 4.15 (1)(b) of the *Environmental Planning and Assessment Act 1979* in that:
    - a. An adequate Acoustic Report has not been submitted.
    - b. A Plan of Management including clear details on the use of the Queen Street entrance and management of impacts as a result of that entrance.
    - c. Providing hours of operation consistent with the locality and that do not result in amenity impacts.
  - 5. The adverse environmental impacts of the proposal mean that the site is not considered to be suitable for the development as proposed, pursuant to Section 4.15 (1)(c) of the *Environmental Planning and Assessment Act 1979*.
  - 6. The application as submitted has not provided adequate information in order to undertake a full and proper assessment of the application in accordance with the *Environmental Planning & Assessment Act 1979* in that the following has not been provided with the application:
    - a. Details of the proposed entertainment use within the premises and how that use is captured within the definition of a *food and drink premises*.
    - b. A Heritage Impact Statement.
    - c. Plans clearly showing the proposed works to the building façade, accurately depicting the existing building façade and specific details of the signage proposed.
    - d. Details of mechanical ventilation and other related food use equipment.
    - e. A population assessment under the BCA to demonstrate the high number of patronage proposed at the site is acceptable.
  - 7. Having regard to submissions received and the adverse environmental impacts of the proposal, the application as proposed is not in the public interest, pursuant to Section 4.15 (1)(e) of the *Environmental Planning and Assessment Act 1979*.
  - 8. The proposed signage does not comply with the aims, objectives and assessment criteria contained within *State Environmental Planning Policy - No. 64* in that the proposed signage is not consistent with the desired future

character of the area, is not well sited on the building within a conservation area and contributes to visual clutter.

