

RLPP Development Consent Conditions (Commercial)



Folder /DA No:	DA/436/2018
Property:	169-181 Dolphin Street, Coogee
Proposal:	Refurbishment of Level 1 of the Coogee Pavilion including dining room, bars, storage areas, kitchen, amenities and alteration to windows on Dolphin Street and Beach Street facades (Heritage Item).
Recommendation:	Approval

GENERAL CONDITIONS

The development must be carried out in accordance with the following conditions of consent.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of environmental amenity.

- Approved Plans & Supporting Documentation
 1. The development must be implemented substantially in accordance with the plans and **supporting documentation listed below and endorsed with Council's approved stamp, except** where amended by Council in red and/or by other conditions of this consent:

<i>Plan</i>	<i>Drawn by</i>	<i>Dated</i>
A.02.01 (Revision A)	A C M E	20/04/2018
A.05.01 (Revision A)	A C M E	20/04/2018
A.05.02 (Revision A)	A C M E	20/04/2018
A.06.01 (Revision A)	A C M E	20/04/2018
A.06.02 (Revision A)	A C M E	20/04/2018
A.06.03 (Revision A)	A C M E	20/04/2018

2. The development consent for DA/648/2010 shall be surrendered prior to the issue of the Construction Certificate.

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

The following conditions of consent must be complied with before a '**Construction Certificate**' is issued by either Randwick City Council or an Accredited Certifier. All necessary information to demonstrate compliance with the following conditions of consent must be included in the documentation for the construction certificate.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, **Council's** development consent conditions and to achieve reasonable levels of environmental amenity.

- Consent Requirements
 3. **The requirements and amendments detailed in the 'General Conditions' must be complied with and be included in the construction certificate plans and associated documentation.**
- External Colours, Materials & Finishes
 4. The existing upper level window openings shall be divided into four vertical panels and shall extend through the opening sashes and fixed fanlights in order to be consistent with existing ground level doors and original openings in the building. The fanlight configuration for

proposed new windows shall match the fanlight configuration of existing and original windows. Amended drawings shall **be submitted to and approved by Council's Director City Planning**, in accordance with Section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.

5. The colours, materials and finishes of the proposed windows and doors shall- be compatible with the existing windows and doors. Details of the proposed colours, materials and textures (i.e.- a schedule and brochure/s or sample board) are to be submitted to and approved by **Council's Director City Planning**, in accordance with Section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.

Section 7.12 Development Contributions

6. **In accordance with Council's Development Contributions Plan effective from 21 April 2015**, based on the development cost of \$6,183,100 the following applicable monetary levy must be paid to Council: \$61,831.

The levy must be paid in cash, bank cheque or by credit card prior to a construction certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of **Council's determination to the date of payment. Please contact Council on telephone 9093 6999 or 1300 722 542** for the indexed contribution amount prior to payment.

To calculate the indexed levy, the following formula must be used:

$$IDC = ODC \times CP2/CP1$$

Where:

IDC = the indexed development cost

ODC = the original development cost determined by the Council

CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment

CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition requiring payment of the levy.

Council's Development Contribution Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at www.randwick.nsw.gov.au.

Compliance Fee

7. A development compliance and enforcement fee of \$5,000 shall be paid to Council in **accordance with Council's adopted Fees & Charges Pricing Policy**, prior to the issue of a Construction Certificate for development.

Long Service Levy Payments

8. The required Long Service Levy payment, under the *Building and Construction Industry Long Service Payments Act 1986*, must be forwarded to the Long Service Levy Corporation or the Council, in accordance with Section 6.8 of the *Environmental Planning & Assessment Act 1979*.

At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$25,000 or more, at the rate of 0.35% of the cost of the works.

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the construction certificate for the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Councils development consent conditions and to achieve reasonable levels of environmental amenity.

- Compliance with the Building Code of Australia & Relevant Standards
9. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, it is a *prescribed condition* that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).

 10. Design, Construction & Fit-out of Food Premises
In accordance with section 80 A (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, it is a *prescribed condition* that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).

 11. The premises is to be designed and constructed in accordance with the *Food Act 2003*, *Food Regulation 2010*, Australia & New Zealand Food Standards Code and Australian Standard AS 4674-2004, Design, construction and fit-out of food premises. Details of the design and construction of the premises are to be included in the documentation for the construction certificate to the satisfaction of the certifying authority.

 12. The design and construction of the food premises must comply with the following requirements, as applicable:-
 - a) The floors of kitchens, food preparation areas and the like are to be constructed of materials which are impervious, non-slip and non-abrasive. The floor is to be finished to a smooth even surface, graded and drained to a floor waste connected to the sewer. The intersection of walls with floor and plinths is to be coved, to facilitate cleaning.

 - b) Walls of the kitchen preparation areas and the like are to be of suitable construction finished in a light colour with glazed tiles, stainless steel, laminated plastics or similar approved material adhered directly to the wall adjacent to cooking and food preparation facilities or areas, to provide a smooth even surface.

The glazed tiling or other approved material is to extend up to the underside of any mechanical exhaust ventilation hoods and a minimum of 450mm above bench tops, wash hand basins, sinks and equipment.

 - c) Walls where not tiled are to be cement rendered or be of rigid smooth faced non-absorbent material (i.e. fibrous cement sheeting, plasterboard or other approved material) and finished to a smooth even surface, painted with a washable paint of a light colour or sealed with other approved materials.

 - d) The ceilings of kitchens, bars, food preparation areas, storerooms and the like are to be of rigid smooth-faced, non-absorbent material (i.e. fibrous plaster, plasterboard, fibre cement sheet, cement render or other approved material), with a light coloured **washable paint finish**. **'Drop-down' ceiling panels must not be provided in food preparation or cooking areas.**

 - e) All stoves, refrigerators, bain-maries, stock pots, washing machines, hot water heaters, large scales, food mixers, food warmers, cupboards, counters, bars etc must be supported on wheels, concrete plinths a minimum 75mm in height, metal legs minimum 150mm in height, brackets or approved metal framework of the like.

 - f) Cupboards, cabinets, benches and shelving may be glass, metal, plastic, timber sheeting or other approved material. The use of particleboard or similar material is not permitted unless laminated on all surfaces.

 - g) Fly screens and doors with self-closing devices, are to be provided to all external door and window openings and an electronic insect control device/s are to be provided in suitable locations within the food premises.

- h) A mechanical ventilation exhaust system is to be installed where cooking or heating processes are carried out in the kitchen or in food preparation areas, where required under the provisions of Clause F4.12 of the BCA and Australian Standard AS 1668 Parts 1 & 2.

Emission control equipment shall be provided in mechanical exhaust systems serving the cooking appliances, to effectively minimise the emission of odours, vapours and oils.

- i) Wash hand basins must be provided in convenient positions located in the food preparation areas including bars, with hot and cold water, together with a sufficient supply of soap and clean towels. The hot and cold water must be supplied to the wash hand basins through a suitable mixing device.
- j) Cool rooms or freezers must have a smooth epoxy coated concrete floor, which is to be sloped to the door. A floor waste connected to the sewer is to be located outside the cool room/freezer. The floor waste should be provided with a removable basket within a fixed basket arrestor and must comply with Sydney Water requirements.
- k) All cool rooms and freezers must be able to be opened from the inside without a key and fitted with an alarm (bell) that can only be operated from within the cool room/freezer.
- l) Any space or gap between the top of any cool room or freezer and the ceiling must be fully enclosed and kept insect and pest proof (e.g. plasterboard partition with gaps sealed).

Sydney Water Requirements

13. All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.

The approved plans must be submitted to the Sydney Water **Tap in™** online service, to determine whether **the development will affect Sydney Water's waste water and water mains, stormwater drains and/or easements**, and if any further requirements need to be met.

*The Sydney Water **Tap in™** online service replaces the Quick Check Agents as of 30 November 2015*

The **Tap in™** service provides 24/7 access to a range of services, including:

- Building plan approvals
- Connection and disconnection approvals
- Diagrams
- Trade waste approvals
- Pressure information
- Water meter installations
- Pressure boosting and pump approvals
- Change to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's **Tap in™** in online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

The Principal Certifying Authority must ensure that the developer/owner has submitted the approved plans to Sydney Water Tap in online service.

14. Liquid trade waste materials are to be drained to the sewer (via a suitable grease trap) and details of compliance are to be submitted to the Certifying Authority.
15. All fixed attenuation recommendations in acoustic report prepared by the Acoustic Group dated 4th June 2018 are to be included in the construction certificate plans. The acoustic

consultant shall confirm in writing to the certifying authority that all acoustic requirements have been complied with prior to a construction certificate being issued.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

The following conditions of consent must be complied with prior to the commencement of any works on the site. The necessary documentation and information must be provided to the Council or the '*Principal Certifying Authority*', as applicable.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity.

16. Certification and Building Inspection Requirements
- Prior to the commencement of any building works, the following requirements must be complied with:
- a) A Construction Certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*.

A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.
 - b) A *Principal Certifying Authority* (PCA) must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*
 - c) The *principal contractor* must be advised of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifying Authority*
 - d) At least two **days' notice** must be given to the Council, in writing, prior to commencing any works; and
 - e) The relevant requirements of the *Home Building Act 1989* (as applicable) must be complied with and details provided to the *Principal Certifying Authority* and Council.

17. Construction Site Management Plan
- A *Construction Site Management Plan* must be developed and implemented prior to the commencement of any works. The construction site management plan must include the following measures, as applicable to the type of development:

- location and construction of protective site fencing / hoardings;
- location of site storage areas/sheds/equipment;
- location of building materials for construction;
- provisions for public safety;
- dust control measures;
- details of proposed sediment and erosion control measures;
- site access location and construction
- details of methods of disposal of demolition materials;
- protective measures for tree preservation;
- location and size of waste containers/bulk bins;
- provisions for temporary stormwater drainage;
- construction noise and vibration management;
- construction traffic management details;
- provisions for temporary sanitary facilities.

The site management measures must be implemented prior to the commencement of any site works and be maintained throughout the works, to the satisfaction of Council.

A copy of the Construction Site Management Plan must be provided to the Principal Certifying Authority and Council prior to commencing site works. A copy must also be maintained on site and be made available to Council officers upon request.

Demolition Work Plan

18. A Demolition Work Plan must be prepared for the development in accordance with Australian Standard AS2601-2001, Demolition of Structures and relevant environmental/work health and safety provisions and the following requirements:

- a) The Demolition Work Plan must be submitted to the Principal Certifying Authority (PCA), not less than two (2) working days before commencing any demolition work. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request.

If the work involves asbestos products or materials, a copy of the Demolition Work Plan must also be provided to Council not less than 2 days before commencing those works.

- b) Any materials containing asbestos (including Fibro) must be safely removed and disposed of in accordance with the NSW Work Health and Safety Regulation 2017, SafeWork NSW Code of Practice for the Safe Removal of Asbestos, Protection of Environment Operations (Waste) Regulation 2014 and Council's Asbestos Policy.

Construction Noise & Vibration Management Plan

19. A *Construction Noise & Vibration Management Plan*, prepared in accordance with the Environment Protection Authority (EPA) Guidelines for Construction Noise and Assessing Vibration, by a suitably qualified person, is to be developed and implemented prior to commencing site work and throughout the course of construction, in accordance with the following requirements:

- a) Noise and vibration emissions during the construction of the building and associated site works must not result in an unreasonable loss of amenity to nearby residents.

Noise and vibration from any rock excavation machinery, pile drivers and all plant and equipment must be minimised, by using appropriate plant and equipment, silencers and the implementation of noise management strategies.

- b) The *Construction Noise & Vibration Management Plan* must include details of measurements, analysis and relevant criteria and demonstrate that the noise and vibration emissions from the work satisfy the relevant provisions of the *Protection of the Environment Operations Act 1997*, current EPA Guidelines for Construction Noise and Assessing Vibration and Councils conditions of consent.

- c) A further report/correspondence must be obtained from the consultant as soon as practicable upon the commencement of works, which reviews and confirms the implementation and suitability of the noise and vibration strategies in the *Construction Noise & Vibration Management Plan* and which demonstrates compliance with relevant criteria.

- d) Any recommendations and requirements contained in the *Construction Noise & Vibration Management Plan* and associated reports are to be implemented accordingly and should noise and vibration emissions not comply with the terms and conditions of consent, work must cease forthwith and is not to recommence until details of compliance are submitted to Council and the PCA.

A copy of the *Construction Noise & Vibration Management Plan* and associated acoustic/vibration report/s must be maintained on-site and a copy must be provided to Council and the Principal Certifying Authority accordingly.

Public Liability

20. The owner/builder is required to hold Public Liability Insurance, with a minimum liability of \$10 million and a copy of the Insurance cover is to be provided to the Principal Certifying Authority and Council.

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

The following conditions of consent must be complied with during the demolition, excavation and construction of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity during construction.

- Inspections during Construction
21. Building works are required to be inspected by the *Principal Certifying Authority*, in accordance with the *Environmental Planning & Assessment Act 1979* and clause 162A of the *Environmental Planning & Assessment Regulation 2000*, to monitor compliance with the **relevant standards of construction, Council's development consent and the construction certificate.**

- Building & Demolition Work Requirements
22. The demolition, removal, storage, handling and disposal of products and materials containing **asbestos must be carried out in accordance with Randwick City Council's Asbestos Policy** and the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- The Protection of the Environment Operations Act 1997;
- Protection of Environment Operations (Waste) Regulation 2014
- Randwick City Council Asbestos Policy.

A copy of Council's Asbestos Policy is available on Council's web site or a copy can be obtained from Council's Customer Service Centre.

- Removal of Asbestos Materials
23. Any work involving the demolition, storage or disposal of asbestos products and materials must be carried out in accordance with the following requirements:

- Work Health & Safety legislation and SafeWork NSW requirements
- Preparation and implementation of a *demolition work plan*, in accordance with AS 2601 (2001) – Demolition of structures; NSW Work Health and Safety Regulation 2017 and **Randwick City Council's Asbestos Policy**. **A copy of the demolition work plan** must be provided to Principal Certifying Authority and a copy must be kept on site and be made available for Council Officer upon request.
- A SafeWork NSW licensed demolition or asbestos removal contractor must undertake removal of more than 10m² of bonded asbestos (or as otherwise specified by SafeWork NSW or relevant legislation). Removal of friable asbestos material must only be undertaken by contractor that holds a current friable asbestos removal licence. A copy of the relevant licence must be provided to the Principal Certifying Authority.
- On sites involving the removal of asbestos, a sign must be clearly displayed in a **prominent visible position at the front of the site, containing the words 'Danger Asbestos Removal In Progress'** and include details of the licensed contractor.
- Asbestos waste must be stored, transported and disposed of in compliance with the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Waste) Regulation 2014*. Details of the disposal of materials

containing asbestos (including receipts) must be provided to the Principal Certifying Authority and Council.

- A Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos assessor or other competent person), must be provided to Council and the Principal Certifying Authority as soon as practicable after completion of the asbestos related works, which confirms that the asbestos material have been removed appropriately and the relevant conditions of consent have been satisfied.

A copy of Council's Asbestos Policy is available on Council's web site at www.randwick.nsw.gov.au in the Building & Development Section or a copy can be obtained from Council's Customer Service Centre.

Dust Control

24. During demolition excavation and construction works, dust emissions must be minimised, so as not to result in a nuisance to nearby residents or result in a potential pollution incident.

Adequate dust control measures must be provided to the site prior to the works commencing and the measures and practices must be maintained throughout the demolition, excavation and construction process, to the satisfaction of Council.

Dust control measures and practices may include:-

- *Provision of geotextile fabric to all perimeter site fencing (attached on the prevailing wind side of the site fencing).*
- *Covering of stockpiles of sand, soil and excavated material with adequately secured tarpaulins or plastic sheeting.*
- *Installation of a water sprinkling system or provision hoses or the like.*
- *Regular watering-down of all loose materials and stockpiles of sand, soil and excavated material.*
- *Minimisation/relocation of stockpiles of materials, to minimise potential for disturbance by prevailing winds.*
- *Landscaping and revegetation of disturbed areas.*

Public Safety & Site Management

25. Public safety and convenience must be maintained at all times during demolition, excavation and construction works and the following requirements must be complied with to the satisfaction of Council:

- a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.
- b) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times. Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.
- c) All building and site activities (including storage or placement of materials or waste and concrete mixing/pouring/pumping activities) must not cause or be likely to cause 'pollution' of any waters, including any stormwater drainage systems, street gutters or roadways.

Note: It is an offence under the Protection of the Environment Operations Act 1997 to cause or be likely to cause 'pollution of waters', which may result in significant penalties and fines.

- d) Access gates and doorways within site fencing, hoardings and temporary site buildings or amenities must not open outwards into the road or footway.

- e) Bulk bins/waste containers must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council. Applications to **place a waste container in a public place can be made to Council’s Health, Building and Regulatory Services department.**
- f) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works, and traffic control measures are to be implemented in accordance with **the relevant provisions of the Roads and Traffic Manual “Traffic Control at Work Sites” (Version 4),** to the satisfaction of Council.

Site Signage

26. A sign must be erected and maintained in a prominent position on the site for the duration of the works, which contains the following details:

- name, address, contractor licence number and telephone number of the *principal contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable)
- name, address and telephone number of the *Principal Certifying Authority*,
- **a statement stating that “unauthorised entry to the work site is prohibited”.**

Restriction on Working Hours

27. Building, demolition and associated site works must be carried out in accordance with the following requirements:

Activity	Permitted working hours
All building, demolition and site work, including site deliveries (except as detailed below)	<ul style="list-style-type: none"> • Monday to Friday - 7.00am to 5.00pm • Saturday - 8.00am to 5.00pm • Sunday & public holidays - No work permitted
Excavating or sawing of rock, use of jack-hammers, pile-drivers, vibratory rollers/compactors or the like	<ul style="list-style-type: none"> • Monday to Friday - 8.00am to 3.00pm only • Saturday - No work permitted • Sunday & public holidays - No work permitted
Additional requirements for all development	<ul style="list-style-type: none"> • Saturdays and Sundays where the preceding Friday and/or the following Monday is a public holiday - No work permitted

An application to vary the abovementioned hours may be submitted to Council’s Manager Health, Building & Regulatory Services for consideration and approval to vary the specified hours may be granted in exceptional circumstances and for limited occasions (e.g. for public safety, traffic management or road safety reasons). Any applications are to be made on the standard application form and include payment of the relevant fees and supporting information. Applications must be made at least 10 days prior to the date of the proposed work and the prior written approval of Council must be obtained to vary the standard permitted working hours.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE
 The following conditions of consent must be complied with prior to the ‘*Principal Certifying Authority*’ issuing an ‘*Occupation Certificate*’.

Note: For the purpose of this consent, any reference to ‘occupation certificate’ shall also be taken to mean ‘interim occupation certificate’ unless otherwise stated.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979, Environmental Planning & Assessment Regulation 2000, Council’s development consent* and to maintain reasonable levels of public health, safety and amenity.

Occupation Certificate Requirements

28. An Occupation Certificate must be obtained from the Principal Certifying Authority prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the *Environmental Planning & Assessment Act 1979*.

Fire Safety Certificates

29. Prior to issuing an interim or final Occupation Certificate, a single and complete *Fire Safety Certificate*, encompassing all of the essential fire safety measures contained in the *fire safety schedule* must be obtained and be submitted to Council, in accordance with the provisions of the *Environmental Planning and Assessment Regulation 2000*. The *Fire Safety Certificate* must be consistent with the *Fire Safety Schedule* which forms part of the Construction Certificate.

A copy of the *Fire Safety Certificate* must be displayed in the building entrance/foyer at all times and a copy must also be forwarded to Fire and Rescue NSW.

Sydney Water Certification

30. A *section 73 Compliance Certificate*, under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation. An Application for a Section 73 Certificate must be made through an authorised Water Servicing Coordinator. For details, please refer to the Sydney Water web site www.sydneywater.com.au > *Building and developing* > *Developing your Land* > *Water Servicing Coordinator* or telephone 13 20 92.

Please make early contact with the Water Servicing Co-ordinator, as building of water/sewer extensions may take some time and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority and the Council prior to issuing an Occupation Certificate or Subdivision Certificate, whichever the sooner.

Noise Control Requirements & Certification

31. **The operation of plant and equipment shall not give rise to an ‘offensive noise’ as defined in the *Protection of the Environment Operations Act 1997 and Regulations*.**

In this regard, the operation of the plant and equipment shall not give rise to an $L_{Aeq, 15 \text{ min}}$ sound pressure level at any affected premises that exceeds the background $L_{A90, 15 \text{ min}}$ noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A) in accordance with relevant NSW Environment Protection Authority (EPA) Noise Control Guidelines.

Food Safety

32. The food **premises must be inspected by Council’s Environmental Health Officer** to ascertain compliance with relevant Food Safety Standards and the written approval of Council (being the relevant Food Authority for this food business) must be obtained prior to the operation of the food business.

Environmental Amenity

33. **The operator of the Hotel premises shall comply with the Plan of Management titled “Merivale Coogee Pavilion Plan of Management – Version No: 4, Issued: 26 June 2018 (“Pavilion POM”)** at all times.

The Pavilion POM shall be updated to incorporate all requirements of acoustic report dated 4th June 2018 from the Acoustic Group that has been submitted as part of this application including the relevant conditions within this consent and requirements of the Police.

The acoustic consultant shall review the amended plan of management and confirm in writing to Council that all acoustic operational measures have been satisfied prior to commencement of operations.

A copy of the amended Plan of Management shall be submitted to and approved by **Council's Manager** Development Assessments.

OPERATIONAL CONDITIONS

The following operational conditions must be complied with at all times, throughout the use and operation of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, **Council's** development consent and to maintain reasonable levels of public health and environmental amenity.

Fire Safety Statements

34. A single and complete *Fire Safety Statement* (encompassing all of the fire safety measures upon the premises) must be provided to the Council (at least on an annual basis) in accordance with the requirements of the *Environmental Planning & Assessment Regulation 2000*.

The *Fire Safety Statement* is required to confirm that all the fire safety measures have been assessed by a competent fire safety practitioner and are operating in accordance with the standards of performance specified in the *Fire Safety Schedule*.

A copy of the *Fire Safety Statement* must be displayed in the building entrance/foyer at all times and a copy must also be forwarded to Fire & Rescue NSW.

Environmental Amenity

35. External lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.

36. The written approval of council must be obtained prior to the installation of any cooling towers.

Hours of Operation

37. The operating hours of the level 1 restaurant/bar must be restricted to the following and are subject to a review period in accordance with Section 4.17 (10B) of the *Environmental Planning & Assessment Act 1979* and Division 14 of the *Environmental & Assessment Regulation 2000*:

Monday to Thursday inclusive, from: 5.00am to 1.00am

Friday to Saturday: 5.00am to 3.00am

Sunday: 5.00am to midnight

The operating hours will be reviewed by Council within 12 months of the date of commencement of the restaurant/bar on level 1. The operator of the premises must advise Council in writing of the date of commencement. Appropriate supporting evidence (including but not limited to, relevant acoustics measurements) must be provided at the end of the review period to demonstrate compliance with all conditions of this consent as part to the review.

38. The delivery of goods are restricted to the following hours:

Monday to Saturday: 7:00am to 7:00pm

Sunday: 8:00am to 7:00pm

Environmental Amenity

39. 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*.

40. The number of persons permitted on the first floor level of the premises must not exceed the authorised capacity of 720 patrons and appropriate measures are to be implemented to ensure compliance.
41. Amplified music, entertainment, or any other ancillary activity is not permitted outside the building envelope.
42. The southern façade windows are to be closed at midnight.
43. The eastern façade windows are to be closed at 10.00pm.
44. All live entertainment on level 1 of the premises shall be subject to the following noise criteria:
 - The LA10 noise level from any loudspeaker installed in the restaurant dining area on the first floor shall not exceed 78 dB(A) at a distance of 2m from any speaker.
 - The LA10 noise level from any loudspeaker installed in the cocktail bar or the tapas bar on the first floor shall not exceed 78 dB(A) at a distance of 2m from any speaker with the scenario of any window on the eastern façade of the first floor being open.
 - The LA10 noise level due to entertainment in the cocktail bar or the tapas bar on the first floor shall not exceed 90 dB(A) at a distance of 2m from any speaker with the scenario of all windows on the eastern façade of the first floor being closed.
45. Recommendations provided in the acoustic reports submitted to Council in relation to the operation and uses of the premises are to be implemented at all times.
46. An acoustic report from a suitably qualified and experienced consultant in acoustics for the subject development shall be provided to Council within 3 months of commencement of use (inclusive of an event i.e. wedding or like) and from time to time as reasonably requested by Council may be requested by Council from time to time, which demonstrates and certifies that noise from the use and operation from the development complies with the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW EPA/DECC Noise Control Manual & Industrial Noise Policy and **conditions of Council's consent**.

The acoustic report is to include (but not be limited) to;

- Cumulative noise emission from the proposed development (e.g. operational noise, mechanical noise, monitoring from nearest affected residential premises during the use and operation of the premises when there is maximum occupancy to satisfy intrusiveness and amenity criteria)
 - Patron noise from the development having regard to the proposed hours of operation
 - Include assessment of an event occurring on level 1 of the premises (i.e. wedding or like).
47. The L_{10} noise level emitted from the licensed premises shall not exceed the background noise level (L_{90}) in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5dB between 7.00am and 12.00 midnight at the boundary of any affected residence. The background noise level shall be measured in the absence of noise emitted from the licensed premises.

The L_{A10} noise level emitted from the licensed premises shall not exceed the background noise level (L_{A90}) in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) between 12.00 midnight and 7.00am at the boundary of any affected residence. The background noise level shall be measured in the absence of noise emitted from the licensed premises.

Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12.00 midnight and 7.00am.

48. The licensee of the restaurant/ wine bar must establish and maintain a formal and documented system for the recording and resolution of complaints made to the licensed premises by residents. All complaints are to be attended to in a courteous and efficient manner and referred promptly to the licensee or duty manager. The appropriate remedial action, where possible, is to be implemented immediately and the licensee or duty Manager is to contact the complainant within 48 hours to confirm details of action taken.

Upon reasonable prior notice, the licensee must make available the incident book to the police and Council officers.

49. **The proposed use 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.**

In this regard, the use and operation of the premises (including all plant and equipment) shall not give rise to a sound pressure level at any affected premises that exceeds the background (L_{A90}), 15 min noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A). The source noise level shall be assessed as a $L_{Aeq, 15 \text{ min}}$ and adjusted in accordance with the NSW Office of Environment & Heritage/Environment Protection Authority Industrial Noise Policy 2000 and Environmental Noise Control Manual (sleep disturbance).

Food Storage

50. All food preparation, cooking, display and storage activities must only be carried out within the approved food premises.

Storage shall be within appropriate shelves, off the floor and in approved storage containers. External areas or structures must not be used for the storage, preparation or cooking of food, unless otherwise approved by Council in writing and subject to any necessary further approvals.

Food Safety Requirements

51. The food premises must be registered with Council's Health, Building & Regulatory Services Department and the NSW Food Authority in accordance with the Food Safety Standards, prior to commencing business operations.

52. A *Food Safety Supervisor* must be appointed for the business and the NSW Food Authority and Council must be notified of the appointment, in accordance with the *Food Act 2003*, prior to commencing business operations. A copy of which must be maintained on site and be provided to Council officers upon request.

53. A numerically scaled indicating thermometer or recording thermometer, accurate to the nearest degree Celsius being provided to refrigerators, cool rooms, other cooling appliances and bain-maries or other heated food storage/display appliances. The thermometer is to be located so as to be read easily from the outside of the appliance.

A digital probe type thermometer must also be readily available to check the temperature of food items.

54. All food that is to be kept hot should be heated within one (1) hour from the time when it was prepared or was last kept cold, to a temperature of not less than 60°C and keep this food hot at or above the temperature. Food that is to be kept cold should be cooled, within four (4) hours from the time when it was prepared or was last kept hot, to a temperature of not more than 5°C and keep this food cold at or below that temperature.

55. Food safety practices and the operation of the food premises must be in accordance with the *Food Act 2003*, Food Regulation 2004, *Food Standards Code* and Food Safety Standards at all times, including the requirements and provisions relating to:

- Food handling – skills, knowledge and controls.
- Health and hygiene requirements.
- Requirements for food handlers and businesses.
- Cleaning, sanitising and maintenance.

- Design and construction of food premises, fixtures, fitting and equipment.

The Proprietor of the food business and all staff carrying out food handling and food storage activities must have appropriate skills and knowledge in food safety and food hygiene matters, as required by the Food Safety Standards.

Failure to comply with the relevant food safety requirements is an offence and may result in legal proceedings, service of notices and/or the issuing of on-the-spot penalty infringement notices.

56. The food premises must be kept in a clean and sanitary condition at all times, including all walls, floors, ceilings, fixtures, fittings, appliances, equipment, fridges, freezers, cool rooms, shelving, cupboards, furniture, crockery, utensils, storage containers, waste bins, light fittings, mechanical ventilation & exhaust systems & ducting, storage areas, toilet facilities, basins and sinks.

Waste Management

57. Adequate provisions are to be made within the confines of the premises for the storage, collection and disposal of waste and recyclable materials, to the satisfaction of Council, prior to commencing business operations.

The waste storage area must be located within the property and not within any areas used for the preparation or storage of food.

A tap and hose is to be provided within or near the waste storage area and suitable drainage provided so as not to cause a nuisance.

Waste/recyclable bins and containers must not be placed on the footpath (or road), other than for waste collection, in accordance with **Council's requirements**.

58. **Trade/commercial waste materials must not be disposed via council's domestic garbage service. All trade/commercial waste materials must be collected by Council's Trade Waste Service or a waste contractor authorised by the Waste Service of New South Wales and details of the proposed waste collection and disposal service are to be submitted to the Council prior to commencing operation of the business.**

Sanitary Facilities

59. Sanitary facilities, plus wash hand basin and paper towel dispenser or hand dryer and appropriate signage, must be provided for customers and staff and be maintained in a clean and sanitary condition at all times.

GENERAL ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, or other relevant legislation and requirements. This information does not form part of the conditions of development consent pursuant to Section 4.17 of the Act.

- A1 The requirements and provisions of the *Environmental Planning & Assessment Act 1979* and *Environmental Planning & Assessment Regulation 2000*, must be fully complied with at all times.

Failure to comply with these requirements is an offence, which renders the responsible person liable to a maximum penalty of \$1.1 million. Alternatively, Council may issue a penalty infringement notice (for up to \$6,000) for each offence. Council may also issue notices and orders to demolish unauthorised or non-complying building work, or to comply **with the requirements of Council's development consent**.

- A2 In accordance with the requirements of the *Environmental Planning & Assessment Act 1979*, building works, including associated demolition and excavation works (as applicable) must not be commenced until:

- A *Construction Certificate* has been obtained from an Accredited Certifier or Council,
- An Accredited Certifier or Council has been appointed as the *Principal Certifying Authority* for the development,
- Council and the Principal Certifying Authority have been given at least 2 **days' notice** (in writing) prior to commencing any works.

A3 Council can issue your *Construction Certificate* and be your *Principal Certifying Authority* for the development, to undertake inspections and ensure compliance with the development consent and relevant building regulations. For further details contact Council on 9093 6944.

A4 This determination does not include an assessment of the proposed works under the Building Code of Australia (BCA), Disability (Access to Premises – Buildings) Standards 2010 and other relevant Standards. All new building work (including alterations and additions) must comply with the BCA and relevant Standards. You are advised to liaise with your architect, engineer and building consultant prior to lodgement of your construction certificate.

A5 Any proposed amendments to the design and construction of the building may require a new development application or a section 4.55 amendment to the existing consent to be obtained from Council, before carrying out such works

A6 A Local Approval application must be submitted to and be approved by Council prior to commencing any of the following activities on a footpath, road, nature strip or in any public place:-

- Install or erect any site fencing, hoardings or site structures
- Operate a crane or hoist goods or materials over a footpath or road
- Placement of a waste skip or any other container or article.

For further information please contact Council on 9093 6971.

A7 Specific details of the location of the building/s should be provided in the Construction Certificate to demonstrate that the proposed building work will not encroach onto the **adjoining properties, Council's road reserve or any public place.**

A8 This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:

- the consent of the owners of such adjoining or supported land to trespass or encroach, or
- an access order under the *Access to Neighbouring Land Act 2000*, or
- an easement under section 88K of the *Conveyancing Act 1919*, or
- an easement under section 40 of the *Land & Environment Court Act 1979*, as appropriate.

Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).

A9 External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to any adjoining land.

Finished ground levels external to the building are to be consistent with the development consent and are not to be raised, other than for the provision of approved paving or the like on the ground.

- A10 Prior to commencing any works, the owner/builder should contact *Dial Before You Dig* on 1100 or www.dialbeforeyoudig.com.au and relevant Service Authorities, for information on potential underground pipes and cables within the vicinity of the development site.
- A11 The necessary development consent and a construction certificate or a complying development certificate (as applicable) must be obtained for any proposed *cooling towers* and external plant and equipment, if not included in this consent.
- A12 An application must be submitted to an approved by Council prior to the installation and operation of any proposed greywater or wastewater treatment systems, in accordance with the *Local Government Act 1993*.
- Greywater/Wastewater treatment systems must comply with the relevant requirements and guidelines produced by NSW Health, NSW Office of Environment and Heritage and other relevant regulatory requirements.
- A13 There are to be no emissions or discharges from the premises, which will give rise to an environmental or public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and *Regulations*.
- A14 Air conditioning plant and equipment shall not be operated during the following hours if the noise emitted can be heard within a habitable room in any other residential premises, or, as otherwise specified in relevant Noise Control Regulations:
- before 8.00am or after 10.00pm on any Saturday, Sunday or public holiday; or
 - before 7.00am or after 10.00pm on any other day.
- A15 The assessment of this development application does not include an assessment of the proposed building work under the Food Act 2003, Food Safety Standards or Building Code of Australia (BCA).
- All new building work must comply with relevant regulatory requirements and Australian Standards and details of compliance are to be provided in the *construction certificate* application.
- A16 The design and construction of the premises must satisfy the requirements of the Food Act 2003, Food Standards Code and AS 4674 (2004). Prior to finalising the design and fit-out for the development and prior to a *construction certificate* being obtained, advice should be **obtained from an accredited Food Safety Consultant (or Council's Environmental Health Officer)**.
- A17 The applicant and operator are also advised to engage the services of a suitably qualified and experienced Acoustic consultant, prior to finalising the design and construction of the development, to ensure that the relevant noise criteria and conditions of consent can be fully satisfied.

Notes:

- The standard conditions may be modified or supplemented by additional non-standard site specific conditions to address any specific building, drainage, infrastructure, environmental amenity or waste management considerations, as proposed by relevant referral officers.
- Appropriate operating hours to be specified by Development Assessment officer having regard to **standard condition No's. 136 to 138, relevant Council Policies/Plans, potential environmental impacts and any relevant complaint history.**