

**NSLPP MEETING HELD ON 04/08/21****Attachments:**

1. Site Plan
2. Architectural Plans
3. Acoustic Report dated 10 May 2019
4. Acoustic Report dated 17 March 2020
4. Plan of Management
5. Statement of Support

ADDRESS/WARD: 1/457 Miller Street, Cammeray**APPLICATION No:** DA 313/20**PROPOSAL:** Modify hours of operation, increase maximum occupancy and minor additions to the interior to an existing restaurant**PLANS REF:**

Plan No.	Rev No.	Description	Dated	Prepared by	Received
100	D	General location / roof plan	16/11/2020	David Scobie Architects	4/12/2020
101	D	Proposed furniture layout GF level	25/5/2021	David Scobie Architects	22/12/2020
102	C	First Floor Plan	15/7/2019	David Scobie Architects	4/12/2020
103	D	Elevations	18/11/2020	David Scobie Architects	4/12/2020
104	D	Proposed toilets first floor	18/11/2020	David Scobie Architects	4/12/2020

OWNER: Peter Richard Hunter / Daislys Hunter**APPLICANT:** David Scobie Architects Pty Ltd**AUTHOR:** Lara Huckstepp, Executive Planner**DATE OF REPORT:** 28 July 2021**DATE LODGED:** 9 December 2021**AMENDED:** 14 May 2021 and 22 June 2021**RECOMMENDATION:** Approval

EXECUTIVE SUMMARY

This development application seeks approval to modify hours of operation, increase maximum capacity and minor additions to an existing restaurant. The matter is reported to North Sydney Local Planning Panel for determination as the outdoor seating is located on Council land.

Notification of the original proposal attracted 3 submissions raising particular concerns about the number of outdoor seats, current operation of the restaurant, concerns about notification of the application and impacts to bicycle parking. Amended updated information was received and renotified to surrounding properties. A total of 2 additional submissions were received raising particular concerns about noise, precedent, inaccuracy of submitted information, current operation of the restaurant and various other issues. The assessment has considered these concerns as well as the performance of the application against Council's planning requirements.

The existing restaurant opens at 7am daily and this development application seeks to open from 6am Monday to Saturday (inclusive); 7am Sundays, including indoor and outdoor trading, with set up of outdoor chairs and tables from 30 minutes prior to opening. Council's standard DCP trading hours outline trade should start at 7am.

The submitted Acoustic Report confirmed that the use of the site can comply with relevant acoustic requirements, however the use of the outdoor area should be limited to no more than 15 people between 6.00 – 7.00am. It is recommended that the hours sought be supported, with a limit of 15 people prior to 7am, subject to a trial period of 12 months. However, set up should not occur prior to 6.00am on Monday-Saturday and prior to 6.30am Sunday. It is recommended also that following the cessation of the 12 month period, any further extensions should be granted only in 24 month increments (maximum), to enable the evolving character of the locality to be considered, whereby adjoining buildings may be redeveloped with additional residential in close proximity at a time in the future.

The applicant also seeks to increase the number of outdoor seats from 26 (previously approved) to provide 51 seats. This is reduced from the originally proposed 60 seats. It is noted that a previous modification application that was subsequently withdrawn sought an increase to 67 seats. The proposed 51 seats are considered to be able to be appropriately accommodated within the already approved outdoor seating permit area.

A number of operational conditions are recommended to further ensure the impacts on the surrounding locality is reasonable.

The proposed alterations and additions will include first floor WC's that will be available to occupants, in addition to the ground level WC's. The additional WC's are proposed due to the increase in patron numbers. The first floor level is a separate tenancy however is currently occupied by the same restaurant as ancillary/office space. A condition is recommended to ensure this development consent relates to both properties, and that if either use ceases then a new development application is required to be lodged.

Following this assessment the development application is recommended for approval subject to conditions.

DESCRIPTION OF PROPOSAL

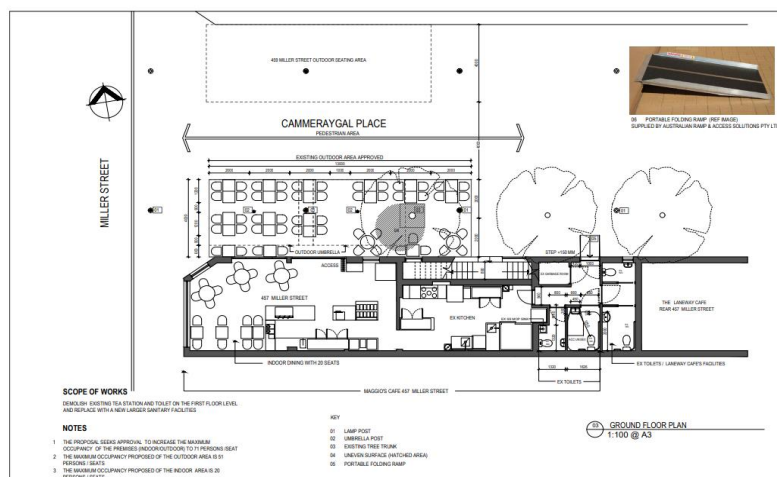
The development is described as follows:

- The proposal seeks to modify the maximum occupancy of the premises as follows:
 - The proposed maximum occupancy of the outdoor licensed dining area will be increased to 51 persons/seats
 - The proposed maximum occupancy of the indoor area is 20 persons/seats
- The proposal seeks to modify the hours of operation as follows:
 - Proposed Hours of operations **indoor dining area:**
 - Monday to Wednesday 6.00 am to 4:00 pm
 - Thursday to Saturday 6:00 am to 8:00 pm
 - Sunday 7.00 am to 3:00 pm
 - Proposed Hours of operations **outdoor dining area:**
 - Monday to Wednesday 6:00 am to 4:00 pm
 - Thursday to Saturday 6:00 am to 8:00 pm
 - Sunday 7:00 am to 3:00 pm

Note: The applicant seeks to set up the outdoor chairs 30 minutes prior to opening on any day.

- Minor works to the external staircase.
- Additional toilets are proposed at the first floor level for use by patrons.
- A new steel balustrade to the existing external stairs to be designed and installed in accordance and compliant with the BCA regulation part 3.9.2 balustrades and AS1170.1
- A proprietary portable folding ramp will be placed on Cammeraygal Place at the entry to the sanitary facilities to overcome the existing single concrete step and facilitate access to the existing sanitary services located on the ground level.

Note: No change is proposed to the **approved** outdoor area, which was approved under Outdoor Seating Permit No. OD295 issued by North Sydney Council (4m x 13m).



STATUTORY CONTROLS

North Sydney LEP 2013

- Zoning – B1 Neighbourhood business
- Item of Heritage - No
- In Vicinity of Item of Heritage - No
- Conservation Area - No
- Environmental Planning & Assessment Act 1979 (As amended)
- Environmental Planning & Assessment Regulations 1996
- SREP (Sydney Harbour Catchment) 2005
- SEPP 55 – Remediation of Land & Draft SEPP
- SEPP 64 – Advertising and Signage
- SEPP (Infrastructure) 2007
- SEPP (Vegetation in Non-Rural Areas) 2017
- Draft SEPP Environment 2017
- Local Development

POLICY CONTROLS

DCP 2013

Sydney Harbour Foreshores & Waterways Area DCP 2005

DESCRIPTION OF SITE AND LOCALITY

The subject site is legally known as SP88843 and has an area of 184sqm. The building on the site contains 4 tenancies, with two ground level tenancies and two first floor tenancies. The site is located on the eastern side of Miller Street and has a rear laneway frontage to Miller Lane. The site's northern frontage adjoins Cammeraygal Place, being a laneway closed to vehicles.

The proposed works relate to the ground level and first floor level tenancies that both have frontages to Military Road and Cammeraygal Place, located within the western end of the building. External stair access provides access between the tenancies. An existing restaurant operates on the ground level tenancy with the first floor level located immediately above providing ancillary functions for the restaurant. New additional WC's are proposed to be constructed for use by restaurant patrons, in addition to the existing ground level WC's.

The applicant advises that the first floor level is proposed only as ancillary uses to the restaurant, as office and storage.

There are two eastern tenancies within the building, one on the ground floor and one on the first floor that are separately leased. Each of these eastern tenancies are separately accessed and do not utilise any shared facilities with the subject tenancy.

The existing café on the subject site currently occupies 99sqm of internal floor area at the premises on the ground floor level and 13x4m square metres of outdoor area on the south west corner at Cammeraygal Place. The first floor currently provides a unisex toilet, storage and staff facilities.

The current approved use is a café/restaurant with operating periods from Monday to Sunday, with approved trading hours as follows:

Indoor trading hours

- Monday to Saturday 7am to 11pm
- Sunday 7am to 10pm

Outdoor Trading hours

- Sunday to Thursday 7am to 10pm
- Friday and Saturday 7am to 11pm

The site is part of a contiguous row of shops extending south down Miller Street. The surrounding locality comprises a mix of shop top housing developments as well as commercial buildings.

The subject site can be seen below:



RELEVANT HISTORY

DA347/10 – Council granted consent for the change of use of the subject premises to a restaurant including internal fit out and use of an outdoor seating area at its meeting on 6/12/2010.

DA347/10/2 – Council granted consent for a Section 96 modification to delete an approved cool room and construction of WC facilities. This application was approved under delegated authority on 17/2/2011.

DA347/10/3 – Council granted consent for a section 96 for installation of umbrellas over an approved outdoor seating area at its meeting on 2/5/2011.

DA347/10/4 – At Council Meeting held on 20/5/2013 Council approved the formalisation of a trial period for trading hours and allow outdoor dining areas to be used from 7am to 10pm daily and to increase the occupancy of indoor dining area to 40 persons/seats. Note the outdoor seating approved was 26 seats.

DA3/13 was approved on 6/2/13 allowed strata subdivision of the existing building into four strata lots.

Development Application DA343/13 – was approved under delegated authority on 17/12/13 and allowed the extension of hours of operation for the subject site at 457 Miller Street, Cammeray. The approved hours of operation under this development consent are:

Indoor trading hours

- Monday to Saturday 7am to 11pm
- Sunday 7am to 10pm

Outdoor Trading hours

- Sunday to Thursday 7am to 10pm
- Friday and Saturday 7am to 11pm

Development Application DA347/10/5 was lodged on 14/9/2018 seeking consent to increase number of patrons to be seated outside within the approved seating area to 67. This modification was rejected by Council due to lack of information.

Development Application DA347/2010/6 – was lodged on 25/3/2019 seeking approval to modify DA347/19 to increase outdoor seating to 67 persons. Following assessment of this application, Council raised concerns with BCA compliance in that there appeared inadequate WC facilities for the proposed number of seats. The modification application was subsequently withdrawn on 26 June 2019.

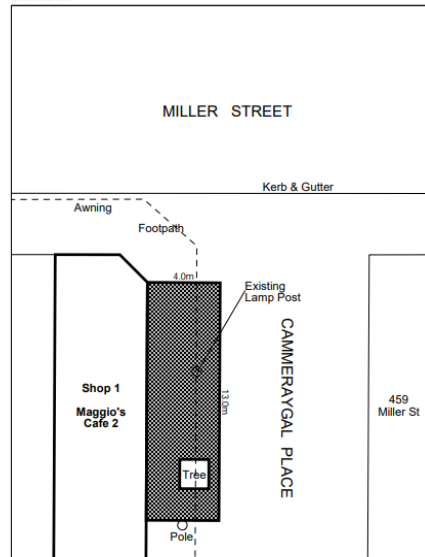
OUTDOOR DINING PERMITS

Current Outdoor Dining Permit

Permit No. (OD295) for Outdoor Dining has been issued by Council for Maggio's Café 2, Shop 1,457 Miller Street, Cammeray, was issued on 20/7/2020 and is valid until 30/6/2023. The permit area that has been approved is an area of 4m x 13m, being the same outdoor seating area that is being applied for under the current development application. The permit is shown below.

Permit for Outdoor Dining

Maggio's Cafe 2
 Shop 1 457 Miller St
 CAMMERAY



Permit Number **OD295**
 Special Conditions
 DA347/10

Issued By _____
 Printed 20/07/2020
 Valid until 30/06/2023



Current Outdoor Dining Permit – valid to 30/6/2023

A history of the permits can be seen below.

<p>Permit for Outdoor Dining Maggio's Cafe 2 Shop 1 457 Miller St CAMMERAY</p> <p>Permit Number OD295 Special Conditions DA347/10</p> <p>Issued By _____ Printed 02/07/2018 Valid until 30/06/2020</p>	<p>Permit for Outdoor Dining Maggio's Cafe 2 Shop 1 457 Miller St CAMMERAY</p> <p>Permit Number OD295 Special Conditions DA347/10</p> <p>Issued By _____ Printed 19/10/2016 Valid until 30/06/2017</p>
<p>Permit No. (OD295) for Outdoor Dining was issued by Council for Maggio's Café 2, Shop</p>	<p>Permit No. (OD295) for Outdoor Dining was issued by Council for Maggio's Café 2, Shop</p>

1,457 Miller Street, Cammeray on 2/7/2018 and was valid until 30/6/2020. The permit area that has been approved is an area of 4m x 13m.	1,457 Miller Street, Cammeray on 19/10/2016 and is valid until 30/6/2017. The permit area that has been approved is an area of 3.8m x 9.7m.
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It is noted that during the period covered by the above permit, amendments were made to SEPP Exempt and Complying Development which allowed footpath seating generally to be treated as exempt development.

Current Development Application

The **current Development Application DA330/2020** was lodged on 9 December 2020. Following an initial review, the applicant was requested to provide the following additional information and amendments:

Council requested additional information including:

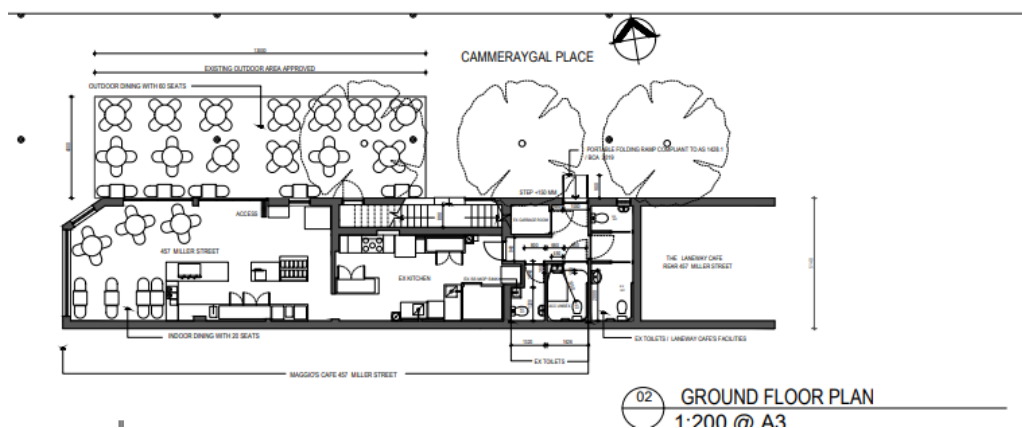
- Confirmation of existing outdoor seating patrons
- Confirmation of outdoor seating numbers sought between 6am to 7am daily, as this appears to be inconsistent with the submitted Acoustic Report.
- Acoustic Report fails to consider impacts of additional patrons.
- Details and use of the tenancy above the restaurant requested.
- Confirmation as to compliance of the WC's with BCA provisions.
- Confirmation that the temporary ramp will comply with AS1428.1 and BCA 2019.
- Outline how safety and security between uses at ground floor level and first floor level will be addressed.
- Plan of Management should be updated with all relevant information.

The applicant provided a response which confirmed:

- The number of patrons allowed to be seated in the outdoor area under the previous DA is 26.
- It is agreed that a maximum of 15 patrons should be permitted to be seated in the outdoor area between 6am to 7am on any day.
- A further Acoustic Report prepared by Acoustic Directions was engaged to undertake an additional noise assessment of the potential noise impact of Maggio's patrons on neighbouring receivers.
- The applicant confirmed that it is intended to open from 6am to customers on the nominated days. Between 5.30am to 6am is only requested for operational purposes, cleaning, chairs arrangement, and logistics activities related with the business.
- Lots 1 and 3 are both leased by the applicant
- The provision of WC's on the first floor and the existing bathrooms on the ground floor will be for the exclusive use of Maggio's Café (including customers and staff)
- The temporary ramp will comply with the AS and BCA relevant regulations. The ramp will be stored at the premises in a location convenient to the entry and will be assembled only by trained staff when required.
- The staircase will be used by both staff and patrons in the same manner as the ground floor tenancy. At the entry door on the first floor a sign will be provided restricting access to staff.

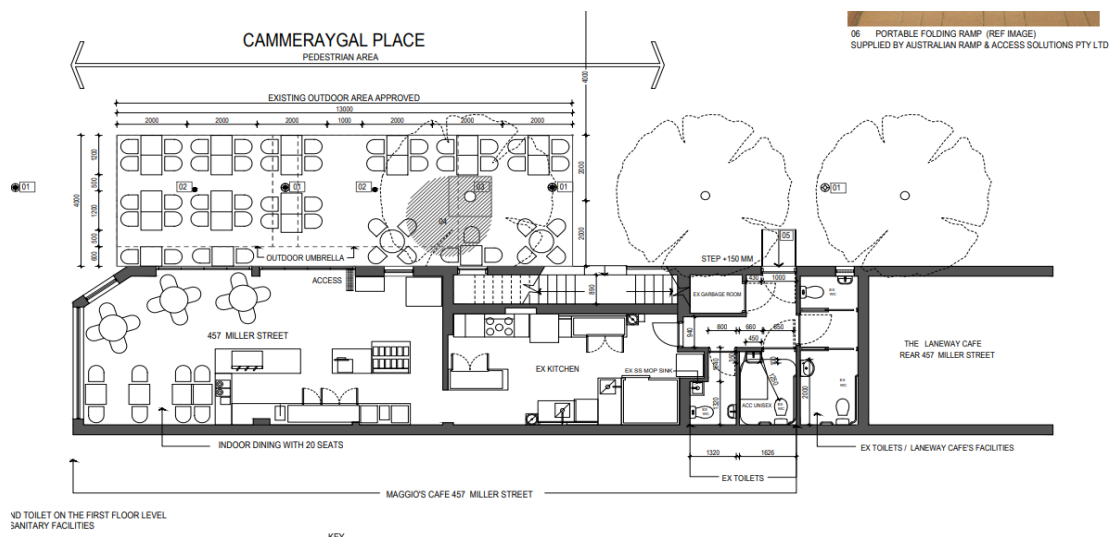
- Staff will be trained to ensure that customers have priority to access to the staircase for use of the toilets.
- All chairs will be adequately stored within the premises.
- The total area required to stack all the outdoor furniture is 12sqm.
- After hours service 26sqm within the premises will be available on the ground floor to stack the movable Maggio' furniture.

Following a detailed assessment, further concern was raised at the number and configuration of seating proposed within the outdoor seating area. The application originally proposed 60 outdoor seats in the configuration as follows:



Council raised concerns with the number of patrons and configuration of the outdoor seating area. The seating plan was considered to not accurately detail the location of the tree, umbrella supports, light post etc and the proposed layout of the 60 seats would provide insufficient clearance to these items. The applicant was also referred to North Sydney Council's Outdoor Dining and Goods Display Policy for table and chair layouts.

In response, the applicant provided an amended plan reducing the number of seats within the outdoor area to 51 seats (within an area of 52sqm) and the following amended plan was provided:



The applicant also provided a response to the seating arrangement, which is attached to this report, see Statement of Report. The additional information is considered within this report.

INTERNAL REFERRALS

Building

The proposed works the subject of this application have not been assessed in accordance with compliance with the National Construction Code of Australia. This would need to be undertaken prior to the issue of a Construction Certificate. Should significant changes be required to achieve compliance with NCC standards, a Section 4.55 application would be necessary.

Notwithstanding the above, Council's Building Surveyor provided the following comments:

The development application seeks approval for alterations and additions to increase sanitary facilities to accommodate a proposed increase of patron numbers.

The building is classified by the NCC BCA as a class 6 building.

The application is supported by a BCA Compliance Report dated 25 July 2019 prepared by BCA Logic (the BCA Report) which concludes that the proposed design is capable of compliance with the BCA via satisfying the Deemed to Satisfy provisions of the BCA however it is noted that the Report also mentions that a Performance Solution may be required to be developed to address differences between Clause F2.2(c) and F2.3(b). Full acceptance of any Performance Solution is a matter for the consideration of the Principal Certifying Authority during Construction Certificate assessment stage.

As the works represent less than 50% of the buildings floor area, upgrade of the building is not required pursuant to Clause 94 of the Environmental Planning & Assessment Regulations 2000.

A detailed assessment of compliance with the Building Code of Australia 2019 will be undertaken by an appropriately accredited certifier at the Construction Certificate Stage of the proposed development. Additionally, a Fire Safety Schedule is to be prepared by the certifier and accompany the Construction Certificate.

Generally, the proposed building works can comply with the NCC BCA 2019, Volume 1.

Given the above, the following Standard Conditions are recommended:

Standard Condition "F1".

National Construction Code of Australia F1

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

(Reason: Prescribed - Statutory)

Standard Condition "C9".

Provision of Accessible Paths of Travel

- C9 *Access from the pedestrian entry to the premises and access throughout the building be designed and constructed to provide access and facilities in accordance with the Building Code of Australia and Disability (Access to Premises – Buildings) Standards 2010. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.*

Notes:

1. *If, in complying with this condition, amendments to the development are required, the design changes must be submitted for the approval of Council prior to a Construction Certificate being issued. Approval of a modification application may be required.*
2. *It is not within Council's power to set aside National legislation which requires the upgrade of buildings to meet modern access standards. Such decisions remain the jurisdiction of the Building Professionals Board Access Advisory Committee who may grant an exemption in certain exceptional circumstances.*
3. *Information on making an application for an "unjustifiable hardship exemption" under the accessibility standards can be found in the website of the NSW Building Professional Boards at <http://www.bpb.nsw.gov.au/page/premises-standards>*

(Reason: To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian Standards)


HEALTH/ENVIRONMENT

Council's Environmental Health Officer raised no objection to the proposed development however a 12 month trial period is recommended. It was noted that the Acoustic Report recommends limiting outdoor dining to a maximum of 15 persons between 6am and 7am. This is recommended to be conditioned.

SUBMISSIONS

Original proposal

Council notified adjoining properties and the Plateau / Bridgeview Precinct of the proposed development seeking comment between 18/12/2020 – 25/1/2021. Council received 3 submissions. The matters raised in the submissions are listed below:

Name & Address of Submitter	Basis of Submissions
<p>Kay Valder OAM 3/6 Raleigh</p>	<ul style="list-style-type: none"> • I am please Maggios has been successful in providing tables outside the restaurant for 40 people up to date. • I do object to the application I have received for a proposal to increase this number to 60. Reason being there are currently many tables outside seating 40 which works to add more tables to seat another 20 people is unacceptable due to them encroaching in front of other properties on the same side. • I note that Maggios is so successful having patrons fill the restaurant inside and out daily which is great but surely there comes a time when greed comes into play.
<p>Thomas Dunsford 64a Marriott Street Redfern</p>	<ul style="list-style-type: none"> • Great café, a general comment for the square regarding Council’s property that will be affected by the proposed DA. As the number of outdoor seats will be increasing by a third and a ramp added to the toilets, can Council move the bike rack away from the café. Where it is at the moment it is hard to access as it gets surrounded by tables and diners making them hard to lock up to. It also must be a pain for the wait staff to navigate. It is the only public bike rack in Cammeray and is often full. Putting lots of people and tables into the mix makes it even harder to use. 
<p>Name withheld</p>	<ul style="list-style-type: none"> • Enlargement of the outdoor dining area was undertaken under an outdoor seating permit however DA347/10 was not amended and therefore a maximum of 26 seats are approved outdoors. • Council’s notification of the application proposal as 40 existing outdoor dining seats is incorrect. If this is correct, the application should be rejected and the applicant should lodge a fresh application with relevant corrections so that Council can renotify the proposal. • Please advise whether installation and use of the existing canopies are permitted. • Please advise whether the storage of chairs, baby seats, tables, milk crates and mop buckets in Raleigh Street which fall outside the 13m x 4m area permitted under Permit No.OD295. • Please advise whether the use and storage of tables and chairs past the 13m x 4m area is permitted under Permit No.OD295.

	<ul style="list-style-type: none"> • The Acoustic Report is nearly 2 years old and Council should reject it in its entirety. • The Acoustic Report states that the noise model on which the report was based considered a number of factors including three calculation scenarios with a maximum of up to ten simultaneous talkers located in the Maggio’s outdoor seating area. The impacts could potentially equate to a far greater. • The Acoustic Report fails to take into account the premises at 459-461 Miller Street. At present, the upstairs premises at 459 Miller Street are leased to Commercial tenants but this may change and significantly negative impact on any future residents of the upstairs unit at 459 Miller Street, Cammeray. • The Acoustic report does not make any mention of the noise impact on the upstairs residential premises at 461 Miller Street, Cammeray. • The proposed outdoor seating should not limit the potential of other surrounding properties to also provide outdoor seating. This should not grab the lion’s share of the available public space on Raleigh Street Plaza such as would impede and prejudice any application for equal access to that public space. • The proposed development should not impact on the ability of surrounding sites to redevelop in the future.
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Amended Plans

Council notified adjoining properties and the Plateau / Bridgeview Precinct of the proposed development seeking comment between 9/7/2020 – 23/7/2021. Council received 2 additional submissions. The matters raised in the submissions are listed below:

Name & Address of Submitter	Basis of Submissions
Name withheld	<ul style="list-style-type: none"> • Concerned this will set a precedent for other cafes shops in Cammeray and North Sydney LGA, especially those located within residential unit blocks and adjacent to residential bedrooms. • Cafes and shops should be prohibited from trading and operating before 7am at the earliest in order to avoid unreasonably disturbing residents. • The Acoustic Report has omitted to consider and measure the noise generated by cafes and coffee shops during setup before they open for trade, particularly the considerable unpleasant noise produced when chairs and tables are placed outside and moved and dragged over hard surfaces, early in the morning. • Noise arising from the setting up of furniture prior to a café commencing trading is particularly noticeable and directly interfaces with resident’s quiet enjoyment within their premises. • I recommend that the acoustic report be revised to assess the impact of this noise source on nearby residential properties including 502-504 Miller Street, Cammeray.
Name withheld	<ul style="list-style-type: none"> • No permission should be granted to increase the current dining capacity until the non-compliances with regulations and applicable standards have been rectified.

	<ul style="list-style-type: none">• Architectural drawings are inadequate and incomplete, as they do not provide information on all proposed alterations. The architectural documentation contains incorrect and misleading information, including written statements that are contradicted by photographic evidence.• BCA Assessment by BCA Logic cannot be relied upon as it failed to detect an obvious non-compliance with an Australian Standard, including compliance with the disabled WC. <p>Noise impact assessment cannot be relied upon because:</p> <ul style="list-style-type: none">• It is partially based on dated information• It is partially based on data derived from unspecified and undocumented 'other projects'.• Incorrectly quotes information that is otherwise publicly available• The critical aspects of the report rely on information obtained from a third party, which cannot be factually correct.
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CONSIDERATION

The relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended), are assessed under the following headings.

Environmental Planning and Assessment Act 1979 (as amended) Environmental Planning and Assessment Regulation 2000

SREP – (Sydney Harbour Catchment) 2005

Having regard to the SREP (Sydney Harbour Catchment) 2005 and the Sydney Harbour Foreshores and Waterways Area DCP 2005, the proposed development is not considered to be detrimental to the Harbour and will not unduly impose upon the character of the foreshore given the site's location is not visible from the Harbour. As such, the development is acceptable having regard to the provisions contained within SREP 2005 and the Sydney Harbour Foreshores and Waterways DCP 2005.

SEPP 55 – Remediation of Land & Draft

The provisions of SEPP 55 require Council to consider the likelihood that the site has previously been contaminated and to address the methods necessary to remediate the site. The subject site proposes minimal disturbance of land and as such, is unlikely to raise any new issues with regards to contamination. The proposed development is unlikely to offend the requirements of SEPP 55 and the Draft SEPP. The provisions of these SEPPs have been satisfactorily addressed.

SEPP – (Vegetation in Non-Rural Areas) 2017

The State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) works together with the Biodiversity Conservation Act 2016 and the Local Land Services Amendment Act 2016 to create a framework for the regulation of clearing of native vegetation in NSW.

The SEPP will ensure the biodiversity offset scheme (established under the Land Management and Biodiversity reforms) will apply to all clearing of native vegetation that exceeds the offset thresholds in urban areas and environmental conservation zones that does not require development consent. The proposal meets the objectives of the SEPP because there would be no clearance of native vegetation or any materials impacts on bushland (if any) in the vicinity of the subject site.

SEPP 64 – Advertising & Signage

No new advertising or signage is proposed as part of the development application.

Draft SEPP Environment 2017

This draft SEPP proposes to integrate the provisions of seven (7) SEPPs/SREPs including SREP (Sydney Harbour Catchment) 2005. The majority of the current provisions of SREP (Sydney Harbour Catchment) 2005 would be transferred to the draft SEPP with necessary updates and some amendments. The proposal would not offend the relevant provisions of the draft SEPP due to the nature of the proposed development as a dwelling not highly visible from the harbour and negligible impacts on the scenic quality and the ecology of Sydney Harbour and its foreshores.

NORTH SYDNEY LOCAL ENVIRONMENT PLAN (NSLEP 2013)

1. Permissibility

The proposed works can be defined as alterations and additions to an existing restaurant and associated outdoor seating, which is permissible in the B1 Neighbourhood Centre zone with development consent.

2. Objectives of the zone

The objectives for the B1 Neighbourhood Centre zone are stated below:

- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*
- *To encourage active street life while maintaining high levels of residential amenity.*
- *To encourage development for the purpose of shop top housing.*

The proposed development will continue to provide for a restaurant / café that serves the needs of the local community. The provision of outdoor seating will contribute to providing an active street life. Conditions are recommended to be imposed to minimise impacts upon the locality and ensure that a high level of residential amenity is maintained. The proposed development is considered to satisfy the objectives of the zone.

Part 4 – Principal Development Standards

Principal Development Standards – North Sydney Local Environmental Plan 2013			
Site Area – 184.61m²	Proposed	Control	Complies
Clause 4.3 – Heights of Building	6m (approx.)	13m	Yes
Clause 4.4a – Non residential FSR	No change	0.5:1 minimum	Yes

3. Height of Building

The proposed works are located below the height of the existing building and would comply with the maximum building height of 13m.

4. Non-Residential floor space ratios

The proposed development continues to comply with minimum 0.5:1 non-residential floor space on the site. No residential development is provided within the building.

5. Earthworks

No excavation is proposed on the site and the provisions of clause 6.10 in NSLEP 2013 are satisfied.

NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2013

The proposal has been assessment under the following heading within NSDCP 2013:

DEVELOPMENT CONTROL PLAN 2013 – Part B Section 2- Commercial and Mixed Use Development		
	<i>complies</i>	<i>Comments</i>
2.2 Function		
2.2.1 Diversity of Activities	Yes	The proposed works to the café result in acceptable impacts, in that the premises will continue to contribute to the vitality of the locality.
2.2.2 Maximise Use of Public Transport	Yes	The site is well located with regards to public transport.
2.3 Environmental Criteria		
2.3.1 Clean Air	Yes	No new plant is proposed.
2.3.2 Noise <ul style="list-style-type: none"> No > 5dba above background during day & evening 	Yes (conditions)	No new plant or equipment is proposed. The submitted Acoustic Report considers the proposed development will provide acceptable noise impacts, subject to conditions. Refer to Acoustic Privacy discussion.
2.3.4 Reflectivity	Yes	No new external elements are proposed that will likely result in any increased reflectivity.
2.3.5 Artificial Illumination B3 – Commercial Core 1am Zones B1, B4, IN2 – 11pm	Yes	No new lighting is proposed.
2.3.6 Awnings	Yes	No new awnings are proposed.
2.3.7 Solar Access Outside NSC 3 hours between 9am and 3m: 2 hours (70% of dwellings within RFB/shoptop housing)	Ye	No new building elements are proposed that will result in overshadowing to adjoining buildings.
2.3.8 Views	Yes	No new building elements are proposed that will result in loss of views to surrounding properties.


2.3.9 Acoustic Privacy <ul style="list-style-type: none"> • Living areas (day/night \leq 40 dBA) • Sleeping areas (day/night) \leq 40 dBA 	Yes	There is no residential component within the subject site. Noise impacts to other likely receivers are dealt with in other sections.
2.3.10 Vibration	Yes	No works are proposed that would require any amelioration from vibration impacts.
2.3.11 Visual Privacy	Yes	No new works are proposed that will result in any adverse privacy impacts.
2.4 Quality built form		
2.4.1 Context	Yes	The proposed development is considered to be contextually appropriate. The proposed extent of outdoor seating remains within the Council approved outdoor dining area. The proposed impacts from the additional capacity and hours are considered to be reasonable subject to conditions and a 12 month trial. As set out within this report, should the applicant seek an extension following a 12 month trial, it is recommended that a maximum of 24 months be provided at any one time, to allow the evolving context of the locality to be considered each time.
2.4.2 Site Consolidation	N/a	No change to strata lots are proposed. It is noted that the first floor tenancy is a separate tenancy however is leased by the same owner. Given that the use of the restaurant for the number of patron numbers proposed is contingent on the use of the upper level for WC's, a condition is recommended to be imposed to require that the use of the ground level must not be carried out unless the WC's at first floor level remain available.
2.4.3 Setback – Side/rear – Zero required	Yes	No new building work is proposed.
2.4.4 Podiums	Yes	No new building work is proposed.
2.4.5 Building Design	Yes	No change is proposed to the existing building or ceiling heights.
2.4.6 Skyline	Yes	No change is proposed to the existing building's roof.
2.4.7 Junction and Termination of Streets	Yes	No change is proposed to the external building elements.
2.4.10 Streetscape	Yes	The proposed development will continue to provide an active frontage to Cammeraygal Place. No new street furniture is proposed other than new seating. The applicant has confirmed that the chairs and tables will be stacked inside when not in use.
2.4.11 Entrances and Exits	Yes	No change is proposed to the existing entrance into the restaurant which is on the northern elevation on Cammeraygal Place. The proposed access to the first floor WC's is required by condition to be provided with signage to advise patrons of their location. The applicant advises that CCTV is proposed to be located at first floor level. A condition will be imposed to ensure that the proposed development will comply with the BCA.
2.4.12 Nighttime appearance	Yes	No new elements are proposed that would alter the premises' night time appearance.
2.4.13 Public Spaces and facilities	Yes	There is no proposed extension of the outdoor seating area proposed and as such, is considered to be acceptable.

2.5 Quality Urban Environment		
2.5.1 Accessibility	Yes	<p>The applicant has submitted a Statement from BCA logic which outlines that the provision of the WC's satisfies the provision of WC provision for the subject site.</p> <p>Council's Senior Building Surveyor raised no concerns over the proposed temporary ramp and this was confirmed by Council's Team Leader Compliance.</p> <p>Notwithstanding this, conditions are recommended to be imposed to require the applicant to demonstrate compliance with all relevant access requirements prior to the issue a Construction Certificate.</p>
2.5.2 Safety and Security	Yes	<p>A Plan of management has been submitted and a condition is recommended to be imposed to ensure the plan is amended to including all relevant conditions of consent.</p> <p>This includes the requirement for signage to advise patrons as to the location of the WC's at first floor level and the inclusion of CCTV.</p> <p>There are no known safety and security issues that arise from the proposed development.</p>
2.5.3 Illumination	Yes	No new lighting is proposed.
2.5.4 High Quality Residential Accommodation	N/A	There is no residential uses on the site.
2.5.7 Vehicular Access	No change	The site is not serviced by any car parking and none is proposed.
2.5.8 Car Parking	No change	There is no on site parking.
2.5.9 Garbage Storage area within 2m of street or laneway boundary	Yes	Adequate storage of garbage continues to be provided on the site.
2.5.11 Temporary Structures	Yes	All temporary chairs and tables will be stored within the tenancy each evening.
2.7 Public Domain		
2.7.1 Street Furniture, Landscaping Works	Yes	<p>The proposed street furniture includes chairs and tables. The umbrella canopies are existing and have been previously approved.</p> <p>The applicant advises that the chairs and tables will be stored internally within the tenancy each night.</p>
2.7.5 Native vegetation and water	Yes	The proposed outdoor seating layout has been amended and now provides clearance of the street tree located within the outdoor seating area.

DEVELOPMENT CONTROL PLAN 2013 – Part B Section 7- Late Night Trading Hours

7.2 Matters for Consideration	Yes	<p>The proposed development is considered to satisfy the matters for consideration in that:</p> <ul style="list-style-type: none"> • The location and context of the proposed development is considered to be acceptable. There is currently no residential development located above the building and surrounding residential development is appropriately set back from the site. • The size and patron capacity of the premises has been amended and is now considered appropriate at 51 outdoor seats and 20 indoor seats. • The proposal seeks to increase the number of WC's available for patrons which is supported.
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		<ul style="list-style-type: none"> The proposal seeks to operate predominantly as a day time use, and proposes to cease evening trade no later than 8pm on any day. A Plan of management has been submitted. The site is accessible in its location. The proposed development has demonstrated it will result in acceptable Acoustic impacts, subject to conditions including a trial period. Refer to the next sections for further discussions.
<p>7.3 Trading Hours</p> <ul style="list-style-type: none"> Neighbourhood Centre (properties with a frontage to Miller Street, Cammeray) 7am – 10pm (Sun-Wed); 7am – 11pm (Thurs – Sat); (Indoor) 7am -9pm (outdoor) <p>❖</p>	<p>No (acceptable on merit)</p>	<p>The proposal seeks trading hours of:</p> <p><u>Indoor hours</u> Monday to Wednesday – 6.00am to 4.00pm Thursday to Saturday – 6.00am to 8.00pm Sunday 7.00am to 3.00pm</p> <p><u>Outdoor hours</u> Monday to Wednesday – 6.00am to 4.00pm Thursday to Saturday – 6.00am to 8.00pm Sunday 7.00am – 3.00pm</p> <p>This is contrary to the standard trading hours set out in within the DCP, wherein 7am is specified to commence trade. Whilst these trading hours are outside standard trading hours, they are considered to be acceptable subject to a trial period given that:</p> <ul style="list-style-type: none"> The submitted Acoustic Report outlines that the proposal can comply between 6.00am – 7.00am for outdoor trading subject to the patron numbers being limited to 15 persons. The submitted Acoustic Report outlines that at other times, the proposal can meet the relevant acoustic requirements. The site is considered to be suitably located adjacent to Miller Street and Cammeraygal Place. The site is provided with adequate distances from surrounding residential receivers, as set out within the Acoustic Report. The site is unusually located being within a closed road reserve, with no residential development located immediately above or to the north of the subject site. <p>On the basis of the site’s unique location, the trading hours are considered acceptable, subject to a trial period and additional conditions discussed below.</p> <p>Notwithstanding, any set up prior to 6am is not supported and a condition is recommended.</p>
<p>7.3.2 Trial periods</p>	<p>Yes</p>	<p>A trial period of 12 months is recommended given that the trading hours are outside of Council’s standard trading hours.</p> <p>Character of the area – The proposal to operate from 6am on Monday – Saturday is considered to be acceptable and able to be supported in part, due to the site’s location with a closed road, and given that there is no residential uses at first floor level or no known currently approved residential uses above the adjacent property to the north at No.459 Miller Street. The nearest residential is located on the western side of Miller Street. It is noted that development to the east of the site is a Council car park. The context can be seen below:</p>

		 <p>Whilst the proposed development is considered to demonstrate a reasonable level of compliance including with acoustic impacts to surrounding residential properties, it must be acknowledged that the character of the locality may change in the future, with a number of surrounding properties having potential to be redeveloped as mixed use developments containing residential apartments. On this basis, it is recommended that following a successful trial period, should the applicant seek a further extension beyond that 12 months, that a maximum of 24 months should be considered at any one time, so as to allow the impacts of the proposed outdoor seating to be considered within its context that will likely evolve over time. Part of the applicant's justification for the proposed outdoor seating is its setback from residential development. This cannot always be ensured, and therefore it is recommended that time limited consents of maximum of 24 months should be considered in the future. It is recommended this be outlined within the conditions of consent. Should adjacent residential development be constructed in the future, the proposed opening hours may not be acceptable at that time. Notwithstanding, this is not considered to be a valid reason for refusal at this time given the acceptability of the proposed development.</p>
<p>7.3.3 Acoustic impacts</p>	<p>Yes</p>	<p>The applicant has submitted an Acoustic Report which concludes that the proposed development will meet relevant noise criteria, subject to the following recommendations being implemented to ensure that ongoing noise levels reaching nearby residential receivers are acceptable. The discussion and recommendation of the Report are:</p> <ol style="list-style-type: none"> a. <i>Results in Table 6 show that the calculated cumulative noise from Maggio's patrons meet the adopted criteria for the relevant proposed operational hours during the day, evening and night periods.</i> b. <i>There is safety margin of at least 5dB and 2dB between the calculated level for the 'raised' simultaneous talkers and the adopted daytime criteria of 58dBA and evening criteria of 55dBA respectively.</i> c. <i>For the most stringent night period there is a safety margin of at least 4 dB with ten outdoor simultaneous talkers. Margins of 6dB and 7dB are predicted for scenarios with six and four talking Maggio patrons respectively.</i> d. <i>For observations on Friday and Sunday mornings between 6.00am and 7.00am, there are between approximately one to six patrons in Maggio's Café during this period. As such, noise levels presented in Table 6 represent a pessimistic assessment with up to ten patrons speaking simultaneously in the outdoor dining area on Cammeraygal Place between 6.00am and 7.00am.</i>

		<p>e. Calculated results for the daytime and evening periods also present a pessimistic assessment as</p> <p>f. Similarly, noise levels from the Maggio's patrons located outdoors are expected to be lower at other surrounding receivers, than those level presented in Table 6 for residents at 502-504 Miller Street which is the closest and worst-affected receiver.</p> <p>g. Although noise levels meet the adopted criteria, it is recommended that the number of patrons using the outdoor seating area on Cammeraygal Place between 6.00am and 7.00am be limited to fifteen people to allow for a pessimistic approach, of 7 people talking simultaneously.</p> <p>h. Additionally, it is noted that there should not be any amplified or live music played in the outdoor area of Maggio's café during the 6.00am to 7.00am period. Soft music played indoors is acceptable if the glass doors remain partially closed.</p> <p>i. After the 8.00pm close on Thursday, Friday and Saturday, staff should pack away outdoor furniture in a quiet and prompt manner.</p> <p>A condition is recommended to require the recommendations of the Acoustic Report are adhered to at all times.</p> <p>Also, as set out within the conditions of consent, additional measures are recommended which include:</p> <ul style="list-style-type: none"> • No set up of tables and chairs prior to 6am Monday-Saturday and prior to 6.30am Sundays. • The maximum of 15 people shall be seated within the eastern portion of the outdoor seating, providing the maximum setback from adjacent residential properties. • The external doors shall remain closed until 7am each day, other than to provide reasonable access for patrons. • Set up of tables and chairs shall be undertaken in a quiet and prompt manner. • As set above, a trial period of 12 months is recommended, with a rolling 24 month extensions available to be sought, subject to approval, thereafter.
7.3.4 External doors, windows and openings	Yes (condition)	To ensure that internal noise is minimised, it is recommended that a condition be imposed to require that the doors are not kept opened until 7am on any day, other than to provide for reasonable access.
7.3.5 Waste management	Yes	No change is proposed to waste management wherein adequate facilities are provided.
7.3.6 Use of smoking areas	N/a	No smoking area is proposed.
7.4 Premises management checklist / Plan of Management	Yes (subject to conditions)	A Plan of Management has been provided. Conditions are recommended to require this Plan of Management is updated with conditions of consent.

DEVELOPMENT CONTROL PLAN 2013 – Part B Section 8- Outdoor dining and display of goods on the footpath

8.3 Function		
8.3 Location	Yes	The location of outdoor seating continues to be appropriate given it is consistent with the approved outdoor dining permit No. OD295.
8.3.2 Public transport	Yes	There is no public transport infrastructure that is compromised by the proposed development.
8.3.3 Emergency access	Yes	The proposed location of outdoor seating does not impede any building exits.

8.4 Social Amenity		
8.4.1 Noise	Yes	No live or recorded entertainment is proposed.
8.4.2 Lighting	Yes	No new lighting is proposed.
8.4.3 Solar access	Yes	No new structures are proposed that will impact upon the solar access of adjoining properties.
8.4.4 Weather protection	Yes	The outdoor seating area is provided with appropriate weather protection.
8.4.5 Cleaning	Yes	A condition is recommended to require that the proprietor/operator ensures at all times when the premises have closed all rubbish which may be left on the subject premises or immediately adjacent area is pick up and pace in the proprietor's rubbish bins.
8.4.6 Views	Yes	No new structures are proposed that will impact upon existing views of adjoining properties.
8.5 Built form		
8.5.1 Structures and designated areas	Yes	No new permanent structures are proposed.
8.5.2 Layout and dimensions	Yes (merit)	<p>The objectives of this Section are to <i>'ensure that sufficient space is made available for safe movement of pedestrians during the use of the footpath for outdoor dining or the display of goods.'</i></p> <p>The layout of outdoor seating has been amended and reduced from 60 seats originally proposed to 51 seats, with a reconfigured layout to provide appropriate clearances to existing obstructions within the approved outdoor seating area, including the existing tree and umbrella supports.</p> <p>The amended layout has had regard to the North Sydney Council Outdoor Dining and Goods Display Policy, which is discussed further below. Whilst the layout proposes some non-compliances, including with separation between tables, on balance it is considered acceptable.</p>
8.5.3 Furniture and equipment	Yes (merit)	<p>Provision P1 requires that outdoor furniture and equipment is to be provided in accordance with that identified in the <i>North Sydney Outdoor Dining and Goods Display Policy</i>. No concerns are raised with the proposed furniture type which will be packed up daily and stored within the tenancy. The layout of discussed further below.</p>
8.5.4 Advertising	Yes	No advertising is proposed.
8.5.5 Shared table areas	Yes	No shared tables are proposed.

North Sydney Council Outdoor dining and Goods Display Policy

The North Sydney Council Outdoor Dining and Goods Display Policy outlines considerations and criteria for outdoor seating across North Sydney. Specifically, for the Cammeray Village Neighbourhood, the Policy outlines:

The Cammeray Retail strip on Miller Street has undergone substantial regeneration in the last 5 years and due to its focus as the service section of a busy vibrant community it will undergo more in the future. Shop top housing, a street closure and the café response have formed a good foundation precedent for Cammeray.

Council initiatives have increased amenity on Miller Street by using street tree planting with protected tree guards plus planters and fences to visually delineate, soften the edges of the busy traffic street and provide safety and protection at the pedestrian crossing (Figure 20). However the narrow footpaths on Miller Street at Cammeray and the high peak hour traffic volumes limit the street life and possible street seating areas.

The display of goods especially fruit and flowers provides welcome colour and life in an otherwise harsh urban environment

The proposed development is consistent with the desired character for Cammeray as outlined in the Policy. The Policy also contains layout criteria for outdoor seating and the amended proposal is considered to provide seating which provides a reasonable level of compliance with this Policy. The applicant has submitted a 'Statement of support' in relation to the outdoor seating which is provided as an attachment. Overall, the proposal as amended is considered to reasonably satisfy the *North Sydney Council Outdoor dining and Goods Display Policy*.

Relevant Planning Area (Cammeray Village Centre) – Part C of NSDCP 2013

The proposed development has been considered against the controls for the Cammeray Planning Area and Cammeray Village Centre. The Character Statement outlines:

- Raleigh Street Mall is outlined as an 'identity/icon' of the locality.
- The desired character is described as 'active street frontages to be provided to the ground floor level of buildings directly fronting Raleigh Street.'

The proposed restaurant will continue to be characteristic of the desired future character of the locality.

Use of first floor WC's for restaurant

The applicant proposes the WC's on the first floor will be available for use by restaurant patrons. The first floor is a separate strata lot and is accessed separately externally from Cammeray Place. The applicant is currently leasing both tenancies. Given that the use of the ground level with regards to patron numbers is contingent on the use of the upper level for WC's, a condition is recommended to be imposed to require that the use of the ground level must not be carried out unless the WC's at first floor level remain available.

SECTION 7.11 CONTRIBUTIONS PLAN

The proposed development does not propose the creation of any additional gross floor area and the cost of works are less than \$100,000.00.

ALL LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been considered within the context of this report.

ENVIRONMENTAL APPRAISAL	CONSIDERED
1. Statutory Controls	Yes
2. Policy Controls	Yes
3. Design in relation to existing building and natural environment	Yes

4.	Landscaping/Open Space Provision	Yes
5.	Traffic generation and Carparking provision	Yes
6.	Loading and Servicing facilities	Yes
7.	Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8.	Site Management Issues	Yes
9.	All relevant S4.15 considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes

SUBMITTERS CONCERNS

The application was notified to adjoining properties and the Plateau / Bridgeview Precinct. Council received 3 submissions in relation to the original proposal and a further 2 submissions submitted in relation to the amended plans. Issues raised where relevant have been addressed within the report and additional issues provided with comments below:

- ***I object to the proposed 60 seats as to add more tables will encroach in front of other properties.***

Comment: The amended plans have reduced the number of seats to 51 seats which is considered to be reasonably be able to be accommodated within the permit area. No encroachment is permitted under this development consent outside the already approved outdoor seating permit area.

- ***As the number of proposed chairs and tables is proposed to be increased and a ramp added to the toilets, can Council move the bike rack away from the café ?***

Comment: There is no encroachment outside the approved outdoor seating permit area sought or recommended under this development consent. The location of the bike rack has not been provided on the plans however it is estimated that the outdoor seating permit area provides a generous setback of at least 2m to the bike rack. No encroachment is permitted under this development consent outside the already approved outdoor seating permit area.

- ***Council's notification of the application proposal as 40 existing outdoor dining seats is incorrect. If this is correct, the application should be rejected and the applicant should lodge a fresh application with relevant corrections so that Council can renotify the proposal.***

Comment: There is an approved Outdoor Dining Permit allowing an area of 13m x 4m. No development consent was subsequently granted to increase the number of patrons. Notwithstanding, it is also noted that since the issue of DA347/10, SEPP Exempt and Complying Development has also been amended in this time and subdivision 20A Footpaths – outdoor dining, allows for outdoor dining associated with lawful food and drink premises to be carried out as exempt development, subject to conditions.

Notwithstanding, Council formally re-notified the proposed development to all adjoining properties advising of the proposed increase in outdoor seating sought being from 26 (approved) to 51 (proposed).

- *Please advise whether installation and use of the existing canopies are permitted.*

Comment: Council granted consent for a section 96 modification DA347/10/3 to allow the installation of umbrellas over an approved outdoor seating area at its meeting on 2/5/2011 at No.457 Miller Street over the subject outdoor seating area.

- *There are a number of existing non-complying elements on the site, including extension of awnings, additional umbrellas, heating structures and the like.*
- *Please advise whether the storage of chairs, baby seats, tables, milk crates and mop buckets in Raleigh Street which fall outside the 13m x 4m area permitted under Permit No.OD295.*
- *Please advise whether the use and storage of tables and chairs past the 13m x 4m area is permitted under Permit No.OD295.*

Comment: No new structures are proposed within the outdoor seating under this development consent, other than tables and chairs. Any non-compliance can be referred to Council's Compliance Department.

- *The Acoustic Report is nearly 2 years old and Council should reject it in its entirety.*
- *The Plan of Management and Acoustic Report contain a number of inaccuracies.*

Comment: An additional Acoustic Report was provided and notified to surrounding residents. Council's Environmental Health Officer raises no concerns with the proposed Acoustic Report subject to imposition of conditions, including a 12 month trial period. It is also of note that undertaking a fresh noise study at this time may be significantly flawed due to the impact of COVID restrictions. Hence, the provision of both Acoustic Reports has been considered and is considered to provide a reliable representation rather than relying on one report.

- *The Acoustic Report fails to consider impacts on a number of adjoining properties including 502 Miller Street, 459 Miller and 461 Miller Street.*

Comment: The Acoustic Report is considered to address adjacent residential properties including 502 Miller Street. The existing development at 459 Miller Street is non-residential development and as such, noise impacts between 6am-7am are not relevant. Notwithstanding, a condition is recommended that any further extension beyond the 12 month trial should be limited to 24 month increments, to account for a possible changing context with more residential in the locality in the future.

- *We also wish to ensure that the proposed development would not impact on the ability for us to redevelop our site in the future.*

Comment: A 12 month trial is recommended, together with a recommendation that further extensions following the 12 month trial be limited to a maximum of 24 months at a time. This would allow for the impacts of any future redevelopment to be properly considered.

- *The proposed outdoor seating should not limit the potential of adjoining owners to also provide outdoor seating.*

Comment: No extension outside the approved outdoor dining permit area is proposed and the proposed development in this regard.

- *The proposed hours should not set a precedent for extension of hours for surrounding properties.*

Comment: Each development application is considered on its merits. In this instance, the proposed development demonstrated that acoustic and amenity impacts were acceptable, in part due to the set back from surrounding residential properties. It is considered unlikely to set a precedent for surrounding properties given the site specific circumstances of this premises' location.

- *Noise from setting up chairs and tables.*

Comment: The Acoustic Report recommends that the applicant be required to undertake the setting up in a quiet and prompt manner. Also, a condition is recommended that this not occur prior to 6am. These requirements will also be reinforced within the Plan of Management. The applicant will be required to meet these requirements at all times and further, a trial period is recommended.

- *No permission should be granted to increase the current dining capacity until the non-compliances with regulations and applicable standards have been rectified.*

Comment: The information is considered to be satisfactory and conditions of consent can be imposed to address compliance with BCA and other relevant requirements.

- *Architectural drawings are inadequate and incomplete, as they do not provide information on all proposed alterations. The architectural documentation contains incorrect and misleading information, including written statements that are contradicted by photographic evidence.*

Comment: The submitted drawings are considered to be adequate.

- *BCA Assessment by BCA Logic cannot be relied upon as it failed to detect an obvious non-compliance with an Australian Standard, including compliance with the disabled WC.*

Comment: Council's Building Surveyor has assessed the development application and raises no issues. Standard condition of consent requiring compliance with the BCA is recommended to be imposed to ensure that the proposal will comply with BCA requirements, which will be subject to the satisfaction of the Certifying Authority.

Noise impact assessment cannot be relied upon because:

- *It is partially based on dated information*
- *It is partially based on data derived from unspecified and undocumented 'other projects'.*
- *Incorrectly quotes information that is otherwise publicly available*

The critical aspects of the report rely on information obtained from a third party, which cannot be factually correct.

Comment: Council's Environmental Health Officer considered the submitted information to be acceptable and is subject to the imposition of conditions.

PUBLIC INTEREST

The proposal is considered to be in the public interest for the reasons stated throughout this report.

SUITABILITY OF THE SITE

The proposal would be located in the B1 neighbourhood centre zone where restaurants are a permissible form of development. Consequently, the proposal is considered to be suitable for the site having regard to the merits of the proposal as described in the above report.

CONCLUSION AND REASONS

The proposal was considered under the relevant Environmental Planning Instruments and policies including NSLEP 2013 and NSDCP 2013 and general found to be satisfactory subject to conditions of consent.

The proposed number of seats within the approved outdoor dining area has been reduced to 51, which is considered to be acceptable.

The submitted Acoustic Report adequately demonstrates that the proposed number of seats and trading hours can meet relevant acoustic requirements. Whilst it is recommended that a trial period be granted to enable trading from 6am Monday – Saturday, it is recommended that set up not occur until 6am. Also, the use of the outdoor seating between 6am – 7am is to be limited to a maximum of 15 people, who must be seated on the eastern most seats within the dining area, maximising setbacks to surrounding residential properties on Miller Street.

Whilst a 12 month trial period is recommended, it is also recommended to include a provision within the consent that following the trial period, any extensions would be considered to allow a maximum 24 month extension at any one time. This would enable consideration of the character of the locality and whether the impacts of the 6am commencement continue to be acceptable, should the adjacent buildings be redeveloped to contain a residential portion in the future. It is also noted that approval for outdoor seating is always subject to the issuance of an outdoor seating permit by Council, wherein one currently exists however constant renewal is required.

The proposed use of the additional WC's at the first floor level is acceptable, subject to conditions. A condition is also recommended to be imposed to require that the use of 2/457 Miller Street, being the first floor tenancy above the restaurant, remains ancillary to the use of the restaurant, given that the number of seats proposed is contingent on the first floor WC's remain available for use by patrons.

Council received 3 submissions in relation to the original proposal and an additional 2 submissions in relation to the amended plans. Issues raised have been addressed within this report and addressed with conditions where appropriate.

Having regard to the merits of the proposal, the application is recommended for approval subject to appropriate standard and site specific conditions.

HOW WERE THE COMMUNITY VIEWS TAKEN INTO CONSIDERATION?

The subject application was notified to adjoining properties and the Plateau / Bridgeview Precinct for 14 days. A total of 3 submissions were received in relation to the original notification and a further 2 submissions were received in relation to the notification of amended plans. Issues raised have been addressed in this report and where appropriate conditions of consent have been recommended to maintain the amenity of adjoining properties.

RECOMMENDATION

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT the North Sydney Local Planning Panel exercising the functions of Council as the consent authority grant consent to Development Application No. 313/2020 for minor alterations and additions, increase occupancy and modify operating hours to an existing restaurant on land at No.1/457 Miller Street, Cammeray subject to the following site specific and standard conditions:-

Operation of this development consent

- A4. This development consent allows the use of both tenancies being 1 and 2, 457 Miller Street, Cammeray and does not authorise either tenancy to operate independently. The first floor office space located in No.2, 457 Miller Street shall only be used for ancillary uses in conjunction with the restaurant approved at 1,457 Miller Street, Cammeray.

Following commencement of this development consent, should the approved use cease to operate across both lots, being 1 and 2, 457 Miller Street, Cammeray, the use of both tenancies must cease immediately. Separate development applications must be submitted for the use of each individual tenancy, including details as to how each tenancy will comply with BCA provisions.

(Reason: To comply with the terms of the consent and BCA compliance including fire separation and access)

Hours of Operation

- II. The hours of operation are restricted to:

Indoor trading

Monday to Wednesday 7.00am to 4.00pm
Thursday to Saturday 7.00am to 8.00pm
Sunday 7.00am to 3.00pm

Outdoor trading

Monday to Wednesday 7.00am to 4.00pm
Thursday to Saturday 7.00am to 8.00pm
Sunday 7.00am to 3.00pm

Set up and pack up of chairs and tables may occur 30 minutes before and after the above trading hours.

Upon expiry of the permitted hours:

- (a) all restaurant service (and entertainment) must immediately cease;
- (b) no person shall be permitted entry; and
- (c) all customers on the premises must be required to leave within the following half hour.

(Reason: to ensure that amenity of the surrounding locality is maintained and hours of operation are consistent with those in surrounding locality)

Hours of Operation – trial period

- I2. Notwithstanding Condition I1 above the approved use may operate for a trial period, between:

Indoor trading

Monday to Wednesday 6.00am to 4.00pm

Thursday to Saturday 6.00am to 8.00pm

Sunday 7.00am to 3.00pm

Outdoor trading

Monday to Wednesday 6.00am to 4.00pm

Thursday to Saturday 6.00am to 8.00pm

Sunday 7.00am to 3.00pm

No set up of chairs and tables shall occur prior to 6am Monday – Saturday, or prior to 6.30am on Sunday.

The packing up of chairs and tables may occur 30 minutes after the above trading hours at the cessation of trade each day.

Upon expiry of the permitted hours:

- (a) all restaurant service (and entertainment) must immediately cease;
- (b) no person shall be permitted entry; and
- (c) all customers on the premises must be required to leave within the following half hour.

The above trading hours shall be permitted for a trial period of 12 months from the date of issue of the first Occupation Certificate, being interim or otherwise. Council must be informed in writing of the date of commencing the trial period.

In order for the above trial hours of operation to be extended, a modification application must be lodged with Council prior to the expiration of the trial period. The assessment of the application to continue the use in accordance with the trial, will consider amongst other things, the impact of the use on surrounding areas the performance of the operation in relation to compliance with development consent conditions.

Any further extensions sought for trading hours as set out within this condition, following the initial 12 month trial period, if supported, shall each be limited to a maximum 24 month extension at any one time.

In the event that no modification application is lodged, or an application is not approved, then the hours of operation for the premises must revert to the standard hours of operation identified by this consent.

Note: Any person acting on this consent is advised that any modification application to the trial hours of operation period should be submitted to Council a minimum of thirty (30) days prior to the expiration of the trial period otherwise the trial period must lapse.

(Reason: To ensure safety and security and protect the amenity of surrounding areas, and to enable proper consideration of any changing character of the locality)

Outdoor seating operation between 6am – 7am (Monday-Saturday)

I3. The outdoor seating approved as a trial period to operate between 6am – 7am Monday to Saturday shall comply with the following:

- The maximum number of patrons allowed by this consent to occupy the outdoor seating area is 15 persons.
- The maximum of 15 people shall be seated within the eastern portion of the outdoor seating.
- The external doors shall remain closed until 7am each day, other than to provide reasonable access for patrons.
- No set up of tables or chairs shall occur prior to 6am.
- Set up of tables and chairs shall be undertaken in a quiet and prompt manner.

(Reason: To protect the amenity of surrounding residents)

Plan of Management

I4. The *Maggio Plan of Management* submitted with the Development Application shall be adhered to at all times and forms part of this development consent. The Plan of Management shall be updated to incorporate all relevant conditions of consent including the recommendations contained within the Acoustic Report.

The Plan of Management shall be provided to Council for the purposes of Council records prior to the issue of an Occupation Certificate. The Plan of Management shall be kept updated at all times.

(Reason: To ensure the appropriate management of the premises and to confirm the management arrangements proposed as part of this development consent)

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
1/457 MILLER STREET, CAMMERAY
DEVELOPMENT APPLICATION NO. 313/20

A. *Conditions that Identify Approved Plans*

Development in Accordance with Plans/documentation

- A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan No.	Rev No.	Description	Dated	Prepared by	Received
100	D	General location / roof plan	16/11/2020	David Scobie Architects	4/12/2020
101	D	Proposed furniture layout GF level	25/5/2021	David Scobie Architects	22/12/2020
102	C	First Floor Plan	15/7/2019	David Scobie Architects	4/12/2020
103	D	Elevations	18/11/2020	David Scobie Architects	4/12/2020
104	D	Proposed toilets first floor	18/11/2020	David Scobie Architects	4/12/2020

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

Plans on Site

- A2. A copy of all stamped approved plans, specifications and documents (including the plans, specifications and documents submitted and approved with the Construction Certificate) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

All documents kept on site in accordance with this condition must be provided to any officer of the Council or the certifying authority upon their request.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance)

No Demolition of Extra Fabric

- A3. Alterations to, and demolition of the existing building shall be limited to that documented on the approved plans.

(Reason: To ensure compliance with the approved development)

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Operation of this development consent

- A4. This development consent allows the use of both tenancies being 1 and 2, 457 Miller Street, Cammeray and does not authorise either tenancy to operate independently. The first floor office space located in No.2, 457 Miller Street shall only be used for ancillary uses in conjunction with the restaurant approved at 1,457 Miller Street, Cammeray.

Following commencement of this development consent, should the approved use cease to operate across both lots, being 1 and 2, 457 Miller Street, Cammeray, the use of both tenancies must cease immediately. Separate development applications must be submitted for the use of each individual tenancy, including details as to how each tenancy will comply with BCA provisions.

(Reason: To comply with the terms of the consent and BCA compliance including fire separation and access)

C. *Prior to the Issue of a Construction Certificate (and ongoing, where indicated).*

Dilapidation Report Damage to Public Infrastructure

- C1. A dilapidation survey and report (including photographic record) must be prepared by a suitably qualified consultant which details the pre-developed condition of the existing public infrastructure in the vicinity of the development site. Particular attention must be paid to accurately recording any pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. A copy of the dilapidation survey and report is to be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The developer may be held liable for all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded and demonstrated as pre-existing under the requirements of this condition.

The developer shall bear the cost of carrying out works to restore all public infrastructure damaged as a result of the carrying out of the development, and no occupation of the development shall occur until damage caused as a result of the carrying out of the development is rectified.

A copy of the dilapidation survey and report must be lodged with North Sydney Council by the Certifying Authority with submission of the Construction Certificate documentation.

(Reason: To record the condition of public infrastructure prior to the commencement of construction)

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Structural Adequacy of Existing Building

- C2. A report prepared by an appropriately qualified and 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 shall be submitted to the Certifying Authority for approval prior to issue of any Construction Certificate. The certified report must also include all details of the methodology to be employed in construction phases to achieve the above requirements. The methodology in the certified report must be complied with at all times.

(Reason: To ensure the structural integrity of the building is maintained)

Waste Management Plan

- C3. A Waste Management Plan is to be submitted for approval by the Certifying Authority prior to the issue of any Construction Certificate. The plan must include, but not be limited to:
- a) The estimated volume of waste and method of disposal for the construction and operation phases of the development;
 - b) The design of the on-site waste storage and recycling area; and
 - c) Administrative arrangements for waste and recycling management during the construction process.

The approved Waste Management Plan must be complied with at all times in the carrying out of the development.

(Reason: To encourage the minimisation of waste and recycling of building waste)

External Colours and Finishes

- C4. The external colours and finishes shall match those as existing and/ or be compatible with surrounding development. A schedule of external colours and finishes must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure that the completed colours and finishes of the works are compatible with surrounding development)

Bond for Damage and Completion of Infrastructure Works – Stormwater, Kerb and Gutter, Footpaths, Vehicular Crossing and Road Pavement

- C5. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$1,500.00 to be held by Council for the payment of cost for any/all of the following:

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- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
- b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and [environmental controls](#)) required in connection with this consent
- c) remedying any defects in any such public work that arise within 6 months after the work is completed.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of 6 months from the issue of any final Occupation Certificate or completion of public work required to be completed (whichever is the latest) but only upon inspection and release by Council's Engineers.

Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in circumstances including the following: -

- where the damage constitutes a hazard in which case Council may make use of the security immediately;
- the applicant has not repaired or commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works;
- works in the public road associated with the development are to an unacceptable quality; and
- the Certifying Authority must ensure that security is provided to North Sydney Council prior to issue of any Construction Certificate.

(Reason: To ensure appropriate security for works on public land and an appropriate quality for new public infrastructure)

Asbestos & Hazardous Material Survey

- C6. A report must be prepared by a suitably qualified person in relation to the existing building fabric to be demolished and/or disturbed identifying the presence or otherwise of asbestos contamination and, if asbestos contamination is present, making recommendations as to the work required to safely address the contamination.

Any demolition works or other works identified in the report as having to be carried out must be carried out in accordance with the recommendations of the report and the following:

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- a) the removal of asbestos must be undertaken by a WorkCover licensed contractor;
- b) all removal must be in strict accordance with the requirements of the WorkCover Authority in relation to the removal, handling and disposal of material containing asbestos and any Work Safe Australia requirements.
- c) during the removal of any asbestos a sign stating "DANGER ASBESTOS REMOVAL IN PROGRESS" must be erected in a visible position at the boundary of the site; and
- d) Waste disposal receipts must be provided to the Certifying Authority as proof of correct disposal of asbestos laden waste.

The report must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the report, and other plans, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily)

Noise Control (Licensed Premises)

C7. The use of the premises must comply with the following:

- (a) The LA10 noise level emitted from the use of the premises must not exceed the background noise level (LA90) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 5dB between the hours of 7.00am and 12.00 midnight when assessed at the boundary of any affected residence.
- (b) The LA10 noise level emitted from the use must not exceed the background noise level (LA90) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) between the hours of 12.00 midnight and 7.00am when assessed at the boundary of any affected residence.
- (c) Notwithstanding compliance with (a) and (b) above, the noise from the use must not be audible within any habitable room or sleeping area in any affected residence between the hours of 12.00 midnight and 7.00am.
- (d) The LA10 noise level emitted from the use must not exceed the background noise level (LA90) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 3dB when assessed indoors at any affected commercial premises with windows closed.
- (e) The use of the premises must be controlled so that any emitted noise is at a level so as not to create an "offensive noise" as defined in the *Protection of the Environment Operations Act 1997*.

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“affected residence” includes residential premises (including any lot in the strata scheme or any other strata scheme), premises for short-term accommodation and hospitals.

“boundary” includes any window or elevated window of an affected residence.

LA10 is the average maximum A-weighted Fast Response sound level emitted from the premises.

LA90 shall be measured in the absence of all noise from the premises (including mechanical plant noise).

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.

(Reason: To ensure the amenity of surrounding land uses)

Compliance with Acoustic Report

- C8. The recommendations contained in the Acoustic Report prepared by Acoustic Directions dated 17 March 2021, must be implemented during construction and use of the development.

A statement from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, certifying that the acoustic mitigation measures outlined in the above stated report have been suitably incorporated into the development and that relevant noise criteria have been satisfied, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The Principal Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

Provision of Accessible Paths of Travel

- C9. Access from the pedestrian entry to the premises and access throughout the building be designed and constructed to provide access and facilities in accordance with the Building Code of Australia and Disability (Access to Premises – Buildings) Standards 2010. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

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building must be designed and constructed to provide access and facilities in accordance with the Building Code of Australia and Disability (Access to Premises – Buildings) Standards 2010. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

Notes:

1. If, in complying with this condition, amendments to the development are required, the design changes must be submitted for the approval of Council prior to a Construction Certificate being issued. Approval of a modification application may be required.
2. It is not within Council's power to set aside National legislation which requires the upgrade of buildings to meet modern access standards. Such decisions remain the jurisdiction of the Building Professionals Board Access Advisory Committee who may grant an exemption in certain exceptional circumstances.
3. Information on making an application for an "unjustifiable hardship exemption" under the accessibility standards can be found in the website of the NSW Building Professional Boards at <http://www.bpb.nsw.gov.au/page/premises-standards>

(Reason: To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian Standards)

Security Deposit/ Guarantee Schedule

C10. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security deposit/ guarantee	Amount (\$)
Footpath Damage Bond	\$1,500.00
TOTAL BONDS	\$1,500.00

The security required by the above schedule must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

(Reason: Compliance with the development consent)

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D. Prior to the Commencement of any Works (and continuing where indicated)

Protection of Trees

D1. All trees that are specifically nominated to be retained by notation on plans or by condition as a requirement of this consent must be maintained and protected during demolition, excavation and construction on the site in accordance with AS4970-2009 (Protection of trees on development sites).

(Reason: To ensure compliance with the requirement to retain significant planting on the site)

Public Liability Insurance – Works on Public Land

D2. Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of public land and the undertaking of approved works within Council's road reserve or public land, as approved by this consent. The Policy is to note, and provide protection/full indemnification for North Sydney Council, as an interested party. A copy of the Policy must be submitted to Council prior to commencement of any works. The Policy must be valid for the entire period that the works are being undertaken.

(Note: Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.)

(Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land)

Asbestos Material Survey

D3. Prior to the commencement of any works, a report must be prepared by a suitably qualified person in relation to the existing building fabric to be demolished and/or disturbed identifying the presence or otherwise of asbestos contamination and, if asbestos contamination is present, making recommendations as to the work required to safely address the contamination.

Any demolition works or other works identified in the report as having to be carried out must be carried out in accordance with the recommendations of the report and the following:

- a) the removal of asbestos must be undertaken by a WorkCover licensed contractor;
- b) all removal must be in strict accordance with the requirements of the WorkCover Authority in relation to the removal, handling and disposal of material containing asbestos and any Work Safe Australia requirements.
- c) during the removal of any asbestos a sign stating "DANGER ASBESTOS REMOVAL IN PROGRESS" must be erected in a visible position at the boundary of the site; and

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- d) Waste disposal receipts must be provided to the Certifying Authority as proof of correct disposal of asbestos laden waste.

The report must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the report, and other plans, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

- (Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily)

Commencement of Works Notice

- D4. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least 2 days notice to North Sydney Council of the person's intention to commence building work, demolition or excavation in accordance with this development consent.

- (Reason: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

E. During Demolition and Building Work

Parking Restrictions

- E1. Existing public parking provisions in the vicinity of the site must be maintained at all times during works. The placement of any barriers, traffic cones, obstructions or other device in the road shoulder or kerbside lane is prohibited without the prior written consent of Council. Changes to existing public parking facilities/restrictions must be approved by the North Sydney Local Traffic Committee. The Developer will be held responsible for any breaches of this condition, and will incur any fines associated with enforcement by Council regulatory officers.

- (Reason: To ensure that existing kerbside parking provisions are not compromised during works)

Road Reserve Safety

- E2. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works, with no obstructions caused to the said footways and roadways. Construction materials and plant must not be stored in the road reserve without approval of Council. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site.

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Where public infrastructure is damaged, repair works must be carried out in when and as directed by Council officers (at full Developer cost). Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "Traffic Control Devices for Work on Roads". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**

(Reason: Public Safety)

Removal of Extra Fabric

E3. Should any portion of the existing building, trees, or curtilage of the site which is indicated on the approved plans to be retained be damaged for whatever reason, all the works in the area of the damaged portion are to cease and written notification of the damage is to be given to Council forthwith. No work is to resume until the written approval of Council to do so is obtained. Failure to comply with the provisions of this condition may result in the Council taking further action including legal proceedings if necessary.

(Reason: To ensure compliance with the terms of this development consent)

Dust Emission and Air Quality

E4. The following must be complied with at all times:

- (a) Materials must not be burnt on the site.
- (b) Vehicles entering and leaving the site with soil or fill material must be covered.
- (c) Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with the NSW Department of Housing's 1998 guidelines - Managing Urban Stormwater: Soils and Construction.
- (d) Odour suppression measures must also be carried out where appropriate so as to prevent nuisance occurring at adjoining properties.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

Noise and Vibration

E5. The works must be undertaken in accordance with the "Interim Construction Noise Guideline" published by the NSW Environment Protection Authority, to ensure excessive levels of noise and vibration do not occur so as to minimise adverse effects experienced on any adjoining land.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

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Applicant's Cost of Work on Council Property

- E6. The applicant must bear the cost of all works associated with the development that occurs on Council's property, including the restoration of damaged areas.

(Reason: To ensure the proper management of public land and funds)

No Removal of Trees on Public Property

- E7. No trees on public property (footpaths, roads, reserves, etc.) unless specifically approved by this consent shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

(Reason: Protection of existing environmental infrastructure and community assets)

Construction Hours

- E8. Construction activities and works approved under this consent must be carried out only within the hours stipulated in the following table:

Standard Construction Hours		
Location	Day	Hours
All other zones	Monday – Friday	7.00am – 5.00pm
	Saturday	8.00am – 1.00pm
	Sunday Public holiday	No work permitted

Construction activities for development approved under this consent must be carried out in accordance with the standard construction hours above and any Construction Noise Management Plan required under this consent.

In the event of breach to the approved hours of construction Council take may take enforcement action under Part 9 of the EP & A Act 1979 and in accordance with Council's adopted Compliance & Enforcement Policy.

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

Site Amenities and Facilities

- E9. Where work involved in the erection and demolition of a building is being carried out, amenities which satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements, must be provided and maintained at all times. The type of work place determines the type of amenities required.

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Further information and details can be obtained from the Internet at www.workcover.nsw.gov.au

(Reason: To ensure the health and safety of the community and workers on the site)

Health and Safety

- E10. All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that warn the public to keep out of the site, and provide a contact telephone number for enquiries.

Further information and details regarding occupational health and safety requirements for construction sites can be obtained from the internet at www.workcover.nsw.gov.au

(Reason: To ensure the health and safety of the community and workers on the site)

Prohibition on Use of Pavements

- E11. Building materials must not be placed on Council's footpaths, roadways, parks or grass verges, (unless a permit is obtained from Council beforehand). A suitable sign to this effect must be erected adjacent to the street alignment.

(Reason: To ensure public safety and amenity on public land)

Plant & Equipment Kept Within Site

- E12. All plant and equipment used in the undertaking of the development/ works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc, must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

Details of Council requirements for permits on public land for standing plant, hoardings, storage of materials and construction zones and the like are available on Council's website at www.northsydney.nsw.gov.au.

(Reason: To ensure public safety and amenity on public land)

Waste Disposal

- E13. All records demonstrating the lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as North Sydney Council and the Environmental Protection Authority.

(Reason: To ensure the lawful disposal of construction and demolition waste)

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Asbestos Removal

E14. All demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence and removal must be carried out in accordance with National Occupational Health and Safety Commission.

(Reason: To ensure works are carried out in accordance with relevant WorkCover requirements)

F. Prescribed Conditions imposed under EP&A Act and Regulations and other relevant Legislation**National Construction Code**

F1. All building work must be carried out in accordance with the provisions of the National Construction Code.

(Reason: Prescribed - Statutory)

Appointment of a Principal Certifying Authority (PCA)

F2. Building work, demolition or excavation in accordance with the development consent must not be commenced until the developer has appointed a Principal Certifying Authority for the building work in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory; To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Construction Certificate

F3. Building work, demolition or excavation in accordance with the development consent must not be commenced until a Construction Certificate for the relevant part of the building work has been issued in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory; To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Occupation Certificate

F4. A person must not commence occupation or use of the whole or any part of a new building (new building includes an altered portion of, or an extension to, an existing building) unless an Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifying Authority appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory)

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Critical Stage Inspections

- F5. Building work must be inspected by the Principal Certifying Authority on the critical stage occasions prescribed by the EP&A Act and its Regulations, and as directed by the appointed Principal Certifying Authority.

(Reason: Statutory)

Commencement of Works

- F6. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least 2 days notice to North Sydney Council of the person's intention to commence the erection of the building.

(Reason: Statutory; To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Excavation/Demolition

- F7. 1) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- 2) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- 3) Demolition work must be undertaken in accordance with the provisions of AS2601- Demolition of Structures.

(Reason: To ensure that work is undertaken in a professional and responsible manner and protect adjoining property and persons from potential damage)

Protection of Public Places

- F8. 1) A hoarding and site fencing must be erected between the work site and adjoining public place.
- 2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- 3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- 4) Any such hoarding, fence or awning is to be removed when the work has been completed.

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- 5) No access across public reserves or parks is permitted.

Note: Prior to the erection of any temporary fence or hoarding over property owned or managed by Council, written approval must be obtained. Any application needs to be accompanied by plans indicating the type of hoarding and its layout. Fees are assessed and will form part of any approval given. These fees must be paid prior to the approval being given. Approval for hoardings will generally only be given in association with approved building works, maintenance or to ensure protection of the public. An application form for a Hoarding Permit can be downloaded from Council's website.

(Reason: To ensure public safety and the proper management of public land)

Site Sign

- F9. 1) A sign must be erected in a prominent position on the site
- a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
 - c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
- 2) Any such sign must be maintained while to building work or demolition work is being carried out, but must be removed when the work has been completed.

(Reason: Prescribed - Statutory)

Maximum Capacity Site Sign

- F10. A sign must be displayed in a prominent position in the building stating the maximum number of persons, as specified in this development consent, that are permitted in the building.

(Reason: Prescribed - Statutory)

G. Prior to the Issue of an Occupation Certificate

Infrastructure Repair and Completion of Works

- G1. Prior to the issue of any Occupation Certificate any and all works relating to the development:
- a. in the road reserve must be fully completed; and

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- b. to repair and make good any damaged public infrastructure caused as a result of any works relating to the development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) must be fully repaired;

to the satisfaction of Council Engineers at no cost to Council.

(Reason: Maintain quality of Public assets)

Access to Premises

- G2. Prior to the issue of any Occupation Certificate, a certificate must be prepared an appropriately qualified and practising Civil Engineer certifying that access and facilities for persons with a disability in accordance with the Building Code of Australia and AS Disability (Access to Premises – buildings) Standards 2010 (Premises Standards) has been provided. This certificate must be submitted to, and approved by, the Certifying Authority prior to issue of the Occupation Certificate.

(Reason: Equitable access and facilities for people with a disability)

Damage to Adjoining Properties

- G3. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.

(Reason: To ensure adjoining owner's property rights are protected)

Asbestos Clearance Certificate

- G4. For building works where asbestos based products have been removed or altered, an asbestos clearance certificate signed by an appropriately qualified person (being an Occupational Hygienist or Environmental Consultant) must be submitted to and approved by the Certifying Authority (and a copy forwarded to Council if it is not the Certifying Authority) for the building work prior to the issue of any Occupation Certificate, the asbestos clearance certificate must certify the following: -

- a) the building/ land is free of asbestos; or
b) the building/ land has asbestos that is presently deemed safe.

The certificate must also be accompanied by tipping receipts, which detail that all asbestos waste has been disposed of at an approved asbestos waste disposal depot. If asbestos is retained on site the certificate must identify the type, location, use, condition and amount of such material.

Note: Further details of licensed asbestos waste disposal facilities can be obtained from www.epa.nsw.gov.au

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(Reason: To ensure that building works involving asbestos based products are safe for occupation and will pose no health risks to occupants)

Disposal Information

G5. Upon completion of works and prior to occupation, a report including the following information must be provided to Council's Open Space and Environmental Services Department:

- (a) the total tonnage of all waste and excavated material disposed of from the site (including any tipping dockets); and
- (b) the disposal points and methods used.

(Reason: To ensure appropriate disposal methods are undertaken for auditing and inspection purposes)

I. On-Going / Operational Conditions

Hours of Operation

I1. The hours of operation are restricted to:

Indoor trading

Monday to Wednesday 7.00am to 4.00pm

Thursday to Saturday 7.00am to 8.00pm

Sunday 7.00am to 3.00pm

Outdoor trading

Monday to Wednesday 7.00am to 4.00pm

Thursday to Saturday 7.00am to 8.00pm

Sunday 7.00am to 3.00pm

Set up and pack up of chairs and tables may occur 30 minutes before and after the above trading hours.

Upon expiry of the permitted hours:

- (a) all restaurant service (and entertainment) must immediately cease;
- (b) no person shall be permitted entry; and
- (c) all customers on the premises must be required to leave within the following half hour.

(Reason: to ensure that amenity of the surrounding locality is maintained and hours of operation are consistent with those in surrounding locality)

Hours of Operation – trial period

I2. Notwithstanding Condition I1 above, the approved use may operate for a trial period, between:

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Indoor trading

Monday to Wednesday 6.00am to 4.00pm
Thursday to Saturday 6.00am to 8.00pm
Sunday 7.00am to 3.00pm

Outdoor trading

Monday to Wednesday 6.00am to 4.00pm
Thursday to Saturday 6.00am to 8.00pm
Sunday 7.00am to 3.00pm

No set up of chairs and tables shall occur prior to 6am Monday – Saturday, or prior to 6.30am on Sunday.

The packing up of chairs and tables may occur 30 minutes after the above trading hours at the cessation of trade each day.

Upon expiry of the permitted hours:

- (a) all restaurant service (and entertainment) must immediately cease;
- (b) no person shall be permitted entry; and
- (c) all customers on the premises must be required to leave within the following half hour.

The above trading hours shall be permitted for a trial period of 12 months from the date of issue of the first Occupation Certificate, being interim or otherwise. Council must be informed in writing of the date of commencing the trial period.

In order for the above trial hours of operation to be extended, a modification application must be lodged with Council prior to the expiration of the trial period. The assessment of the application to continue the use in accordance with the trial, will consider amongst other things, the impact of the use on surrounding areas the performance of the operation in relation to compliance with development consent conditions.

Any further extensions sought for trading hours as set out within this condition, following the initial 12 month trial period, if supported, shall each be limited to a maximum 24 month extension at any one time.

In the event that no modification application is lodged, or an application is not approved, then the hours of operation for the premises must revert to the standard hours of operation identified by this consent.

Note: Any person acting on this consent is advised that any modification application to the trial hours of operation period should be submitted to Council a minimum of thirty (30) days prior to the expiration of the trial period otherwise the trial period must lapse.

(Reason: To ensure safety and security and protect the amenity of surrounding areas, and to enable proper consideration of any changing character of the locality)

Outdoor seating operation between 6am – 7am (Monday-Saturday)

- I3. The outdoor seating approved as a trial period to operate between 6am – 7am Monday to Saturday shall comply with the following:
- The maximum number of patrons allowed by this consent to occupy the outdoor seating area is 15 persons.
 - The maximum of 15 people shall be seated within the eastern portion of the outdoor seating.
 - The external doors shall remain closed until 7am each day, other than to provide reasonable access for patrons.
 - No set up of tables or chairs shall occur prior to 6am.
 - Set up of tables and chairs shall be undertaken in a quiet and prompt manner.

(Reason: To protect the amenity of surrounding residents)

Plan of Management

- I4. The *Maggio Plan of Management* submitted with the Development Application shall be adhered to at all times and forms part of this development consent. The Plan of Management shall be updated to incorporate all relevant conditions of consent including the recommendations contained within the Acoustic Report.

The Plan of Management shall be provided to Council for the purposes of Council records prior to the issue of an Occupation Certificate. The Plan of Management shall be kept updated at all times.

(Reason: To ensure the appropriate management of the premises and to confirm the management arrangements proposed as part of this development consent)

Noise and Vibration Impact

- I5. The on-going use of the premises approved under this consent must comply with all conditions pertaining to noise and vibration specified in this consent.

(Reason: To ensure compliance with the specified levels of noise and vibration and to maintain the amenity of surrounding land uses)

Noise and Vibration Impact (Compliance)

- I6. Within 60 days of commencement of operation of the premises further acoustic testing must be undertaken and a report from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, prepared to demonstrate that the use of the premises complies with the conditions of this consent and the Acoustic Report prepared Acoustic Report prepared by Acoustic Directions dated 17 March 2021,

**1/457 MILLER STREET, CAMMERAY
DEVELOPMENT APPLICATION NO. 313/20**

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The testing must be carried out when the premises is operating at full capacity. A copy of the report must be submitted to Council within 14 days of its completion.

If the use is found not to comply with the noise conditions, the use must cease immediately until appropriate measures to remedy the breach are implemented to the satisfaction of Council.

(Reason: To ensure compliance with acceptable noise levels to maintain the amenity of adjoining land uses)

Daily Cleaning

I7. The proprietor/operator is to ensure that at all times when the premises are open and at the end of each day after the premises have closed, all rubbish including loose papers, cigarette butts, bottles etc which may be left on the subject premises, site or immediately adjacent area is picked up and placed in the proprietor's/operator's rubbish bins.

(Reason: To ensure waste generated by the approved use or activity is properly managed by the person acting upon this consent, to prevent unsightly build up of waste material)

Waste Collection

I8. Waste and recyclable material, generated by this premises, must not be collected between the hours of 10pm and 6am on any day.

(Reason: To ensure the amenity of surrounding properties)

Delivery Hours

I9. No deliveries, loading or unloading associated with the premises are to take place between the hours of 10pm and 6am on any day.

(Reason: To ensure the acoustic amenity of surrounding properties)

Maximum Capacity – Premises and Footpath Seating

I10. The maximum number of patrons allowed by this consent is 71 persons/seats.

- a) the maximum number of patrons within the premises allowed by this consent is 20 persons/seats.
- b) the maximum number of patrons accompanying the footpath area being 51 persons/seats.

A notice must be displayed at all times in the front window of the premises (or any other clearly visible place) identifying the maximum capacity described in (a) and (b) above:

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(Reason: Protection of residential amenity, provision of public information, and to assist in assessing ongoing compliance)

Footpath Seating Permit Required

I11. Footpath seating is not to be provided unless a footpath-seating permit is obtained from North Sydney Council. The permit must be permanently displayed on the premises in accordance with the provision of Council's footpath seating policy. Appropriate public liability insurance must be obtained before a footpath seating permit will be issued.

Note: Footpath seating permits are issued on an annual basis and Council reserves the right to review the operation of outdoor seating. Failure to comply with the terms of this consent and the footpath seating permit may result in the non-renewal of any footpath seating permit

(Reason: To ensure compliance with Council's policy for the provision of outdoor seating on footpaths)

Orientation of Tables and Chairs

I12. Tables and chairs located within the outdoor seating area are to be located wholly within the designated approved outdoor seating area and no encroachment outside this area is permitted.

(Reason: To ensure adequate and unobstructed pedestrian amenity relating to the provision of outdoor seating on footpaths)

Maintenance of Structures on Public Land

I13. The owner of the premises at 1/457 Miller Street, Cammeray is to ensure the proposed portable ramp and all structures proposed on Council Land are maintained at all times to a structurally sound and safe condition in order to provide an acceptable level of public safety.

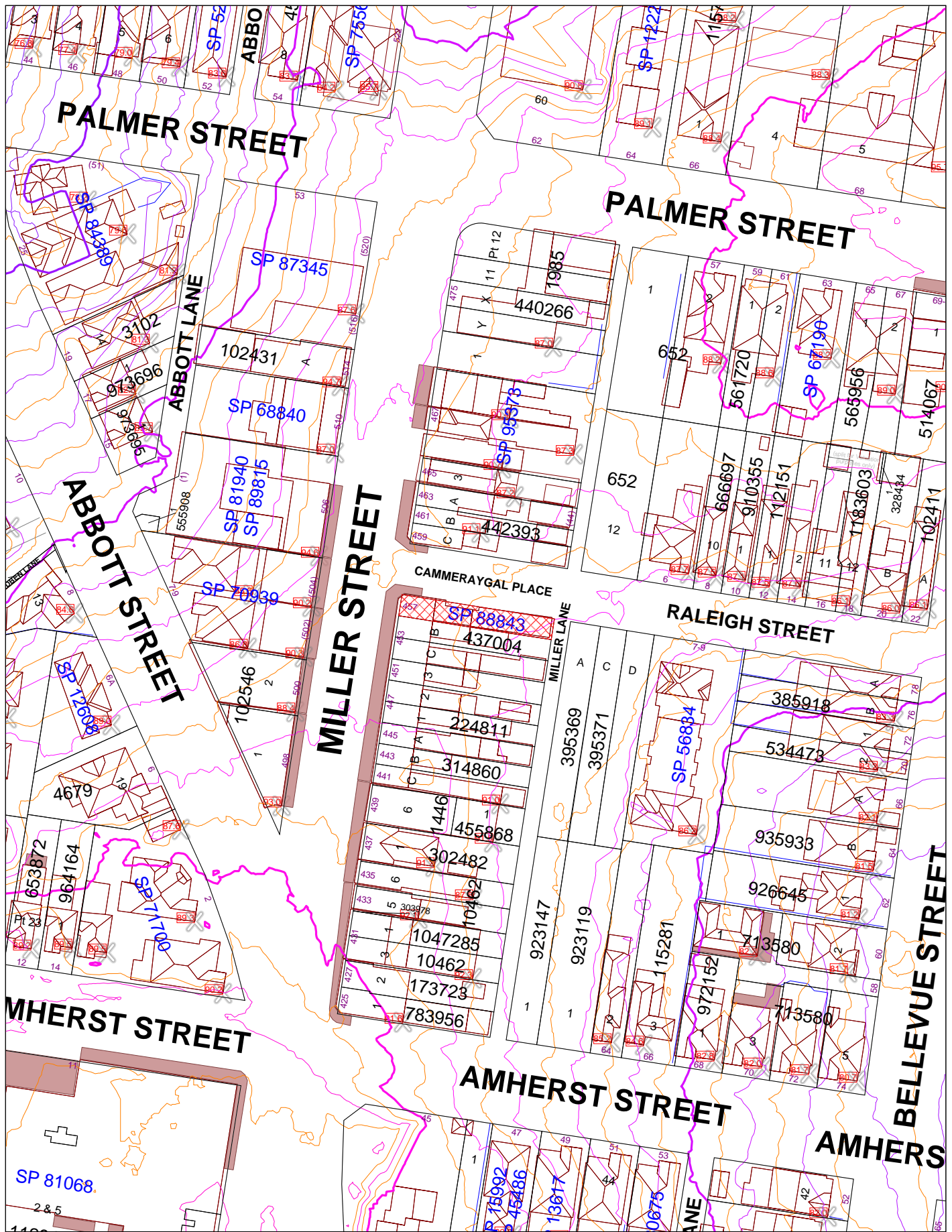
(Reason: To ensure pedestrian and public safety and ensure that structures located on public land for private benefit are maintained to an acceptable standard.

Signage

I14. Signage shall be displayed in an appropriate location to advise patrons as to the availability of the first floor WC's.

(Reason: To comply with the terms of the consent and ensure adequate WC's are available)

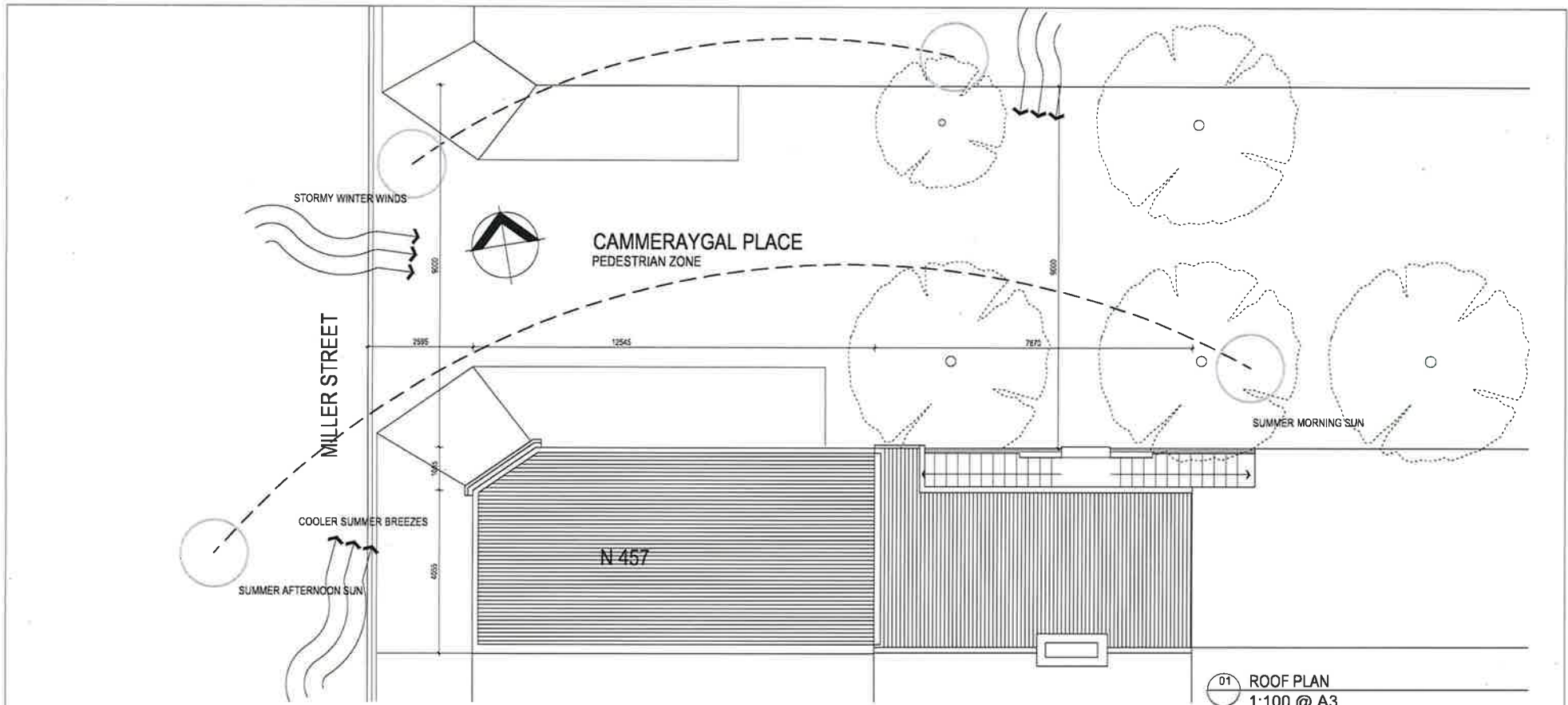
457 Miller Street, Cammeray – DA 313/20



North Sydney Council

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Further details can be obtained by calling (02) 9936 8100 or e-mail mapping@northsydney.nsw.gov.au.



01 ROOF PLAN
1:100 @ A3



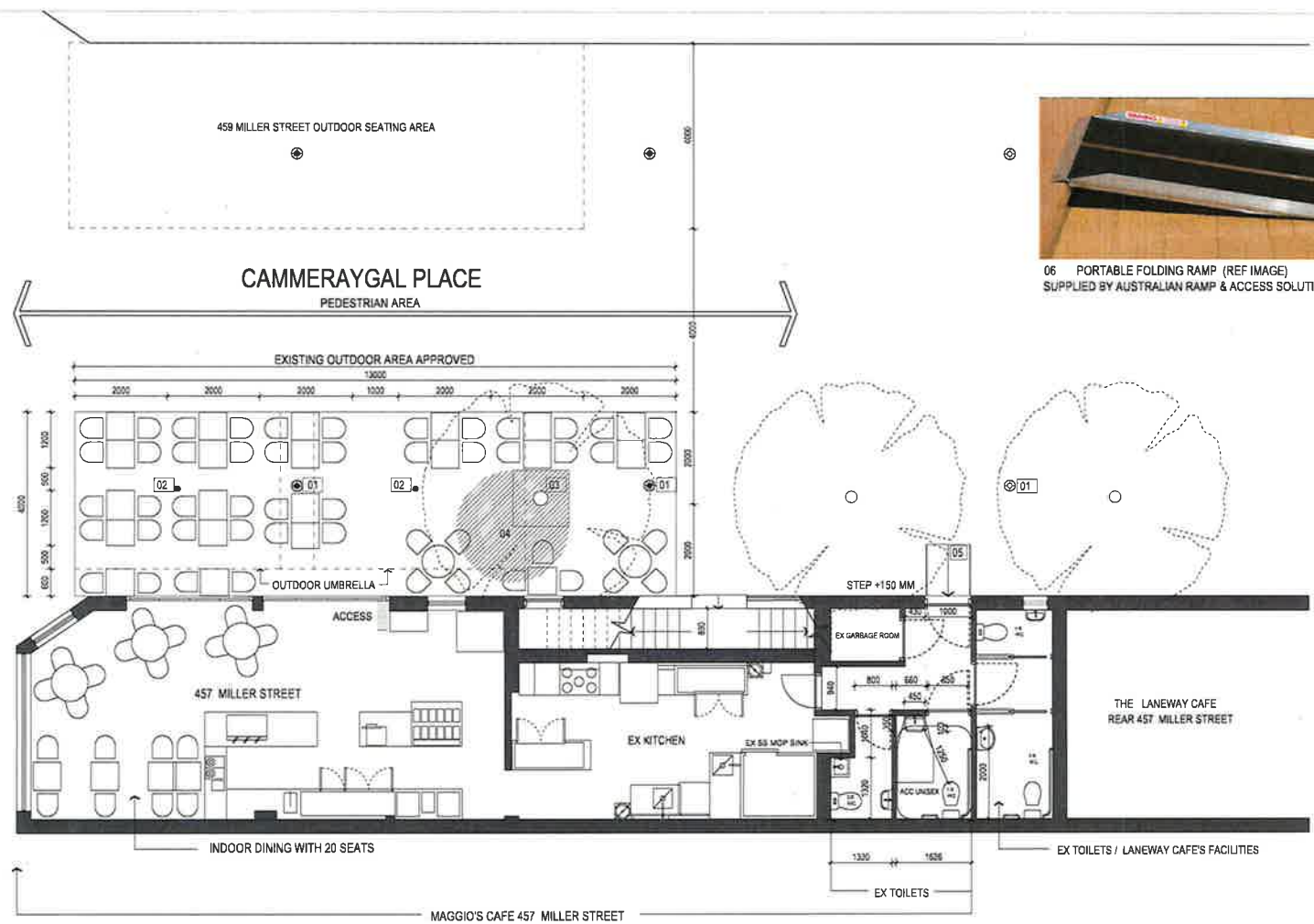
01 GENERAL LOCATION
NTS

02 ROOF PLAN (GOGGLE MAPS)
NTS

04 DA PLANS REV D 03 REVISION C 02 REVISION B 01 INITIAL PLANS A	18/11/2020 15/07/2019 01/07/2019 24/06/2019	CLIENT: MAGGIO'S CAFE CHRISTIAN MAGGIO	ARCHITECT: DAVID SCOBIE ARCHITECTS 177A SAILORS BAY ROAD NORTHBRIDGE NSW 2063 AUSTRALIA 61 (02) 99672426 • +61 412 415 010 scobiearchitect@oplnet.com.au	COUNCIL REFERENCE: DA 347/10 CONSENT CHANGE OF USE TO A RESTAURANT DA 347/10/2 S-96 DELETE APPROVED COOL ROOM AND CONST OF WC FACILITIES DA 347/10/3 S-96 CONSENT INSTALLATION UMBRELLAS OVER AN APPROVED OUTDOOR SEATING AREA DA 347/10/APRIL 2013 S-96 CONSENT HOURS OPERATION OUTDOOR AREA AND APPROVAL OCCUPANCY OF THE PREMISES (MAX 28 SEATS INDOOR / MAX 40 SEATS OUTDOOR)	BCA CONSULTANTS: BCA LOGIC CAMERON CLARK / WARWICK HUNTER LEVEL 8 210 CLARENCE STREET SYDNEY NSW 2002	PROJECT: PROPOSED ALTERATIONS AND ADDITION 457 MILLER STREET, CAMMERAY NSW	THIS DRAWING AND DESIGN IS SUBJECT TO COPYRIGHT AND MAY NOT BE REPRODUCED WITHOUT PRIOR WRITTEN CONSENT. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE BEFORE COMMENCING WORK. REPORT ALL DISCREPANCIES TO PROJECT MANAGER PRIOR TO CONSTRUCTION. FIGURED DIMENSIONS ARE TO BE TAKEN IN PREFERENCE TO SCHEDULE DIMENSIONS.	DATE	SCALE
								18/11/20	1:100 @ A3
ISSUE DESCRIPTION	DATE					DRAWING:	PROJECT NO.	DWG. NO.	REV.
						GENERAL LOCATION / ROOF PLAN	490	100	D



MILLER STREET



06 PORTABLE FOLDING RAMP (REF IMAGE)
SUPPLIED BY AUSTRALIAN RAMP & ACCESS SOLUTIONS PTY LTD

SCOPE OF WORKS

DEMOLISH EXISTING TEA STATION AND TOILET ON THE FIRST FLOOR LEVEL AND REPLACE WITH A NEW LARGER SANITARY FACILITIES

NOTES

- 1 THE PROPOSAL SEEKS APPROVAL TO INCREASE THE MAXIMUM OCCUPANCY OF THE PREMISES (INDOOR/OUTDOOR) TO 71 PERSONS / SEAT
- 2 THE MAXIMUM OCCUPANCY PROPOSED OF THE OUTDOOR AREA IS 51 PERSONS / SEATS
- 3 THE MAXIMUM OCCUPANCY PROPOSED OF THE INDOOR AREA IS 20 PERSONS / SEATS

KEY

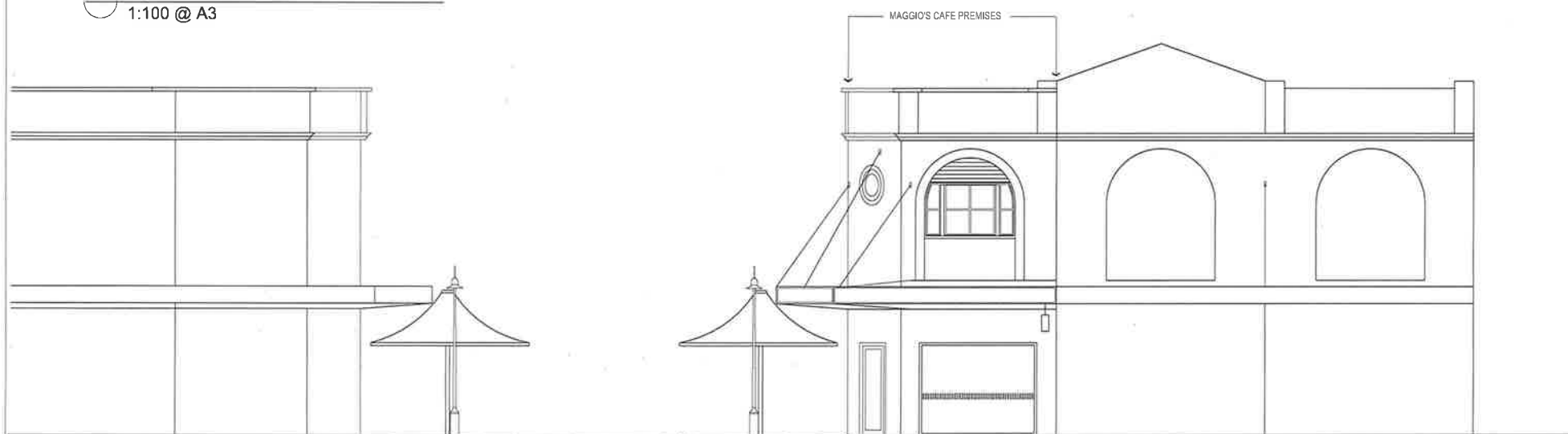
- 01 LAMP POST
- 02 UMBRELLA POST
- 03 EXISTING TREE TRUNK
- 04 UNEVEN SURFACE (HATCHED AREA)
- 05 PORTABLE FOLDING RAMP

03 GROUND FLOOR PLAN
1:100 @ A3

03 02 01	REVISION C	15 07 2019	CLIENT: MAGGIO'S CAFE CHRISTIAN MAGGIO	ARCHITECT: DAVID SCOBIE ARCHITECTS 177A SAILORS BAY ROAD NORTHBRIDGE NSW 2063 AUSTRALIA 61 (02) 99872426 • +61 412 415 010 scobiearchitect@optusnet.com.au	COUNCIL REFERENCE: DA 347/10 CONSENT CHANGE OF USE TO A RESTAURANT DA 347/10/2 S-96 DELETE APPROVED COOL ROOM AND CONST OF WC FACILITIES DA 347/10/3 S-96 CONSENT INSTALLATION UMBRELLAS OVER AN APPROVED OUTDOOR SEATING AREA DA 347/10/APRIL 2013 S-95 CONSENT HOURS OPERATION OUTDOOR AREA AND APPROVAL OCCUPANCY OF THE PREMISES (MAX 26 SEATS INDOOR / MAX 40 SEATS OUTDOOR)	BCA CONSULTANTS: BCA LOGIC CAMERON CLARK / WARWICK HUNTER LEVEL 8 218 CLARRIDGE STREET SYDNEY NSW 2000 ACOUSTIC CONSULTANTS: ACOUSTIC DIRECTIONS GLENN LEEBRUGGEN SUITE 8 4751 ULYSHED RD NORRILEE, NSW 2233	PROJECT: PROPOSED ALTERATIONS AND ADDITION 457 MILLER STREET, CAMMERAY NSW	THIS DRAWING AND DESIGN IS SUBJECT TO COPYRIGHT AND MAY NOT BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT. ALL DIMENSIONS ON THIS DRAWING ARE IN METERS UNLESS OTHERWISE SPECIFIED. REPORT ALL DIMENSIONS TO PROJECT MANAGER PRIOR TO CONSTRUCTION. FIGURED DIMENSIONS ARE TO BE TAKEN IN PREFERENCE TO SEALED DIMENSIONS.	DATE	SCALE	
	REVISION B	01 07 2019							26/05/2021	1:100 @ A3	
01	INITIAL PLANS A	24 05 2019							DRAWN	CERTIFY BY	
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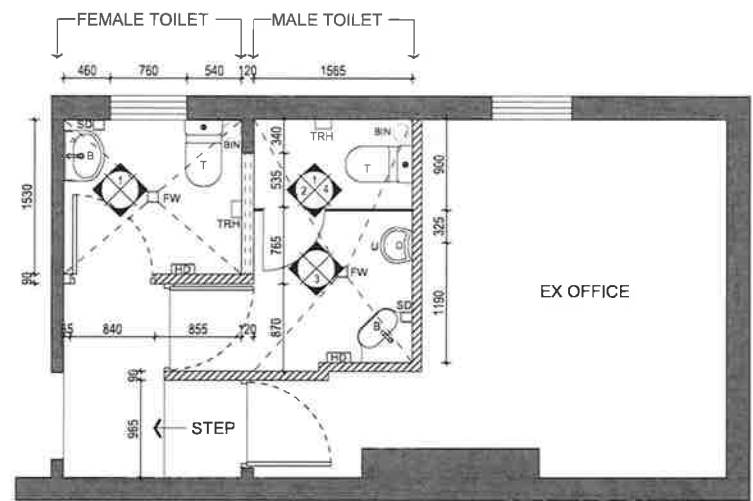
01 EX. NORTH ELEVATION
1:100 @ A3



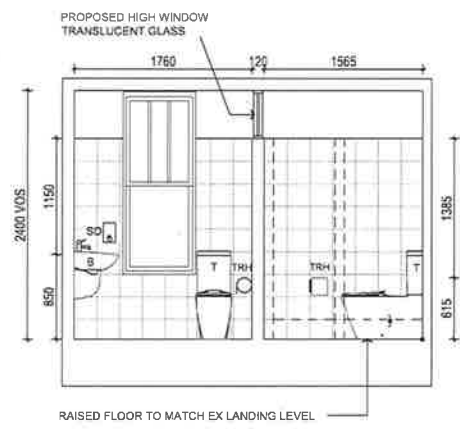
02 EX. WEST ELEVATION
1:100 @ A3

NOTE EXISTING NORTH AND WEST FACADES REMAINS UNALTERED.

04 DA PLANS REV D 03 REVISION C 02 REVISION B 01 INITIAL PLANS A ISSUE DESCRIPTION DATE	18/11/2020 15/07/2019 01/07/2019 24/06/2019	CLIENT: MAGGIO'S CAFE CHRISTIAN MAGGIO	ARCHITECT: DAVID SCOBIE ARCHITECTS 17A SAILORS BAY ROAD NORTHBRIDGE NSW 2063 AUSTRALIA 61 (02) 99672426 • +61 412 415 010 scobie@architects@plustrnet.com.au	COUNCIL REFERENCE: DA 247/10 CONSENT CHANGE OF USE TO A RESTAURANT DA 247/10/2 S-96 DELETE APPROVED COOL ROOM AND CONST OF WC FACILITIES DA 247/10/3 S-96 CONSENT INSTALLATION UMBRELLAS OVER AN APPROVED OUTDOOR SEATING AREA DA 247/10/APRIL 2013 S-96 CONSENT HOURS OPERATION OUTDOOR AREA AND APPROVAL OCCUPANCY OF THE PREMISES (MAX 28 SEATS INDOOR / MAX 40 SEATS OUTDOOR)	BCA CONSULTANTS: BCA LOGIC CAMERON CLARK / WARRICK HUNTER LEVEL 6 210 CLARENCE STREET SYDNEY NSW 2000 ACUSTIC CONSULTANTS: ACUSTIC DIRECTIONS GLENN LEEMBRUGGEN SUITE 2 47-51 UNFIELD RD BODDLE NSW 2008	PROJECT: PROPOSED ALTERATIONS AND ADDITION 457 MILLER STREET, CAMMERAY NSW	THIS DRAWING AND DESIGN IS SUBJECT TO COPYRIGHT AND MAY NOT BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT. THE ARCHITECT ACCEPTS NO LIABILITY FOR ANY DAMAGE OR LOSS OF PROFITS OR BUSINESS ARISING FROM THE USE OF THIS DRAWING OR DESIGN. DIMENSIONS ARE TO BE TAKEN FROM THE FACE UNLESS OTHERWISE SPECIFIED.	DATE: 18/11/20 DRAWN: ARB CERTIFY BY: DS	SCALE: 1:100 @ A3 PROJECT NO: 490 DWG NO: 103 REV: D
					DRAWING: ELEVATIONS		SP 86843		

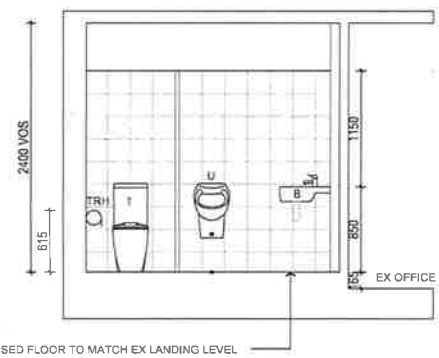


01 PROPOSED TOILETS FIRST FLOOR
1:50 @ A3

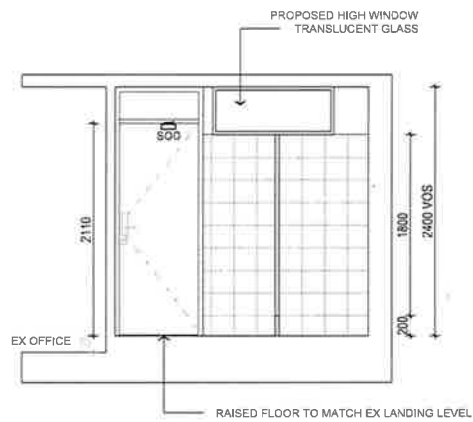


02 ELEVATION 1
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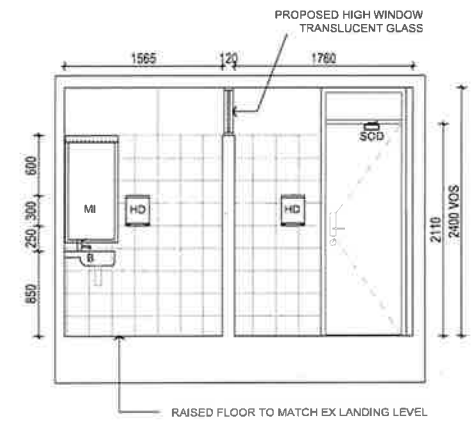
- LEGEND**
- B BASIN
 - BI SANITARY BIN
 - FW FLOOR WASTE
 - HD HAND DRYER
 - MI MIRROR 1000H X 450 W
 - SD SOAP DISPENSER
 - SOD SELF-OPENING DOOR
 - TRH TOILET ROLL HOLDER
 - T TOILET SUITE
 - WC-A TOILET SUITE
- FINISHES**
- EX C PAINT FINISH- DULUX 'VIVID WHITE'
 - TL-W WALL TILE 225X 225 MM SPECS TBC
 - TL-F FLOOR TILE - 300X300 MM SPECS TBC



03 ELEVATION 4
1:50 @ A3

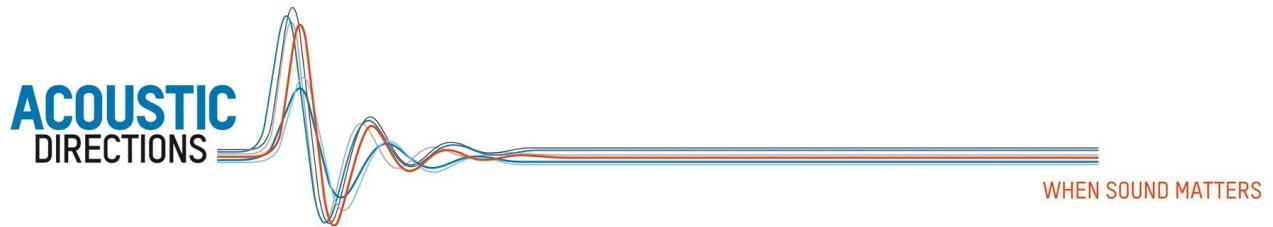


04 ELEVATION 2
1:50 @ A3



05 ELEVATION 3
1:50 @ A3

04 DA PLANS REV D 03 REVISION C 02 REVISION B 01 INITIAL PLANS A ISSUE DESCRIPTION	18/11/2020 15/07/2019 01/07/2019 24/06/2019 DATE	CLIENT: MAGGIO'S CAFE CHRISTIAN MAGGIO	ARCHITECT: DAVID SCOBIE ARCHITECTS 177A SAILORS BAY ROAD NORTHBRIDGE NSW 2063 AUSTRALIA 61 (02) 99572428 • +61 412 415 010 scobiearchitect@optusnet.com.au	COUNCIL REFERENCE: DA 347/10 CONSENT CHANGE OF USE TO A RESTAURANT DA 347/10/2 5-96 DELETE APPROVED COOL ROOM AND CONST OF WC FACILITIES DA 347/10/3 5-96 DELETE APPROVED COOL ROOM AND CONST OF WC FACILITIES DA 347/10/3 5-96 CONSENT INSTALLATION UMBRELLAS OVER AN APPROVED OUTDOOR SEATING AREA DA 347/10/APRIL 2013 5-96 CONSENT HOURS OPERATION OUTDOOR AREA AND APPROVAL OCCUPANCY OF THE PREMISES (MAX 28 SEATS INDOOR / MAX 40 SEATS OUTDOOR)	BCA CONSULTANTS: BCA LOGIC CAMERON CLARK / WARWICK HUNTER LEVEL 2 213 CLARENCE STREET SYDNEY NSW 2000 ACUSTIC CONSULTANTS: ACUSTIC DIRECTIONS GLENN LEE/BRUGGEN SUITE 2 4751 ULLYFELDS RD HOBBELL NSW 2324	PROJECT: PROPOSED ALTERATIONS AND ADDITION 457 MILLER STREET, CAMMERAY NSW	THIS DRAWING AND DESIGN IS SUBJECT TO COPYRIGHT AND MAY NOT BE REPRODUCED WITHOUT PRIOR WRITTEN CONSENT. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE BEFORE COMMENCING WORK. REPORT ALL DISCREPANCIES TO PROJECT MANAGER PRIOR TO CONSTRUCTION. FURTHER DIMENSIONS ARE TO BE TAKEN ON PRELIMINARY TO SCALED DIMENSIONS.	DATE: 18/11/20	SCALE: 1:50 @ A3
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DRAWING: PROPOSED TOILETS FIRST FLOOR							PROJECT NO. 490	DWG. NO. 104	REV. D



ASSESSMENT OF NOISE IMPACT ON NEARBY RECEIVERS OF MAGGIO'S CAFÉ, CAMMERAY

Prepared for: Christian Maggio

by: Glenn Leembruggen and Camille Hanrahan-Tan
Principal and Acoustic Consultant
Acoustic Directions

Report Ref: 190510 RO1 V1.0

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DOCUMENT MANAGEMENT

Document: Assessment of Noise Impact on Nearby Receivers of Maggio's Café, Cammeray.

Ref 190510 RO1 V1.0

Date 10 May 2019

Author Glenn Leembruggen and Camille Hanrahan-Tan

Reviewer Glenn Leembruggen

Document History			
Version	Issue Date	Details	Authorisation
1.0	10 th May 2019	First Issue	Glenn Leembruggen

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1. BACKGROUND

Acoustic Directions has been engaged by Maggio's Café, Cammeray to undertake a noise assessment of the noise impact of Maggio's patrons on neighbouring receivers, for its application to Council for an extension to the café's trading hours from a 7:00 am opening time to a 6:00 am opening time seven days a week.

For the assessment, the governing noise criteria are taken from the NSW EPA Noise Policy for Industry 2017 (NPI).

This report assesses the potential impact of noise resulting from the proposed extended trading hours and presents the results.

2. SITE DESCRIPTION

2.1. Site Details and Location

- a) Maggio's Cafe is located at 457 Miller Street, Cammeray, as identified in Figure 1 below.
- b) Residents living directly opposite Maggio's Café on the opposite side of Miller St at 502-504 Miller St were identified as the closest residents to the café and are the most-affected receivers of noise from Maggio's Cafe. The semi-enclosed front balconies of these residences face Miller St and glass sliding doors and windows separate these front balconies from the internal spaces of each apartment. Figure 1 identifies these receivers in relation the subject site.
- c) The closest commercial premises to Maggio's are the chiropractor located directly above Maggio's Cafe, the restaurant located directly across Cammeraygal Place walkway and the massage clinic directly above that. These businesses do not operate during the 6:00 am to 7:00 am time period which is relevant to Maggio's proposed operating period and have therefore not been included in this assessment. Figure 1 identifies these receivers in relation the subject site.

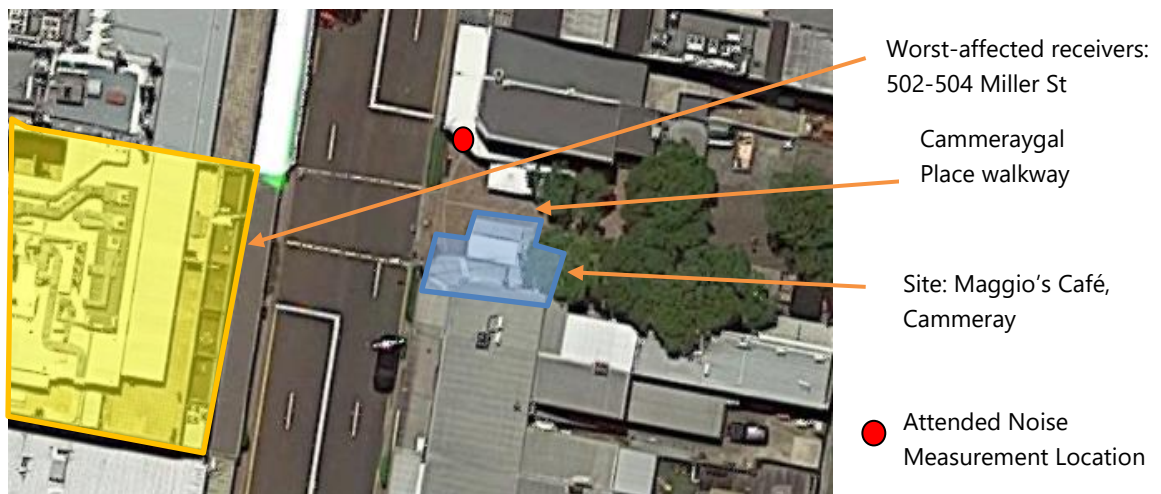


Figure 1. Site location and attended noise measurement location.

- d) From our discussions with Maggio's staff and from observations on Friday and Sunday mornings between 6:00 am and 7:00 am, we understand that there are approximately one to six patrons in Maggio's Café during this period at any one point in time between 6 am and 7 am.

2.2. Background Noise Levels

Calculations were made using the method described in Section 4 to predict the level of noise from Maggio's patrons reaching residents at 502-504 Miller St. Those calculations showed that the noise levels reaching were less than the criterion that we have adopted for this assessment (discussed in Section 3.2). We therefore concluded that this

development presents a low risk of noise impact for nearby residents. Given this conclusion, we elected to not undertake a week-long noise logging process, (which is often used for DA assessments), and instead undertake a number of short-term attended measurements, made at the proposed times of operation of Maggio's Café.

- a) The background noise level was determined by taking two fifteen-minute short-term attended noise measurements between approximately 6:00 am and 6:30 am on Friday 26th April 2019 and Sunday 28th April 2019 outside 463 Miller St (as shown in Figure 1) during the proposed 6:00 am to 7:00 am opening period. Measurements were also conducted during this time as it represents the lowest expected level of ambient noise to account for a worst-case scenario. Additionally, the selection of these days of the week was based on our analysis logger data from other projects, which showed that:
 - Sunday during the 6:00 am to 7:00 am period are often the quietest mornings of the week.
 - Friday during the 6:00 am to 7:00 am period are often the loudest mornings of the week.
- b) These measurements were conducted in accordance with the method prescribed in Section B2 of the NPI and made using a Bruel and Kjaer 2250 acoustic analyser with a Class 1 measurement microphone. Calibration checks before and after measurements showed no discernible drift in the meter.
- c) The XL2 were set to logging mode at one-second intervals and audio was also recorded and all extraneous noise, such as loud birds and car horns, that might skew the measurement result was identified in the audio recording and removed from the measured data before the calculations were made.

The measured $L_{A90,15min}$ background noise levels are presented in below.

Measurement Location	Day	Measured Noise Level	Measured Noise Level
		$L_{Aeq,15min}$	$L_{A90,15min}$
463 Miller St	Friday 6:00 am	70 dBA	55 dBA
	Sunday 6:00 am	66 dBA	50 dBA

Table 1. Measured $L_{Aeq,15min}$ and $L_{A90,15min}$ noise levels for the subject site.

3. NOISE CRITERION

3.1. NSW EPA Noise Policy for Industry (NPI) 2017

The NSW EPA Noise Policy for Industry 2017 (NPI) provides a clear framework for assessing noise impacts from noise-emitting premises. To support the goal of minimising noise impacts to surrounding noise-sensitive receivers through available feasible and reasonable noise mitigation measures, the policy sets out a procedure to determine a benchmark noise level, called the "project noise trigger level", above which noise management measures are required to be considered. The project noise trigger level is specific to each noise-receiver, and considers the background noise environment, the time of day of the activity, the character of the noise and the type of receiver (e.g. residential or commercial). The project noise trigger level has been adopted in this assessment as the noise threshold of which operational noise on site should remain below.

In many situations, the noise from an industrial source is commensurate with or exceeds the ambient noise level and these situations are addressed using the process described in Section 3.1.1 below, taken from the NPI. However, in Maggio's Café's situation, the traffic noise is much higher than the anticipated noise from Maggio patrons and thus this situation can be addressed by an alternative section of the NPI discussed in Section 3.1.2.

3.1.1 Guidance from NPI Section 2.4

The project noise trigger level is an $L_{Aeq,15min}$ level that is determined as the lower of the "project intrusiveness noise level" and "project amenity noise level". These levels are calculated as follows:

The project intrusiveness noise level is determined by adding 5 dB to the rating background level (RBL) and is represented as an $L_{Aeq,15min}$ level. We note that the intrusiveness noise level only applies to residential receivers.

The project amenity noise level is determined by subtracting 5 dB from the recommended $L_{Aeq,period}$ amenity noise levels in Table 2.2 of the policy (see Table 2 below). (The 5 dB factor is to limit noise-creep in the area). This project amenity noise level is then converted to an $L_{Aeq,15min}$ level by adding 3 dB.

Amenity noise levels from the policy have been included in Table 2.

Receiver	Noise amenity area	Time of day	Project amenity noise level L_{Aeq} (dBA)
Residential	Urban according to Table 2.3 in the NPI	Day	60
		Evening	50
		Night	45

Table 2. Amenity noise levels from Table 2.2 in NPI, 2017.

The project noise trigger level is the lower (i.e. the most stringent) value of the intrusiveness and project amenity noise levels.

3.1.2 Guidance from NPI Section 2.4.1: Amenity noise levels in areas of high traffic noise

Section 2.41 of the NPI states that the level of transport noise, road traffic noise in particular, may be high enough to make noise from an industrial source effectively inaudible, even though the L_{Aeq} noise level from that industrial noise source may exceed the project amenity noise level. In such cases the project amenity noise level may be derived from the $L_{Aeq,period(traffic)}$ minus 15 dBA.

Accordingly, the project amenity noise level in in Table 2 above is replaced with the high-traffic project amenity noise level = $L_{Aeq, period(traffic)}$ minus 15 dBA.

This high traffic project amenity noise level may be applied only if all the following conditions apply:

- traffic noise is identified as the dominant noise source at the site
- the existing traffic noise level (determined using the procedure outlined in A2 of the NPI, Fact Sheet A, that is, measuring traffic instead of industrial noise) is 10 dB or more above the recommended amenity noise level for the area
- it is highly unlikely traffic noise levels will decrease in the future.

3.2. Adopted Criterion for this Assessment

The project trigger noise levels for the worst-affected noise receivers for Maggio's Café were calculated and are presented in Table 3 below based on the following rationale:

- Our assessment is concerned with the hour between 6:00 am and 7:00 am, a period which falls into what the NPI classifies as the "night period". As such, the remainder of this report focuses on this period, which is also representative of the quietest period of ambient noise during the café's operational hours, and therefore the most vulnerable to potential noise from Maggio's patrons.
- Traffic noise is identified as the dominant noise source at the site.
- The existing measured $L_{Aeq,15min}$ traffic noise level was determined using the procedure outlined in A2, Fact Sheet A. The measured level ranges from 66 dBA to 70 dBA and is more than 10 dB above the NPI's recommended amenity noise level of 45 dBA for the area.
- It is highly unlikely that traffic noise levels will decrease in the future.
- The adopted project trigger noise level was therefore determined as the $L_{Aeq,15min}$ of Sunday morning (66 dBA) less 15 dB.

Receiver location	Receiver type	Time of day	Adopted project trigger noise level ($L_{Aeq,15min}$)
502-504 Miller St	Residential	Night	51

Table 3. Adopted project noise trigger level at receiver locations most-affected by Maggio's Café patrons.

4. NOISE EMISSIONS ASSESSMENT

4.1. Noise Level and Spectra

We have employed the following rationale to determine the sound pressure levels produced by customers located in the outdoor seating area of Maggio's Café on Cammeraygal Place:

- Sound power levels for an average male speaker at 1 m were used. The equivalent A-weighted octave band spectrum per talker was established and is presented in Table 4 below.
- In the period between 6 am 7 am, the number of patrons is insufficient to cause talkers to increase the level of their voice in response to the noise produced by other talkers, that regularly occurs in restaurants, bars and cafes. As such, the talkers are assumed to use a "normal" voice level at this time of morning.
- The effective spacing between talkers was calculated to be high enough that shielding loss from the bodies of other people in the café was negligible.

	Octave Frequency Bands (Hz)								L _{Aeq}
	63	125	250	500	1000	2000	4000	8000	
Calculated speech spectrum	60.7	60.9	65.3	69	63	55.8	49.8	44.5	68.4

Table 4. Equivalent A-weighted octave frequency band sound power levels used to represent each speaker in the acoustic model.

4.2. Acoustic Model

Our noise model considers:

- Using the sound power levels developed in Section 4.1 and dimensions obtained from the architectural drawings, a model of Maggio's café and the associated surrounding buildings was developed in the Sketchup software and imported into Odeon software. Figure 2 and Figure 3 show images of the virtual models

In this, reflected sound energy will be an important component of the total noise reaching the receivers. In this context, Odeon was used for this analysis as it provides a virtual acoustic model which employs acoustic ray tracing to compute the sound fields. Using Odeon allowed us to account for the cumulative effect of reflected sound off the umbrella awnings and the surrounding building facades to create a sophisticated and accurate model. Odeon is regarded as one of the leading, if not the leading acoustic ray-tracing software, and has been used for the design of many world-famous concert halls.

- A distance of approximately 20 m between Maggio's café and the nearest receivers at 502-504 Miller St was measured.
- All road, awning and building surfaces and walls were assigned well-accepted sound absorption coefficients¹.
- Our model includes the directional nature of the human voice with a random orientation being assumed for each talker.
- The transmission path from the noise sources to the noise receiver, considering the direct path and all reflected paths or potential barriers.

One of the main factors considered is Maggio's overhead umbrella awnings which cover the outdoor seating area and occupy part of the Cammeraygal PI walkway. The acoustic effects of these awnings were a key element in our model calculations.

- A number of source positions in the outdoor seating area were used in our calculation to account for the variability of possible talker locations within the cafe. These positions present a pessimistic assessment as we observed that most patrons elect to sit indoors in the café rather than outdoors at this time of morning.
- Three calculation scenarios were used:

¹ The absorption co-efficient is a measure of how much of the incident sound energy a surface absorbs.

- Ten simultaneous talkers located in Maggio's outdoor seating area on Cammeraygal Pl.
- Six simultaneous talkers located in Maggio's outdoor seating area on Cammeraygal Pl.
- Four simultaneous talkers located in Maggio's outdoor seating area on Cammeraygal Pl.

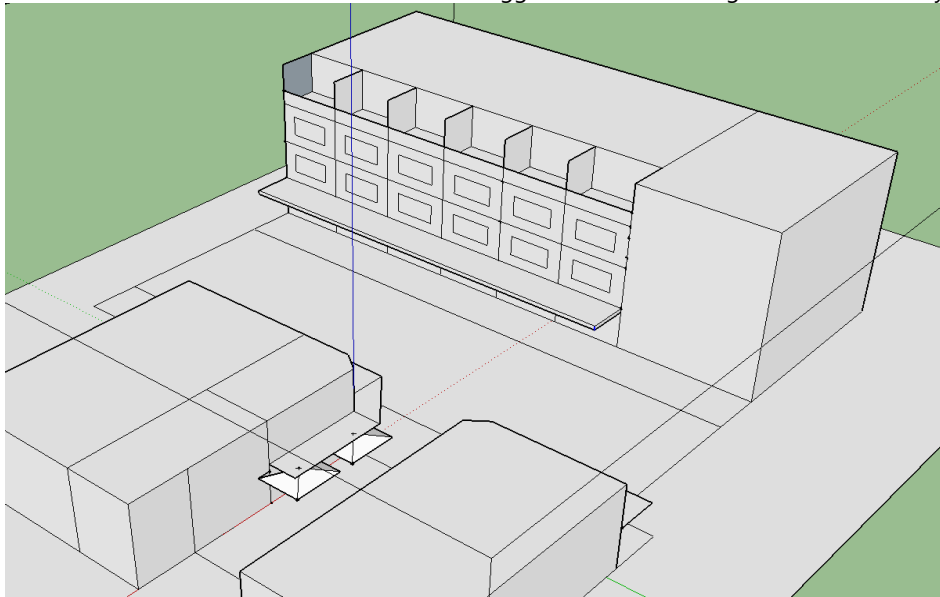


Figure 2. Sketchup model imported into Odeon of existing building facades.

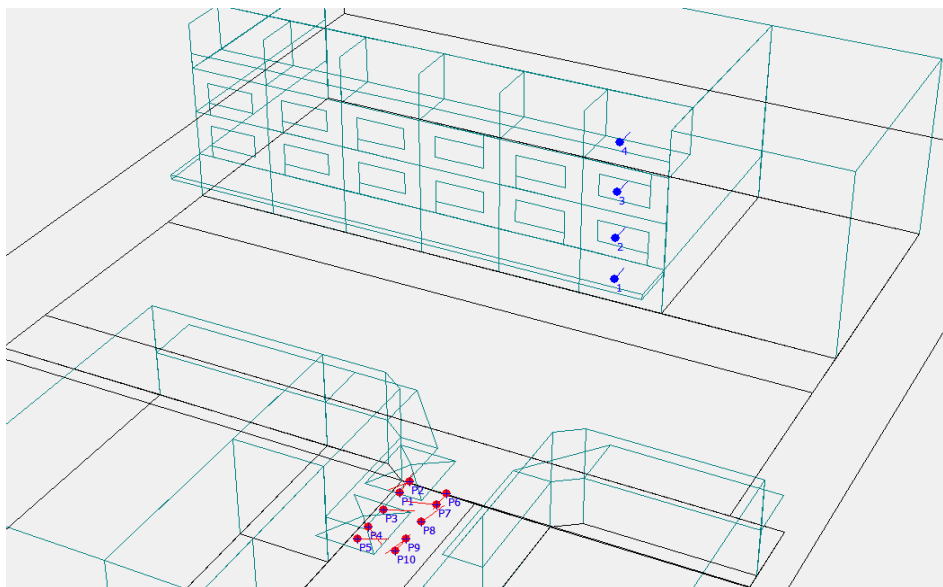


Figure 3. Odeon model showing various source positions and worst-case residential receiver positions.

4.3. Predicted noise impacts to surrounding receivers

Table 5 presents the calculated noise levels at the worst-affected residential receiver taking into account the considerations from Section 4.1 and 4.2 above.

Receiver Location	Scenario	Time of day	Calculated Cumulative Noise Levels (dBA)	Adopted Criterion (dBA)	Compliance with Adopted Criterion
502-504 Miller St	Ten simultaneous talkers	Night	44 - 47	51	Yes
	Six simultaneous talkers		43 - 45		Yes
	Four simultaneous talkers		41 - 44		Yes

Table 5. Calculated noise level at worst-affected receivers at relevant night period and comparison with relevant upper limit.

5. DISCUSSION AND RECOMMENDATIONS

- a) Results in Table 5 show that the calculated cumulative noise from Maggio patrons meet the adopted criteria for the relevant night period.
- b) There is a safety margin of 4 dB between the calculated level for ten simultaneous talkers and the most stringent criteria for the night period. Margins of 6 dB and 7 dB are predicted for scenarios with six and four talking Maggio patrons respectively.
- c) From observations on Friday and Sunday mornings between 6:00 am and 7:00 am, there are between approximately one to six patrons in Maggio's Café during this period. Of these one to six patrons, it is expected that not all will be talking simultaneously as in general conversations occur between groups of two or more people. As such, noise levels presented in Table 5 represent a pessimistic assessment with up to ten patrons speaking simultaneously in the outdoor dining area on Cammeraygal Pl.
- d) Similarly, noise levels from the Maggio's patrons located outdoors are expected to be lower at other surrounding receivers, than those level presented in Table 5 for residents at 502-504 Miller St which is the closest and worst-affected receiver.
- e) It is recommended that although noise levels meet the adopted criteria, the number of patrons using the outdoor seating area on Cammeraygal Pl between 6:00 am and 7:00 am should be limited to fifteen people to allow for a pessimistic approach, of 7 people talking simultaneously.
- f) Additionally, it is noted that there should not be any amplified or live music played in the outdoor area of Maggio's café during the 6:00 am to 7:00 am period. Soft music played indoors is acceptable if the glass doors remain partially closed.

6. CONCLUSIONS

A noise assessment has been undertaken of Maggio's Café at 457 Miller Street, Cammeray. Calculations of the noise levels reaching the worst-affected residential receivers were made to determine if relevant noise criterion would be met. We conclude that:

- a) Noise levels from Maggio's Café patrons (see Table 5) meet our adopted acoustic criterion, which is taken from the EPA's *Noise Policy for Industry* document
- b) Recommendations are given in Section 5 this will ensure that ongoing noise levels reaching nearby residential receivers are acceptable.

7. APPENDIX A – GLOSSARY OF ACOUSTIC TERMS

7.1. Index to Terms

The glossary is arranged alphabetically to assist readers to find the required information by clicking on the link.

[Assessment Background Level \(ABL\)](#)

[A-Weighted Sound Level dBA](#)

[Clarity Ratio](#)

[C-Weighted Sound Level dBC](#)

[Decibel \(dB\)](#)

[\$D_{nT,w}\$](#)

[Equivalent Continuous Sound Level \(\$L_{eq}\$ \)](#)

[Equivalent Acoustic Distance](#)

[Frequency Response](#)

[\$L_{A1,T}\$](#)

[\$L_{A10,T}\$](#)

[\$L_{A90,T}\$](#)

[\$L_{max,T}\$ - Maximum Sound Level](#)

[Rating Background Level \(RBL\)](#)

[Reverberation Time](#)

[\$R_w\$](#)

[Sound](#)

[Sound Absorption](#)

[Sound Absorption Coefficient](#)

[Sound Insulation](#)

[Sound Level Indices](#)

[Sound Power](#)

[Sound Pressure Level](#)

[Sound Reduction Index](#)

[STI](#)

[Vibration](#)

[Z- Weighted Sound Level dBZ](#)

7.2. Glossary

SOUND

Sound is an instantaneous fluctuation in air pressure over the static ambient pressure, and is transmitted as a wave through air or solid structures.

SOUND PRESSURE LEVEL

Commonly known as "sound level", the sound pressure level in air is the sound pressure relative to a standard reference pressure of $20\mu\text{Pa}$ (20×10^{-6} Pascals) when converted to a decibel scale.

DECIBEL (dB)

A scale for comparing the ratios of two quantities, including sound pressure and sound power.

The ratio of sound pressures which we can hear is a ratio of 106:1 (one million to one). To measure this huge range in pressure, a logarithmic measurement scale is used with the associated unit being the decibel (dB).

An increase or decrease of approximately 10 dB corresponds to an approximate subjective doubling or halving of the loudness of a sound. A change of 2 to 3 dB is subjectively a small change and may sometimes be difficult to perceive.

As the decibel is a logarithmic ratio, the laws of logarithmic addition and subtraction apply to dB values.

The difference in level between two sounds s_1 and s_2 is given by $20 \log_{10} (s_1 / s_2)$. The decibel can also be used to measure absolute quantities by specifying a reference value that fixes one point on the scale. For sound pressure, the reference value is $20\mu\text{Pa}$.

SOUND POWER

The sound power level (L_w) of a source is a measure of the total acoustic power radiated by a source. The sound pressure level (L_p) varies as a function of distance from a source or other factors such as shielding. However, the sound power level is an intrinsic characteristic of a source.

FREQUENCY

Frequency is the rate of repetition of a sound wave. The subjective equivalent of frequency in music is pitch. The unit of frequency is the Hertz (Hz), which is identical to the number of cycles per second. A thousand hertz is often denoted kiloHertz (kHz), e.g. 2 kHz = 2000 Hz.

Human hearing ranges from approximately 20 Hz to 20 kHz.

OCTAVE BAND

The most commonly used frequency bands are octave bands, in which the mid frequency of each band is twice that of the octave band below it. In subjective terms, it corresponds to a doubling of pitch.

For design purposes, the octave bands ranging from 31.5 Hz to 8 kHz are generally used. For more detailed analysis, each octave band may be split into three one-third octave bands or, in some cases, narrow frequency bands.

A-WEIGHTED SOUND LEVEL dBA

The unit of sound level, weighted according to the A scale, which takes into account the increased sensitivity of the human ear at some frequencies. The unit is generally used for measuring environmental, traffic or industrial noise is the A weighted sound pressure level in decibels, denoted dBA.

A weighting is based on the frequency response of the human ear at moderate and low sound levels and has been found to correlate well with human subjective reactions to various sounds.

Sound level meters usually have an A-weighting filter network to allow direct measurement of A-weighted levels.

C-WEIGHTED SOUND LEVEL dBC

As the sound level increases, the ear is better able to hear low frequency sounds, The C-weighting filter allow low frequencies to contribute to the measurement much more than the A weighting filter.

Z-WEIGHTING dBZ

The Zero-weighting is equivalent of non-frequency shaping or weighting the measured sound level, and as no filter is applied to the sound before measurement, it is sometimes referred to as "linear" weighting.

SOUND LEVEL INDICES

Noise levels usually fluctuate over time, so it is often necessary to consider an average or statistical noise level. This can be done in several ways, so a number of different noise indices have been defined, according to how the averaging or statistics are carried out.

Examples of sound level indices are $L_{eq,T}$, L_{max} , L_{90} , L_{10} and L_1 , which are described below. The reference time period (T) is normally included, e.g. $dB_{LA10, 5min}$ or $dB_{LA90, 8hr}$.

EQUIVALENT CONTINUOUS SOUND LEVEL (L_{eq})

Another index for assessment for overall noise level is the equivalent continuous sound level, L_{eq} . This is a notional steady level, which would, over a given period of time, deliver the same sound energy as the actual time-varying sound over the same period. This allows fluctuating sound levels to be described as a single figure level, which assists description, design and analysis.

The L_{eq} is often A-weighted to remove the contribution of low frequencies, which may be less audible and is written as L_{Aeq} . It can also have no weighting as L_{Zeq} or C-weighting as L_{Ceq} .

 $L_{max,T}$ - MAXIMUM SOUND LEVEL

A noise level index defined as the maximum noise level during the measurement period duration T. L_{max} is sometimes used for the assessment of occasional loud noises, which may have little effect on the overall L_{eq} noise level but will still affect the noise environment. Unless described otherwise, it is measured using the 'fast' sound level meter response.

 $L_{90}(T)$

A noise level index. The L_{A90} is the sound pressure level measured in dBA that is exceeded for 90% of the time over the measurement period T. In other words, the measured noise levels during the period were greater than this value for 90% of the measurement time period.

L_{90} can be considered to be the "average minimum" noise level and in its A weighted form is often used to describe the background noise as L_{A90} .

 $L_{A10}(T)$

A noise level index. The L_{A10} is the sound pressure level measured in dBA that is exceeded for 10% of the time interval (T). In other words, the measured noise levels during the period were only greater than this value for 10% of the measurement time period.

This is often referred to as the average maximum noise level.

 $L_{A1}(T)$

Refers to the sound pressure level measured in dBA, exceeded for 1% of the time interval (T). This is often used to represent the maximum noise level from a period of measurement, but is not the same as L_{Amax} .

RATING BACKGROUND LEVEL (RBL)

A single-number figure used to characterise the background noise levels from a complete noise survey. The RBL for a day, evening or night time period for the overall survey is calculated from the individual Assessment Background Levels (ABL) for each day of the measurement period, and is numerically equal to the median (middle value) of the ABL values for the days in the noise survey.

ASSESSMENT BACKGROUND LEVEL (ABL)

A single-number figure used to characterise the background noise levels from a single day of a noise survey. ABL is derived from the measured noise levels for the day, evening or night period of a single day of background

measurements. The ABL is calculated to be the tenth percentile of the background L_{A90} noise levels – i.e. the measured background noise is above the ABL 90% of the time.

Reverberation Time

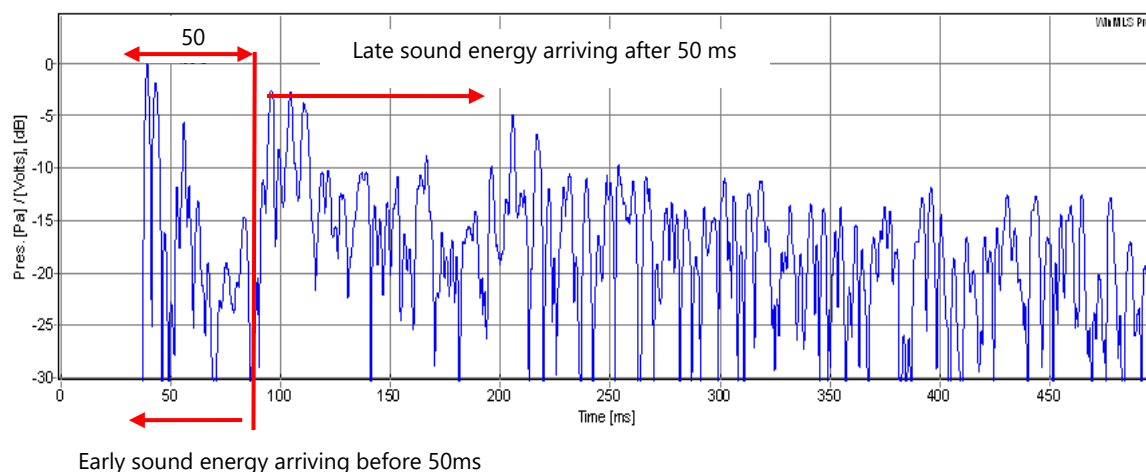
The time in seconds required for the sound at a given frequency to decay away (or reduce to) to one-thousandth of its initial steady-state value after the sound source has been stopped. This degree of reduction is equivalent to 60 decibels.

CLARITY RATIO

The clarity ratio is a metric that is used to assess the degradation in speech intelligibility due to the temporal effects of reverberation and echo. It is defined as the ratio of the sound energy of early-arriving sound that is useful for intelligibility to the energy of late-arriving sound which is not useful. Early-arriving sound consists of the direct sound and some reflections, while late arriving sound consists of reverberation and echoes.

Early-arriving sound consists of sound that arrives between the start of an extremely short pulse (an impulse) up to 50 ms after the start of the pulse, while late arriving sound is the total sound energy arriving later than 50 ms after the start of the pulse.

The following figure shows a typical impulse response and illustrates the dividing period of 50 ms between early and late arriving sound, which is used to compute the C_{50} clarity ratio.



Typical impulse response illustrating how the clarity ratio C_{50} is computed.

As the ear and therefore subjective intelligibility is sensitive to the amount of reverberation and echo at different frequencies, the C_{50} ratios must be as high as possible at all frequencies to maximise intelligibility.

STI - SPEECH TRANSMISSION INDEX

The Speech Transmission Index (STI) is one of the better available metrics to assess the capability of a transmission system to transmit intelligible speech. STI is a single number that ranges between 0 and 1. It attempts to assess the degradation in intelligibility caused by reverberation/echoes and background noise by measuring the reduction in modulation of the speech-like waveform. Phonemes in speech are produced by modulating vocal sounds in a specific pattern, and when perfect transmission of the modulation pattern is present at a listening location, the clarity is perfect. When modulations are corrupted by reverberation or noise, the time pattern of the phonemes is changed and the clarity is degraded.

However, STI has three fundamental weaknesses:

- i) It is almost blind to the effects of tonal balance on intelligibility.
- ii) It is partially blind to the effects of echo on intelligibility.

- iii) It reduces many complex factors (frequency/level/time) into to a single number, thereby concealing important and audible components that contribute to the degradation of speech intelligibility.

To accommodate these weaknesses in STI, Acoustic Directions uses two other metrics (clarity ratios and frequency response) in conjunction with STI to assess speech intelligibility produced by a sound system.

The STI value is computed from weighted MTI values, which represent the loss of modulation in each octave-wide frequency range. When assessing STI performance, it is instructive to assess the loss of modulation in each frequency range by inspecting the associated MTI values.

Given that the majority of speech sounds occur in the 250 Hz and 500 Hz frequency ranges, the MTI values in these frequency ranges are a direct indicator of the smearing or degradation in vowel sounds. In turn, this indicates the extent to which long vowel sounds will subjectively mask sounds with higher frequency content such as consonants.

FREQUENCY RESPONSE

Subjective tonal balance is measured as a system's frequency response at each location. As the ear is very sensitive to the direct sound field (the first-arriving part of the sound before reflections arrive), the response of the direct field with speech must be as consistent as possible over the listening area in the frequency range of 100 Hz to 12 kHz.

EQUIVALENT ACOUSTIC DISTANCE

By amplifying a talker's speech, a sound system reduces the apparent acoustic distance between a talker and distant listener. The equivalent acoustic distance defines the resulting acoustic distance between the talker and listener and is a direct measure of the amount of voice amplification that the system can provide before the onset of acoustic feedback. Feedback is often heard as a strong colouration to the voice or howling sound.

We are accustomed to holding conversations in relatively close proximity, and to produce similar conditions in a courtroom and allow soft talkers to be heard, the EAD should be less than 2.2 m and typically 1.8 m without any trace of feedback or tonal ringing in the sound.

EAD is associated with speech intelligibility as it directly relates to the amount of speech amplification that the system can provide in order to deliver a satisfactory level of speech signal above the noise to each listener.

Factors affecting the EAD include:

- The number of microphones switched on at any time.
- The relationships between the directional response characteristics of the microphone and loudspeaker.
- The sound level reaching the audience at the critical mid and mid-high frequencies.
- Room acoustic behaviour.

VIBRATION

Vibration may be expressed in terms of displacement, velocity and acceleration. Velocity and acceleration are most commonly used when assessing structure borne noise or human comfort issues respectively. Vibration amplitude may be quantified as a peak value, or as a root mean squared (rms) value.

Vibration amplitude can be expressed as an engineering unit value e.g. 1mms⁻¹ or as a ratio on a logarithmic scale in decibels:

Vibration velocity level, LV (dB) = 20 log (V/Vref),

(where the preferred reference level, Vref, for vibration velocity = 10⁻⁹ m/s).

The decibel approach has advantages for manipulation and comparison of data.

SOUND ABSORPTION

This is the removal of sound energy from a room or area by conversion into heat.

SOUND ABSORPTION CO-EFFICIENT

Sound absorption co-efficient indicate the extent to which a material absorbs sound power at a specific frequency, and is expressed on a scale of 0 to 1, with a value of 1 representing the maximum possible absorption.

SOUND INSULATION

The sound insulation is the capacity of a structure such as a wall or floor to prevent sound from reaching a receiving location.

SOUND REDUCTION INDEX

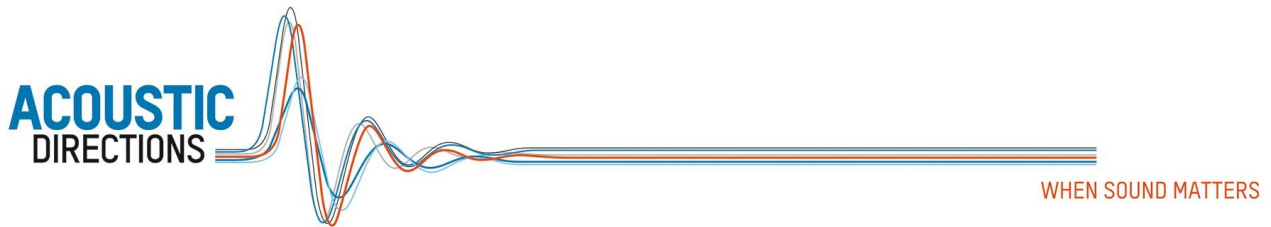
This parameter is used to describe the sound insulation properties of a partition, and is the decibel ratio of the airborne sound power incident on the partition to the sound power transmitted by the partition and radiated on the other side. It is usually measured in specific frequency bands, such as octave or one-third octave.

$D_{nT,w}$

The single number quantity that characterises sound insulation between rooms over a range of frequencies with airborne sound.

R_w

Single number quantity that characterises the sound-insulating properties of a material or construction element over a range of frequencies with airborne sound.



NOISE IMPACT ASSESSMENT

NOISE ASSESSMENT FOR EXTENDED TRADING HOURS FOR MAGGIO'S CAFE AT 457 MILLER ST, CAMMERAY

Prepared for: Maggio's Cafe,
c/o- David Scobie Architects

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Acoustic Directions

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1. BACKGROUND

Acoustic Directions has been engaged by Maggio's Café, Cammeray to undertake a noise assessment of the potential noise impact of Maggio's patrons on neighbouring receivers, for its application to Council for an extension to the café's trading hours.

The proposed hours of operation are Monday to Wednesday 6:00 am to 4:00 pm, Thursday to Saturday 6:00 am to 8:00 pm, and Sunday 7:00 am to 3:00 pm. Other pertinent details to our assessment include the proposed seating capacity for outdoors of sixty patrons in the existing canopy area and twenty patrons indoors.

For the assessment, relevant noise criteria are taken from the NSW EPA Noise Policy for Industry 2017 (NPI).

This report assesses the potential impact of noise resulting from the proposed extended trading hours and outdoor patron numbers, and presents the results.

2. SITE DESCRIPTION

2.1. Site Details and Location

- a) Maggio's Cafe is located at 457 Miller Street, Cammeray, as identified in Figure 1 below.
- b) Residents living at 502-504 Miller St directly opposite Maggio's Café on the opposite side of Miller St were identified as the closest residents to the café and are the most-affected receivers of noise from Maggio's Cafe. The semi-enclosed front balconies of these residences face Miller St and glass sliding doors and windows separate these front balconies from the internal spaces of each apartment. Figure 1 identifies these receivers in relation the subject site.
- c) The closest commercial premises to Maggio's are the chiropractor located directly above Maggio's Cafe, the restaurant located directly across Cammeraygal Place walkway and the massage clinic directly above that. Thechiropractor does not operate during the proposed extended morning and evening periods relevant to Maggio's and has therefore not been included in this assessment. On the other hand, the restaurant opposite operates during the evening period and has therefore been considered. Figure 1 identifies these receivers in relation the subject site.

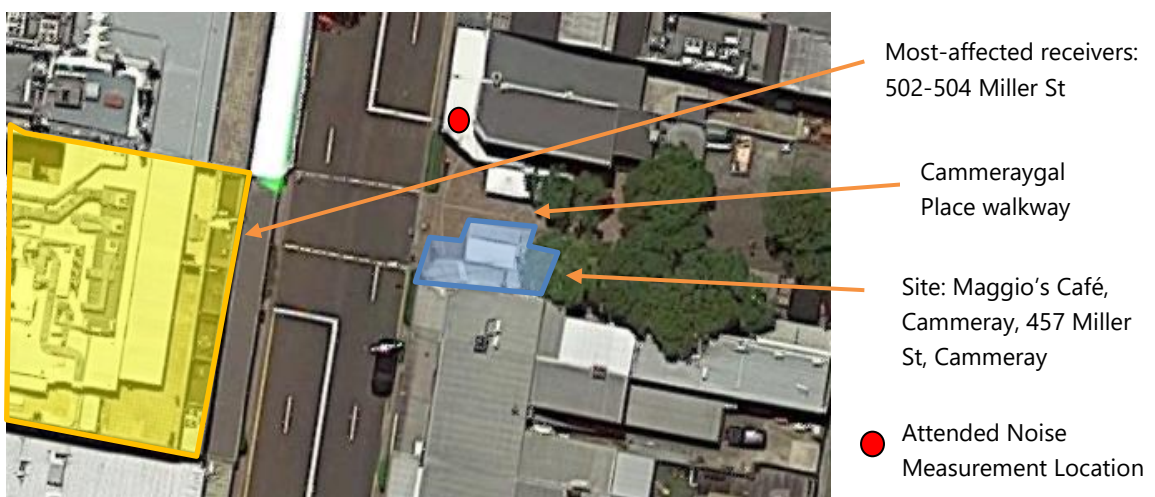
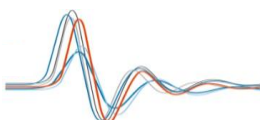


Figure 1. Site location and attended noise measurement location.

- d) Figure 2 below presents a plan view of the outdoor seating area taken from architectural drawing 101, Revision C prepared by David Scobie Architects and dated 15th July 2019. We have been informed that there are no proposed changes to this outdoor seating area.



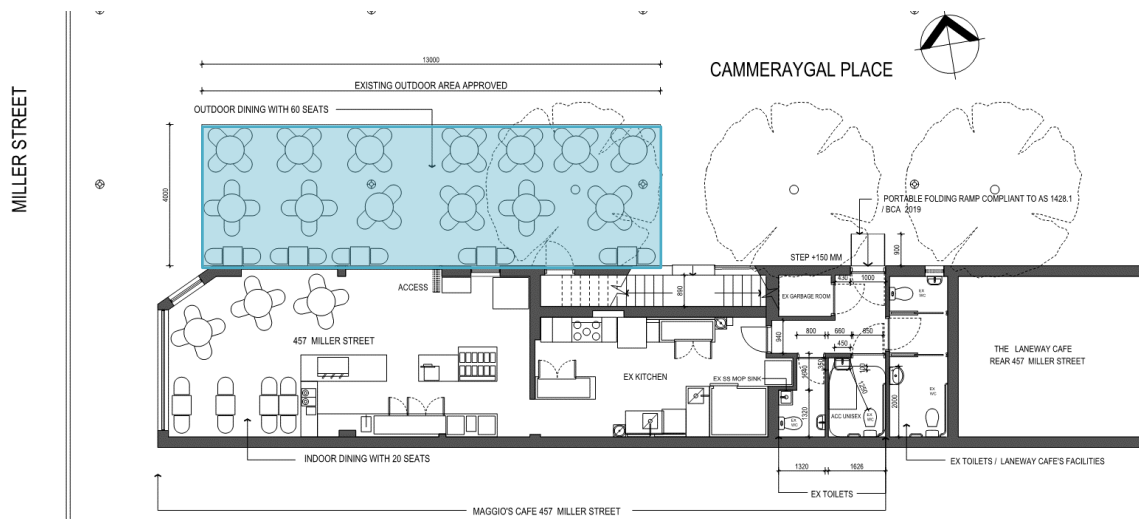


Figure 2. Plan view of the outdoor seating area (shaded blue) for Maggio's Café. To seat a maximum of sixty patrons.

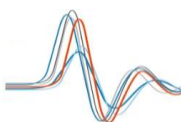
- e) From our discussions with Maggio's staff and from observations on Friday and Sunday mornings between 6:00 am and 7:00 am, we understand that there are approximately one to six patrons in Maggio's Café during this period at any one point in time between 6 am and 7 am.
- f) Higher numbers of patrons will most likely occur during peak periods in Summer between 6:00 pm and 8:00 pm Thursday to Saturday.

2.2. Background Noise Levels

Calculations were made using the method described in Section 4 to predict the level of noise from Maggio's patrons reaching residents at 502-504 Miller St. Those calculations showed that the noise levels reaching those residents were lower than the criterion that we have adopted for this assessment (discussed in Section 3.2). We therefore concluded that this development presents a low risk of noise impact for nearby residents.

Given this conclusion, we elected to not undertake a week-long noise logging process, (which is often used for DA assessments), and instead undertook a number of short-term attended measurements, carried out at the proposed times of operation of Maggio's Café.

- a) The background noise levels were determined by taking fifteen-minute short-term attended noise measurements outside 463 Miller St (as shown in Figure 1) at the following approximate times to represent the proposed extended trading hours:
 - 6:00 am and 6:30 am on Friday 26th April 2019
 - 6:00 am and 6:30 am on Sunday 28th April 2019
 - 3:00 pm and 3:20 pm on Sunday 28th February 2021
 - 8:00 pm and 8:20 pm on Thursday 4th March 2021
- b) These times were selected as they also represent the lowest expected level of ambient noise to account for a worst-case scenario. The selection of these days of the week and times was based on our analysis of noise-logger data from other projects and historical data from the last two years from the NSW Traffic Volume Viewer which showed that:
 - Sunday during the 6:00 am to 7:00 am period is often the quietest morning of the week with lowest number of vehicles for week.
 - Friday during the 6:00 am to 7:00 am period are often the loudest mornings of the week with a high number of vehicles.
 - Thursday and Saturday afternoons and evenings typically have a lower number of vehicles than Friday evenings.



- c) All measurements were conducted in accordance with the method prescribed in Section B2 of the NPI and made using an NTI XL2 acoustic analyser with a Class 1 measurement microphone. Calibration checks before and after measurements showed no discernible drift in the meter.
- d) The XL2 was set to logging mode at one-second intervals and audio was also recorded to enable the removal of all extraneous noise, such as loud birds and car horns, that could skew the measurement results. Post-processing of the data allowed isolation and exclusion of these instances which were identified in the audio recording and removed from the measured data before the calculations were made.
- e) The main audible noise during measurements was from passing vehicles on Miller St and some patron noise from other eating venues on Miller St and Cammeraygal Place.
- f) The measured $L_{A90,15min}$ background noise levels are presented in below.

Table 1. Measured $L_{Aeq,15min}$ and $L_{A90,15min}$ noise levels for the subject site.

Measurement Location	Day	Measured Background Noise Level ($L_{A90,15min}$)	Measured Noise Level ($L_{Aeq,15min}$)
463 Miller St	Friday 6:00 am	55 dB	70 dB
	Sunday 6:00 am	50 dB	66 dB
	Thursday 8:00 pm	60 dB	70 dB
	Sunday 3:00 pm	59.5 dB	69 dB

3. NOISE CRITERION

3.1. NSW EPA Noise Policy for Industry (NPI) 2017

The NSW EPA Noise Policy for Industry 2017 (NPI) provides a clear framework for assessing noise impacts from noise-emitting premises. To support the goal of minimising noise impacts to surrounding noise-sensitive receivers through available feasible and reasonable noise mitigation measures, the policy sets out a procedure to determine a benchmark noise level, called the "project noise trigger level", above which noise management measures are required to be considered. The project noise trigger level is specific to each noise-receiver, and considers the background noise environment, the time of day of the activity, the character of the noise and the type of receiver (e.g. residential or commercial). The project noise trigger level has been adopted in this assessment as the noise threshold of which operational noise on site should remain below.

In many situations, the noise from an industrial source is commensurate with or exceeds the ambient noise level and these situations are addressed using the process described in Section 3.1.1 below, taken from the NPI. However, in Maggio's Café's situation, the traffic noise is much higher than the anticipated noise from Maggio patrons and thus this situation can be addressed by an alternative section of the NPI discussed in Section 3.1.2.

3.1.1 Guidance from NPI Section 2.4

The project noise trigger level is an $L_{Aeq,15min}$ level that is determined as the lower of the "project intrusiveness noise level" and "project amenity noise level". These levels are calculated as follows:

The project intrusiveness noise level is determined by adding 5 dB to the rating background level (RBL) and is represented as an $L_{Aeq,15min}$ level. We note that the intrusiveness noise level only applies to residential receivers.

The project amenity noise level is determined by subtracting 5 dB from the recommended $L_{Aeq,period}$ amenity noise levels in Table 2.2 of the policy (see Table 2 below). (The 5 dB factor is to limit noise-creep in the area). This project amenity noise level is then converted to an $L_{Aeq,15min}$ level by adding 3 dB.

The project noise trigger level is the lower (i.e. the most stringent) value of the intrusiveness and project amenity noise levels.

Amenity noise levels from the policy have been included in Table 2.



Table 2. Recommended amenity noise levels from Table 2.2 in NPI, 2017.

Receiver	Noise amenity area	Time of day	Recommended amenity noise level L_{Aeq}
Residential	Urban according to Table 2.3 in the NPI	Day	60 dBA
		Evening	50 dBA
		Night	45 dBA

3.1.2 Guidance from NPI Section 2.4.1: Amenity noise levels in areas of high traffic noise

Section 2.41 of the NPI states that the level of transport noise, road traffic noise in particular, may be high enough to make noise from an industrial source effectively inaudible, even though the L_{Aeq} noise level from that industrial noise source may exceed the project amenity noise level. In such cases the project amenity noise level may be derived from the $L_{Aeq,period (traffic)}$ minus 15 dBA.

Accordingly, the project amenity noise level in **Table 2** above may be replaced with the high-traffic project amenity noise level = $L_{Aeq, period(traffic)}$ minus 15 dBA.

This high traffic project amenity noise level may be applied only if all the following conditions apply:

- traffic noise is identified as the dominant noise source at the site
- the existing traffic noise level (determined using the procedure outlined in A2 of the NPI, Fact Sheet A, that is, measuring traffic instead of industrial noise) is 10 dB or more above the recommended amenity noise level for the area
- it is highly unlikely traffic noise levels will decrease in the future.

3.1.3 Determination the Applicable Amenity Criteria

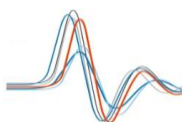
- Traffic noise is identified as the dominant noise source at the site, and we consider it is highly unlikely that traffic noise levels will decrease in the future.
- The existing measured $L_{Aeq,15min}$ traffic noise levels were determined using the procedure outlined in A2, Fact Sheet A, and considered in relation to amenity levels:
 - The two traffic noise level measurements made during the night period at 6 am of 66 dBA (Sunday) and 70 dBA (Friday) are more than 10 dB above the NPI's recommended amenity noise level of 45 dBA for the area.
 - The traffic noise level of 70 dBA at 8:00 pm in the evening period is 20 dB above the NPI's recommended amenity noise level of 50 dBA for the area.
- As the measured $L_{Aeq,15min}$ of Sunday afternoon at 3 pm (69 dBA) is less 10 dB above the recommended amenity level for daytime (60 dB), the adopted project trigger noise level is determined by the calculated amenity noise level as per Section 2.4 from the NPI.
- Table 3** below shows the data used to determine the applicable noise amenity criterion

Table 3. Data for determination of applicable amenity noise levels.

Day	Measured Noise Level ($L_{Aeq,15min}$)	Time of day	Standard recommended amenity noise level L_{Aeq}	Adopted Project Amenity Level
Friday 6:00 am	70 dB	Night	45 dB	55 dBA (high traffic)
Sunday 6:00 am	66 dB	Night	45 dB	51 dBA (high traffic)
Thursday 8:00 pm	70 dB	Evening	50 dB	55 dBA (high traffic)
Sunday 3:00 pm	69 dB	Day	60 dB	58 dBA (standard amenity)

3.2. Adopted Criterion for this Assessment

The project trigger noise levels for the worst-affected noise receivers for Maggio's Café were calculated and are presented in **Table 4** below based on the following rationale:



Our assessment is concerned with i) the daytime period as there is a proposed increase of up to sixty patrons in the outdoor area, ii) the proposed extended hours in the evening period between 6:00 pm and 8:00 pm, and iii) the hour between 6:00 am and 7:00 am (8:00 am on Sundays and Public Holidays) which falls into what the NPI classifies as the "night period". To account for the proposed changes, our report addresses all three time periods.

Table 4. Adopted project noise trigger level at receiver locations most-affected by Maggio's Café patrons.

Receiver location	Receiver type	Time of day	Intrusiveness Criterion	Project Amenity Criterion (from Table 3)	Adopted project trigger noise level (L _{Aeq,15min})
502-504 Miller St	Residential	Day	65 dB	58 dBA	58 dB
		Evening	65 dB	55 dBA	55 dB
		Night	55 dB	51 dBA	51 dB

4. NOISE EMISSIONS ASSESSMENT

4.1. Noise Level and Spectra

We have employed the following rationale to determine the sound pressure levels produced by customers located in the outdoor seating area of Maggio's Café on Cammeraygal Place:

- In the period between 6:00 am 7:00 am, the number of patrons is insufficient to cause talkers to increase the level of their voice in response to the noise produced by other talkers, which is a phenomenon that regularly occurs in restaurants, bars and cafes. As such, the talkers are assumed to use a "normal" voice level at this time of morning. Sound power spectra and levels for an average male talker with a normal voice were therefore used for this period (see **Table 5**).
- However, during the extended afternoon and evening trading hours, a greater number of patrons is expected and in response to the noise from other talkers, people tend to raise their voices. This is due to the human response mechanism known as the Lombard effect. The Lombard effect describes the process in which talkers automatically raise the level their speaking level in response to the ambient noise in the space in which they are talking, so that it will be easier for listeners to understand their speech. Accordingly, adjusted "raised" levels for the daytime and evening periods were used as shown in **Table 5** below.
- The effective spacing between talkers was calculated to be high enough that the loss of sound level due to shielding by the bodies of other people in the café was negligible.

Table 5. Octave frequency band sound power levels used to represent each speaker in the acoustic model.

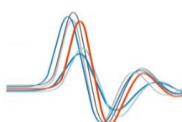
	Octave Frequency Bands (Hz)							
	125	250	500	1000	2000	4000	8000	L _{Aeq}
"normal" speech spectrum adopted for 6am-7am* period	61	65	69	63	56	50	45	68
"raised" speech spectrum adopted for 7am*-8pm period	66	71	74	70	63	58	52	74

* 8:00 am on Sunday and Public Holidays.

4.2. Acoustic Model

Our noise model considers:

- In this situation, reflected sound energy will be an important component of the total noise from Maggio's patrons reaching the receivers. To properly account for this reflected energy, a virtual acoustic model which employs acoustic ray tracing was used to compute the total sound field reaching the receivers.



- b) Based on dimensions obtained from the architectural drawings, a model of Maggio's café and the associated surrounding buildings was developed in Sketchup software and imported into Odeon acoustic software. **Figure 3** and **Figure 4** show images of the virtual models.

One of the main factors considered is Maggio's overhead umbrella awnings which cover the outdoor seating area and occupy part of the Cammeraygal PI walkway. The acoustic effects of these awnings were a key element in our model calculations.

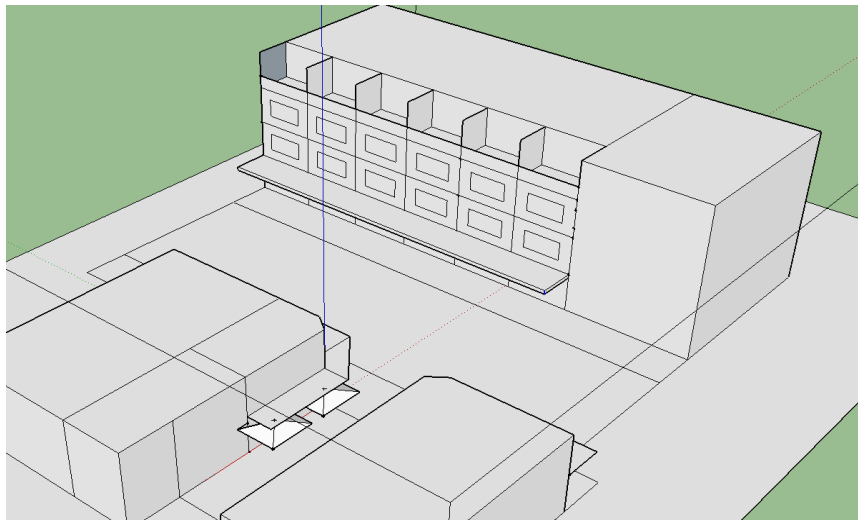


Figure 3. Sketchup model imported into Odeon of existing building facades.

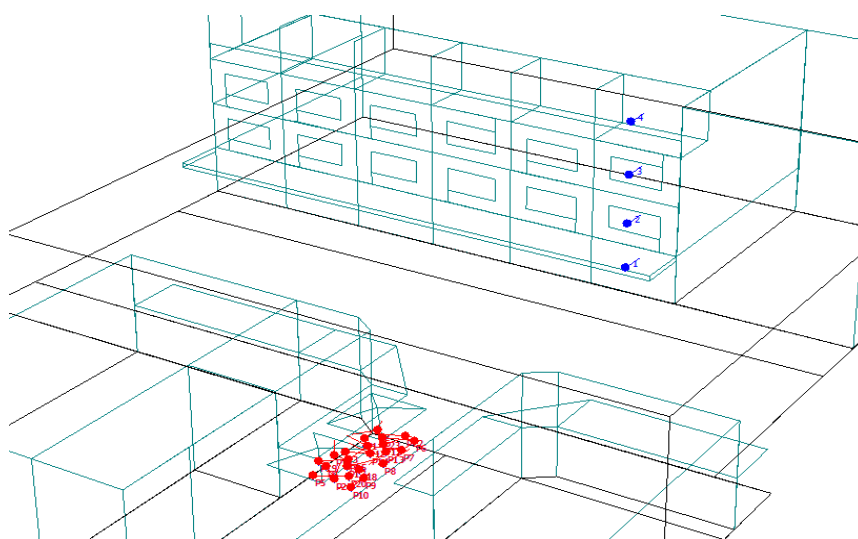
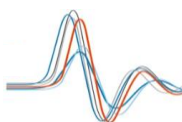


Figure 4. Odeon model showing various source positions and worst-case residential receiver positions.

- c) Odeon was able to account for the cumulative effect of reflected sound from the umbrella awnings and surrounding building facades, along with the acoustic shielding provided by the umbrellas. Odeon is regarded as one of the leading, if not the leading acoustic ray-tracing software, and has been used for the design of many world-famous concert halls.
- d) The model included the following parameters:
- The sound power levels developed in Section 4.1.
 - The directional nature of the human voice with a random orientation being assumed for each talker.
 - A distance of approximately 20 m between Maggio's café and the nearest receivers at 502-504 Miller St was measured.
 - All road, awning and building surfaces and walls were assigned well-accepted sound absorption coefficients.
 - The transmission path from the noise sources to the noise receiver, considering the direct path and



all reflected paths or potential barriers.

- e) A number of source positions in the outdoor seating area were used in the model to account for the variability of possible talker locations within the cafe. These positions present a pessimistic assessment for the night-time period as we observed that in the morning most patrons elect to sit indoors in the café rather than outdoors.
- f) Accordingly, two calculation scenarios were used:
- 6:00 am to 7:00 am - Up to ten simultaneous talkers located in Maggio's outdoor seating area on Cammeraygal PI with "normal" speech spectrum.
 - 3:00 pm Sunday afternoon and 6:00 pm to 8:00 pm Thursday to Saturday- Twenty simultaneous talkers located in Maggio's outdoor seating area on Cammeraygal PI (this is representative of a scenario in which one-in-three people talking at full capacity of sixty patrons) with "raised" speech spectrum.

4.3. Predicted noise impacts to surrounding receivers

Table 6 presents the calculated noise levels at the worst-affected residential receiver taking into account the considerations from Section 4.1 and 0 above.

Table 6. Calculated noise level at worst-affected receivers at relevant night period and comparison with relevant upper limit.

Receiver Location	Scenario	Time of day	Range of Calculated Total Noise Levels (dBA)	Adopted Criterion (dBA)	Compliance with Adopted Criterion
502-504 Miller St (Level 1 – Level 4)	Twenty simultaneous talkers ("raised" spectrum)	Day (7:00 am* – 6:00 pm)	46-53	58	Yes
	Twenty simultaneous talkers ("raised" spectrum)	Evening (6:00 pm – 10:00 pm)	46-53	55	Yes
	Ten simultaneous talkers	Night (10:00pm – 7:00 am)*	44 - 47	51	Yes
	Six simultaneous talkers		43 - 45		Yes
	Four simultaneous talkers		41 - 44		Yes

* 8:00 am on Sundays and Public Holidays.

5. DISCUSSION AND RECOMMENDATIONS

- a) Results in Table 6 show that the calculated cumulative noise from Maggio's patrons meet the adopted criteria for the relevant proposed operational hours during the day, evening and night periods.
- b) There is a safety margin of at least 5 dB and 2 dB between the calculated level for the "raised" simultaneous talkers and the adopted daytime criteria of 58 dBA and evening criteria of 55 dBA respectively.
- c) For the most stringent night period there is a safety margin of at least 4 dB with ten outdoor simultaneous talkers. Margins of 6 dB and 7 dB are predicted for scenarios with six and four talking Maggio patrons respectively.
- d) From observations on Friday and Sunday mornings between 6:00 am and 7:00 am, there are between approximately one to six patrons in Maggio's Café during this period. As such, noise levels presented in Table 6 represent a pessimistic assessment with up to ten patrons speaking simultaneously in the outdoor dining area on Cammeraygal PI between 6:00 am and 7:00 am.
- e) Calculated results for the daytime and evening periods also present a pessimistic assessment as



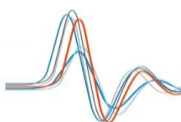
- f) Similarly, noise levels from the Maggio's patrons located outdoors are expected to be lower at other surrounding receivers, than those level presented in Table 6 for residents at 502-504 Miller St which is the closest and worst-affected receiver.
- g) Although noise levels meet the adopted criteria, it is recommended that the number of patrons using the outdoor seating area on Cammeraygal Pl between 6:00 am and 7:00 am be limited to fifteen people to allow for a pessimistic approach, of 7 people talking simultaneously.
- h) Additionally, it is noted that there should not be any amplified or live music played in the outdoor area of Maggio's café during the 6:00 am to 7:00 am period. Soft music played indoors is acceptable if the glass doors remain partially closed.
- i) After the 8:00 pm close on Thursday, Friday and Saturday, staff should pack away outdoor furniture in a quiet and prompt manner.

6. CONCLUSIONS

A noise assessment has been undertaken of Maggio's Café at 457 Miller Street, Cammeray. Calculations of the noise levels reaching the most-affected residential receivers were made to determine if relevant noise criterion for the day evening and night periods would be met.

We conclude that:

- a) Noise levels from Maggio's Café patrons (see Table 6) meet our adopted acoustic criteria, which are derived from the EPA's Noise Policy for Industry document.
- b) Recommendations are given in Section 5 of this report to ensure that ongoing noise levels reaching nearby residential receivers are acceptable.



7. APPENDIX A - GLOSSARY OF ACOUSTIC TERMS

7.1. Index to Terms

The glossary is arranged alphabetically to assist readers to find the required information by clicking on the link.

[Assessment Background Level \(ABL\)](#)

[A-Weighted Sound Level dBA](#)

[Clarity Ratio](#)

[C-Weighted Sound Level dBC](#)

[Decibel \(dB\)](#)

[\$D_{nT,w}\$](#)

[Equivalent Continuous Sound Level \(\$L_{eq}\$ \)](#)

[Equivalent Acoustic Distance](#)

[Frequency Response](#)

[\$L_{A1,\(T\)}\$](#)

[\$L_{A10,\(T\)}\$](#)

[\$L_{A90,\(T\)}\$](#)

[\$L_{max,T}\$ - Maximum Sound Level](#)

[Rating Background Level \(RBL\)](#)

[Reverberation Time](#)

[\$R_w\$](#)

[Sound](#)

[Sound Absorption](#)

[Sound_Absorption_Coefficient](#)

[Sound Insulation](#)

[Sound Level Indices](#)

[Sound Power](#)

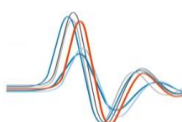
[Sound Pressure Level](#)

[Sound Reduction Index](#)

[STI](#)

[Vibration](#)

[Z- Weighted Sound Level dBZ](#)



7.2. Glossary

SOUND

Sound is an instantaneous fluctuation in air pressure over the static ambient pressure and is transmitted as a wave through air or solid structures.

SOUND PRESSURE LEVEL

Commonly known as "sound level", the sound pressure level in air is the sound pressure relative to a standard reference pressure of $20\mu\text{Pa}$ (20×10^{-6} Pascals) when converted to a decibel scale.

DECIBEL (dB)

A scale for comparing the ratios of two quantities, including sound pressure and sound power.

The ratio of sound pressures which we can hear is a ratio of 106:1 (one million to one). To measure this huge range in pressure, a logarithmic measurement scale is used with the associated unit being the decibel (dB).

An increase or decrease of approximately 10 dB corresponds to an approximate subjective doubling or halving of the loudness of a sound. A change of 2 to 3 dB is subjectively a small change and may sometimes be difficult to perceive.

As the decibel is a logarithmic ratio, the laws of logarithmic addition and subtraction apply to dB values.

The difference in level between two sounds s_1 and s_2 is given by $20 \log_{10} (s_1 / s_2)$. The decibel can also be used to measure absolute quantities by specifying a reference value that fixes one point on the scale. For sound pressure, the reference value is $20\mu\text{Pa}$.

SOUND POWER

The sound power level (L_w) of a source is a measure of the total acoustic power radiated by a source. The sound pressure level (L_p) varies as a function of distance from a source or other factors such as shielding. However, the sound power level is an intrinsic characteristic of a source.

FREQUENCY

Frequency is the rate of repetition of a sound wave. The subjective equivalent of frequency in music is pitch. The unit of frequency is the Hertz (Hz), which is identical to the number of cycles per second. A thousand hertz is often denoted kiloHertz (kHz), e.g. 2 kHz = 2000 Hz.

Human hearing ranges from approximately 20 Hz to 20 kHz.

OCTAVE BAND

The most commonly used frequency bands are octave bands, in which the mid frequency of each band is twice that of the octave band below it. In subjective terms, it corresponds to a doubling of pitch.

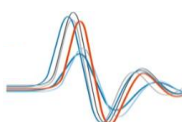
For design purposes, the octave bands ranging from 31.5 Hz to 8 kHz are generally used. For more detailed analysis, each octave band may be split into three one-third octave bands or, in some cases, narrow frequency bands.

A-WEIGHTED SOUND LEVEL dBA

The unit of sound level, weighted according to the A scale, which takes into account the increased sensitivity of the human ear at some frequencies. The unit is generally used for measuring environmental, traffic or industrial noise is the A weighted sound pressure level in decibels, denoted dBA.

A weighting is based on the frequency response of the human ear at moderate and low sound levels and has been found to correlate well with human subjective reactions to various sounds.

Sound level meters usually have an A-weighting filter network to allow direct measurement of A-weighted levels.



C-WEIGHTED SOUND LEVEL dBC

As the sound level increases, the ear is better able to hear low frequency sounds, The C-weighting filter allow low frequencies to contribute to the measurement much more than the A weighting filter.

Z-WEIGHTING dBZ

The Zero-weighting is equivalent of non-frequency shaping or weighting the measured sound level, and as no filter is applied to the sound before measurement, it is sometimes referred to as "linear" weighting.

SOUND LEVEL INDICES

Noise levels usually fluctuate over time, so it is often necessary to consider an average or statistical noise level. This can be done in several ways, so several different noise indices have been defined, according to how the averaging or statistics are carried out.

Examples of sound level indices are $L_{eq,T}$, L_{max} , L_{90} , L_{10} and L_1 , which are described below. The reference time period (T) is normally included, e.g. $dB_{LA10, 5min}$ or $dB_{LA90, 8hr}$.

EQUIVALENT CONTINUOUS SOUND LEVEL (L_{eq})

Another index for assessment for overall noise level is the equivalent continuous sound level, L_{eq} . This is a notional steady level, which would, over a given period of time, deliver the same sound energy as the actual time-varying sound over the same period. This allows fluctuating sound levels to be described as a single figure level, which assists description, design and analysis.

The L_{eq} is often A-weighted to remove the contribution of low frequencies, which may be less audible and is written as L_{Aeq} . It can also have no weighting as L_{Zeq} or C-weighting as L_{Ceq} .

$L_{max,T}$ - MAXIMUM SOUND LEVEL

A noise level index defined as the maximum noise level during the measurement period duration T. L_{max} is sometimes used for the assessment of occasional loud noises, which may have little effect on the overall L_{eq} noise level but will still affect the noise environment. Unless described otherwise, it is measured using the 'fast' sound level meter response.

$L_{90}(T)$

A noise level index. The L_{A90} is the sound pressure level measured in dBA that is exceeded for 90% of the time over the measurement period T. In other words, the measured noise levels during the period were greater than this value for 90% of the measurement period.

L_{90} can be considered to be the "average minimum" noise level and in its A weighted form is often used to describe the background noise as L_{A90} .

$L_{A10}(T)$

A noise level index. The L_{A10} is the sound pressure level measured in dBA that is exceeded for 10% of the time interval (T). In other words, the measured noise levels during the period were only greater than this value for 10% of the measurement period.

This is often referred to as the average maximum noise level.

$L_{A1}(T)$

Refers to the sound pressure level measured in dBA, exceeded for 1% of the time interval (T). This is often used to represent the maximum noise level from a period of measurement but is not the same as L_{Amax} .

RATING BACKGROUND LEVEL (RBL)

A single-number figure used to characterise the background noise levels from a complete noise survey. The RBL for a day, evening or night time period for the overall survey is calculated from the individual Assessment Background Levels (ABL) for each day of the measurement period, and is numerically equal to the median (middle value) of the ABL values for the days in the noise survey.



ASSESSMENT BACKGROUND LEVEL (ABL)

A single-number figure used to characterise the background noise levels from a single day of a noise survey. ABL is derived from the measured noise levels for the day, evening or night period of a single day of background measurements. The ABL is calculated to be the tenth percentile of the background L_{A90} noise levels – i.e. the measured background noise is above the ABL 90% of the time.

Reverberation Time

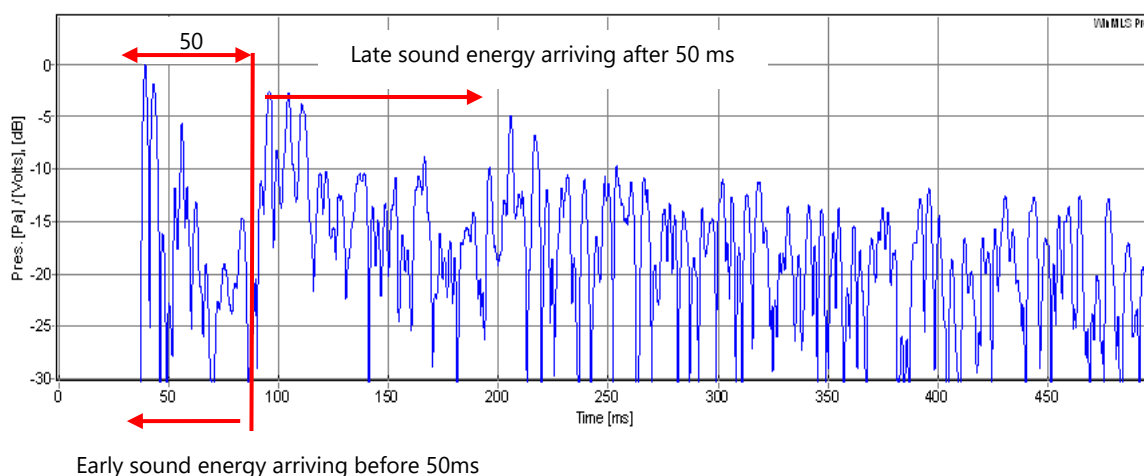
The time in seconds required for the sound at a given frequency to decay away (or reduce to) to one-thousandth of its initial steady-state value after the sound source has been stopped. This degree of reduction is equivalent to 60 decibels.

CLARITY RATIO

The clarity ratio is a metric that is used to assess the degradation in speech intelligibility due to the temporal effects of reverberation and echo. It is defined as the ratio of the sound energy of early-arriving sound that is useful for intelligibility to the energy of late-arriving sound which is not useful. Early-arriving sound consists of the direct sound and some reflections, while late arriving sound consists of reverberation and echoes.

Early-arriving sound consists of sound that arrives between the start of an extremely short pulse (an impulse) up to 50 ms after the start of the pulse, while late arriving sound is the total sound energy arriving later than 50 ms after the start of the pulse.

The following figure shows a typical impulse response and illustrates the dividing period of 50 ms between early and late arriving sound, which is used to compute the C_{50} clarity ratio.



Typical impulse response illustrating how the clarity ratio C_{50} is computed.

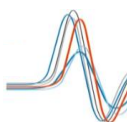
As the ear and therefore subjective intelligibility is sensitive to the amount of reverberation and echo at different frequencies, the C_{50} ratios must be as high as possible at all frequencies to maximise intelligibility.

STI - SPEECH TRANSMISSION INDEX

The Speech Transmission Index (STI) is one of the better available metrics to assess the capability of a transmission system to transmit intelligible speech. STI is a single number that ranges between 0 and 1. It attempts to assess the degradation in intelligibility caused by reverberation/echoes and background noise by measuring the reduction in modulation of the speech-like waveform. Phonemes in speech are produced by modulating vocal sounds in a specific pattern, and when perfect transmission of the modulation pattern is present at a listening location, the clarity is perfect. When modulations are corrupted by reverberation or noise, the time pattern of the phonemes is changed, and the clarity is degraded.

However, STI has three fundamental weaknesses:

- i) It is almost blind to the effects of tonal balance on intelligibility.



- ii) It is partially blind to the effects of echo on intelligibility.
- iii) It reduces many complex factors (frequency/level/time) into to a single number, thereby concealing important and audible components that contribute to the degradation of speech intelligibility.

To accommodate these weaknesses in STI, Acoustic Directions uses two other metrics (clarity ratios and frequency response) in conjunction with STI to assess speech intelligibility produced by a sound system.

The STI value is computed from weighted MTI values, which represent the loss of modulation in each octave-wide frequency range. When assessing STI performance, it is instructive to assess the loss of modulation in each frequency range by inspecting the associated MTI values.

Given that the majority of speech sounds occur in the 250 Hz and 500 Hz frequency ranges, the MTI values in these frequency ranges are a direct indicator of the smearing or degradation in vowel sounds. In turn, this indicates the extent to which long vowel sounds will subjectively mask sounds with higher frequency content such as consonants.

FREQUENCY RESPONSE

Subjective tonal balance is measured as a system's frequency response at each location. As the ear is very sensitive to the direct sound field (the first-arriving part of the sound before reflections arrive), the response of the direct field with speech must be as consistent as possible over the listening area in the frequency range of 100 Hz to 12 kHz.

EQUIVALENT ACOUSTIC DISTANCE

By amplifying a talker's speech, a sound system reduces the apparent acoustic distance between a talker and distant listener. The equivalent acoustic distance defines the resulting acoustic distance between the talker and listener and is a direct measure of the amount of voice amplification that the system can provide before the onset of acoustic feedback. Feedback is often heard as a strong colouration to the voice or howling sound.

We are accustomed to holding conversations in relatively close proximity, and to produce similar conditions in a courtroom and allow soft talkers to be heard, the EAD should be less than 2.2 m and typically 1.8 m without any trace of feedback or tonal ringing in the sound.

EAD is associated with speech intelligibility as it directly relates to the amount of speech amplification that the system can provide in order to deliver a satisfactory level of speech signal above the noise to each listener.

Factors affecting the EAD include:

- The number of microphones switched on at any time.
- The relationships between the directional response characteristics of the microphone and loudspeaker.
- The sound level reaching the audience at the critical mid and mid-high frequencies.
- Room acoustic behaviour.

VIBRATION

Vibration may be expressed in terms of displacement, velocity and acceleration. Velocity and acceleration are most commonly used when assessing structure-borne noise or human comfort issues respectively. Vibration amplitude may be quantified as a peak value, or as a root mean squared (rms) value.

Vibration amplitude can be expressed as an engineering unit value e.g. 1mms⁻¹ or as a ratio on a logarithmic scale in decibels:

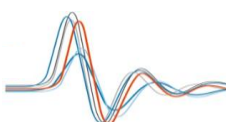
Vibration velocity level, LV (dB) = 20 log (V/Vref),

(where the preferred reference level, Vref, for vibration velocity = 10⁻⁹ m/s).

The decibel approach has advantages for manipulation and comparison of data.

SOUND ABSORPTION

This is the removal of sound energy from a room or area by conversion into heat.



SOUND ABSORPTION CO-EFFICIENT

Sound absorption co-efficient indicate the extent to which a material absorbs sound power at a specific frequency and is expressed on a scale of 0 to 1, with a value of 1 representing the maximum possible absorption.

SOUND INSULATION

The sound insulation is the capacity of a structure such as a wall or floor to prevent sound from reaching a receiving location.

SOUND REDUCTION INDEX

This parameter is used to describe the sound insulation properties of a partition and is the decibel ratio of the airborne sound power incident on the partition to the sound power transmitted by the partition and radiated on the other side. It is usually measured in specific frequency bands, such as octave or one-third octave.

 $D_{nT,w}$

The single number quantity that characterises sound insulation between rooms over a range of frequencies with airborne sound.

 R_w

Single number quantity that characterises the sound-insulating properties of a material or construction element over a range of frequencies with airborne sound.





PLAN OF MANAGEMENT

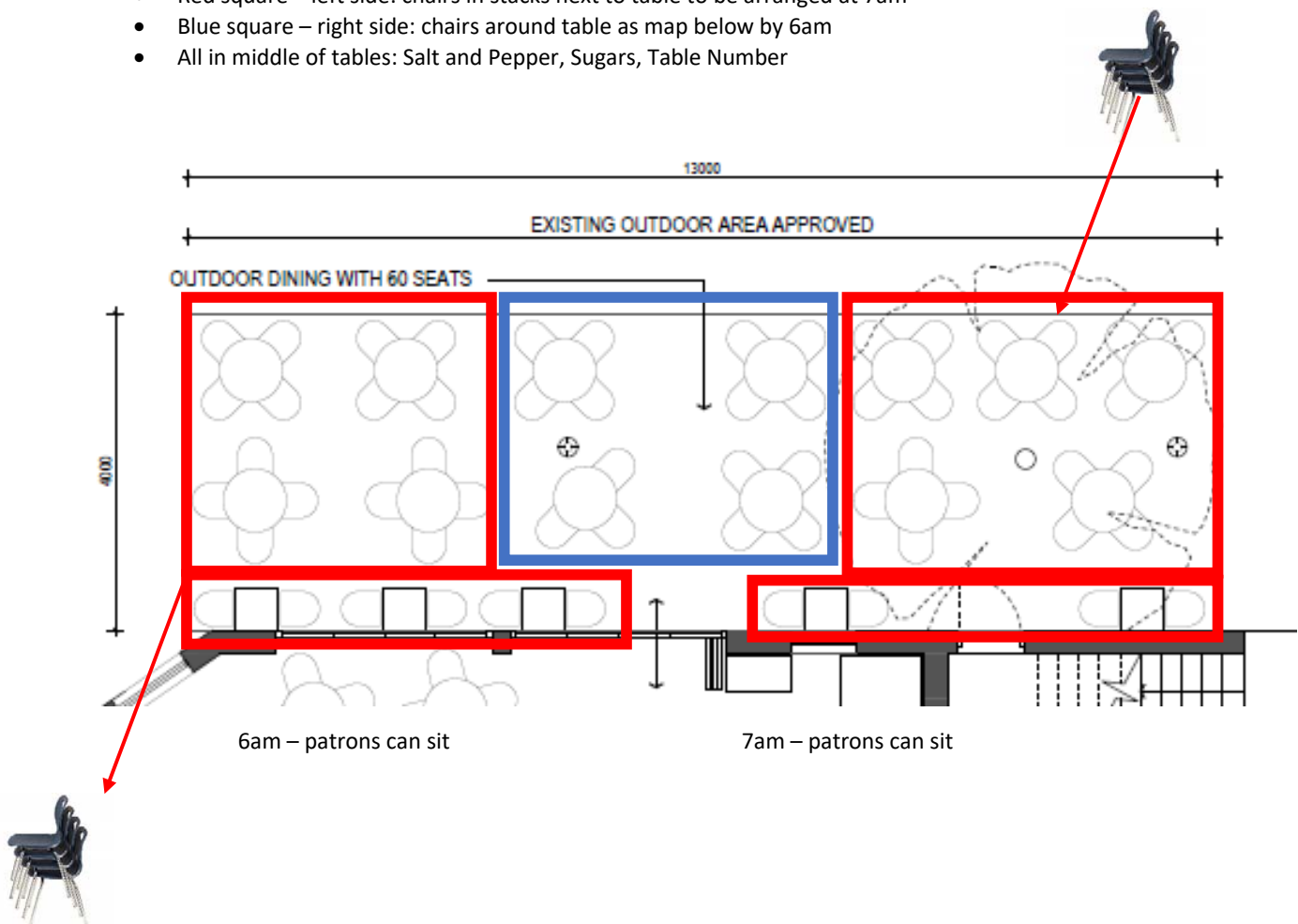
Maggio's Cafe has developed this plan to maintain the highest standards of responsible alcohol service and patron welfare. In making this commitment the Cafe will continue to participate in our local liquor accord, council regulations and will consult, as required, with the local community regarding the safety and operations.

Business Philosophy

We endeavor to create an environment which is safe and enjoyable for both patrons and staff. We are committed to providing an enjoyable experience and will serve our customers in a friendly, professional and responsible manner.

Opening Procedure

- 5:30am
- Take out all chair and tables and set accordantly
- Red square – left side: chairs in stacks next to table to be arranged at 7am
- Blue square – right side: chairs around table as map below by 6am
- All in middle of tables: Salt and Pepper, Sugars, Table Number



Responsible Service of Alcohol

It is our legal duty to ensure that alcohol is served responsibly, and we comply with all legislation affecting our service to our customers.

- All staff are trained in RSA.
- Management reinforce RSA principles and practices in everyday trade.
- Management support staff who practice and reinforce RSA practices.

Responsible Hospitality Practice

- We provide Water free of charge.
- We provide food throughout trading hours.
- We sell light or mid-strength beer option.
- We encourage patrons to monitor and control their consumption of liquor.
- We deter patrons from rapidly and excessively consuming liquor.
- We supply alcohol in a standardized quantity that can be recognized by patrons.

Intoxicated & Disorderly Patrons

- Patrons who are behaving in a disorderly, violent or quarrelsome manner, or are showing signs of intoxication will be refused service and asked to leave.

We reserve the right to define “intoxication and signs of intoxication” for this purpose.

- If a patron does not leave the premises on request, Police will be contacted accordingly.
- All staff are trained in identifying signs of intoxication.
- Management support staff who refuse service to patrons showing signs of intoxication.

Responsible Service of Alcohol

It is our legal duty to ensure that alcohol is served responsibly, we comply with all legislation affecting our service to our customers.

- Alcohol is not our main point of sale, it is there for convenience, we have one beer and one light beer on the menu and allow BYO to a handful of customers that enjoy a wine with lunch.
- All ejected patrons must speak with the Licensee before being allowed to return to the premises.
- Management do not support drinking practices which foster a culture of binge drinking and encourage irresponsible consumption practices.
- Management seeks to meet its duty of care obligations to all patrons.

Safety and Security

We are dedicated to the safety and security of everyone who enters or works on our premises.

- There is 3 camera CCTV system to help monitor and record work activities and patron behaviour. This system monitors internal and external areas of the cafe.

Staff Training

- Management encourage staff to be trained efficiently and effectively for their jobs.
- Management ensure all staff are RSA trained.
- Staff are trained to clear empty bottles, cups, plates etc, to ensure a safe environment is maintained for all patrons.

Noise Management

Staff and management of Maggios Cafe monitor noise levels from 6am to 7am particularly and rest of the trading hours to ensure that there is no excessive noise emanating from the venue.

- **Maggios Café CLOSES at 4pm Mon – Wed all chairs and tables are stacked inside from 3.45pm**
- **Maggios Café CLOSES at 8pm Thurs – Sat all chairs and tables are stacked inside from 7.45pm**
- **Maggios Café CLOSES at 3pm Sunday all chairs and tables are stacked inside from 2.45pm**

David Scobie Architects

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Statement of Support

Development Application DA313/20

Proposal:

Alterations and additions to tenancy, increase outdoor seating capacity and extension of trading hours



Figure 1: Front West Elevation to Miller Street. Subject property has the blue awning. [Source: Google Maps]

Maggio's café', 457 Miller Street, Cammeray NSW 2062

Architect: David Scobie Architects Pty Ltd

Business Owners: Christian Maggio

Property Owner: Christian Maggio

Support Statement

North Sydney Council
200 Miller Street
North Sydney
NSW 2060

Attention: Lara Huckstepp
Executive Planner

Dear Lara

Thank you for your correspondence which followed a telephone conversation over a number of matters relating to the DA.

Our Clients are as keen as is Council to resolve the issues which we have all been working on for some months and appreciate your diligence over the situation.

Our responses are noted under the same headings as per your letter 313/20 (LH) (CIS) dated 24/5/2021

1. Number of patrons and configuration of outdoor seating area
 - Location of umbrella points;
 - Location of trees
 - Location of light post
 - Heaters

Thanks for your observations made on site in relation to these items. We have made a further site visit and accurately located the items. The amended plan now schedules each of these items and covers them in a Legend: 01 for Council lamp posts, 02 for Umbrella posts and 03 for the existing tree trunk.

In relation to the heating units, our Clients have undertaken to have these replaced with overhead radiant units supported from the outdoor umbrella frames. This is now common practice in outdoor venues and offers substantial improvements in the removal of the units from the floor area and improved effective comfort for patrons.

The primary objective for Maggio's is to offer a personalised offering to their customers and unlike many cafes and food and beverage venues, Maggio's offers full table service to the patrons.

This service starts with ordering and extends through service and finally payment. Unlike earlier times with manual ordering and service, a large part of customer service is electronic, using tablets and web enabled communications with the kitchen and payment systems.

This enables the staff to concentrate on offering a very personal service while reducing the traffic within the customer spaces.

The layout therefore is comfortable in departing from the traditional arrangement of 2m square for the standard table and service arrangement.

Aisles of 500mm are therefore deemed efficient and suitable for the type of service and the café offering provided by Maggio's.

The seating plan has been modified and it now illustrates nine rectangular tables of four in the general seating area. These tables utilise pairs of patrons seated opposite each other. This leaves both sides of the table unencumbered for dedicated circulation via the 500mm aisle.

The central series of three tables has been located proximate to the light post and umbrella post so by association these elements do not produce additional obstruction.

The layout takes special notice of the tree trunk and the associated pavement at ground level. Maggio's are appreciative of the measures which Council staff have taken over the years to stabilise the pavement beneath and around the tree. The tree is part of the Laneway and the character and ambience and the layout only seeks to mitigate the impact of the tree on the arrangement. To this end additional circulation has been provided around the trunk and the stabilised pavement. His area is clearly indicated on the layout drawing.

Against the building, the layout adopts the standard series of just two half square tables with pairs of patrons. Again as above the unencumbered 500mm aisle leaves sufficient space for circulation and service.

In summary, the revised layout illustrates 51 patrons which is a reduction of 9 from the 60 shown in the Application.

It is noted that the Outdoor Dining and Goods Display Policy Schedule 4 identifies dimensions and typical layouts for tables, chairs and circulation. The relevant section is 8.5.2 with 8.5.3 providing details for furniture and equipment.

The following assessment and commentary is provided in support of the revised proposal:

8.5.3 Furniture and equipment

Objectives

O1 To provide a consistent approach to the provision of furniture and equipment within the public domain.

- The Maggio proposal departs from the suggestions in minor ways so as to provide a layout for outdoor dining to meet the needs of the 'full service model' of the café business while being adapted for the specific constraints of the location

O2 To ensure the safety and amenity of both patrons using outdoor dining and goods display areas, and pedestrians and drivers passing by.

- The Maggio business provides a safe operating model for the staff and a high level of amenity for the patrons. Staff are fully trained in the specific requirements of operating a full service model for the café in the outdoor and indoor settings established by the business
- The Maggio business does not adopt any additional elements within the outdoor setting such as café shelters & screens, goods display stands and advertising boards. While permitted, these would otherwise detract from the full service model of the business.

O3 To minimise the visual impact upon the character of an area.

- The Maggio business does not adopt any additional advertising elements within the outdoor setting such as café shelters & screens, goods display stands and advertising boards. This ensures that that the visual character has no additional elements which could distract from the business and amenity for the patrons.

Provisions

General Requirements

P1 Outdoor furniture / equipment is to be provided in accordance with that identified in Schedule 5 of the North Sydney Outdoor Dining & Goods Display Policy.

- All the items forming part of the proposal are of commercial grade and fit for purpose and consistent with Schedule 5

P2 Outdoor furniture / equipment is to be of a commercial grade, to ensure that the safety of patrons and pedestrians.

- All the items are fit for purpose in the outdoor setting

P3 All temporary furniture and equipment must be removed from the footpath and stored within the premises, at all times outside of the approved operating hours of the premises.

Support Statement

- All the furniture is designed for relocation internally and the current use demonstrates the success of the systems

P4 Where temporary screens or barriers are used in conjunction with planter boxes, they must uniform in appearance for the premises that they serve, but only where there is more than one screen or planter proposed.

- No temporary screens, barriers or planters are utilised as they would distract from the full service model

P5 Temporary furniture and equipment must be stable and not prone to falling over when knocked over by pedestrians or blown over in high winds.

- All the furniture including the umbrellas and blinds have been tried and tested for inclement weather

P6 All furniture and equipment must be strong, durable, waterproof and weather resistant.

- All the furniture is of a suitable commercial grade to suit the specific outdoor application and Laneway setting

P7 Furniture and equipment should not contain sharp edges, hinges or other moving parts which could be hazardous to the safety of users.

- Both the tables and chairs have special edges designed to reduce the risk from catching and providing obstructions
- The layout has been developed to provide clear aisles free for circulation and unencumbered by chair legs or elements associated with patronage

P8 Furniture and equipment must be capable of being easily moved and folded or stacked for storage.

- All the furniture and equipment has proved to be suitable for storage and relocation on a daily basis

P9 Only purpose made structures will be permitted for the display of goods (i.e. do not use make-shift display stands such as milk crates or packing boxes).

- No display stands or other extraneous items which could detract or distract from the use and setting are proposed

P10 Payment points or garbage bins must not be located in the outdoor area.

- Maggio's operates a full service model which reduces the circulation and distractions within the layout. The garbage bins are entirely separate from the outdoor dining location
- Maggio's is proud to be associated with the Laneway and appreciates the character and amenity which this public thoroughfare provides

P11 All furniture and equipment is to be constructed of materials and comprise colours appropriate to outdoor use such as powder coated or polished aluminium, brushed or stainless steel, neutral or painted timber, canvas, non-reflective materials and darker colours (white is not suitable as it deteriorates rapidly in the urban environment).

- All the furniture and equipment has proved to be suitable for the environs, weather, service life, storage and relocation on a daily basis
- Maggio's upgrades all items at the end of a reasonable service life or in the event of damage which could detract from the safe use and amenity of the facility

P12 Ensure that the display of goods is neat and tidy at all times.

- Maggio's operates an entirely separate business to similar high standards as a bakery and hence the Café proposal works in tandem but without duplication. Hence there is no requirement for the display of goods in the area occupied by the outdoor dining layout.

Screens or Barriers

P13 Must not be a permanent structure. However, Council may consider approving a permanent screen or barrier, but only where the applicant can demonstrate that the structure/s:

- (a) will not reduce the safety of pedestrians using the footpath,
 - (b) will not adversely obstruct emergency access; and
 - (c) will not adversely reduce pedestrian flows; and
 - (d) are required to provide added safety protection when located along busy roads, and (e) will not detract from the urban streetscape.
- Maggio's does not provide screens or barriers as these are not deemed to be required within the Laneway setting which is a semi-protected environment.

Support Statement

P14 Maximum height of 900mm. Screens on sloping sites may be “levelled off” by use of an adjustable telescopic foot or the like.

P15 Maximum individual length of 1.2m. Where more than one screen or barrier is proposed, they must be joined with a common lift-off pedestal. Screens must not be chained or roped together.

P16 The screen or barrier must comprise a stainless steel, aluminium or painted metal frame, with a fabric or vinyl insert which is either bonded or laced to the frame. Glass or perspex inserts and plastic frames are not permitted. However, Council may consider approving glass or perspex insert screens, but only where the applicant can demonstrate that these types of screens will positively contribute to the streetscape and are consistent with other similar screens in the locality.

P17 The screens or barriers must not contain any advertising other than a logo of the type permitted under Schedule 6 of the North Sydney Outdoor Dining & Goods Display Policy. Planter boxes

P18 Must not be a permanent structure. However, Council may consider approving a permanent planter box, but only where the applicant can demonstrate that the structure/s:

- (a) will not jeopardise the safety of pedestrians, and
- (b) will not adversely obstruct emergency access; and
- (c) will not adversely reduce pedestrian flows; and
- (d) will not detract from the urban streetscape.

P19 Non-permanent planter boxes must be capable of being moved from the footpath to overnight storage by a single person.

- P20 Maximum individual As the Laneway is public space with existing landscape planting there is no need for additional planters.
- The proposed layout has been developed around the existing street tree and the pavement in the vicinity. This has incurred a restriction upon adopting a standard layout in the vicinity of the tree. The resultant loss of efficiency has been compensated for through varying the layout in the area which adjoins the tree but which is not encumbered.
- The impact of the variation where clear linear 500mm aisles are provided remains efficient, safe and fit for the purpose of circulation and amenity

P20 Maximum individual length 1.2m.

P21 Maximum height 900mm (excluding plants).

P22 Plants are to be of a hardy pot species or in season flowering species (which are changed when not in season).

Heaters

P23 Heaters must not be a permanent structure. However, Council may consider approving a permanent heater/s, but only where the applicant can demonstrate that the heater:

- (a) is attached to the host building in accordance with the manufacturer’s specifications; and
- (b) is located a minimum height of 2.7m above the footpath; and
- (c) is located a minimum of 500mm or the manufacturer’s specified distance, whichever is the greater, above and to the side of any combustible materials; and (d) is capable of being removed without detrimentally affecting the structure or appearance of the building; and (e) must not be attached to a heritage item. P24 Must be located a minimum of 800mm from any kerb (Measured from the edge of the heater canopy reflector

- The suspended heaters are fitted in accord with the suppliers instructions, 2700mm above the ground level, clear of combustible materials, are minimal in size so as not to be a visual obstruction and not close to any kerbs

P25 Tabletop heaters are not permitted.

P26 Heaters must comply with the relevant gas association or electricity authority requirements.

- The radiant heaters are Heatstrip Classic electric units by Thermofilm, with remote controls and comply with the relevant standards for connection and operations

P27 Electric heaters must comply with the relevant Australian Standards and must be connected to a circuit fitted with an earth leakage cut off device.

- The radiant heaters are compliant with the AS and are connected to a circuit with ELCO Device

P28 Gas heaters must incorporate an integrated gas bottle and must be fitted with a compliant (in service date) gas bottle with a safety shut off valve (in case of tipping over).

Tables and Chairs

P29 Chairs and tables must not comprise permanent structures.

Support Statement

- The chairs and tables are free-standing and located so as not to compromise the existing tree which is clearly illustrated on the plan as are the Light Poles

P30 Council may consider approving integrated bench tables and seats remaining in place overnight but they are to be fitted with an anchoring device to the building or to the ground.

- No furniture is fixed or remaining overnight

P31 Chairs must not be positioned such that a patron's back is facing the kerb, unless there is a minimum free space of 1.2m between the chair and the kerb or any safety screen/barrier located between the chair and the kerb.

- The furniture is located within the Laneway and there is no kerb in the vicinity

P32 Chairs and tables are to be maintained in a serviceable condition.

- All the furniture is maintained regularly and is replaced if damaged or otherwise considered to be at the end of a useful life through the loss of a suitable finish and appearance

Umbrellas

P33 Must not be a permanent structure. However, Council may consider approving a permanent umbrella, but only where the applicant can demonstrate that the structure/s: (a) will not jeopardise the safety of pedestrians using the footpath, and (b) are required to provide added protection along busy roads, and (c) will not detract from the urban streetscape.

- Council has previously approved the fixed umbrellas.
- These have proven to be safe to use, are used for provision of weather protection and do not detract from the character of the streetscape in Miller Street or the Laneway

P34 Minimum setback of 600mm from the kerb and the umbrellas' edges.

- The umbrellas are unrelated to the kerb due to the location in the Laneway

P35 Must not extend beyond the extent of the designated outdoor dining area, unless it can be demonstrated that an overhang is required to provide adequate weather protection. P36 Removable umbrellas must be secured by a stabiliser foot or other restraining device to avoid wind instability, and be capable of being removed in thirty minutes.

- The fixed umbrellas are located within the leased area and include the required restraining devices for stability in wind

P37 Minimum UV rating of 50 and must be waterproof.

- The Trevira commercial grade roof material on the umbrellas complies with the requirement for UV protection and weather protection

P38 All umbrellas used by a single premise or a building are to be the same colour and type. Where a locality is predominantly characterised by umbrellas with a single colour or type, then any new umbrellas must be consistent with that characteristic colour or type.

- The white Trevira umbrellas are a matching pair

P39 Gutters may be installed between adjacent umbrellas to provide continuous cover.

- The paired Umbrella layout has a central gutter

P40 Clear plastic roll down screens may be permitted on umbrellas, but only where they are provided in accordance with the manufacturer's specifications/instructions and are only used during inclement weather.

- Clear plastic roll down screens are fitted to the umbrellas and are provided in accordance with the manufacturer's specifications/instructions and are only used during inclement weather.
- The side screens are tied down to proprietary holding down brackets set within the pavement to avoid becoming un-restrained in wind or producing trip hazards.

P41 Umbrellas must not contain any advertising other than a logo of the type permitted under Schedule 6 of the North Sydney Outdoor Dining & Goods Display Policy.

- No advertising or branding is included within the umbrellas or screens

Retractable canopies

P42 Roll out or retractable canopies are to be fitted and operated in accordance with the manufacturer's specification and must be of commercial grade.

- The layout at Maggio's does not include any retractable elements such as canopies

P43 Any motorised canopy must be capable of being manually retracted.

P44 Any retractable canopy must be capable of being retracted in a minimum of 10 minutes.

P45 Council may require a wind assessment to be carried out by a suitably qualified consult if it considers that a site is unsuitable for such a structure.

P46 Canopies are to be fully retracted at all times outside of the approved operating hours of the premises.

P47 Canopies must not be anchored to the pavement or other structures on the footpath. However, Council may consider the anchoring of a canopy to the footpath, but only where it can be demonstrated in writing by a qualified wind consultant that such a system is required.

P48 Minimum setback of 600mm from the kerb. Where there is no kerb, a maximum projection of 2.5m applies.

P49 Minimum clearance of 3.2m above the pavement, or consistent with prevailing retractable blinds in the vicinity of the proposal.

P50 Minimum UV rating of 50 and must be waterproof.

P51 All canopies used by a single premises or building are to be the same colour and type. Where a locality is predominantly characterised by canopies with a single colour or type, then any new canopies must be consistent with that characteristic colour or type.

P52 Clear plastic roll down screens may be permitted off the sides of a canopy (i.e. not fronting the street), but only where they are provided in accordance with the manufacturer's specifications/instructions and are only used during inclement weather.

P53 Canopies must not contain any advertising other than a logo of the type permitted under Schedule 6 of the North Sydney Outdoor Dining & Goods Display Policy.

Display stands

- The Maggio's Café proposal does not include any product display stands

P54 Must not be a permanent structure.

P55 Display stands are to be fitted with a stabiliser foot or locking wheels/rollers. On sloping sites a tether may be required.

P56 Mobile trolley tables are to have at least 2 wheels which are capable of being locked to prevent movement.

P57 Display tables must incorporate weatherproof fitted covers for protection during short periods of inclement weather. If goods are to be stored beneath the table, they are to be stored on storage shelves or drawers integrated into the table and not located on the ground. If materials are to be stored under the table on shelves, the table is to be fitted with a skirt or doors to screen the storage areas from public view.

Summary

A revised layout is enclosed to illustrate an outdoor seating arrangement for 51 persons. The layout takes full account of the existing umbrellas, tree trunk, light poles and replacement overhead electric heaters.

The layout is consistent with the objectives of the Outdoor Dining and Goods Display Policy Schedule 4 with the exception of the provision of 500mm aisles between two rows of tables. This departure has been justified on the basis that the layout is based upon the full service offer provided by Maggio's Café for their patrons and the table to table proximity for the aisles being un-encumbered by seats.

The layout is a substantial reduction from the original layout which was submitted illustrating 60 patrons and has been revised to now account for the replacement of the pedestal radiators with the overhead electric heaters.

In allowing for the circulation around the existing tree trunk and the raised pavement to its perimeter, some mitigation has been provided out of necessity.

The proposed layout is therefore regarded as meeting the objectives and guidance provided by the Policy and the evidence of the Maggio's business having run a successful operation inclusive of the outdoor dining activity in this and the adjoining location for many years, supports the case for the current proposal.

David Scobie

Applicant on behalf of Maggio's Cafe