



**MINUTES OF RANDWICK LOCAL PLANNING PANEL (PUBLIC) MEETING
HELD ON THURSDAY, 9 JUNE 2022 AT 1PM**

Present:

Chairperson: Annelise Tuor

Expert Members: Heather Warton & Brendan Randles

Community Representatives: Kerri Hamer (Central Ward)

Council Officers present:

Manager Development Assessment	Mr F Ko
Executive Planner	Ms A Manahan
Coordinator Fast Track	Mr T Ristevski
Coordinator Major Assessments	Mr S Cox

Declarations of Pecuniary and Non-Pecuniary Interests

Nil.

Address of RLPP by Councillors and members of the public

Deputations were received in respect of the following matters:

D31/22 182 MARINE PARADE, MAROUBRA (DA/717/2017/A)

Applicant Michael Munro (Hosking Munro)

After the above speaker had addressed the panel, the public meeting was closed at 1.20pm. The Panel then moved to deliberate and vote on the matter.

The resolution, reason and voting outcomes for the item on the agenda are detailed below:

Development Application Reports

**D31/22 Development Application Report - 182 Marine Parade, Maroubra
(DA/717/2017/A) (DA/717/2017/A)**

RESOLUTION:

That the RLPP grants development consent under Section 4.55 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/717/2017 for additional seating for **30** patrons (**60** in total) to the existing outdoor dining area with tables / chairs / umbrellas at the Bay Hotel and Diner at 182 Marine Parade, Maroubra, in the following manner:

- **Amend Condition 1 to read:**

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

Plan	Drawn by	Dated
DA100 Revision D	Hosking Munro	19 July 2018

Except, as amended by the **Section 4.55 'A' plans and documentation listed below, only in so far as they relate to the modifications highlighted on the Section 4.55 plans and detailed in the Section 4.55 application**, except as may be amended by the following conditions and as may be shown in red on the attached plans:

Plan	Drawn by	Dated
DA100 (Outdoor Seating Plan, Location Plan + McKeon Street Elevation), Revision H	Hosking Munro	17 November 2020

- **Add Condition 1A to read:**

1A. The approved plan DA100, Revision H, dated 17 November 2020, must be amended in accordance with the following requirements and submitted to and approved by Council prior to operation of the outdoor dining area:

- The area and configuration of the outdoor dining is to be consistent with that approved under approval LA/71/2022 in relation to the temporary footpath dining. The plans are to have a total area of 85m² for the outdoor dining area and a maximum capacity of 60 persons.

- **Add Condition 20B to read:**

20B. The recommendations in the acoustic report prepared by Atkins Acoustics and Associates Pty Ltd dated October 2021 (ref: 52.7113.R1:GA/DT/2021 Rev 01) shall be implemented at all times:

- Implement an amended Plan of Management and Security Management Plan;
- no outdoor amplified music;
- no grouping of tables and chairs;
- installation and maintenance of CCTV surveillance cameras;
- outdoor furniture fitted and maintained with soft/cushioned leg cups/pads;
- all outdoor dining furniture removed at the conclusion of the trading period; and
- the installation of appropriate signage with respect to noise amenity and disturbance.

- **Add Condition 20C to read:**

20C. No amplified music, entertainment, or any other ancillary activity is permitted in the outdoor area.

- **Add Condition 33 to read:**

NSW Police Conditions

33. The use and operation of the outdoor dining area must be implemented in accordance with the recommendation outlined in the NSW Police Referral response dated 15 November 2021.

- **Amend Condition 3 to read:**

3. Prior to the installation of any items on the footway or operation of the extended footpath dining area, including any new area under DA/717/2017/A, the business proprietor shall enter into a new formal License Agreement with Council, covering the terms and conditions of the footpath dining. The applicant is advised to contact Council's Property Compliance Officer, (9093-6936), regarding Council's requirements for the formal license agreement.

Note: An updated plan in accordance with condition 1A is to be submitted as part of the license agreement documentation.

- **Amend Condition 3a to read:**

- 3a. Prior to entering into a new official agreement with Council for use of the footway dining area (in accordance with development consent DA/717/2017/A), the applicant shall submit to Council for approval and have approved an application for footway dining under the Roads Act 1993 in relation to the extended footway dining area.

- **Amend Condition 10 to read:**

10. The outdoor patron numbers are restricted to 60 persons and the operating hours must be restricted to the following and both are subject to a review period in accordance with Section 4.17 (10B) of the Environmental Planning & Assessment Act 1979 and Division 14 of the Environmental & Assessment Regulation 2000:

Outdoor dining/footway

- 8.00am and 9.30pm – Monday to Sunday and public holidays (inclusive).

The patron numbers and operating hours will be reviewed by Council within 12 months of the date of commencement of the increased patron numbers (60 persons). The operator of the premises must advise Council in writing of the date of commencement of the increased patron numbers and extended footway dining area. Appropriate supporting evidence (including but not limited to, an acoustic report) may be required at the end of the review period to demonstrate compliance with all conditions of this consent as part to the review.

All food and beverage services to customers shall only be provided within the abovementioned hours of operation and all patrons must vacate the area within 15 minutes of the specified hours.

- **Amend Condition 18 to read:**

18. Prior to commencement of operations, an amended plan of management is to be prepared to include but not limited to:
- The correct number of patrons approved to be in the outdoor area;
 - The recommendations provided in the acoustic report prepared by Atkins Acoustics and Associates Pty Ltd dated October 2021 (ref: 52.7113.R1:GA/DT/2021 Rev 01)
 - **The recommendations contained within the NSW Police Referral response, dated 15 November 2021.**

The Plan of Management should also detail the measures to be implemented to:

- ensure compliance with the relevant conditions of approval,
- ensure compliance with relevant noise criteria and minimise noise emissions and associated nuisances,
- minimise the potential environmental and amenity impacts upon nearby residents,
- effectively minimise and manage any possible anti-social behaviour or loud noises from children playing in the outdoor area,
- effectively manage and respond to resident complaints,
- ensure responsible service of alcohol and harm minimisation,
- provision of adequate security and surveillance,
- ensure that the maximum number of patrons does not exceed the authorised capacity, in accordance with Council's consent.
- **To ensure that alcohol is ancillary to food service.**
- **To clearly delineate the licensed area.**
- **To ensure how non-smoking is to be enforced.**

The plan of management is to be reviewed annually and amended as necessary to ensure compliance with the relevant requirements.

- **Amend Condition 19 to read:**

19. The maximum number of patrons within the outdoor dining area must not exceed **60** at any time and a sign detailing the maximum number of patrons permitted must be provided in a conspicuous position (e.g. near the building entrance), to Council's satisfaction. The maximum capacity of 60 patrons will be reviewed by Council within 12 months of the date of commencement of the increased patron numbers.

- **Amend Condition 20 to read:**

20. An acoustic report, prepared by a suitably qualified and experienced consultant in acoustics, must be provided to the Council **within 3 months of the commencement of the current consent (Modification A – DA/717/2017/A)**, which demonstrates and confirms that the relevant provisions of the *Protection of the Environment Operations Act 1997* and the noise criteria and requirements contained in this consent has been satisfied (including any relevant approved acoustic report and recommendations). The assessment and report must include all relevant fixed and operational noise sources. Assessment should be carried out at full capacity and consider the nearest affected residents.

REASON:

The Panel has visited or is familiar with the site, considered the submissions (oral and written) and reviewed the assessment report prepared by Council officers that addresses the relevant matters detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979, as amended.

The majority of the Panel supports the application for the reasons given in the assessment report, subject to minor changes to condition 18 to require further changes to the Plan of Management.

Kerri Hamer did not support the application as she was not satisfied that the amenity or health and safety impacts will be managed or are acceptable. She encourages the Applicant to have further discussions with the community and residents to address concerns raised in the letters of objection.

A VOTE was taken and the names of the Panel members voting FOR and AGAINST were as follows:

FOR	AGAINST
Annelise Tuor	Kerri Hamer
Heather Warton	
Brendan Randles	
Total (3)	Total (1)

The meeting closed at 1:56pm.

CONFIRMATION OF MINUTES BY PANEL MEMBERS	
Annelise Tuor (Chairperson)	Heather Warton
Brendan Randles	Kerri Hamer