

9 July 2020

Your ref: PPS-2019SSH002

Our ref: 218314

Professor Helen Lochhead  
Chair, Sydney South Planning Panel  
By email: [enquiry@planningpanels.nsw.gov.au](mailto:enquiry@planningpanels.nsw.gov.au)

Dear Professor Lochhead,

**Requested Amendments to Draft Conditions of Development Consent DA18/1448  
Stage 1 Precinct of Woollooware Bay Town Centre**

We write in relation to Development Application DA18/1448 (PPS-2019SSH002) in relation to the development of the Stage 1 Precinct of Woollooware Bay Town Centre at 455 Captain Cook Drive, Woollooware, which is scheduled to be considered by the Panel at its meeting of 15 July 2020.

We have now had the opportunity to review the Council's assessment report and draft conditions. We thank Council officers for their efforts in the assessment of this DA since its lodgement in December 2018, and support their recommendation for approval. The proponent, Aoyuan Group, met with Council officers on 6 July 2020 to discuss the draft conditions and suggested amendments to ensure that the consent is workable and reduces the need for further administrative changes subsequent to the issuing of a consent. **Appendix A** sets out those amendments which are requested, many of which have already been agreed to in-principle by Council officers. It is respectfully requested that these amendments be adopted in the Panel's final determination.

Should you require any clarification, please do not hesitate to contact the undersigned.

Yours sincerely,



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CC: Peter Barber, Director Shire Planning, Sutherland Shire Council  
Carine Elias, Team Leader, Sutherland Shire Council  
Amanda Treharne, Senior Planner, Sutherland Shire Council

## Appendix A. Proposed Amendments to Draft Conditions

The proposed modifications to the consent conditions are identified below. Words proposed to be deleted are shown in ~~bold strike through~~ and words to be inserted are shown in ***bold italics***. Reasons are provided to explain each proposed amendment to these conditions.

### 1.1 Draft Condition 1 – Approved Plans and Documents

Proposed amendment:

Plan number	Reference	Prepared by	Date
Landscape Plans			
SS18-3919 L-107 Rev G	Landscape Plan - Level 9 <b><i>Building B</i></b> Sky Terrace & Bldg D Residential Terrace	Site Image	Prepared 30/01/20
SS18-3919 L-202 Rev I	Planting plan <del>Ground Floor/Public Domain</del> <b><i>Planting Plan – Level 2 Hotel &amp; Club Setdown</i></b>	Site Image	Prepared 30/01/20
SS18-3919 L-203 Rev G	Planting Plan - <del>Levels 2, 3 &amp; 4 Car park Façade Planting &amp; Elevation</del> <b><i>Levels 3, 4 &amp; 5, Car park Façade Planting &amp; Elevation</i></b>	Site Image	Prepared 30/01/20
SS18-3919 L-503 Rev F	Landscape <b><i>Streetscape</i></b> Details	Site Image	Prepared 28/08/19

Reason: To fix incorrectly referenced plans.

### 1.2 Proposed New Condition 1A – Staging of Construction Certificates and Occupation Certificates

Reason:

The consent is currently structured in two stages that do not clearly relate to the staging outlined in the SEE and drawings that accompanied the DA. The draft conditions contained in Stage 2 of the consent are also mostly duplicates of conditions contained in Stage 1 of the draft conditions. To resolve these two issues, it is proposed to insert a new Condition 1A that sets out the staging of the development in accordance with the staging plans and sequence outlined in the DA, and incorporate an overarching requirement that where a condition requires an action prior to the issuing of a CC/OC, that this action is to be undertaken prior to the issuing of the *relevant* certificate.

The staged approach outlined in the SEE/DA and above is necessary to allow for the staged construction and occupation of the precinct to reflect the requirements of users and to accommodate market conditions. It is important to ensure that the Club is able to resume trading as soon as its premises are fit for purpose, and similarly it will be important to allow the commencement of retail trade to make these facilities available to the community – previous studies supporting the Concept Approval demonstrated a significant shortage of suitable food retail facilities within the eastern half of Sutherland Shire. With the buildings above the podium, it is also important that staged construction and occupation is possible to respond to market conditions and the timing of pre-sales.

If the following is not accepted by Council or the consent authority, we suggest that the conditions revert to the two-staged approach reflected in Council's current draft conditions. If this is the case, then the consent should include clear wording to identify which components would be included in each stage – we have annotated this in the proposed amendment below based on the logical construction sequencing.

Proposed amendment:

***Notwithstanding any other condition of this consent, this consent permits separate Construction Certificates and Occupation Certificates to be issued for the approved development in stages, provided that all conditions of consent relevant to the development incorporated within each stage have been complied with prior to the release of the Construction Certificate or Occupation Certificate for that stage.***

***For the purpose of this condition, Construction Certificates may be issued in the following stages:***

- 1. Stage 1 Construction Certificate – Site preparation and enabling works; Level 2 Club Deck; Car parking up to Level 2***
- 2. Stage 2 Construction Certificate – Construction of new retail centre across Ground, Level 1, Level 2 and Level 3, including conversion of Level 1 and 2 of Leagues Club building and car parking***
- 3. Stage 3 Construction Certificate – Completion of retail centre; Completion of Leagues Club and retail loading docks; Completion of retail and residential parking***
- 4. Stage 4 Construction Certificate – Residential Building C***
- 5. Stage 5 Construction Certificate – Residential Building B***
- 6. Stage 6 Construction Certificate – Residential/ Hotel/ Office Building E***
- 7. Stage 7 Construction Certificate – Residential Building A***
- 8. Stage 8 Construction Certificate – Residential Building D***

***For the purpose of this condition, Occupation Certificates may be issued in the following stages:***

- 1. Stage 1 Occupation Certificate – Club interior areas***
- 2. Stage 2 Occupation Certificate – External Club upgrade works***
- 3. Stage 3 Occupation Certificate – Retail construction, including Level 2 Car Park and Level 2 roadway, including entry and exits and circulation to adjoining external roadway***
- 4. Stage 4 Occupation Certificate – Retail centre construction, including completion of Level 2 car park and entry and exits from Woollooware Road North.***
- 5. Stage 5 Occupation Certificate – Retail centre completion, including car parking***
- 6. Stage 6 Occupation Certificate – Residential Building C***
- 7. Stage 7 Occupation Certificate – Residential Building B***
- 8. Stage 8 Occupation Certificate – Residential/ Hotel/ Office Building E***
- 9. Stage 9 Occupation Certificate – Residential Building A***
- 10. Stage 10 Occupation Certificate – Residential Building D***

[As outlined in our submission above, should the consent authority not accept the sequenced approach outlined in the SEE/DA, the staging could be sequenced into Stage 1 (black text) and Stage 2 (red text) as outlined above.

In accordance to the above, any reference throughout the draft conditions to 'a Construction Certificate' or 'an Occupation Certificate' should be amended to read 'the relevant Construction Certificate' or 'the relevant Occupation Certificate'.

In addition to the above, it is proposed to delete all conditions from Stage 2 Conditions except for the following unique conditions that would be merged into the consolidated conditions:

- Condition 1 – merge plan tables
- Condition 20
- Condition 29
- Conditions 30-32

## 1.3 Draft Condition 2 – Design Changes Required

### Proposed amendments:

- ii) The north-south pedestrian access at Ground Level shall have the same or equivalent paving to that used at the primary pedestrian retail entry forecourt off Captain Cook Drive. This internal link must have a special ceiling treatment for its full length together with lighting and signage ~~and appropriate glazing~~ along the eastern side adjacent the carpark to ensure it is defined as a high quality, safe and welcoming shared spaces, visually separated from the adjacent car park. ***The provision of suitable physical separation between the parking area and the pedestrian access is to be demonstrated to the satisfaction of the Director, Shire Planning prior to the issue of the relevant Construction Certificate.***

Details of these design changes must be included in documentation submitted with the application for ~~a~~ ***the relevant*** Construction Certificate.

### Reasons:

The proposed requirement for glazing along the edge of the north-south pedestrian result in glazing directly adjacent to vehicle parking areas, and creates safety issues for both pedestrians and vehicles. Providing full enclosure in this position also creates potential issues for ventilation of the pedestrian area, and increases the potential for pedestrian/vehicular conflict by reducing the ability to for customers to directly access parked vehicles from the pedestrian link (for loading of goods, children etc.). The proponent is willing to work with Council to ensure that a suitable balance is provided that ensures safety and physical separation of vehicles from the pedestrian link without full-height glazing, and will work towards a suitable design outcome to the satisfaction of Council prior to the issue of the relevant Construction Certificate.

## 1.4 Draft Condition 5 – Road Dedication

### Proposed amendments:

- A. Before ~~Construction~~ ***Occupation***

Prior to the issue of ~~any construction certificate~~ ***the relevant occupation certificate***, dedication must be provided to Council for the following areas to facilitate the road works required by the development:

- i) Adjacent to the western side of Woollooware Road north to facilitate the cul-de-sac and turning movements of articulated vehicles servicing the development and the easement for transmission. ***This area is to be dedicated prior to the issue of any Occupation Certificate for Stages 6-10.***
- ii) On the north western corner of the intersection of Captain Cook Drive and Woollooware Road to facilitate the new signalized intersection and footpath pavement. ***This area is to be dedicated prior to the issue of any Occupation Certificate for Stages 3-5.***
- iii) On the northern side of Captain Cook Drive adjacent to the new loading dock / egress to facilitate the new signalized intersection. ***This area is to be dedicated prior to the issue of any Occupation Certificate for Stages 3-5.***

### Reasons:

Dedication of the proposed areas can only occur once these are constructed to their final standard, to allow for accurate survey prior to dedication. In the case of (i), this will only occur following the cessation of construction staging for the residential buildings in the area immediately to the north of the retail loading dock.

## 1.5 Draft Condition 6 – Foreshore Landscape Works Prior to Occupation Certificate

### Proposed amendments:

~~An Occupation Certificate must not be issued for the retail centre development until the foreshore landscape and civil infrastructure works under DA20/0266 are fully constructed and an Occupation Certificate for the works has been granted. Evidence of the issue of this Occupation Certificate must be provided to the satisfaction of the Director, Shire Planning prior to the issue of the Occupation Certificate for the retail development.~~

INSERT:

**An Occupation Certificate must not be issued for the retail centre until the foreshore landscape and civil infrastructure works identified as Stage 1 under DA20/0266 (as detailed in the Construction Staging Plan L-C-01(L) by Habit8 dated 30 March 2020) are fully constructed and an Occupation Certificate for the works has been granted. Evidence of the issue of this Occupation Certificate must be provided to the satisfaction of the Principal Certifying Authority prior to the issue of the Occupation Certificate for the retail development.**

**An Occupation Certificate must not be issued for any residential dwelling until the foreshore landscape and civil infrastructure works identified as Stage 2 under DA20/0266 (as detailed in the Construction Staging Plan L-C-01(L) by Habit8 dated 30 March 2020) are fully constructed and an Occupation Certificate for the works has been granted. Evidence of the issue of this Occupation Certificate must be provided to the satisfaction of the Principal Certifying Authority prior to the issue of the Occupation Certificate for the retail development.**

#### Reasons:

As noted in the staging plans submitted with the DA (refer extract below), part of the foreshore landscaped area is required for construction materials handling, loading and lifting to facilitate the construction of the residential buildings above. This is critical as these activities are not able to be undertaken from the Captain Cook Drive or Woollooware Road North frontages.

As outlined in DA20/0266 (refer to extract from SEE below), it is proposed that Stage 1 would be completed prior to the occupation of the Retail/Club component (Stage 2 Occupation Certificate), whilst Stage 2 would be completed prior to the issue of any Occupation Certificate for a residential dwelling. Proposed conditions to this effect are included to the left.

We have also suggested changing the requirement to provide the relevant landscape OC to be to the satisfaction of the PCA, rather than Council. This avoids duplication as Council retains all relevant sign-offs prior to the issue of an OC under the Landscape DA.



#### STAGING OF WORKS

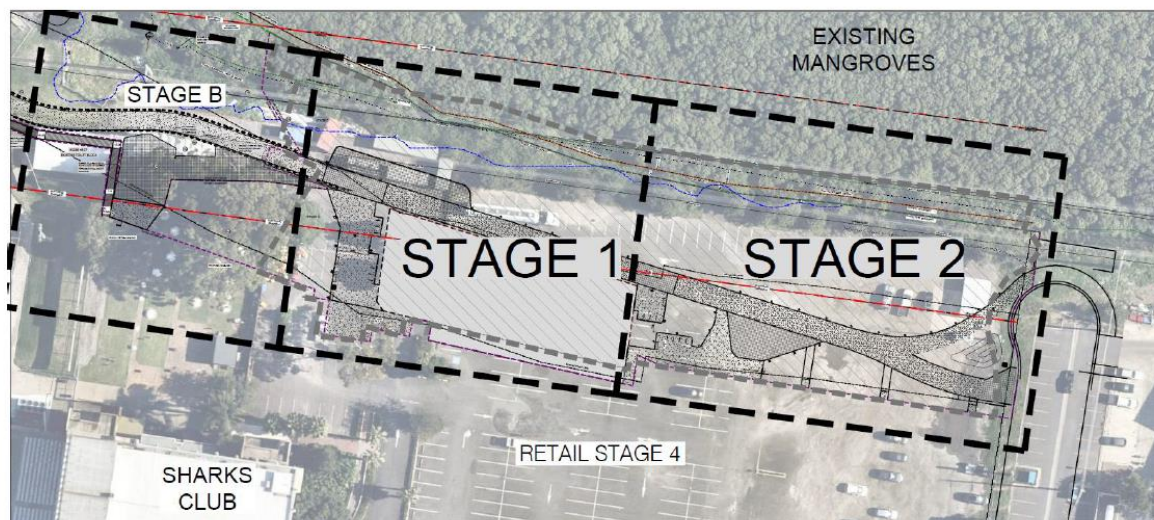
1. Retail and Club portions to be completed in stage 1 work
2. Staged completion and occupation of residential (Buildings A, B, C & D) and hotel (Building E) portions, including podium landscaping areas.
3. Maintain semi-trailer access to Family hill, Ausgrid/ Family Hill/public shared path access has to be maintained
4. The evacuation route from residential
5. Allocated construct compound area for residential works
6. Commissioning of Western signalisation at opening of Retail / Club portions
7. Section C landscaping to be completed and opened, including TBO playground, with the Retail and Club portions - Stage 1 of works (under separate DA application)
8. Section C landscaping, including final access shared roadway, to be opened with the completion of residential works, and removal of builders compound - Stage 2 of works (under separate DA application)

Extract from Staging Plans submitted with DA – extract also provided in Council Assessment Report (p.55)



#### 4.8 Staging of Works

It is proposed that works will be completed in a staged manner, as illustrated in **Figure 9** below. This will allow for works in the western portion of Section C to be completed first, including the Livvi's Place playground and pedestrian bridge from the retail centre. This will enable these works will be completed to align with the opening of the retail centre. This will allow the Stage 2 area to be used as a temporary work compound while the remainder of works subject to DA19/0448 are completed. Once the temporary work compound is no longer required, the landscaping works in Stage 2 will be completed. It is requested that the consent is structured to allow staged Construction Certificates and Occupation Certificates to be issued accordingly.



**Figure 9 Preliminary staging plan**

Source: Habit8

Extract from Statement of Environmental Effects for DA20/0266

#### 1.6 Draft Condition 7 – Plans of Management

##### Proposed amendments:

The hotel, Club and retail centre shall operate **generally** in accordance with the following plans of Management submitted with the application:

[Insert at end:]

***An approved Plan of Management may be amended from time-to-time to reflect appropriate operating practices of the premises only with the approval of the Director, Shire Planning.***

##### Reasons:

To provide some flexibility to allow for minor variations in trading within the parameters of the Plans of Management to respond to actual trading conditions, and to allow the Director, Shire Planning to approve minor amendments to the Plans of Management governing the operation of the Retail Centre, Club and Hotel.

#### 1.7 Draft Condition 11 – Design and Construction of Works in Road Reserve

##### Proposed amendments:

- x) Median Island & Fencing - Install a new median island along Captain Cook Drive ~~for the length of the development in accordance with the Roads Act Approval RDA 16/0812.~~ Install Type 1 RMS fencing from the existing fence at the western end of the sight to the eastern extent of road works on Captain Cook Drive.

##### Reasons:

The Roads Act Approval RDA 16/0812 requires only 90m of fencing from each intersection per Roads Act requirements. This fencing has been undertaken in accordance with the Roads Act Approval.

## 1.8 Draft Condition 12 – Construction Environmental Management Plan

### Proposed amendments:

- B. Before Commencement and Issue of Construction Certificate  
The Construction Environmental Management Plan (CEMP) must be submitted to the satisfaction of **Sutherland Shire Council, Manager Environmental Science Principal Certifying Authority**, prior to commencement and the issue of any construction certificate.

### Reasons:

In our experience it is typical for a CEMP to be approved by the certifying authority rather than the Council. If Council's view is that this sign-off role is important then the condition can be retained as drafted.

## 1.9 Draft Condition 15 – Internal Driveway, Parking and Manoeuvring

### Proposed amendments:

- v) The car park must be line marked to accommodate ~~1170~~ **1127** vehicles in total ***following the completion of all works.***  
viii) The commercial parking spaces must comply with AS2890.1(2004) user class ***1A 3A***, in relation to the design of vehicular access, parking and general manoeuvring for the B85 vehicle.  
xiii) Parking bays must not be enclosed, caged or a door provided ***except where shown on the approved drawings identified in Condition 1.***

### Reasons:

This condition requires clarification to align with the staged construction and occupation of the project, as residential parking spaces would still be under construction at the time that the retail centre commences operation.

Update required to total car parking spaces to be consistent with proposed provision, which comprises 770 retail/Club spaces, 300 residential spaces, 15 office spaces, 37 hotel spaces, 1 shared office/hotel space and 4 car-share spaces.

In relation to (viii), correct parking space class type to 1A for commercial spaces.

In relation to (xiii), the DA drawings identify 12 residential car spaces to be enclosed with a door, consistent with the approach taken to previous residential stages at Woollooware Bay.

## 1.10 Draft Condition 16 – Stormwater Drainage

### Proposed amendments:

- A. Before Occupation - Stage 1  
Prior to the issue of an Occupation Certificate;  
i) The stormwater drainage system must be constructed in accordance with the approved stormwater plans prepared by AT&L Civil Engineer and Project Managers ***Civil Infrastructure Report and Sheets C010 to C016 dated 29/01/2013, Revision A*** that form part of the Planning Assessment Commission approval MP 10\_0230  
ii) A Works-As-Executed drawing (WAED) of the stormwater drainage system must be prepared by a Registered Surveyor. This drawing must detail the alignment of pipelines, pits, the rainwater tanks ~~and the detention facilities~~. An original or a colour copy must be submitted to Sutherland Shire Council.  
~~B D.~~ Ongoing  
ii) The stormwater ~~detention and~~ treatment facility ***must be maintained in good working condition by removal of accumulated silt, rubbish and debris in accordance with an approved Maintenance Plan.***

### Reasons:

Reference to Civil Infrastructure Report added for completeness.

On-site detention (OSD) is not proposed or required on this site. Accordingly amendments to conditions are proposed to reflect this and clarify the requirements for ongoing management of the stormwater quality devices.

Correct lettering as no B or C currently proposed.

## 1.11 Draft Condition 25 – Landscape Works

### Proposed amendments:

A.

iii) Substitute up *Raphiolepis* (***except in the area surrounding the podium level pool***) and *Liriope* with alternative species of similar size and form that are compatible with the endangered ecological community Kurnell Dune Forest and RAMSAR wetland adjacent.

~~ix) — Each ground floor unit must be provided with a clothes line easily accessible from the laundry. Each unit above the ground floor must be provided with a clothes line on a balcony located below balustrade height, with the balustrade treated so that clothes are not readily visible from the street. Each Level 6 unit with a terrace (Units A.0603-08; B.06.09-16; B.06.18-19; C.06.20-22; C.06.24-25; C.06.28; D.06.30-31, D.06.34) must be provided with a clothes line easily accessible from the laundry.~~

### Reasons:

The substitution of *Raphiolepis* is agreed to with the exception of the podium (Level 6) residential communal pool area, where this species is important in providing a high-amenity space for residents. The substitution of this species at Level 6 would have no ecological benefit, and its retention is therefore considered to be appropriate.

Consistent with the approach taken by Council in relation to Residential Stage 3 (within the precinct to the west of the Stadium), it is only proposed to require the provision of a clothesline for podium-level apartments that have a terrace.

## 1.12 Draft Condition 31 – Site Remediation and Validation

### Proposed amendments:

A. (i) Table 1: Site Identification must reference only the following Lots:

**Part** Lot 312 DP 1232026

**Part** Lot 313 DP 1232026

**Lot 314 DP 1232026**

Lot 315 DP 1232026

### Reasons:

To reference the correct site description as identified in the RAP.

## 1.13 Draft Condition 55 – Car Parking Areas

### Proposed amendments:

~~55. — Car parking Areas~~

~~A. — Ongoing~~

~~To ensure that the car parking area satisfies the demands of the development:~~

~~i) — it must be made available on an unrestricted basis and free of charge at all times for employees' and visitors' vehicles.~~

### Reasons:

It is proposed that the car park would have a 2-hour free parking period, after which parking would be paid for by all users. This is consistent with the approach to parking demand management outlined in the Traffic and Parking Impact Assessment prepared by McLaren Traffic Engineering submitted with the Development Application. This is necessary to promote the use of public transport, and to avoid overstay/ overuse of the retail parking by residents etc. on an ongoing basis, consistent with the approach of other comparable shopping centres throughout the Sutherland Shire and broader Sydney region.



### 1.14 Draft Condition 56 – Car Parking Allocation

#### Proposed amendments:

A. Prior to Occupation

Parking must be allocated on the following basis:

- Residential dwellings: 300 spaces
- Hotel: 38 spaces (*including 1 accessible space to be shared with office users*)

#### Reasons:

In accordance with the proposed distribution of parking.

### 1.15 Draft Condition 58 – Hours of Operation

#### Proposed amendments:

Retail Centre

A. Ongoing

i) Trading Hours

The trading hours of the premises shall be restricted to the following (unless operating hours of specific tenancies are given separate approval:

Indoors: - Sunday to Thursday & Public Holidays: 6.00am – ~~10.00pm~~ **12.00 midnight**  
- Friday and Saturday: 6.00am – ~~11.00pm~~ **12.00 midnight**

Outdoor Seating - Sunday to Thursday & Public Holidays: 6.00am – ~~10.00pm~~ **12.00 midnight**  
- Friday and Saturday: 6.00am – ~~10.00pm~~ **12.00 midnight**

#### Reasons:

Later trading hours are proposed for the retail centre to allow for dining in accordance with typical restaurant hours. If desired, this extension could be granted on a trial basis in accordance with the requirements of Chapter 37 – Late Night Trading of the Sutherland DCP.

### 1.16 Draft Condition 59 – Licensed Premises

#### Proposed amendments:

~~59 – Licenses Premises Leagues Club~~

A. Ongoing

i) Trading Hours

The trading hours of the premises must be in accordance with the existing license agreement No. LIQC300226727.

~~To allow Council to review the ongoing management performance of the premises and its impact on neighbourhood amenity, consent for trading hours of the Club deck is granted subject to a one (1) year trial period. The trial period is to commence on the date of commencement of use of the Club deck:~~

~~Sunday to Thursday: 8.00am to 10.00pm~~

~~Friday and Saturday: 8.00am to 11.00pm~~

~~A modification application to extend the one (1) year trial period or to make the above hours permanent is required to be submitted to Sutherland Shire Council nearing the completion of the trial period, if it is intended to continue with extended hours of operation.~~

~~Alternatively, the trading hours shall revert to the below hours of operation:~~

~~Sunday to Thursday: 8.00am to 10.00pm Friday and Saturday: 8.00am to 10.00pm~~

~~The Friday and Saturday night trading hours are for a trial period of 12 months.~~

ii) Occupation of the site

The **premises external Club Deck** must not be occupied by staff or contractors beyond 1 hour after the cessation of trading.

v) Live Entertainment - Band Equipment

No amplified music involving live bands with drums or bass guitars is permitted ~~inside or outside the Club~~ **on the Club Deck** at any time.

Reasons:

It is suggested that this condition be renamed to clarify that it relates to the Leagues Club. The reason for this is to avoid confusion with other tenancies within the site (i.e. liquor take-away sales, on-premises restaurants) that will be licensed.

The proposed trial period is not supported by the Club, on the basis that the design and operation Club Deck has already been assessed as being appropriate as part of the assessment of this Development Application. All new residents will be aware of the location and approved operation of the Club and Club Deck, and therefore any objection to the reasonable operations of this area in accordance with the development consent would not be well-founded. If this request is not supported, it is requested that this condition be clarified to provide measurable parameters that must be achieved (i.e. with respect to acoustic performance) to provide clearly defined parameters under which the trial period may be extended. Should this proposed amendment not be supported, it is proposed that the trading hours for the deck be amended to be '8.00am to 11pm' every day to accord with the Plan of Management issued to Council as part of the application.

With respect to lii), this change is to allow for maintenance and cleaning in accordance with normal practice where this is internal and will therefore not cause amenity disturbance.

With respect to (v), it is not reasonable to prohibit the use of live bands with drums or bass guitars from performing inside of the Club. This is a fundamental component of the Club's operations and community offering, and these activities would be contained within the building structure and therefore preventing any impacts on the surrounding area.

## 1.17 Condition 62 – Noise Limiters - Playing of Amplified Music

Proposed amendments:

A. Ongoing

a) Approved noise limiters must be installed in the **outside** entertainment area (**the Club Deck**). The limiters must be calibrated and set by the Project Acoustical Consultant to ensure compliance with Council's noise emission criteria. The Project Acoustical Consultant must certify that the limiters are installed and calibrated to satisfy the requirement of Council's noise criteria. The calibration levels and assessment background levels must be reported on calibration sheets for each area (if necessary) and submitted to Council. The noise limiters must be installed in a locked cabinet located in a secure area. Access to noise limiter post calibration must be restricted to the Licensee of the premises and made available to Council officers upon request.

b) All on-stage and front of house sound equipment **located on the Club Deck** must be connected in such a manner to the one system so that the noise levels produced can be effectively controlled by the noise limiter referred to above and the house mixer/sound engineer.

Reasons:

As with the comments on Condition 59 above, it is requested that this condition be amended to make clear that this restriction applies only to the Club Deck.

## 1.18 Correction of Typographical Errors

- Draft Condition 16 D – Correct lettering to *B*, as no sub-condition B or C is proposed.
- Draft Condition 18B and 18C – change *suitable* to *suitably*
- Draft Condition 33B (Ongoing) – change to *C* as B is duplicated