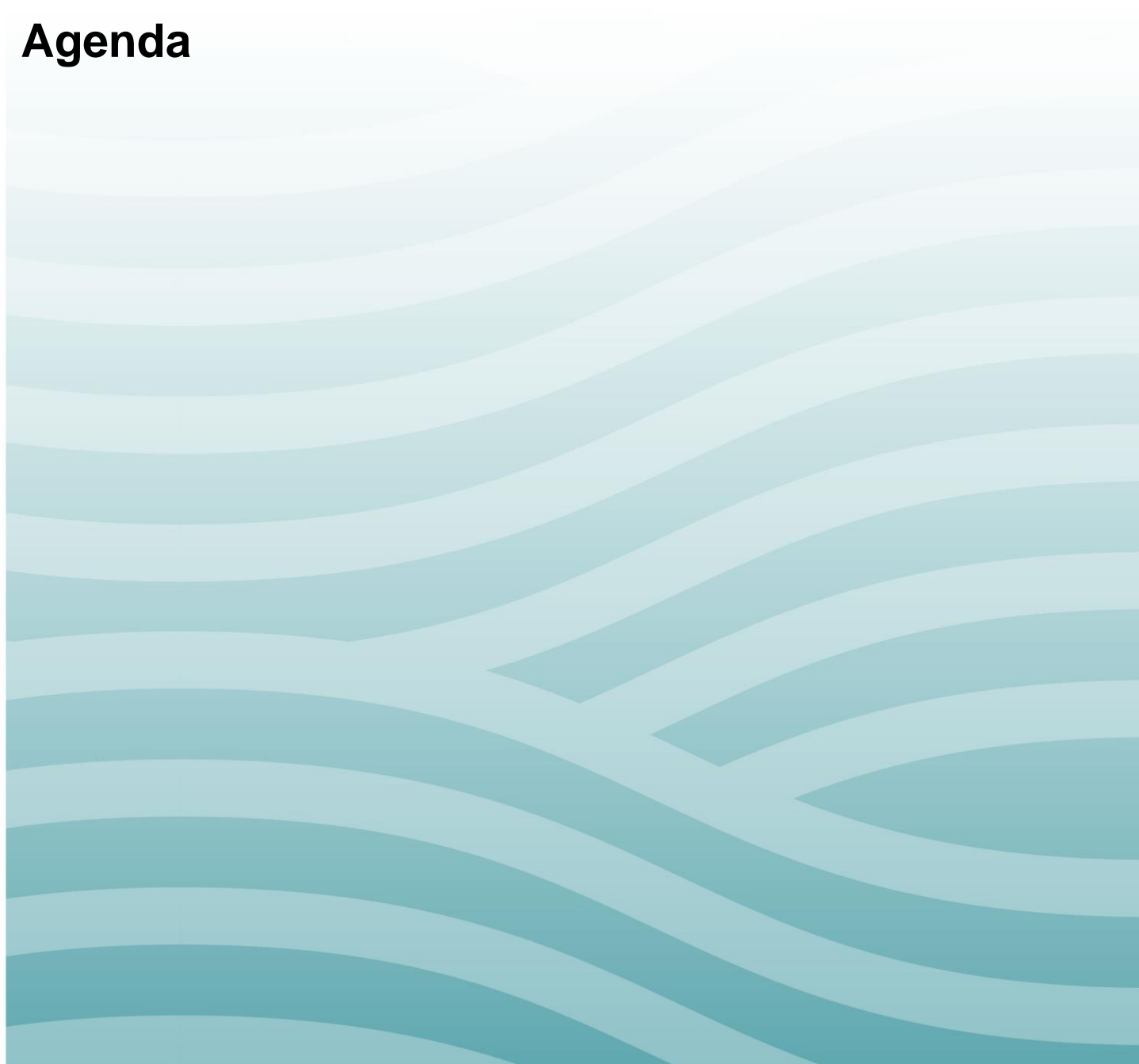




# Woollahra Local Traffic Committee

Tuesday 6 August 2024  
10.00am

## Agenda



### **Woollahra Local Traffic Committee:**

The Woollahra Traffic Committee is not a Committee of Woollahra Municipal Council, but a Committee set up as a requirement of Transport for NSW (TfNSW).

Council has been delegated certain powers from TfNSW with regard to traffic matters upon its local roads. A condition of this delegation is that Council must take into account the Traffic Committee recommendations.

There are four permanent members of the Traffic Committee, each of whom has a single vote only.

The members are:

1. NSW Police
2. Transport for NSW (TfNSW)
3. State Member of Parliament (for the location of the issue to be voted upon)
4. Woollahra Municipal Council

All Traffic Committee recommendations are referred to Council's Finance, Community & Services Committee for adoption and approval.

If Council wishes to proceed contrary to the recommendations of the Traffic Committee, the TfNSW and Police have the right to appeal Council's decision before the Regional Traffic Committee. Council must notify the TfNSW and the Police and give them 14 days to decide whether they propose to lodge an appeal on the matter in question.

Any action relative to any issue under appeal to the Regional Committee must then cease until the matter is determined.

The Regional Traffic Committee is chaired by an independent chairperson and submissions and representations are welcomed from all interested parties.

### **Outline of Meeting Protocol & Procedure:**

- The Chairperson will call the Meeting to order and ask Traffic Committee members and Staff to present apologies or late correspondence.
- The Chairperson will commence the Order of Business as shown in the Index to the Agenda and discuss items which have been called upon by member(s) of the public in the gallery.
- At the beginning of each item the Chairperson will ask whether a member(s) of the public wish to address the Traffic Committee.
- If person(s) wish to address the Traffic Committee, they are allowed three (3) minutes in which to do so. Comments should be directed to the issues at hand.
- If there are persons representing both sides of a matter (e.g. supporter/objector), the objector speaks first.
- At the conclusion of the allotted three (3) minutes, the speaker resumes his/her seat and takes no further part in the debate unless specifically called to do so by the Chairperson.
- If there is more than one (1) person wishing to address the Panel from the same side of the debate, the Chairperson will request that where possible a spokesperson be nominated to represent the parties.
- The Chairperson has the discretion whether to continue to accept speakers from the floor.
- After considering any submissions the Traffic Committee will discuss the matter (if necessary), and arrive at a resolution.

**Woollahra Local Traffic Committee Membership:** NSW Police, Transport for NSW (TfNSW), State Member of Parliament (for the location of the issue to be voted upon) and Woollahra Municipal Council.

**Quorum:** 2 Panel members

# Woollahra Municipal Council

## Notice of Meeting

31 July 2024

To: Members of the Woollahra Local Traffic Committee

cc: The Mayor,  
All Councillors

Dear Sir/Madam

**Woollahra Local Traffic Committee – 6 August 2024  
Meeting No 8**

In accordance with the provisions of the Local Government Act 1993, I request your attendance at a Meeting of the Council's **Woollahra Local Traffic Committee** to be held in the **Tarralbe Room, 536 New South Head Road, Double Bay, on Tuesday 6 August 2024 at 10.00am.**

Regards,

Emilio Andari  
**Manager – Engineering Services**

---



# Woollahra Local Traffic Committee

## Agenda

Item	Subject	Page
1.	Opening Statement	
2.	Acknowledgement of Country (Gadigal People and Birrabirrigal People)	
3.	Leave of Absence and Apologies	
4.	Confirmation of Minutes of Meeting held on 2 July 2024	
5.	Matters arising from Minutes of Previous Meeting	
6.	Woollahra Local Traffic Committee recommendations not adopted or amended by Woollahra Council Finance, Community & Services Committee	
7.	Extraordinary Meeting – Nil	
8.	Late Correspondence	

### Traffic & Parking Matters on Local Roads

#### Items to be Recommended to the Finance, Community and Services Committee by the Woollahra Local Traffic Committee for Consideration

Y1	Military Road, Watsons Bay - Parklet Installation - 24/131073.....	7
Y2	Towns Road, Vacluse - No Stopping Restrictions - 24/131407.....	33
Y3	Camp Street, Watson Bay - No Stopping Restrictions - 24/132344.....	37
Y4	Wolseley Road, Point Piper - Mobility Parking Space - 24/132345.....	41
Y5	7 Bay Street, Double Bay - Parklet Installation - 24/132346.....	45
Y6	Bay Street, Double Bay - Parklet Installation for 2-22 Knox Street - 24/133556.....	73

#### Items for Discussion by Committee Members

Z1	Transport for NSW Funded Projects Status - 24/133107.....	99
----	---	----

11.	General Business	
-----	------------------	--

---



**Items to be Recommended to the Finance, Community and Services Committee by  
the Woollahra Local Traffic Committee for Consideration**

**Item No:** Y1  
**Subject:** **MILITARY ROAD, WATSONS BAY - PARKLET INSTALLATION**  
**Author:** Coen O'Shannessy, Traffic & Transport Engineer  
**Approvers:** Ever Fang, Traffic & Transport Team Leader  
Emilio Andari, Manager Engineering Services  
**File No:** 24/131073  
**Purpose of the Report:** To seek approval for the installation of a parklet  
**Alignment to** Strategy 6.2: Management of public parking on-street and off-street.  
**Delivery Program:**

**Recommendation:**

THAT approval be granted to replace the existing '2P 8am-4pm Mon-Sun' located on the eastern side of Military Road, Watsons Bay, across the frontage of Shop 1/24 Military Road, with 'No Stopping' restrictions for a section of 6 metres, as shown in Attachment 1, for the installation of a parklet to support and encourage community connection by introducing additional outdoor seating and planting, subject to the following conditions:

- A. Any directive provided by the NSW Police Force is to be complied with.
- B. All conditions contained within the Parklet Approval issued by Woollahra Council (Attachment 2).
- C. The parklet is to operate in conjunction to the approved footway dining permit and operate for a period of 12 months commencing from the date in which the applicant is notified of the determination of their application with the potential for extension.
- D. The applicant must supply and erect protection barriers for the parklet to ensure public safety. The applicant must remove any implemented barriers, at the completion of the period.
- E. The applicant must inform Council officers when the parklet is no longer required and will be removed.
- F. Council shall be indemnified against all claims for damage or injury that may result from either the activities or from the occupation of part of the public road reserve during the activities. A copy of Public Liability Insurance Cover to the value of \$20,000,000 shall be provided to Council prior to the installation of the parklet and Council must be listed as an interested party on the insurance policy.
- G. Council shall be reimbursed for the cost of repair of any damage caused to Council property as a result of the activities.
- H. Noise created by the use of equipment or activity must be controlled as required by the 'Protection of the Environment Operations (Noise Control) Regulation 2000'.
- I. The applicant must make arrangements to remove all waste/rubbish from the parklet on a daily basis.
- J. Failure to comply with any of these conditions may result in the cancellation of the use of a parklet at Council's discretion.
- K. Woollahra Council reserves the right to cancel this approval at any time.

## **Executive Summary:**

### Woollahra Parklet Program

Council, at its meeting of 5<sup>th</sup> July 2021, endorsed the introduction of the 'Woollahra Parklet Trial Program' to support to local cafes, bars and restaurants in the Local Government Area (LGA) to expand their existing outdoor dining space into kerbside parking spaces – commonly referred to as a parklet.

Through the Parklet Trial Program, Council has endeavoured to test, measure and evaluate the effectiveness of parklets within the LGA on a temporary basis and to streamline the approval process for the reallocation of road space as outdoor seating. The trial program provided valuable insights and community feedback on how Council could make this temporary physical change permanent.

Given the success of the trial program, Council endorsed the formalisation of the parklet program for an indefinite period at its ordinary meeting on 26 June 2023, where it was resolved

*THAT Council:*

- A. *Resolves to formalise the parklet program, and that parklets are subject to the applicable Fees in Council's adopted fees and charges.*
- B. *Resolves that a maximum of 20 parklets can be operating at any one time.*
- C. *Endorses the Parklet Program Policy and Guidelines as attached to the late correspondence to the Council meeting of 26 June 2023.*
- D. *Requests that staff undertaken a two year review of the Parklet Program Policy and Guidelines.*
- E. *Notes that during the trial Parklet program in 2022/23, it is estimated that Council waived fees and charges in the total amount of \$44,661.97.*

The design and siting of these parklets is managed under the *Parklet Program Policy and Guidelines*.

<https://www.woollahra.nsw.gov.au/files/assets/public/v/1/plans-policies-publications/parklet-program-policy-and-guidelines-adopted-26-june-2023.pdf>

## **Discussion:**

An application has been received from the business owner of Shop 1/23 Military Road, Watsons Bay, also known as 'Seasoned Café'.

The applicant has proposed the installation of one (1) parklet structure in the existing '2P' parking space located directly in front of the Shop 1/23 Military Road. This application also proposes to replace the existing restrictions with 'No Stopping' restrictions for this location.

The dimensions of the proposed parklet structure (shown in the site plan in Attachment 1) are 6 metres in length and 2.5 metres in depth. A minimum of 3.5 metre clearance is provided for the adjacent travel lane.

The installation of this parklet will result in the loss of one (1) legal on-street car parking space during its operation.



There is a current footway dining approval for property Shop 1/23 Military Road, Watsons Bay. The parklet is to operate in conjunction with the existing footway dining approval for the business and once approved, Council will issue an Approval in the form of an Approval Notice for a period of up to 12 months with the potential for extension under Section 125 of the Roads Act 1993 (the Act).

Council Officers have met with Eastern Suburbs Licencing Police to provide a comprehensive briefing on Woollahra's Parklet Program. Upon the advice of Licencing Police, Council have included a range of additional provisions or 'operational requirements' into the template parklet approval (attached). These additional provisions include:

- i. Food must be available to patrons within the outdoor dining area at all times that the area is operating.
- ii. A copy of the approved plan of the licensed boundary must be made immediately available for inspection by NSW Police officer, Council officer or Liquor & Gaming NSW inspector upon request.
- iii. The Business Operator must not increase the Patron capacity which applied to the licensed premises where the Parklet Approval was granted.
- iv. Despite any other provision of this Parklet Approval, the trading areas of the Parklet Area may not extend beyond approved trading hours and days contained in this Parklet Approval.
- v. Liquor may be consumed within the Parklet Area only when Patrons are seated.
- vi. The Business Operator may sell alcohol from the indoor area of the Premises adjoining the Parklet Area to Patrons using the Parklet Area provided the Business Operator ensures drinks are only consumed within the Parklet Area.
- vii. The Business Operator acknowledges that the Liquor Licence (Permit) – Temporary Change to Boundaries, Footpaths and Roads may be revoked at any time by Liquor and Gaming NSW or the Council.
- viii. The operation of the Parklet Area must be integrated into the existing plan of management for the premises and updated plan of management must be provided to the Council within 14 days of the issue of a Parklet Approval.

Following the inclusion of these conditions and various other requested amendments, Eastern Suburbs Licencing Police endorsed the template approval, noting that they were satisfied with the information contained within the document.

This finalised template approval is provided in Attachment 2 and will be used by Council's Property & Projects Section to issue an approval to the parklet application for Shop 1/23 Military Road, Watsons Bay

### **Community Engagement and/or Internal Consultation:**

A notification letter as well as a copy of the design plan was sent on 17 June 2024 to the owners and occupiers of all nearby affected properties. In addition, the proposal was advertised by hanging a corflute sign to capture visitors to the area. The closing date for comments ended on 3 July 2024. A total of two (2) submissions were received with one (1) opposing and one (1) in favour of the proposal.

The objection expressed concerns regarding bus operations, the increased potential of a head-on collision and the loss of parking. Council's Traffic and Transport Engineers attended the site and observed no significant safety implications that would arise from the installation of a parklet as per the attached plan at this location. The overall road width at this location is approximately 9.9m. The inclusion of a 2.5m wide parklet maintains a 3.5m travel lane on the eastern side and 3.9m travel lane on the western side of Military Road. These dimensions are adequate to accommodate bus traffic and do not increase the likelihood of head-on collisions.

Council's Traffic and Transport Engineers acknowledge there is high demand for parking in this area and note the proposal is to support and encourage community connection, which aligns with Council strategies and plans to achieve great place-making outcomes in our local centres and maintain a high public domain to support and promote local business.

The introduction of a parklet, which would necessitate the removal of one parking space, is deemed acceptable. This decision is based on the understanding that the benefits of a parklet, including enhanced community engagement and improved urban aesthetics, outweigh the potential inconvenience of losing one (1) parking space. Council is committed to balancing the needs of all community members and believes that this initiative will contribute positively to the liveability improvements and enhancements to the diversity of the streetscape in this area.

**Financial Implications:**

All costs associated with the approval, installation, maintenance, supply of parklet and installation of signage are to be borne by the applicant of the approved parklet.

**Resourcing Implications:**

Nil.



**Conclusion:**

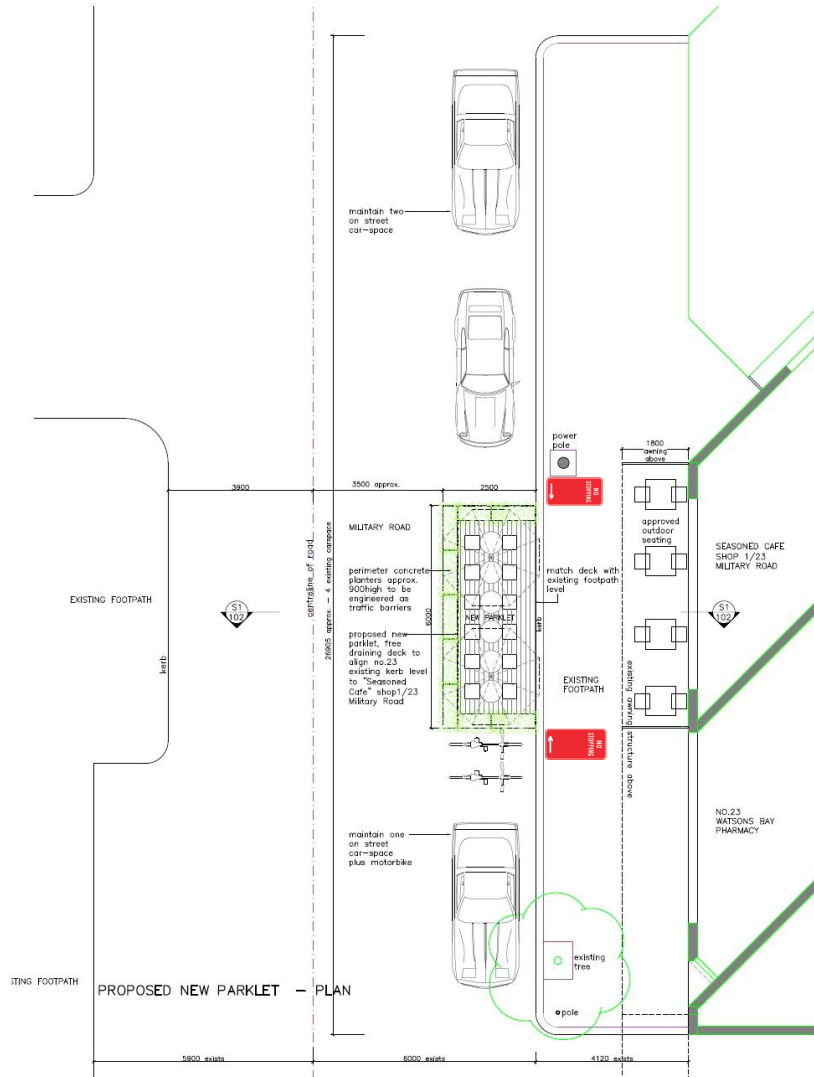
Based on the above, it is recommended that the installation of a parklet for property Shop 1/23 Military Road, Watsons Bay, as per Attachment 1, be approved to support and encourage community connection by introducing additional outdoor seating and planting, subject to above conditions.

**Identification of Income & Expenditure:**

Parklet approval will be subject to the relevant fees and charges as set out in Council's adopted Fees and Charges. All costs associated with the approval, installation, maintenance, supply of parklet and installation of signage are to be borne by the applicant of the approved parklet.

**Attachments**

1. 1/23 Military Road, Watsons Bay - Proposed Parklet Plan [↓](#) 
2. 1/23 Military Road, Watsons Bay - Parklet Template Approval [↓](#) 



NEW PARKLET - VIEW 1



NEW PARKLET - VIEW 2



Rev	Description	Date	By
1	Issue for comment	21/02/24	PT
2	Issue for comment	21/02/24	PT
3	Issue for comment	21/02/24	PT

**Architects Ink**

Building  
 Architecture  
 Interior Design  
 Project Management

11 Pittwater Street, Watsons Bay NSW 2030  
 Phone: +61 2 9389 3377

Project: 2401 - 101 of 2

NEW PARKLET for SEASONED CAFE MR J. SAYEGH

Address: 23 MILITARY ROAD, WATSONS BAY

Drawing: DOCUMENTATION PLAN & PERSPECTIVES

Drawn	PT	Sheet size
Scale	1:50 (1:100 - 2:50)	A1
Date	20/02/24	
Project Number		
2401 - 101 of 2		B

ISSUE 21/02/24



## **PARKLET APPROVAL**

Granted under sections 138, 139 and 139A of the *Roads Act NSW* by

**WOOLLAHRA MUNICIPAL COUNCIL** (Roads Authority)

to

**XXXX** (ABN: **XXXX**) trading as **XXXX** (Approval Holder)

Property address: Area of the roadway adjacent to **XXXX** (as shown on the attached Plan).

**SCXXXX**



**CONTENTS**

**DETAILS ..... 1**

**Reference Schedule..... 2**

1 The Approval ..... 3

2 Operational Provisions ..... 3

3 Fee ..... 7

4 Assignment ..... 7

5 Indemnity and release ..... 8

6 Insurance ..... 9

7 Compliance with statutes and notices ..... 10

8 Acts of Default ..... 11

9 Obligations at end of Parklet Approval ..... 11

10 Security deposit ..... 11

10 Guarantee ..... 12

12 Subject to holding the appropriate Liquor Licence ..... 12

13 Approval under sections 138 Roads Act 1993 ..... 13

14 Revocation or suspension of Parklet Approval ..... 14

15 Notices and approvals ..... 15

16 Definitions and interpretation ..... 16

**Parklet Plan ..... 19**

**PARKLET APPROVAL ..... 20**

z:\affinity\_documents\wool0001\210440\pdpb\_mc\_015.docx



**DETAILS**

**Parties**

**COUNCIL**

**NAME** Woollahra Municipal Council  
**ABN** 32 218 483 245  
**Address** 536 New South Head Road, Double Bay, NSW 2028  
**Email** [RECORDS@WOOLLAHRA.NSW.GOV.AU](mailto:RECORDS@WOOLLAHRA.NSW.GOV.AU)

**PARKLET APPROVAL HOLDER**

**Name** XXXX  
**ABN** XXXX  
**Address** XXXX

**Email**

**GUARANTOR**

**Name** XXXX  
**Address** xxxx  
**Email**



**REFERENCE SCHEDULE**

- Item 1: Parklet Area**  
The area of the pavement adjacent to **xxxx** (as shown on the Plan) that the outdoor dining furniture and equipment are to be placed on that may be used by patrons, being **xxxx square metres**.
- Item 2: Commencement Date**
- Item 3: Termination Date**
- Item 4: Fee** **xxxx** per annum **\$xxxx** per square metre.  
(Payable from 1 July 2023, Council Fees and Charges)
- Item 5: Fee Adjustment Dates** As per Council Schedule of Fees and Charges.
- Item 6: Security Deposit**  
**\$xxxx** the equivalent of 3 months' Fee. Payable from
- Item 7: Guarantor**  
  
**Guarantor's address for service:**
- Item 8 Trading Hours:**  
**Notice:**  
Council's address for service:  
**536 NEW SOUTH HEAD ROAD, DOUBLE BAY, NSW 2028**  
Approval Holder's address for service:  
  
**Ref: SCXXXX**
- Item 9 Capacity**



## Standard Terms and Conditions

### 1 The Approval

- 1.1 The Council grants to the Business Operator for the Term set out in item 1A commencing on the Commencement Date at Item 2 and terminating on the Termination Date at Item 3 a non-exclusive right to place the Business Operator's Outdoor Dining Furniture and Equipment on the Roadway as shown on the Plan attached hereto ("Parklet Area") and described at Item 1.
- 1.2 If applicable, the Council grants to the Business Operator the right to erect the Approved Structure within the Approved Area.
- 1.3 All provisions of the Council Guidelines relating to the use of the Parklet Area and any Outdoor Dining Furniture and Equipment which are placed in the Parklet Area form part of this Approval.

### 2 Operational provisions

- 2.1 The Business Operator shall ensure the Patron Capacity of the Parklet Area does not exceed the number specified in Item 9 of the Reference Schedule at any time, calculated on one person to two square metres of space. This does not operate to override any public health order relating to capacity limits that may be in place at any time.
- 2.2 The Outdoor Dining Furniture and Equipment placed in the Parklet Area are at the Business Operator's risk at all times.
- 2.3 The Business Operator may, with the Council's prior approval, place Outdoor Dining Furniture and Equipment within the Parklet Area provided that:
  - 2.3.1 The Business Operator does not place (or allow to be placed) any advertising or signage of any sort on such ancillary equipment installed in the Parklet Area other than as authorised under this Parklet Approval;
  - 2.3.2 The Business Operator complies with any relevant insurer and Authority regulations as to the appropriate fire safety system for the Parklet Area, and ensures compliance with any fire laws in respect of the Parklet Area; and
  - 2.3.3 No permanent structures are permitted unless approved and shown on the Plan.
- 2.4 The Business Operator must remove the Outdoor Dining Furniture and Equipment from the Parklet Area at all times other than during the approved Trading Hours unless any have been affixed to the Parklet Area with the Council's prior approval.
- 2.5 Where the Business Operator can't remove the Outdoor Dining Furniture and Equipment from the Parklet Area at the close of Trading Hours, they may stack and place the Outdoor Dining Furniture and Equipment against the wall of the Business Operator's premises until the close of business when the equipment must be removed from the Parklet Area and the footway.





- 2.6 The Business Operator must manage the behaviour of Patrons using the Parklet Area and must take action whenever required to ensure that no nuisance or excessive noise results from the use of the Parklet Area.
- 2.7 The Business Operator must not at any time carry on any noxious, noisome or offensive trade or business likely to cause annoyance and/or damage or disturbance to members of the public or occupiers or owners of neighbouring properties, or users of other portions of the roadway or its adjoining footway.
- 2.8 The Business Operator must not cause or permit any rubbish to be placed in or about the Parklet Area and must ensure that the Parklet Area is kept clean and tidy at all times, including but not limited to:
  - 2.8.1 Sweeping the Parklet Area clean at the end of each day of trading and as often as is reasonably practicable during each day of trading. The Business Operator must immediately remove all spills likely to stain the roadway or its adjoining footway, including all oils or fat spills; and
  - 2.8.2 Ensuring all litter, including (but not limited to) food scraps and packaging, arising from the use of the Parklet Area is removed and disposed of in waste containers at the Business. The Business Operator must not use litter-bins in public spaces for that purpose.
- 2.9 The Council reserves the right to clean the Parklet Area with high pressure water, steam or any such other method as is reasonably practicable, at the Business Operator's expense, to remove any stains from the roadway in the Parklet Area which the Council determines in its sole discretion have not been adequately treated by the Business Operator.
- 2.10 The Business Operator must not erect any signs in the Parklet Area without the prior written approval of the Council.
- 2.11 The Business Operator must maintain (at its own expense) the Outdoor Dining Furniture and Equipment to a standard that is satisfactory to the Council (acting reasonably).
- 2.12 The Business Operator must promptly report to the Council any damage or defects in the roadway or its adjoining footway or any other structures which are owned by the Council, within or adjacent to the Parklet Area. The Council is responsible for carrying out any maintenance, repair or replacement of same to the extent such maintenance, repair or replacement is considered warranted by Council's officers.
- 2.13 The Business Operator must not obstruct access by the Council, any Authority, or any other person under the control of the Council, or its express authority to carry out maintenance, repairs or replacement of public works and utility services, such as electrical power, telephone, data cabling, water, sewer, stormwater or such like. The Council will give no reduction or abatement in the Fee for any interruption to the use of Parklet Area as a result of such works.
- 2.14 Smoking is prohibited in the Parklet Area and within 4 metres of the Parklet Area. The Business Operator must place adequate signage within or around the Parklet Area notifying Patrons that smoking is prohibited and the Business Operator shall discourage its Patrons from smoking within these areas.



- 2.15 Entertainment and amplified Music are not permitted in the Parklet Area.
- 2.16 The use of the Parklet Area for the purpose of outdoor dining in accordance with this Approval shall not commence until after the commencement date and the issue of the Parklet Approval and such time as the Parklet Area has been prepared for use and road barriers have been installed.
- 2.17 The Business Operator must ensure that the design and appearance of the Outdoor Dining Furniture and equipment to be used in the Parklet Area complies with any guidelines, revised by the Council from time to time.
- 2.18 The Business Operator may install synthetic grass on the surface of the Parklet Area but only if it is maintained in a safe, clean and presentable state at all times.
- 2.19 The Business Operator must ensure that any Outdoor Dining Furniture and equipment, or any approved structures, does cover or impede access to public or private utility access and drainage pits. The Business Operator must permit utility, infrastructure and communications organisations access to the site at no cost whenever required.
- 2.20 The Business Operator must ensure that Outdoor Dining Furniture and equipment or approved structures do not obstruct the view of advisory, warning, traffic and regulatory signs and traffic controls.
- 2.21 The Business Operator must ensure the Parklet Area is designed in accordance with the guidelines published by the Council and meets relevant Australian standards.
  - 2.21.1 If any Council property is damaged in the course of use of the Parklet Area, the Business Operator acknowledges the Council may carry out necessary works to effect repair and the Business Operator must reimburse the Council for the cost of any repairs;
  - 2.21.2 On expiry or termination of the Parklet Approval, all Structures and works carried out by the Business Operator on the Parklet Area must be removed. If the Business Operator fails to remove such works, the Council may carry out the necessary work to remove them and the Business Operator must reimburse the Council costs of doing so.
  - 2.21.3 On the completion of the installation of any the Structures or works carried out by the Business Operator on the Parklet Area, final certification of the works by a compliant road safety audit report must be submitted to the Council.
  - 2.21.4 The Business Operator acknowledges the Council reserves the right to remove any Structure or work that does not comply with the Council's approval or guidelines, or presents a risk to the public, or is not in the public interest.
- 2.22 The Business Operator shall ensure the Parklet Area is used only for outdoor dining in conjunction with the provision of food service from the adjoining premises operated by the Business Operator.
- 2.23 The Business Operator shall ensure that no more than the Patron Capacity are permitted within the Parklet Area at any time, calculated on one person to 2m<sup>2</sup> of



space. This does not operate to override any public health order relating to capacity limits that may be in place at any time.

- 2.24 The Business Operator must develop and maintain a complaints register that details the nature of a complaint, the name of the complainant, the time and date of the complaint and the contact details of the complainant. The register must be made available to the authorised Council officer or member of the NSW Police Force upon request.
- 2.25 The Business Operator must ensure a sign is located within the Parklet Area indicating the number of Patrons who may be permitted within the Parklet Area.
- 2.26 Where the Business Operator has obtained a Liquor Licence (Permit) – Temporary Change to Boundaries, Footpaths and Roads from Liquor and Gaming NSW, the following provisions will apply:
  - 2.26.1 Food must be available to Patrons within the Parklet Area at all times when the Parklet Area is operating;
  - 2.26.2 A copy of the approved plan of the licensed boundary must be made immediately available for inspection by NSW Police officer, Council officer or Liquor and Gaming NSW inspector upon request.
  - 2.26.3 The Business Operator must not increase the Patron capacity which applied to the licensed premises where the Parklet Approval was granted.
  - 2.26.4 Despite any other provision of this Parklet Approval, the trading areas of the Parklet Area may not extend beyond approved trading hours and days contained in this Parklet Approval.
  - 2.26.5 Liquor may be consumed within the Parklet Area only when Patrons are seated.
  - 2.26.6 The Business Operator may sell alcohol from the indoor area of the Premises adjoining the Parklet Area to Patrons using the Parklet Area provided the Business Operator ensures drinks are only consumed within the Parklet Area.
  - 2.26.7 The Business Operator acknowledges that the Liquor Licence (Permit) – Temporary Change to Boundaries, Footpaths and Roads may be revoked at any time by Liquor and Gaming NSW or the Council.
  - 2.26.8 The operation of the Parklet Area must be integrated into the existing plan of management for the premises and updated plan of management must be provided to the Council within 14 days of the issue of a Parklet Approval.

### **3 Fee**

- 3.1 The Business Operator must pay to the Council the Fee set out in Item 4 of the Schedule in advance on the first day of each month by direct payment or as the Council may from time to time direct.
- 3.2 The Fee will be adjusted on the Fee Adjustment Date in Item 5 in each year of this Approval in accordance with Council's Fees and Charges Policy and in accordance



with changes to the Consumer Price Index Sydney (All groups) for the quarter ended in accordance with the formula:

$$\frac{\$X \times \text{CPI-2}}{\text{CPI-1}} = \$Y$$

\$X is the Fee at the last Fee Adjustment Date, or if none, the Fee at the Commencement Date;

CPI-1 is the Consumer Price Index Number for Sydney (All Groups) for the quarter ended just before the Fee Adjustment Date;

CPI-2 = the Consumer Price Index Number for Sydney (All Groups) for the quarter ended just before the Fee Adjustment Date;

\$Y = the new fee

- 3.2.1 If the index used to calculate the new Fee is discontinued, the Council may substitute another index that, is nearly as practicable, serves the same purpose and, if there is no such index, then the Fee will be calculated by fixed percentage increase calculated in accordance with Council's fees and charges policy.

#### **4 Assignment**

- 4.1 This Parklet Approval is personal to the Business Operator and may not be assigned.
- 4.2 If the Business Operator sells or otherwise transfers the business conducted in the adjoining premises it will be necessary for the proposed transferee to make application for a Parklet Approval.

#### **5 Indemnity and release**

##### *Business Operator's Risk*

- 5.1 The Business Operator occupies the Parklet Area and conducts the business from the Parklet Area at its own risk.
- 5.2 If the Business Operator is obliged to do anything under this Parklet Approval, it does so at its own risk.

##### *Release of Council*

- 5.3 To the extent permitted by law, the Business Operator releases the Council from:
- 5.3.1 Any claim, action, damage, loss, liability, cost or expense which the Business Operator incurs or is liable for in connection with any damage, loss, injury or death to or of any person or property on or near the Parklet Area; and
- 5.3.2 Any liability for damage to the Business Operator's property, including (without limitation) its Outdoor Dining Furniture and Equipment, or for loss of the Business Operator's profits,



Except to the extent that the Council has directly caused or contributed to such claim, action, damage, loss, liability, cost or expense by its wrongful act, negligence or default.

*Indemnity by Business Operator*

5.4 The Business Operator indemnifies the Council against any claim, action, damage, loss, liability, cost or expense which the Council incurs or is liable for in connection with:

- 5.4.1 Any damage, loss, injury or death, caused or contributed to by the Business Operator or Business Operator's invitees and employees;
- 5.4.2 Any default by the Business Operator under this Parklet Approval;
- 5.4.3 The use or occupation of the Parklet Area by the Business Operator or Business Operator's invitees or employees;

Except to the extent that the Council has directly caused or contributed to such claim, action, damage, loss, liability, cost or expense by its wrongful act, negligence or default.

*Continuing indemnity*

5.5 Each indemnity of the Business Operator contained in this Parklet Approval is:

- 5.5.1 A continuing obligation of the Business Operator and remains in full force and effect after the termination of this Parklet Approval; and
- 5.5.2 A separate and independent obligation of the Business Operator.

**6 Insurance**

6.1 The Business Operator must take out and maintain a public liability insurance policy in respect of the Parklet Area and the business conducted on the Parklet Area:

- 6.1.1 Under which the maximum amount payable for a single claim is at least \$20 million, or any other amount reasonably required by the Council;
- 6.1.2 Which contains all provisions that are normally contained in public liability policies, including theft from the Parklet Area, and any other provisions reasonably required by the Council;
- 6.1.3 Which, without limiting the rest of this clause 6.1, covers death and injury to any person and damage to property of any person sustained when that person is using or entering or near any entrance, passage or stairway to or in the Parklet Area; and
- 6.1.4 Which expressly refers to and covers all of the Business Operator's obligations under this Parklet Approval, including the obligation to indemnify the Council.

*Workers compensation and other insurances*

6.2 The Business Operator must take out and maintain an insurance policy in respect of



the Business Operator's business and each person employed by the Business Operator in the business conducted on the Parklet Area:

- 6.2.1 For the full amount of the Business Operator's liability under any applicable workers compensation legislation;
  - 6.2.2 For the full amount of the Business Operator's potential legal liability independently of that legislation;
  - 6.2.3 For an amount not less than the value of the structures and works carried out on the Parklet Area by the Business Operator; and
- 6.3 The Business Operator must take out and maintain such other insurance required by law or which, in the Council's reasonable opinion, the Business Operator should take out.

*Proceeds of insurance*

- 6.4 If any loss or damage occurs which is covered by any insurance the Business Operator is required to maintain under this Parklet Approval the Business Operator must:
- 6.4.1 Apply for the insurance proceeds immediately; and
  - 6.4.2 Use the proceeds to restore, replace, repair or reinstate the loss or damage and must supplement the proceeds with the Business Operator's own money to the extent that the proceeds are insufficient.

*Policies*

- 6.5 The Business Operator must do the following in respect of each policy of insurance that it is required to maintain under this Parklet Approval:
- 6.5.1 Take out the policy with an insurance company approved by the Council, whose approval must not be unreasonably withheld noting Woollahra Council on the policy as an interested party;
  - 6.5.2 Give the Council a Certificate of Currency for each insurance policy at renewal and at renewal each year thereafter; and
  - 6.5.3 Ensure that the policy contains a requirement that the insurer will not cancel or change the insurance without first giving the Council 10 days prior written notice; and
  - 6.5.4 Ensure the interest of the Council is noted on any policy.

*Maintain insurance*

- 6.6 The Business Operator must not do anything without the Council's prior consent which could:
- 6.6.1 Increase the premium payable on any insurance policy taken out by the Council; or



6.6.2 Affect the Council's rights under any insurance policy or make the policy invalid or able to be cancelled.

6.7 The Business Operator must pay any extra premium payable by the Council on account of extra risk caused by the Business Operator's use or occupation of the Parklet Area.

## **7 Compliance with statutes and notices**

7.1 The Business Operator must at all times promptly comply with and observe the provisions of all consents, approvals, licences, statutes, ordinances, rules, regulations, and bylaws present or future, which in any way affect, relate to or apply to the Parklet Area or its use by the Business Operator.

7.2 The Business Operator must at all times promptly comply with the terms of any lawful demand, which has been made or any notice of order which may be served or given by any Authority upon the Business Operator or by the Council (acting in its capacity as the local government authority) under any statute, ordinance, rule, regulation or bylaw, which in any way affects or applies to the Approved Area or its use by the Business Operator.

7.3 The Business Operator will specifically abide by the provisions of the Food Act 2003, the Food Regulations 2010, the Smoke-Free Environment Act 2000, the Work Health and Safety Act 2011, the Companion Animals Act 1998, the Local Government Act 1993 and the Roads Act 1993 and, where a temporary liquor licence boundary change has been obtained from Liquor and Gaming NSW, any conditions to which that change is subject.

7.4 Nothing in this Parklet Approval will in any way fetter the Council in connection with the exercise of its powers or duties as an Authority or bind Council to the grant of any statutory consent or the exercise of any other statutory role or statutory discretion. The Business Operator will have no claim against Council under this Parklet Approval should Council refuse, delay or suspend any decision taken in its capacity as an Authority.

## **8 Acts of Default**

8.1 If the Business Operator fails to comply with any of its obligations under this Parklet Approval within 7 days after written notice from the Council, the Council may terminate this Approval immediately.

## **9 Obligations at end of Parklet Approval**

9.1 Upon termination of this Parklet Approval the Business Operator will immediately remove the Tables, Chairs and equipment and other property of the Business Operator's from the Parklet Area including any structures approved under sections 138, 139 or 139A of the Roads Act 1993.

9.2 The Council may treat the Tables, Chairs and equipment and other property of the Business Operator as abandoned and deal with them in accordance with the provisions of the *Impounding Act* 1993 NSW or any legislation which replaces it or



applies to unattended property, at the Business Operator's expense, if the Business Operator does not remove them pursuant to clause 9.1.

## **10 Security deposit**

- 10.1 The Business Operator must pay the Security Deposit referred to in Item 6 to the Council on or before the Commencement Date by cash or unendorsed bank cheque.
- 10.2 If the Business Operator fails to punctually pay the Fee set out in Item 4 of the Schedule or any other money under this Parklet Approval or fails to observe any of the provisions of this Parklet Approval, the Council may use the Security Deposit without notice to the Business Operator.
- 10.3 If the Council uses the Security Deposit and the Council gives the Business Operator a notice stating the amount required to reinstate the Security Deposit, no later than 7 days after the Council gives the notice the Business Operator must pay that amount to the Council by cash or unendorsed bank cheque.
- 10.4 The Business Operator must increase proportionally the amount of the Business Operator's security deposit when the Fee increases, so that it is always equal to the amount of the Security Deposit.
- 10.5 On the expiry of the term of this Parklet Approval or earlier termination, the Council may use the Security Deposit for outstanding amounts payable by the Business Operator under this Parklet Approval and then, after the Business Operator has vacated the Parklet Area and has complied with all their other obligations under this Parklet Approval, the Council must refund any unused part of the Security Deposit to the Business Operator.

## **11 Guarantee**

- 11.1 This clause applies if a guarantor of the Business Operator is named in Item 7 and who is required to sign this Parklet Approval.
- 11.2 The Guarantor guarantees to the Council the performance by the Business Operator of all of the Business Operator's obligations (including any obligation to pay the Fee or damages) under this Parklet Approval, under every extension of it and under any renewal of it.
- 11.3 If the Business Operator does not pay any money due under this Parklet Approval, under any extension of it or under any renewal of it, the Guarantor must pay that money to the Council on demand even if the Council has not tried to recover payment from the Business Operator.
- 11.4 If the Business Operator does not perform any of the Business Operator's obligations under this Parklet Approval, under any extension of it, or under any renewal of it, the Guarantor must compensate the Council even if the Council has not tried to recover compensation from the Business Operator.
- 11.5 If the Business Operator is insolvent and this Parklet Approval or any extension or renewal of it is disclaimed, the Guarantor is liable to the Council for any damage suffered by the Council because of the disclaimer. The Council can recover damages





for losses over the entire period of the Parklet Approval or any extension or renewal but must do every reasonable thing to mitigate those losses.

## **12 Subject to the holding of the appropriate liquor licence**

- 12.1 Business Operators seeking to serve alcohol within the Parklet Area must be authorised to do so by an appropriate liquor licence which extends to the Parklet Area.
- 12.2 In the Parklet Area Patrons consuming alcohol must be seated.

## **13 Approvals under sections 138 and 139A Roads Act 1993**

- 13.1 Where an approval has been given pursuant to section 138 Roads Act 1993 for the erection of structures within the Parklet Area the Business Operator must:
  - 13.1.1 Erect the structure in accordance with the approved plans only within the Parklet Area;
  - 13.1.2 Comply with all consents, approvals, regulations and by-laws applicable to the erection of the structure and its maintenance;
  - 13.1.3 Erect the structure in a proper and workmanlike manner by use of appropriately qualified tradesman when necessary;
  - 13.1.4 Maintain the structure in a proper and serviceable condition and make repairs when necessary;
  - 13.1.5 Report any breakages, injuries or accidents relating to the structure to the Council as soon as possible after they occur;
  - 13.1.6 Ensure that the public liability insurance referred to in clause 4 extends to the structure and that the structure is noted on the policy.
  - 13.1.7 ensure that if the Parklet Area projects on to the carriageway, a horizontal clearance of 450 mm from the traffic lane is provided and ensure that barriers are positioned 450mm within the Parklet Area on three sides;
  - 13.1.8 ensure that a minimum clearance of 3.0 metres from the adjacent traffic lane is maintained at all times;
  - 13.1.9 ensure a minimum of 1 metre buffer space is provided between Parklet Area boundary and any adjoining vehicle parking bay;
  - 13.1.10 provide a pedestrian ramp over the kerb between the footpath and the roadway in accordance with Workcover specification to permit safe pedestrian, wheelchair and pram access;
  - 13.1.12 ensure that a traffic control plan illustrating the set out of safety barriers in accordance with Australian Standard 1742.3 is prepared by a qualified person and that the plan is implemented at all times while the Parklet Area is in use.



13.2 The Business Operator warrants and agrees that the indemnity contained in clause 5.4 extends to:

- 13.2.1 Any damage, loss, injury or death caused or contributed to by the installation and use of the structure;
- 13.2.2 Any default by the Business Operator in compliance with the provisions of this clause;
- 13.2.3 The use of the structure by the Business Operator or the Business Operator's invitees or employees;

Except to the extent that the Council has directly caused or contributed to such claim, action, damage, loss, liability, cost or expense by its wrongful act, negligence or default.

#### 14 Revocation or Suspension of Parklet Approval

14.1 The Council may revoke or suspend the Parklet Approval at any time during the approval period if:

- 14.1.1 The conditions of the Parklet Approval have been breached;
- 14.1.2 The use of the Parklet Area in accordance with the Parklet Approval results in adverse impacts on the use of the adjoining footway, or adjoining roadway, or on public safety, or public amenity.
- 14.1.3 The Council and/or a government agency order contractors:
  - 14.1.3.1 Undertake or propose to undertake in the Parklet Area, or the adjoining footway or roadway; or
  - 14.1.3.2 Impacts access to adjoining footways, roadways, transport infrastructure, park or public places,

Such that are in to either increase pedestrian demand or public safety and an alternate use of the Parklet Area is required.

14.1.4 The Council at any time approved special events in the street;

And the Business Operator shall not be entitled to compensation arising from any such termination or suspension.

14.2 In considering whether to revoke the Parklet Approval for breach of conditions, Council will take into account such matters as it considers relevant. This may include, but is not limited to:

- 14.2.1 History of compliance with the conditions of the Parklet Approval such as payment of rent, use in accordance with approved hours and approved number of chairs and tables and provision of public liability insurance;
- 14.2.2 The number and nature of substantial complaints regarding the operation of the Parklet Approval;



- 14.2.3 Any views expressed by the NSW Police Force and any other relevant public authority;
  - 14.2.4 The Business Operator will be given notice that Council is considering revoking the Parklet Approval and the Business Operator will be invited to make representations as to why the Parklet Approval should not be revoked;
  - 14.2.5 Council will consider any representations made by the Business Operator and will make a determination as to whether the Parklet Approval will be revoked;
  - 14.2.6 The Business Operator will be notified of the date when the revocation or suspension of the Parklet Approval will become effected;
  - 14.2.7 If a Parklet Approval is revoked or suspended pursuant to this clause, the Business Operator will not be entitled to claim compensation from the Council.
- 14.3 Despite any other clause in this Parklet Approval, this Parklet Approval may be terminated by the:
- 14.3.1 Council at any time by giving 7 days' notice in writing to the Business Operator;
  - 14.3.2 Business Operator by giving one month's prior notice to the Council.

## **15 Notices and approvals**

- 15.1 A notice or approval must be:
- 15.1.1 In writing; and
  - 15.1.2 Delivered to the party or left at or posted by registered mail to the address or sent to the facsimile number or email address of the party in the Approval Notice, as varied by notice.
- 15.2 A notice or approval is taken to be given:
- 15.2.1 If delivered to or left at the address of the party, on that day;
  - 15.2.2 If posted, on the third day after posting; and
  - 15.2.3 If sent by facsimile or email, on that day if it is sent before 5.00pm or otherwise on the next Business Day after it is sent unless the sender is aware that transmission is impaired.

### *Authorisation*

- 15.3 Council may give, conditionally or unconditionally or withhold, the Council's Authorisation in the Council's absolute discretion.

### *Headings*

- 15.4 Headings must be ignored in the interpretation of this Parklet Approval.



## 16 Definitions and interpretation

### *Definitions*

16.1 In this document the following definitions apply:

**Approval Notice** means the notice issued by Council, which must be displayed at the Business.

**Authorisation** means an authorisation granted by Council to the Business Operator under the terms of this Parklet Approval to do something or cease doing something other than as already authorised by this Parklet Approval.

**Authority** means any federal, state or local government, semi-government, statutory, public, licensing or other authority or body.

**Business** means a Restaurant, Café, Hotel, Pub or Small Bar.

**Business Day** means any day except a bank or public holiday throughout NSW or a Saturday or Sunday.

**Business Operator** means a business/person who operates a Business adjacent to the road applying for or in receipt of a Parklet Approval.

**Business Operator's Property** means anything belonging to the Business Operator and brought onto the Parklet Area whether fixed or otherwise.

**Commencement Date** means the first day of the Term as specified in the Reference Schedule.

**Fee** means an initial amount per annum as set out in Item 4 of the **Reference Schedule** and as amended from time to time.

**Fee Adjustment Date** means the date contained in Item 5.

**Guidelines** means the Woollahra Municipal Council Parklet Guidelines as amended from time to time.

**Item** means an item referred to in the Reference Schedule

**Licence** means a licence under the Liquor Act 2007 NSW.

**Liquor** means alcohol and includes:

- (a) a beverage which, at 20° Celsius, contains more than 1.15% ethanol by volume, or
- (b) anything that is not a beverage referred to in paragraph (a) but, for the purposes of sale, is held out to be beer or spirits, or
- (c) any other substance prescribed by the regulations as liquor.



**Outdoor Dining Furniture and Equipment** means the Business Operator's equipment approved by the Council and shown on the Plan, which are the Business Operator's Property and includes barriers, umbrellas and heaters placed in the Parklet Area by the Business Operator.

**Parklet** means a kerbside parking space the subject of a Parklet Approval under the Guidelines.

**Parklet Approval** means an approval granted under the Guidelines for the establishment and use of a Parklet.

**Parklet Area** means the approved roadway area that the Business Operator's Outdoor Dining Furniture and Equipment must be placed on, as shown in the Plan included in the Approval Notice and where possible as indicated by the placement of metal studs by Council on the perimeter of the Parklet Area.

**Patrons** means people attending the Parklet Area.

**Patron Capacity** means the number of patrons permitted within the Parklet Area in accordance with Item 9 of the Reference Schedule.

**Plan** means the plan attached to the Parklet Approval, which shows the Parklet Area and sets out the location within the Parklet Area where the Outdoor Dining Furniture and Equipment must be placed.

**Pub** means the premises to which a hotel licence applies to under the Liquor Act.

**Restaurant** means premises in which food is regularly supplied on sale to the public for consumption on the premises, and is the business owned or leased by the Business Operator and includes a Pub, or Small Bar.

**Roads Authority** means a person or body that is, by or under the Roads Act 1993, declared to be a roads authority and, in relation to a particular public road, means the roads authority for that road.

**Small Bar** means the premises to which a small bar licence under the under the Liquor Act 2007 NSW relates.

**Security Deposit** means the amount being the equivalent of 3 months Fee as amended from time to time.

**Structure** means any structure of a permanent nature to which the Council has given approval under sections 138 and 139 Roads Act 1993.

**Term** means the term of this Approval which commences on the **Commencement Date** and ends on the **Termination Date**.

**Termination Date** means the last day of the Term as specified in the Schedule or as otherwise provided for in this Parklet Approval or as a result of a breach of this Parklet Approval by the Business Operator.

**Trading Hours** means the approved hours of use of the Parklet Area by a Business Operator under this Parklet Approval and as shown in the Approval Notice.



**PLAN of Approved Parklet Area**

Total area =



**Parklet Furniture –**

**Image of Parklet Installation**



**APPROVAL**

For use of roadway and erection of structures under section 138, 139 and 139A Roads Act 1993.

Approval holder: **XXXX** (ABN: **XXXX**) trading as **XXXX**

Premises: **XXXX**

**Executed as a Parklet Approval.**

Signed for and on behalf of Woollahra  
Municipal Council ABN **32 218 483 245** by  
the Director of Infrastructure & Sustainability  
pursuant to the sub-delegation by the  
General Manager on 19 June 2018 and  
Council's resolution passed 1 June 2013:

.....  
Signature of Council Authorised Officer

Name (print)



**Item No:** Y2  
**Subject:** **TOWNS ROAD, VAUCLUSE - NO STOPPING RESTRICTIONS**  
**Author:** Coen O'Shannessy, Traffic & Transport Engineer  
**Approvers:** Ever Fang, Traffic & Transport Team Leader  
Emilio Andari, Manager Engineering Services  
**File No:** 24/131407  
**Purpose of the Report:** To respond to requests from local residents  
**Alignment to Delivery Program:** Strategy 6.2: Management of public parking on-street and off-street.

**Recommendation:**

THAT 'No Stopping' restriction be installed on the western side of Towns Road, Vauclose, for a distance of 15 metres from its intersection with New South Head Road as shown in Attachment 1, in order to deter illegal parking and improve traffic safety at this location.

---

**Executive Summary:**

Council has received requests from the local community to prevent illegal parking and improve safety on Towns Road at New South Head Road, Vauclose. It is reported that vehicles frequently park on the western side of Towns Road south of New South Head Road within 3 metres of the double dividing (BB) line.

**Discussion**

Towns Road, Vauclose is a local road that provides access to residential properties fronting Towns Road as well as a through route between New South Head Road and Old South Head Road. This section of Towns Road, near its intersection with New South Head Road, consists of double dividing (BB) line for a length of 15 metres, as well as dragon's teeth pavement marking with associated signage for the School Zone. Bicycle pavement marking is also provided to raise awareness of the on-road bike route.

Towns Road is measured to be approximately 9 metres from kerb-to-kerb immediately south of the driveway access of 53 Towns Road closest to New South Head Road, and widens to approximately 9.5 metres approaching the end of the BB line and away from the intersection. Currently 'No Stopping' restrictions are signposted on the eastern side of Towns Road, starting east of New South Head Road and continuing east/south for approximately 49 metres.

Site inspections revealed that cars are often illegally parked on the western side of Towns Road within 3 metres of BB line, as per Clause 208 of NSW Road Rules 2014. It should be noted that this section of Towns Road consists of a retaining wall on the western side with no kerb, which makes it more challenging for motorists to park closer to the wall and further reduces the available road width.

Site inspections also revealed that motorists are required to take a sharp turn when travelling downhill towards New South Head Road. When cars are parked at this location, vehicles often cross the BB line to negotiate the bend and obtain more sight distance due to the insufficient width and road geometry.

In response, Councils Traffic & Transport Engineers investigated relocating the line marking in Towns Road to allow parking on the western side while achieving a 3 metre clearance of travel lane. This however would create a pinch point near the intersection and cause challenges for vehicles turning right from New South Head Road and travelling northbound in Towns Road and may increase the potential of a head-on collision at this location.

In this regard, it is recommended to signpost 'No Stopping' restrictions at this location as it is shown to be a compliance and safety issue. The 'No Stopping' restrictions will be installed for a distance of 15 metres on the western side of Towns Road, starting from its intersection with New South Head Road and terminating in line with the double dividing line, as shown in Attachment 1.

The proposal will not result in loss of any legal parking spaces, as per the NSW Road Rules 2014.

### **Options**

Nil.

### **Community Engagement and/or Internal Consultation**

A notification letter was distributed to all residents and owners of properties within 50 metres of the subject location on 5 July 2024. The proposal was also advertised by hanging a corflute sign at the subject location to capture visitors to this area. The consultation letter and sign advise that interested parties can make a submission and can attend and address the Woollahra Local Traffic Committee and Council's Finance, Community and Services Committee if they so wish. The closing date for submissions ended on 22 July 2024.

There have been no responses received from the public in relation to this proposal to date.

### **Policy Implications**

Nil.

### **Financial Implications**

The implementation of the signage will be funded by Council's Block Grant for Traffic Facilities.

### **Conclusion**

It is recommended that a 'No Stopping' restriction be installed on the western side of Towns Road, Vaucluse, for a distance of 15 metres from its intersection with New South Head Road as shown in Attachment 1, in order to deter illegal parking and improve traffic safety at this location.

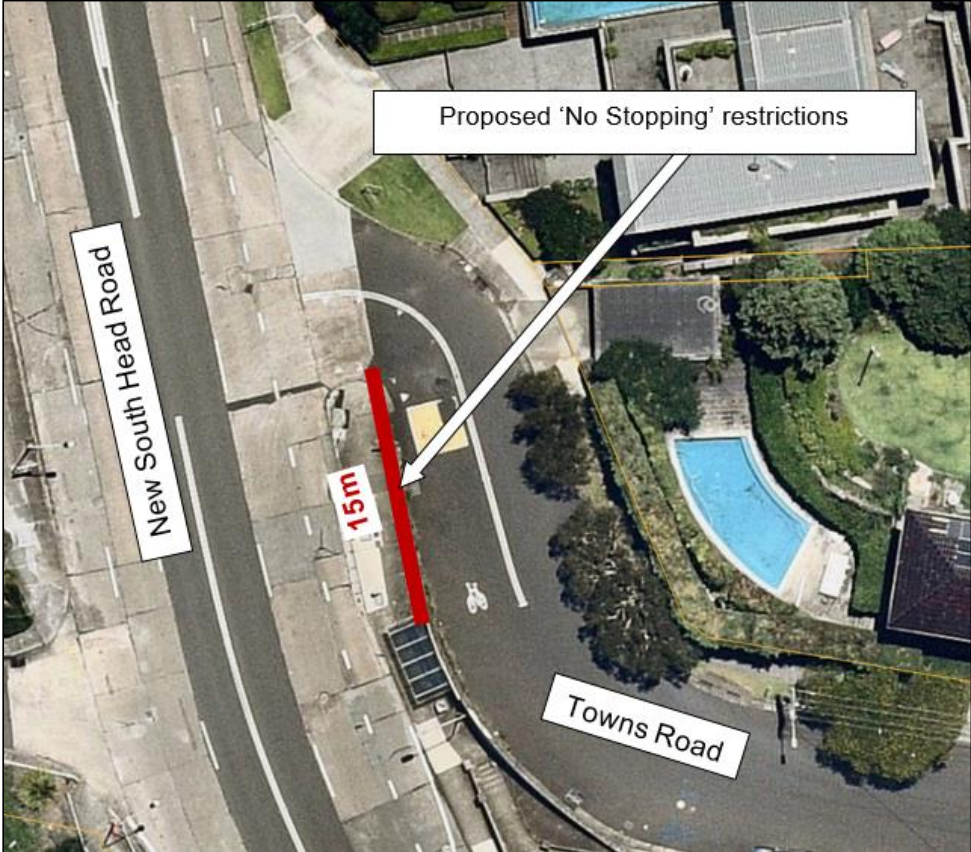
### **Identification of Income & Expenditure:**

Council's Block Grant for Traffic Facilities

### **Attachments**

1. Locality Map - Towns Road, Vaucluse [↓](#) 

Attachment 1 Locality Map – Towns Road, Vaucluse





**Item No:** Y3  
**Subject:** **CAMP STREET, WATSON BAY - NO STOPPING RESTRICTIONS**  
**Author:** Ever Fang, Traffic & Transport Team Leader  
**Approver:** Emilio Andari, Manager Engineering Services  
**File No:** 24/132344  
**Purpose of the Report:** To respond to requests from the local community  
**Alignment to Delivery Program:** Strategy 6.2: Management of public parking on-street and off-street.

**Recommendation:**

THAT 'No Stopping' restrictions be installed on the western side of Camp Street, immediately north of Pacific Street, Watsons Bay for a distance of 6 metres, to deter illegal parking and improve traffic safety and local amenities, as shown in Attachment 1.

---

**Executive Summary:**

Council has received requests from the local community to review parking conditions in Camp Street, near its intersection with Pacific Street, Watsons Bay. It is reported that parking restrictions are not signposted on the western side of Camp Street, which results in vehicles parked too close to the corner and impeded access of larger vehicles, including waste collection services.

**Discussion:**

The subject location is a T-intersection of Pacific Street and Camp Street, Watsons Bay. Camp Street is a local no-through road that provides access to residential properties. Pacific Street consists of 'One-Way' westbound traffic movement at this location and leads to Green Point Reserve and Camp Cove Beach.

Currently 'No Stopping' restrictions are signposted on the eastern side of Camp Street and both sides of Pacific Street near the intersection, noting 'No Stopping' distance on the northern side of Pacific Street, west of the intersection was reviewed by Local Traffic Committee at its meeting on 5 May 2020 and was approved to be reduced to 5.3 metres.

The available kerb length on the western side of Camp Street, between the intersection and the nearest driveway, is measured to be approximately 36.2 metres and includes 10 metres of statutory 'No Stopping' distance at an unsignalised intersection. The kerb space currently can accommodate a total of four (4) car parking spaces, as per AS 2890.5:2020.

Site inspections observed that on-street parking is highly utilised due to the proximity of leisure locations nearby. It is also observed that parking on the western side of Camp Street is often too close to the intersection, which impedes turning movements into Camp Street, obstructs access to the footpath and the kerb ramp and does not comply with Clause 170 Section (3) (a) of NSW Road Rules 2014, where it is stipulated:

***170 Stopping in or near an intersection***

*(3) A driver must not stop on a road within 10 metres from the nearest point of an intersecting road at an intersection without traffic lights, unless the driver stops--*

*(a) at a place on a length of road, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under these Rules.*

Noting parking is at high demand in this area, a Risk Assessment is undertaken in accordance with TfNSW's Technical Direction TTD 2014/005 to review the statutory 'No Stopping' distance and is shown in Attachment 2.

Results show that reducing the 'No Stopping' distance to 6 metres would create an additional legal on-street parking space without compromising the sight distance and manoeuvrability of vehicles at this intersection. Signposting the 'No Stopping' restrictions is also envisaged to deter illegal parking and improve traffic safety and local amenities at this location.

**Options:**

Nil.

**Community Engagement and/or Internal Consultation:**

A notification letter as well as a copy of the proposed mobility parking space was sent on 5 July 2024 to the owners and occupiers of the affected properties in Camp Street and Pacific Street. A total of 18 letters were distributed and in addition, the proposal was advertised by hanging a corflute sign to capture visitors to the area. The closing date for comments ended on 22 July 2024. One (1) submission was received supporting the proposal.

**Policy Implications:**

Nil.

**Financial Implications:**

Council's Block Grant for Traffic Facilities.

**Resourcing Implications:**

Nil.



**Conclusion:**

Based on the above, it is recommended that 'No Stopping' restrictions be installed on the western side of Camp Street, immediately north of Pacific Street, Watsons Bay for a distance of 6 metres, to deter illegal parking and improve traffic safety and local amenities, as shown in Attachment 1.

**Identification of Income & Expenditure:**

Council's Block Grant for Traffic Facilities.

**Attachments**

1. Locality Map - Camp Street at Pacific Street, Watsons Bay [↓](#) 
2. Risk Assessment - Review of 'No Stopping' Distance in Camp Street, Watsons Bay [↓](#) 

**Attachment 1**

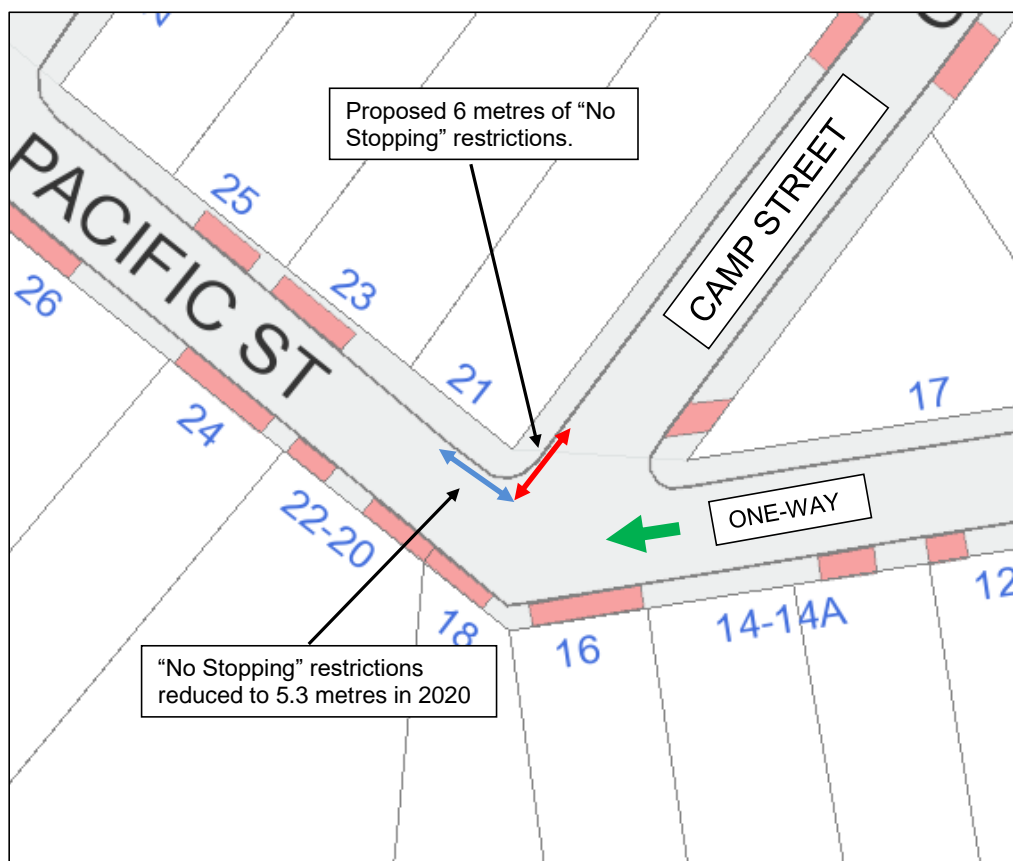
Locality Map – Camp Street at Pacific Street, Watsons Bay



**Attachment 2**

Risk Assessment – Review of statutory ‘No Stopping’ Distance  
 Western Side of Camp Street, Watsons Bay, near Pacific Street

Criteria	Impact
Current Speed Limit	50 kph
Stopping Distance	35 metres
Road Characteristics	Pacific Street is 6.2 metres wide with parking permitted on the northern side only and consists of <b>one-way</b> westbound traffic only. Camp Street is 6.2 metres wide with parking permitted on the western side only and consists of two-way traffic.
Accident History(2018-2023)	No recorded accidents at this intersection.
ASD (Approach Sight Distance)	The proposal does not impact on the ASD requirement between vehicles in Camp Street and vehicles in Pacific Street as Pacific Street is one-way in a westerly direction. The proposed reduction in the ‘No Stopping’ restriction is on the western side of Camp Street, immediately north of Pacific Street.
SISD (Safe intersection sight distance)	The proposal does not impact on the SISD requirement between vehicles in Camp Street and vehicles in Pacific Street as Pacific Street is one-way in a westerly direction
Turning Manoeuvres	The location of the reduced ‘No Stopping’ has no adverse effects on the available turning manoeuvres at this intersection. Vehicles currently park in this location right up to the corner.





**Item No:** Y4  
**Subject:** **WOLSELEY ROAD, POINT PIPER - MOBILITY PARKING SPACE**  
**Author:** Ever Fang, Traffic & Transport Team Leader  
**Approver:** Emilio Andari, Manager Engineering Services  
**File No:** 24/132345  
**Purpose of the Report:** To create reasonable access for a Mobility Permit holder to their residence.  
**Alignment to Delivery Program:** Strategy 6.2: Management of public parking on-street and off-street.

**Recommendation:**

THAT:

- A. A 'Mobility Parking' space be installed on the eastern side of Wolseley Road, Point Piper, for a length of 6 metres adjacent to property No.1B Wolseley Road, as shown in Attachment 1; and
- B. The applicant be advised of Council's Procedure and conditions for 'Mobility Parking' zones, including the requirement to renew these zones annually.

---

**Executive Summary:**

Council has received an application for a 'Mobility Parking' space on the eastern side of Wolseley Road, Point Piper, adjacent to property No.1B Wolseley Road. The applicant has completed an application form with a report from a registered medical practitioner indicating that the applicant needs to park in close proximity to the residence due to permanent medical conditions.

**Discussion:**

Wolseley Road, Point Piper, in the vicinity of this property generally permits parking on both sides of the road. The applicant is not wheel chair bound but is unable to walk long distances from the vehicle to the residence and requires mobility aid in order to get around, as indicated by physician's correspondence.

A site inspection confirms that the ideal location is on the eastern side of Wolseley Road, Point Piper, adjacent to property No.1B Wolseley Road. A letter from the Strata manager confirms the applicant does not have access to off-street parking and should the applicant park the vehicle anywhere in Wolseley Road near the residence, they will be taking up a legal on-street parking space. Therefore, providing a designated 'Mobility Parking' space in front of the applicant's property will not create additional loss of parking in this area.

The applicant has been advised as detailed in the application form that Council cannot guarantee that this space will be available exclusively for their usage as any vehicle displaying a Mobility Permit can park in this space.

**Options:**

Nil.

**Community Engagement and/or Internal Consultation:**

A notification letter as well as a copy of the proposed mobility parking space was sent on 4 July 2024 to the owners and occupiers of the affected properties in Wolseley Road, Point Piper. A total of 23 letters were distributed and in addition, the proposal was advertised by hanging a corflute sign to capture visitors to the area. The closing date for comments ended on 22 July 2024. No submissions have been received in relation to the proposal.

**Policy Implications:**

Nil

**Financial Implications:**

Council's Block Grant for Traffic Facilities

**Resourcing Implications:**

Nil.

**Conclusion:**

Should the applicant park their vehicle anywhere in Wolseley Road, Point Piper, they will be taking up a legal on-street parking space. Therefore, providing a designated 'Mobility Parking' space in front of the applicant's property does not result in net loss of parking in this area when the applicant is home. The provision of a 'Mobility Parking' space close to the applicant's property is therefore considered reasonable due to the applicant's difficulty with walking even relatively short distances.

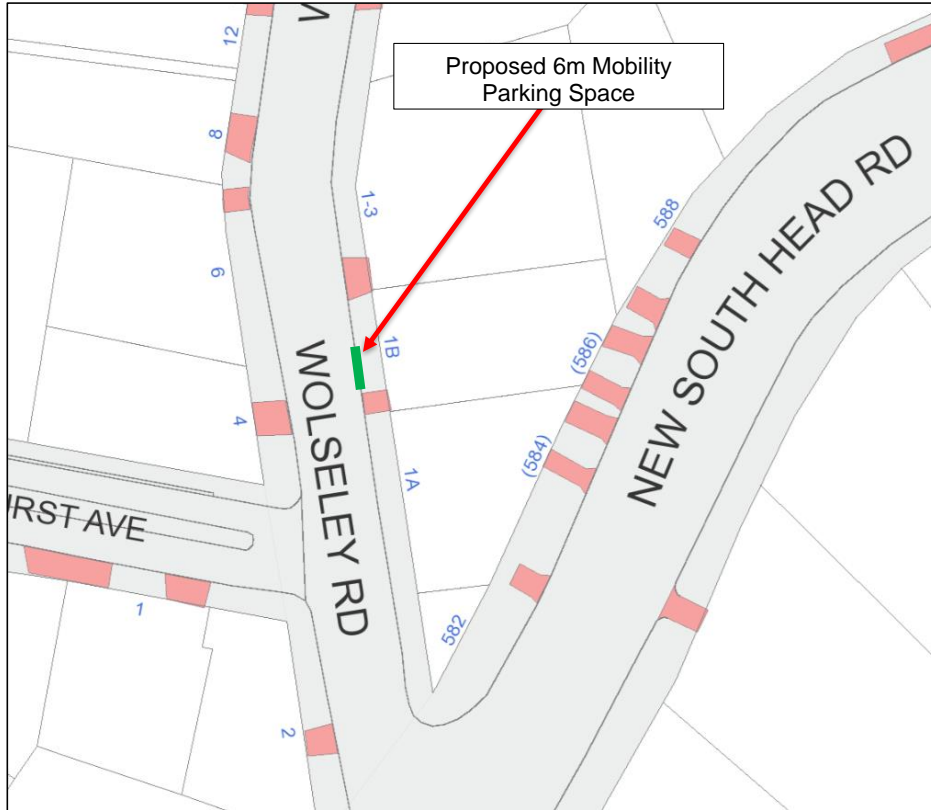
**Identification of Income & Expenditure:**

Council's Block Grant for Traffic Facilities

**Attachments**

1. Locality Map - Wolseley Road, Point Piper [↓](#) 

**Attachment 1 Locality Map – Wolseley Road, Point Piper**





**Item No:** Y5  
**Subject:** **7 BAY STREET, DOUBLE BAY - PARKLET INSTALLATION**  
**Authors:** Ever Fang, Traffic & Transport Team Leader  
Jim Allison, Senior Property Officer  
**Approver:** Emilio Andari, Manager Engineering Services  
**File No:** 24/132346  
**Purpose of the Report:** To seek approval for the installation of a parklet  
**Alignment to Delivery Program:** Strategy 6.2: Management of public parking on-street and off-street.

**Recommendation:**

THAT approval be granted to replace the existing '2P Ticket 9am-6pm Mon-Sat' located on the eastern side of Bay Street, Double Bay, across the frontage of 7 Bay Street, with 'No Stopping' restrictions for a distance of 6.9 metres, as shown in Attachment 1, for the installation of a parklet to support and encourage community connection by introducing additional outdoor seating and planting, subject to the following conditions:

- A. Any directive provided by the NSW Police Force is to be complied with.
- B. All conditions contained within the Parklet Approval issued by Woollahra Council (Attachment 2).
- C. The parklet is to operate in conjunction to the approved footway dining permit and operate for a period of 12 months commencing from the date in which the applicant is notified of the determination of their application with the potential for extension.
- D. The applicant must supply and erect protection barriers for the parklet to ensure public safety. The applicant must remove any implemented barriers, at the completion of the period.
- E. The applicant must inform Council officers when the parklet is no longer required and will be removed.
- F. Council shall be indemnified against all claims for damage or injury that may result from either the activities or from the occupation of part of the public road reserve during the activities. A copy of Public Liability Insurance Cover to the value of \$20,000,000 shall be provided to Council prior to the installation of the parklet and Council must be listed as an interested party on the insurance policy.
- G. Council shall be reimbursed for the cost of repair of any damage caused to Council property as a result of the activities.
- H. Noise created by the use of equipment or activity must be controlled as required by the 'Protection of the Environment Operations (Noise Control) Regulation 2000'.
- I. The applicant must make arrangements to remove all waste/rubbish from the parklet on a daily basis.
- J. Failure to comply with any of these conditions may result in the cancellation of the use of a parklet at Council's discretion.
- K. Woollahra Council reserves the right to cancel this approval at any time.

## **Executive Summary:**

### Woollahra Parklet Program

Council, at its meeting of 5<sup>th</sup> July 2021, endorsed the introduction of the 'Woollahra Parklet Trial Program' to support local cafes, bars and restaurants in the Local Government Area (LGA) to expand their existing outdoor dining space into kerbside parking spaces – commonly referred to as a parklet.

Through the Parklet Trial Program, Council has endeavoured to test, measure and evaluate the effectiveness of parklets within the LGA on a temporary basis and to streamline the approval process for the reallocation of road space as outdoor seating. The trial program provided valuable insights and community feedback on how Council could make this temporary physical change permanent.

Given the success of the trial program, Council endorsed the formalisation of the parklet program for an indefinite period at its ordinary meeting on 26 June 2023, where it was resolved

#### *THAT Council:*

- A. *Resolves to formalise the parklet program, and that parklets are subject to the applicable Fees in Council's adopted fees and charges.*
- B. *Resolves that a maximum of 20 parklets can be operating at any one time.*
- C. *Endorses the Parklet Program Policy and Guidelines as attached to the late correspondence to the Council meeting of 26 June 2023.*
- D. *Requests that staff undertaken a two year review of the Parklet Program Policy and Guidelines.*
- E. *Notes that during the trial Parklet program in 2022/23, it is estimated that Council waived fees and charges in the total amount of \$44,661.97.*

The design and siting of these parklets is managed under the *Parklet Program Policy and Guidelines*.

<https://www.woollahra.nsw.gov.au/files/assets/public/v/1/plans-policies-publications/parklet-program-policy-and-guidelines-adopted-26-june-2023.pdf>

## **Discussion:**

An application has been received from the business owner of property 7 Bay Street, Double Bay, also known as 'Bibo Wine Bar'.

The applicant has proposed the installation of one (1) parklet structure in the existing '2P' ticketed parking space located directly in front of the shop at 7 Bay Street, Double Bay. This application also proposes to replace the existing restrictions with 'No Stopping' restrictions for this location.

The dimensions of the proposed parklet structure (shown in the site plan in Attachment 1) are 6.9 metres in length and 2.5 metres in depth. A minimum of 3.0 metre clearance is provided for the adjacent travel lane.

The proposed location consists of T-marked parking bay and the installation of this parklet will result in loss of one (1) legal on-street car parking space during its operation.

There is a current footway dining approval for property No.7 Bay Street, Double Bay. The parklet is to operate in conjunction with the existing footway dining approval for the business and once approved, Council will issue an Approval in the form of an Approval Notice for a period of up to 12 months with the potential for extension under Section 125 of the Roads Act 1993 (the Act).

Council Officers have met with Eastern Suburbs Licencing Police to provide a comprehensive briefing on Woollahra's Parklet Program. Upon the advice of Licencing Police, Council have included a range of additional provisions or 'operational requirements' into the template parklet approval (attached). These additional provisions include:

- i. Food must be available to patrons within the outdoor dining area at all times that the area is operating.
- ii. A copy of the approved plan of the licensed boundary must be made immediately available for inspection by NSW Police officer, Council officer or Liquor & Gaming NSW inspector upon request.
- iii. The Business Operator must not increase the Patron capacity which applied to the licensed premises where the Parklet Approval was granted.
- iv. Despite any other provision of this Parklet Approval, the trading areas of the Parklet Area may not extend beyond approved trading hours and days contained in this Parklet Approval.
- v. Liquor may be consumed within the Parklet Area only when Patrons are seated.
- vi. The Business Operator may sell alcohol from the indoor area of the Premises adjoining the Parklet Area to Patrons using the Parklet Area provided the Business Operator ensures drinks are only consumed within the Parklet Area.
- vii. The Business Operator acknowledges that the Liquor Licence (Permit) – Temporary Change to Boundaries, Footpaths and Roads may be revoked at any time by Liquor and Gaming NSW or the Council.
- viii. The operation of the Parklet Area must be integrated into the existing plan of management for the premises and updated plan of management must be provided to the Council within 14 days of the issue of a Parklet Approval.

Following the inclusion of these conditions and various other requested amendments, Eastern Suburbs Licencing Police endorsed the template approval, noting that they were satisfied with the information contained within the document.

This finalised template approval is provided in Attachment 2 and will be used by Council's Property & Projects Section to issue an approval to the parklet application for property No.7 Bay Street, Double Bay.

### **Community Engagement and/or Internal Consultation:**

A notification letter as well as a copy of the design plan was sent on 12 March 2024 to the owners and occupiers of all nearby affected properties. In addition, the proposal was advertised by hanging a corflute sign to capture visitors to the area. The closing date for comments ended on 28 March 2024. A total of two (2) submissions were received with one (1) supporting and one (1) opposing the proposal.

The objection expressed parking difficulties in this area and raised concerns on loss of available parking. Council's Traffic and Transport Engineers acknowledge there is high demand for parking however note the proposal is to support and encourage community connection, which aligns with Council strategies and plans to achieve great place-making outcomes in our local centres and maintain a high public domain to support and promote local business.

Beyond the utility as a business support initiative, the introduction of parklet is also envisaged to bring a range of benefits to activate the Double Bay Commercial Centre, including providing additional and pleasant customer seating, adding streetscape greening and creating visual point of interest, driving visitation and encouraging dwell/linger time, etc.

The proposed location consists of T-marked parking bays and the proposal would result in loss of one (1) legal parking space during the operation of the parklet. With considerations to the above, the loss of one (1) parking space is considered acceptable to balance against the liveability improvements and enhancements to the diversity of the streetscape.

**Policy Implications:**

Nil.

**Financial Implications:**

All costs associated with the approval, installation, maintenance, supply of parklet and installation of signage are to be borne by the applicant of the approved parklet.

**Resourcing Implications:**

Nil.



**Conclusion:**

Based on the above, it is recommended that the installation of a parklet for property No.7 Bay Street, Double Bay as per Attachment 1, be approved to support and encourage community connection by introducing additional outdoor seating and planting, subject to above conditions.

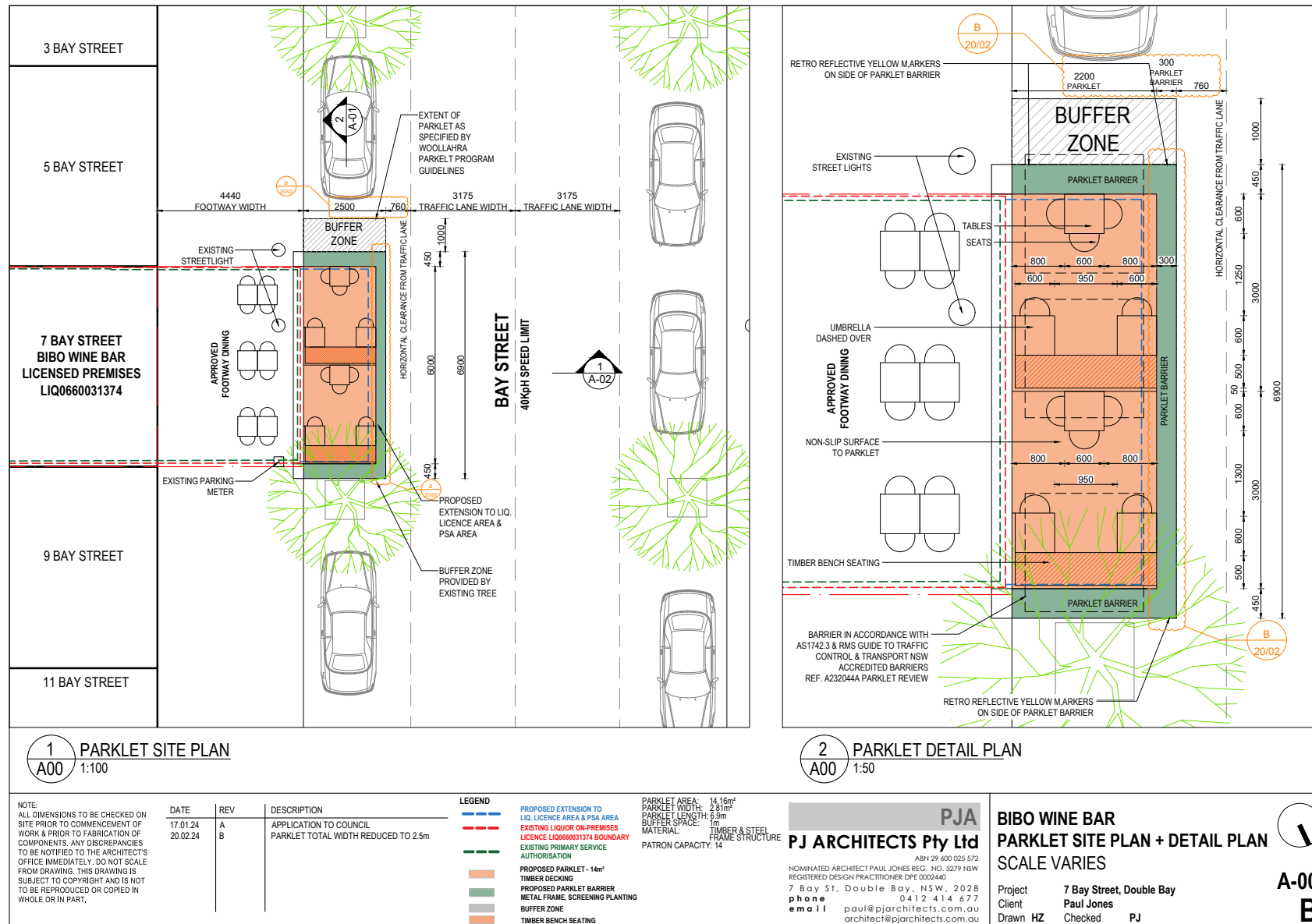
**Identification of Income & Expenditure:**

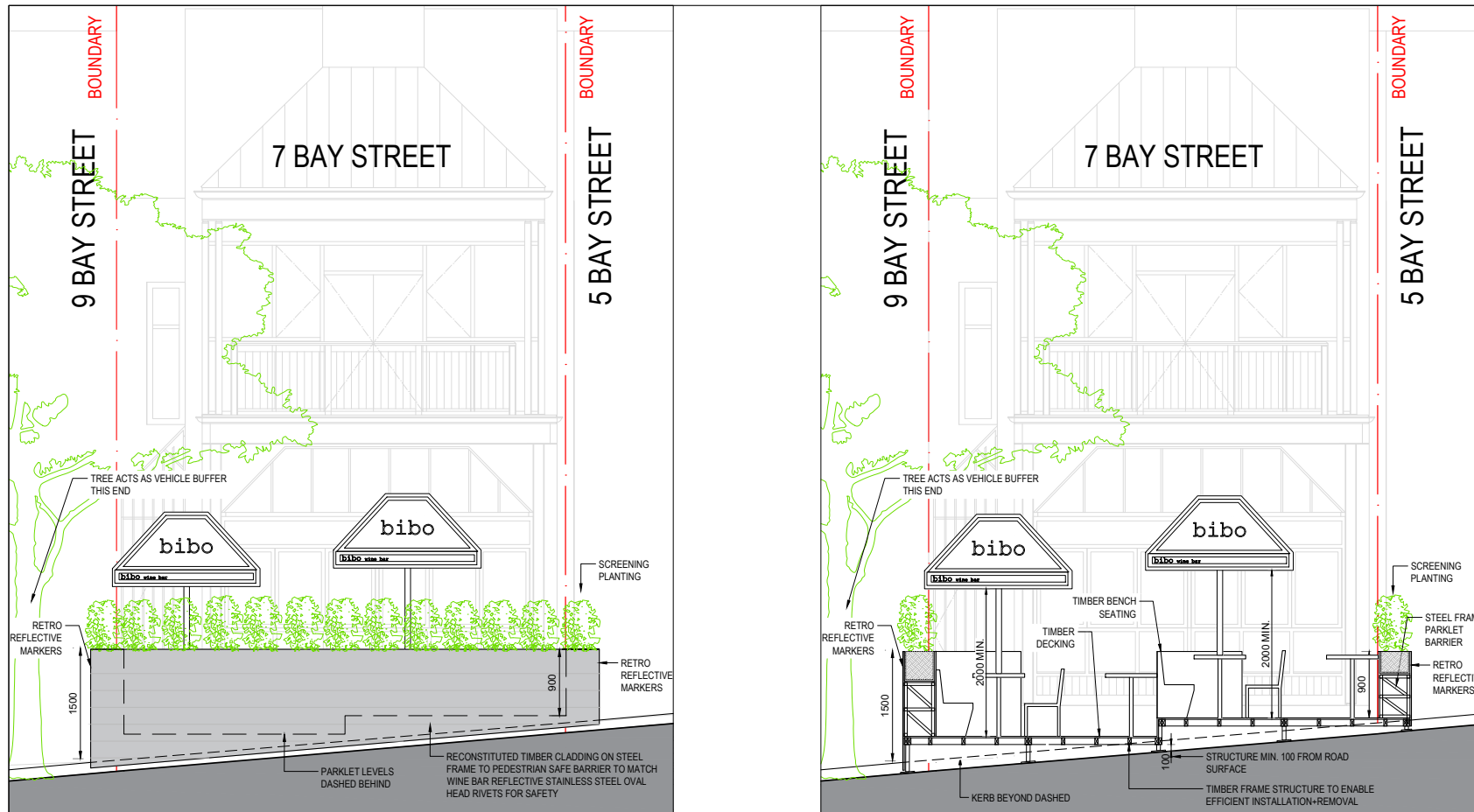
Parklet approval will be subject to the relevant fees and charges as set out in Council's adopted Fees and Charges. All costs associated with the approval, installation, maintenance, supply of parklet and installation of signage are to be borne by the applicant of the approved parklet.

**Attachments**

1. Parklet Plan - 7 Bay Street, Double Bay [↓](#) 
2. Parklet Template Approval [↓](#) 







**1** STREET ELEVATION  
 A01 1:50

**2** SECTION 1  
 A01 1:50

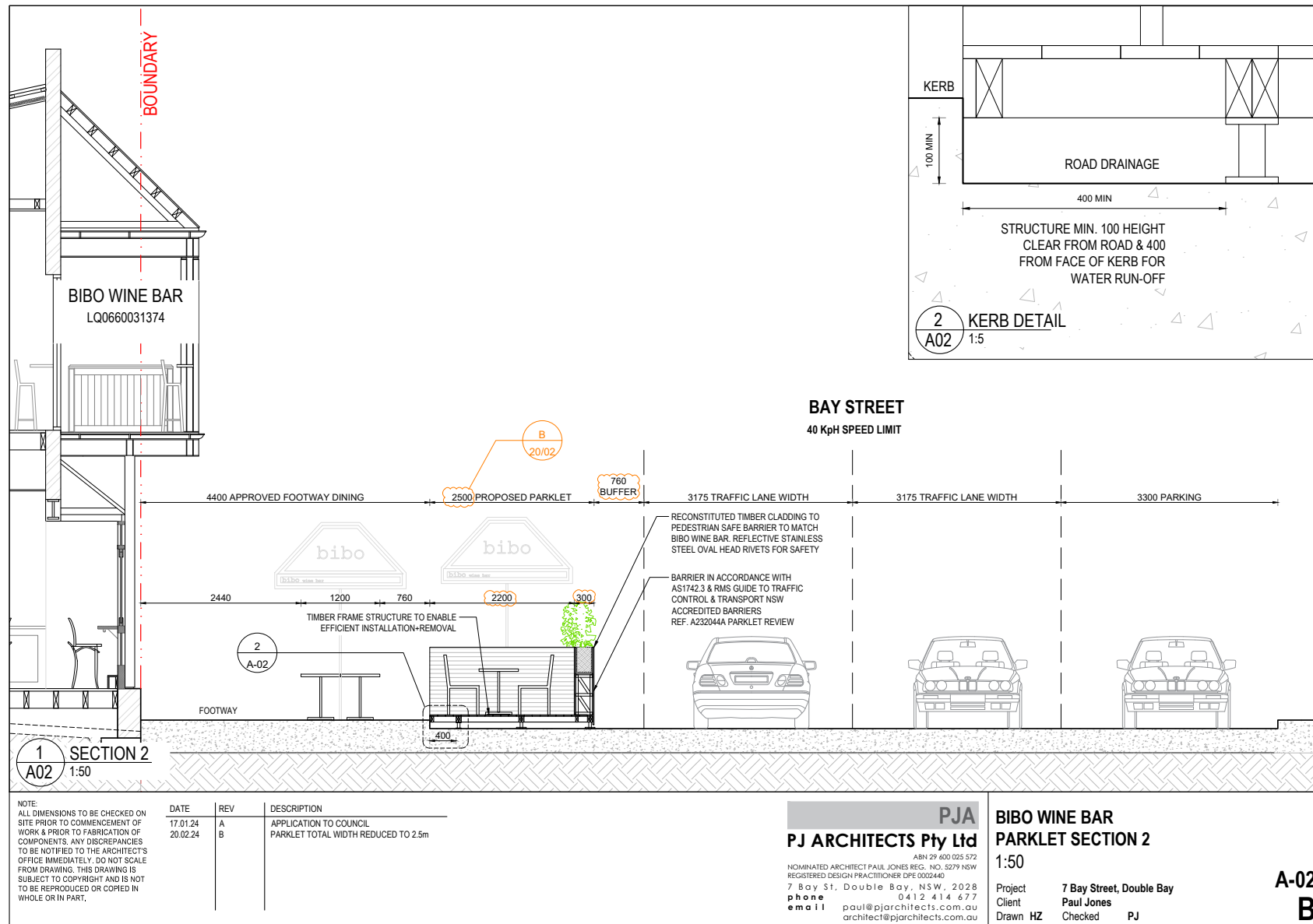
NOTE:  
 ALL DIMENSIONS TO BE CHECKED ON SITE PRIOR TO COMMENCEMENT OF WORK & PRIOR TO FABRICATION OF COMPONENTS. ANY DISCREPANCIES TO BE NOTIFIED TO THE ARCHITECT'S OFFICE IMMEDIATELY. DO NOT SCALE FROM DRAWING. THIS DRAWING IS SUBJECT TO COPYRIGHT AND IS NOT TO BE REPRODUCED OR COPIED IN WHOLE OR IN PART.

DATE	REV	DESCRIPTION
17.01.24	A	APPLICATION TO COUNCIL

**PJA**  
**PJ ARCHITECTS Pty Ltd**  
 ABN 29 400 025 572  
 NOMINATED ARCHITECT PAUL JONES REG. NO. 5279 NSW  
 REGISTERED DESIGN PRACTITIONER DPE 0002440  
 7 Bay St, Double Bay, NSW, 2028  
 phone 0412 414 477  
 email paul@pjarchitects.com.au  
 architect@pjarchitects.com.au

**BIBO WINE BAR**  
**PARKLET ELEVATION & SECTION**  
 1:50  
 Project **7 Bay Street, Double Bay**  
 Client **Paul Jones**  
 Drawn HZ Checked PJ

**A-01**  
**A**





## **PARKLET APPROVAL**

Granted under sections 138, 139 and 139A of the *Roads Act NSW* by

**WOOLLAHRA MUNICIPAL COUNCIL** (Roads Authority)

to

**XXXX** (ABN: **XXXX**) trading as **XXXX** (Approval Holder)

Property address: Area of the roadway adjacent to **XXXX** (as shown on the attached Plan).

**SCXXXX**



**CONTENTS**

**DETAILS ..... 1**

**Reference Schedule..... 2**

1 The Approval ..... 3

2 Operational Provisions ..... 3

3 Fee ..... 7

4 Assignment ..... 7

5 Indemnity and release ..... 8

6 Insurance ..... 9

7 Compliance with statutes and notices ..... 10

8 Acts of Default ..... 11

9 Obligations at end of Parklet Approval ..... 11

10 Security deposit ..... 11

10 Guarantee ..... 12

12 Subject to holding the appropriate Liquor Licence ..... 12

13 Approval under sections 138 Roads Act 1993 ..... 13

14 Revocation or suspension of Parklet Approval ..... 14

15 Notices and approvals ..... 15

16 Definitions and interpretation ..... 16

**Parklet Plan ..... 19**

**PARKLET APPROVAL ..... 20**

z:\affinity\_documents\wool0001\210440\pdpb\_mc\_015.docx



**DETAILS**

**Parties**

**COUNCIL**

**NAME** Woollahra Municipal Council  
**ABN** 32 218 483 245  
**Address** 536 New South Head Road, Double Bay, NSW 2028  
**Email** [RECORDS@WOOLLAHRA.NSW.GOV.AU](mailto:RECORDS@WOOLLAHRA.NSW.GOV.AU)

**PARKLET APPROVAL HOLDER**

**Name** XXXX  
**ABN** XXXX  
**Address** XXXX

**Email**

**GUARANTOR**

**Name** XXXX  
**Address** xxxx  
**Email**



**REFERENCE SCHEDULE**

- Item 1: Parklet Area**  
The area of the pavement adjacent to **xxxx** (as shown on the Plan) that the outdoor dining furniture and equipment are to be placed on that may be used by patrons, being **xxxx square metres**.
- Item 2: Commencement Date**
- Item 3: Termination Date**
- Item 4: Fee** **xxxx** per annum **\$xxxx** per square metre.  
(Payable from 1 July 2023, Council Fees and Charges)
- Item 5: Fee Adjustment Dates** As per Council Schedule of Fees and Charges.
- Item 6: Security Deposit**  
**\$xxxx** the equivalent of 3 months' Fee. Payable from
- Item 7: Guarantor**  
  
**Guarantor's address for service:**
- Item 8 Trading Hours:**  
**Notice:**  
Council's address for service:  
**536 NEW SOUTH HEAD ROAD, DOUBLE BAY, NSW 2028**  
Approval Holder's address for service:  
  
**Ref: SCXXXX**
- Item 9 Capacity**



## Standard Terms and Conditions

### 1 The Approval

- 1.1 The Council grants to the Business Operator for the Term set out in item 1A commencing on the Commencement Date at Item 2 and terminating on the Termination Date at Item 3 a non-exclusive right to place the Business Operator's Outdoor Dining Furniture and Equipment on the Roadway as shown on the Plan attached hereto ("Parklet Area") and described at Item 1.
- 1.2 If applicable, the Council grants to the Business Operator the right to erect the Approved Structure within the Approved Area.
- 1.3 All provisions of the Council Guidelines relating to the use of the Parklet Area and any Outdoor Dining Furniture and Equipment which are placed in the Parklet Area form part of this Approval.

### 2 Operational provisions

- 2.1 The Business Operator shall ensure the Patron Capacity of the Parklet Area does not exceed the number specified in Item 9 of the Reference Schedule at any time, calculated on one person to two square metres of space. This does not operate to override any public health order relating to capacity limits that may be in place at any time.
- 2.2 The Outdoor Dining Furniture and Equipment placed in the Parklet Area are at the Business Operator's risk at all times.
- 2.3 The Business Operator may, with the Council's prior approval, place Outdoor Dining Furniture and Equipment within the Parklet Area provided that:
  - 2.3.1 The Business Operator does not place (or allow to be placed) any advertising or signage of any sort on such ancillary equipment installed in the Parklet Area other than as authorised under this Parklet Approval;
  - 2.3.2 The Business Operator complies with any relevant insurer and Authority regulations as to the appropriate fire safety system for the Parklet Area, and ensures compliance with any fire laws in respect of the Parklet Area; and
  - 2.3.3 No permanent structures are permitted unless approved and shown on the Plan.
- 2.4 The Business Operator must remove the Outdoor Dining Furniture and Equipment from the Parklet Area at all times other than during the approved Trading Hours unless any have been affixed to the Parklet Area with the Council's prior approval.
- 2.5 Where the Business Operator can't remove the Outdoor Dining Furniture and Equipment from the Parklet Area at the close of Trading Hours, they may stack and place the Outdoor Dining Furniture and Equipment against the wall of the Business Operator's premises until the close of business when the equipment must be removed from the Parklet Area and the footway.





- 2.6 The Business Operator must manage the behaviour of Patrons using the Parklet Area and must take action whenever required to ensure that no nuisance or excessive noise results from the use of the Parklet Area.
- 2.7 The Business Operator must not at any time carry on any noxious, noisome or offensive trade or business likely to cause annoyance and/or damage or disturbance to members of the public or occupiers or owners of neighbouring properties, or users of other portions of the roadway or its adjoining footway.
- 2.8 The Business Operator must not cause or permit any rubbish to be placed in or about the Parklet Area and must ensure that the Parklet Area is kept clean and tidy at all times, including but not limited to:
  - 2.8.1 Sweeping the Parklet Area clean at the end of each day of trading and as often as is reasonably practicable during each day of trading. The Business Operator must immediately remove all spills likely to stain the roadway or its adjoining footway, including all oils or fat spills; and
  - 2.8.2 Ensuring all litter, including (but not limited to) food scraps and packaging, arising from the use of the Parklet Area is removed and disposed of in waste containers at the Business. The Business Operator must not use litter-bins in public spaces for that purpose.
- 2.9 The Council reserves the right to clean the Parklet Area with high pressure water, steam or any such other method as is reasonably practicable, at the Business Operator's expense, to remove any stains from the roadway in the Parklet Area which the Council determines in its sole discretion have not been adequately treated by the Business Operator.
- 2.10 The Business Operator must not erect any signs in the Parklet Area without the prior written approval of the Council.
- 2.11 The Business Operator must maintain (at its own expense) the Outdoor Dining Furniture and Equipment to a standard that is satisfactory to the Council (acting reasonably).
- 2.12 The Business Operator must promptly report to the Council any damage or defects in the roadway or its adjoining footway or any other structures which are owned by the Council, within or adjacent to the Parklet Area. The Council is responsible for carrying out any maintenance, repair or replacement of same to the extent such maintenance, repair or replacement is considered warranted by Council's officers.
- 2.13 The Business Operator must not obstruct access by the Council, any Authority, or any other person under the control of the Council, or its express authority to carry out maintenance, repairs or replacement of public works and utility services, such as electrical power, telephone, data cabling, water, sewer, stormwater or such like. The Council will give no reduction or abatement in the Fee for any interruption to the use of Parklet Area as a result of such works.
- 2.14 Smoking is prohibited in the Parklet Area and within 4 metres of the Parklet Area. The Business Operator must place adequate signage within or around the Parklet Area notifying Patrons that smoking is prohibited and the Business Operator shall discourage its Patrons from smoking within these areas.



- 2.15 Entertainment and amplified Music are not permitted in the Parklet Area.
- 2.16 The use of the Parklet Area for the purpose of outdoor dining in accordance with this Approval shall not commence until after the commencement date and the issue of the Parklet Approval and such time as the Parklet Area has been prepared for use and road barriers have been installed.
- 2.17 The Business Operator must ensure that the design and appearance of the Outdoor Dining Furniture and equipment to be used in the Parklet Area complies with any guidelines, revised by the Council from time to time.
- 2.18 The Business Operator may install synthetic grass on the surface of the Parklet Area but only if it is maintained in a safe, clean and presentable state at all times.
- 2.19 The Business Operator must ensure that any Outdoor Dining Furniture and equipment, or any approved structures, does cover or impede access to public or private utility access and drainage pits. The Business Operator must permit utility, infrastructure and communications organisations access to the site at no cost whenever required.
- 2.20 The Business Operator must ensure that Outdoor Dining Furniture and equipment or approved structures do not obstruct the view of advisory, warning, traffic and regulatory signs and traffic controls.
- 2.21 The Business Operator must ensure the Parklet Area is designed in accordance with the guidelines published by the Council and meets relevant Australian standards.
  - 2.21.1 If any Council property is damaged in the course of use of the Parklet Area, the Business Operator acknowledges the Council may carry out necessary works to effect repair and the Business Operator must reimburse the Council for the cost of any repairs;
  - 2.21.2 On expiry or termination of the Parklet Approval, all Structures and works carried out by the Business Operator on the Parklet Area must be removed. If the Business Operator fails to remove such works, the Council may carry out the necessary work to remove them and the Business Operator must reimburse the Council costs of doing so.
  - 2.21.3 On the completion of the installation of any the Structures or works carried out by the Business Operator on the Parklet Area, final certification of the works by a compliant road safety audit report must be submitted to the Council.
  - 2.21.4 The Business Operator acknowledges the Council reserves the right to remove any Structure or work that does not comply with the Council's approval or guidelines, or presents a risk to the public, or is not in the public interest.
- 2.22 The Business Operator shall ensure the Parklet Area is used only for outdoor dining in conjunction with the provision of food service from the adjoining premises operated by the Business Operator.
- 2.23 The Business Operator shall ensure that no more than the Patron Capacity are permitted within the Parklet Area at any time, calculated on one person to 2m<sup>2</sup> of



space. This does not operate to override any public health order relating to capacity limits that may be in place at any time.

- 2.24 The Business Operator must develop and maintain a complaints register that details the nature of a complaint, the name of the complainant, the time and date of the complaint and the contact details of the complainant. The register must be made available to the authorised Council officer or member of the NSW Police Force upon request.
- 2.25 The Business Operator must ensure a sign is located within the Parklet Area indicating the number of Patrons who may be permitted within the Parklet Area.
- 2.26 Where the Business Operator has obtained a Liquor Licence (Permit) – Temporary Change to Boundaries, Footpaths and Roads from Liquor and Gaming NSW, the following provisions will apply:
  - 2.26.1 Food must be available to Patrons within the Parklet Area at all times when the Parklet Area is operating;
  - 2.26.2 A copy of the approved plan of the licensed boundary must be made immediately available for inspection by NSW Police officer, Council officer or Liquor and Gaming NSW inspector upon request.
  - 2.26.3 The Business Operator must not increase the Patron capacity which applied to the licensed premises where the Parklet Approval was granted.
  - 2.26.4 Despite any other provision of this Parklet Approval, the trading areas of the Parklet Area may not extend beyond approved trading hours and days contained in this Parklet Approval.
  - 2.26.5 Liquor may be consumed within the Parklet Area only when Patrons are seated.
  - 2.26.6 The Business Operator may sell alcohol from the indoor area of the Premises adjoining the Parklet Area to Patrons using the Parklet Area provided the Business Operator ensures drinks are only consumed within the Parklet Area.
  - 2.26.7 The Business Operator acknowledges that the Liquor Licence (Permit) – Temporary Change to Boundaries, Footpaths and Roads may be revoked at any time by Liquor and Gaming NSW or the Council.
  - 2.26.8 The operation of the Parklet Area must be integrated into the existing plan of management for the premises and updated plan of management must be provided to the Council within 14 days of the issue of a Parklet Approval.

### **3 Fee**

- 3.1 The Business Operator must pay to the Council the Fee set out in Item 4 of the Schedule in advance on the first day of each month by direct payment or as the Council may from time to time direct.
- 3.2 The Fee will be adjusted on the Fee Adjustment Date in Item 5 in each year of this Approval in accordance with Council's Fees and Charges Policy and in accordance



with changes to the Consumer Price Index Sydney (All groups) for the quarter ended in accordance with the formula:

$$\frac{\$X \times \text{CPI-2}}{\text{CPI-1}} = \$Y$$

\$X is the Fee at the last Fee Adjustment Date, or if none, the Fee at the Commencement Date;

CPI-1 is the Consumer Price Index Number for Sydney (All Groups) for the quarter ended just before the Fee Adjustment Date;

CPI-2 = the Consumer Price Index Number for Sydney (All Groups) for the quarter ended just before the Fee Adjustment Date;

\$Y = the new fee

- 3.2.1 If the index used to calculate the new Fee is discontinued, the Council may substitute another index that, is nearly as practicable, serves the same purpose and, if there is no such index, then the Fee will be calculated by fixed percentage increase calculated in accordance with Council's fees and charges policy.

#### **4 Assignment**

- 4.1 This Parklet Approval is personal to the Business Operator and may not be assigned.
- 4.2 If the Business Operator sells or otherwise transfers the business conducted in the adjoining premises it will be necessary for the proposed transferee to make application for a Parklet Approval.

#### **5 Indemnity and release**

##### *Business Operator's Risk*

- 5.1 The Business Operator occupies the Parklet Area and conducts the business from the Parklet Area at its own risk.
- 5.2 If the Business Operator is obliged to do anything under this Parklet Approval, it does so at its own risk.

##### *Release of Council*

- 5.3 To the extent permitted by law, the Business Operator releases the Council from:
- 5.3.1 Any claim, action, damage, loss, liability, cost or expense which the Business Operator incurs or is liable for in connection with any damage, loss, injury or death to or of any person or property on or near the Parklet Area; and
- 5.3.2 Any liability for damage to the Business Operator's property, including (without limitation) its Outdoor Dining Furniture and Equipment, or for loss of the Business Operator's profits,



Except to the extent that the Council has directly caused or contributed to such claim, action, damage, loss, liability, cost or expense by its wrongful act, negligence or default.

*Indemnity by Business Operator*

5.4 The Business Operator indemnifies the Council against any claim, action, damage, loss, liability, cost or expense which the Council incurs or is liable for in connection with:

- 5.4.1 Any damage, loss, injury or death, caused or contributed to by the Business Operator or Business Operator's invitees and employees;
- 5.4.2 Any default by the Business Operator under this Parklet Approval;
- 5.4.3 The use or occupation of the Parklet Area by the Business Operator or Business Operator's invitees or employees;

Except to the extent that the Council has directly caused or contributed to such claim, action, damage, loss, liability, cost or expense by its wrongful act, negligence or default.

*Continuing indemnity*

5.5 Each indemnity of the Business Operator contained in this Parklet Approval is:

- 5.5.1 A continuing obligation of the Business Operator and remains in full force and effect after the termination of this Parklet Approval; and
- 5.5.2 A separate and independent obligation of the Business Operator.

**6 Insurance**

6.1 The Business Operator must take out and maintain a public liability insurance policy in respect of the Parklet Area and the business conducted on the Parklet Area:

- 6.1.1 Under which the maximum amount payable for a single claim is at least \$20 million, or any other amount reasonably required by the Council;
- 6.1.2 Which contains all provisions that are normally contained in public liability policies, including theft from the Parklet Area, and any other provisions reasonably required by the Council;
- 6.1.3 Which, without limiting the rest of this clause 6.1, covers death and injury to any person and damage to property of any person sustained when that person is using or entering or near any entrance, passage or stairway to or in the Parklet Area; and
- 6.1.4 Which expressly refers to and covers all of the Business Operator's obligations under this Parklet Approval, including the obligation to indemnify the Council.

*Workers compensation and other insurances*

6.2 The Business Operator must take out and maintain an insurance policy in respect of



the Business Operator's business and each person employed by the Business Operator in the business conducted on the Parklet Area:

- 6.2.1 For the full amount of the Business Operator's liability under any applicable workers compensation legislation;
  - 6.2.2 For the full amount of the Business Operator's potential legal liability independently of that legislation;
  - 6.2.3 For an amount not less than the value of the structures and works carried out on the Parklet Area by the Business Operator; and
- 6.3 The Business Operator must take out and maintain such other insurance required by law or which, in the Council's reasonable opinion, the Business Operator should take out.

*Proceeds of insurance*

- 6.4 If any loss or damage occurs which is covered by any insurance the Business Operator is required to maintain under this Parklet Approval the Business Operator must:
- 6.4.1 Apply for the insurance proceeds immediately; and
  - 6.4.2 Use the proceeds to restore, replace, repair or reinstate the loss or damage and must supplement the proceeds with the Business Operator's own money to the extent that the proceeds are insufficient.

*Policies*

- 6.5 The Business Operator must do the following in respect of each policy of insurance that it is required to maintain under this Parklet Approval:
- 6.5.1 Take out the policy with an insurance company approved by the Council, whose approval must not be unreasonably withheld noting Woollahra Council on the policy as an interested party;
  - 6.5.2 Give the Council a Certificate of Currency for each insurance policy at renewal and at renewal each year thereafter; and
  - 6.5.3 Ensure that the policy contains a requirement that the insurer will not cancel or change the insurance without first giving the Council 10 days prior written notice; and
  - 6.5.4 Ensure the interest of the Council is noted on any policy.

*Maintain insurance*

- 6.6 The Business Operator must not do anything without the Council's prior consent which could:
- 6.6.1 Increase the premium payable on any insurance policy taken out by the Council; or



6.6.2 Affect the Council's rights under any insurance policy or make the policy invalid or able to be cancelled.

6.7 The Business Operator must pay any extra premium payable by the Council on account of extra risk caused by the Business Operator's use or occupation of the Parklet Area.

## **7 Compliance with statutes and notices**

7.1 The Business Operator must at all times promptly comply with and observe the provisions of all consents, approvals, licences, statutes, ordinances, rules, regulations, and bylaws present or future, which in any way affect, relate to or apply to the Parklet Area or its use by the Business Operator.

7.2 The Business Operator must at all times promptly comply with the terms of any lawful demand, which has been made or any notice of order which may be served or given by any Authority upon the Business Operator or by the Council (acting in its capacity as the local government authority) under any statute, ordinance, rule, regulation or bylaw, which in any way affects or applies to the Approved Area or its use by the Business Operator.

7.3 The Business Operator will specifically abide by the provisions of the Food Act 2003, the Food Regulations 2010, the Smoke-Free Environment Act 2000, the Work Health and Safety Act 2011, the Companion Animals Act 1998, the Local Government Act 1993 and the Roads Act 1993 and, where a temporary liquor licence boundary change has been obtained from Liquor and Gaming NSW, any conditions to which that change is subject.

7.4 Nothing in this Parklet Approval will in any way fetter the Council in connection with the exercise of its powers or duties as an Authority or bind Council to the grant of any statutory consent or the exercise of any other statutory role or statutory discretion. The Business Operator will have no claim against Council under this Parklet Approval should Council refuse, delay or suspend any decision taken in its capacity as an Authority.

## **8 Acts of Default**

8.1 If the Business Operator fails to comply with any of its obligations under this Parklet Approval within 7 days after written notice from the Council, the Council may terminate this Approval immediately.

## **9 Obligations at end of Parklet Approval**

9.1 Upon termination of this Parklet Approval the Business Operator will immediately remove the Tables, Chairs and equipment and other property of the Business Operator's from the Parklet Area including any structures approved under sections 138, 139 or 139A of the Roads Act 1993.

9.2 The Council may treat the Tables, Chairs and equipment and other property of the Business Operator as abandoned and deal with them in accordance with the provisions of the *Impounding Act* 1993 NSW or any legislation which replaces it or



applies to unattended property, at the Business Operator's expense, if the Business Operator does not remove them pursuant to clause 9.1.

## **10 Security deposit**

- 10.1 The Business Operator must pay the Security Deposit referred to in Item 6 to the Council on or before the Commencement Date by cash or unendorsed bank cheque.
- 10.2 If the Business Operator fails to punctually pay the Fee set out in Item 4 of the Schedule or any other money under this Parklet Approval or fails to observe any of the provisions of this Parklet Approval, the Council may use the Security Deposit without notice to the Business Operator.
- 10.3 If the Council uses the Security Deposit and the Council gives the Business Operator a notice stating the amount required to reinstate the Security Deposit, no later than 7 days after the Council gives the notice the Business Operator must pay that amount to the Council by cash or unendorsed bank cheque.
- 10.4 The Business Operator must increase proportionally the amount of the Business Operator's security deposit when the Fee increases, so that it is always equal to the amount of the Security Deposit.
- 10.5 On the expiry of the term of this Parklet Approval or earlier termination, the Council may use the Security Deposit for outstanding amounts payable by the Business Operator under this Parklet Approval and then, after the Business Operator has vacated the Parklet Area and has complied with all their other obligations under this Parklet Approval, the Council must refund any unused part of the Security Deposit to the Business Operator.

## **11 Guarantee**

- 11.1 This clause applies if a guarantor of the Business Operator is named in Item 7 and who is required to sign this Parklet Approval.
- 11.2 The Guarantor guarantees to the Council the performance by the Business Operator of all of the Business Operator's obligations (including any obligation to pay the Fee or damages) under this Parklet Approval, under every extension of it and under any renewal of it.
- 11.3 If the Business Operator does not pay any money due under this Parklet Approval, under any extension of it or under any renewal of it, the Guarantor must pay that money to the Council on demand even if the Council has not tried to recover payment from the Business Operator.
- 11.4 If the Business Operator does not perform any of the Business Operator's obligations under this Parklet Approval, under any extension of it, or under any renewal of it, the Guarantor must compensate the Council even if the Council has not tried to recover compensation from the Business Operator.
- 11.5 If the Business Operator is insolvent and this Parklet Approval or any extension or renewal of it is disclaimed, the Guarantor is liable to the Council for any damage suffered by the Council because of the disclaimer. The Council can recover damages





for losses over the entire period of the Parklet Approval or any extension or renewal but must do every reasonable thing to mitigate those losses.

## **12 Subject to the holding of the appropriate liquor licence**

12.1 Business Operators seeking to serve alcohol within the Parklet Area must be authorised to do so by an appropriate liquor licence which extends to the Parklet Area.

12.2 In the Parklet Area Patrons consuming alcohol must be seated.

## **13 Approvals under sections 138 and 139A Roads Act 1993**

13.1 Where an approval has been given pursuant to section 138 Roads Act 1993 for the erection of structures within the Parklet Area the Business Operator must:

13.1.1 Erect the structure in accordance with the approved plans only within the Parklet Area;

13.1.2 Comply with all consents, approvals, regulations and by-laws applicable to the erection of the structure and its maintenance;

13.1.3 Erect the structure in a proper and workmanlike manner by use of appropriately qualified tradesman when necessary;

13.1.4 Maintain the structure in a proper and serviceable condition and make repairs when necessary;

13.1.5 Report any breakages, injuries or accidents relating to the structure to the Council as soon as possible after they occur;

13.1.6 Ensure that the public liability insurance referred to in clause 4 extends to the structure and that the structure is noted on the policy.

13.1.7 ensure that if the Parklet Area projects on to the carriageway, a horizontal clearance of 450 mm from the traffic lane is provided and ensure that barriers are positioned 450mm within the Parklet Area on three sides;

13.1.8 ensure that a minimum clearance of 3.0 metres from the adjacent traffic lane is maintained at all times;

13.1.9 ensure a minimum of 1 metre buffer space is provided between Parklet Area boundary and any adjoining vehicle parking bay;

13.1.10 provide a pedestrian ramp over the kerb between the footpath and the roadway in accordance with Workcover specification to permit safe pedestrian, wheelchair and pram access;

13.1.12 ensure that a traffic control plan illustrating the set out of safety barriers in accordance with Australian Standard 1742.3 is prepared by a qualified person and that the plan is implemented at all times while the Parklet Area is in use.



13.2 The Business Operator warrants and agrees that the indemnity contained in clause 5.4 extends to:

- 13.2.1 Any damage, loss, injury or death caused or contributed to by the installation and use of the structure;
- 13.2.2 Any default by the Business Operator in compliance with the provisions of this clause;
- 13.2.3 The use of the structure by the Business Operator or the Business Operator's invitees or employees;

Except to the extent that the Council has directly caused or contributed to such claim, action, damage, loss, liability, cost or expense by its wrongful act, negligence or default.

#### 14 Revocation or Suspension of Parklet Approval

14.1 The Council may revoke or suspend the Parklet Approval at any time during the approval period if:

- 14.1.1 The conditions of the Parklet Approval have been breached;
- 14.1.2 The use of the Parklet Area in accordance with the Parklet Approval results in adverse impacts on the use of the adjoining footway, or adjoining roadway, or on public safety, or public amenity.
- 14.1.3 The Council and/or a government agency order contractors:
  - 14.1.3.1 Undertake or propose to undertake in the Parklet Area, or the adjoining footway or roadway; or
  - 14.1.3.2 Impacts access to adjoining footways, roadways, transport infrastructure, park or public places,

Such that are in to either increase pedestrian demand or public safety and an alternate use of the Parklet Area is required.

14.1.4 The Council at any time approved special events in the street;

And the Business Operator shall not be entitled to compensation arising from any such termination or suspension.

14.2 In considering whether to revoke the Parklet Approval for breach of conditions, Council will take into account such matters as it considers relevant. This may include, but is not limited to:

- 14.2.1 History of compliance with the conditions of the Parklet Approval such as payment of rent, use in accordance with approved hours and approved number of chairs and tables and provision of public liability insurance;
- 14.2.2 The number and nature of substantial complaints regarding the operation of the Parklet Approval;



- 14.2.3 Any views expressed by the NSW Police Force and any other relevant public authority;
  - 14.2.4 The Business Operator will be given notice that Council is considering revoking the Parklet Approval and the Business Operator will be invited to make representations as to why the Parklet Approval should not be revoked;
  - 14.2.5 Council will consider any representations made by the Business Operator and will make a determination as to whether the Parklet Approval will be revoked;
  - 14.2.6 The Business Operator will be notified of the date when the revocation or suspension of the Parklet Approval will become effected;
  - 14.2.7 If a Parklet Approval is revoked or suspended pursuant to this clause, the Business Operator will not be entitled to claim compensation from the Council.
- 14.3 Despite any other clause in this Parklet Approval, this Parklet Approval may be terminated by the:
- 14.3.1 Council at any time by giving 7 days' notice in writing to the Business Operator;
  - 14.3.2 Business Operator by giving one month's prior notice to the Council.

## **15 Notices and approvals**

- 15.1 A notice or approval must be:
- 15.1.1 In writing; and
  - 15.1.2 Delivered to the party or left at or posted by registered mail to the address or sent to the facsimile number or email address of the party in the Approval Notice, as varied by notice.
- 15.2 A notice or approval is taken to be given:
- 15.2.1 If delivered to or left at the address of the party, on that day;
  - 15.2.2 If posted, on the third day after posting; and
  - 15.2.3 If sent by facsimile or email, on that day if it is sent before 5.00pm or otherwise on the next Business Day after it is sent unless the sender is aware that transmission is impaired.

### *Authorisation*

- 15.3 Council may give, conditionally or unconditionally or withhold, the Council's Authorisation in the Council's absolute discretion.

### *Headings*

- 15.4 Headings must be ignored in the interpretation of this Parklet Approval.



## 16 Definitions and interpretation

### *Definitions*

16.1 In this document the following definitions apply:

**Approval Notice** means the notice issued by Council, which must be displayed at the Business.

**Authorisation** means an authorisation granted by Council to the Business Operator under the terms of this Parklet Approval to do something or cease doing something other than as already authorised by this Parklet Approval.

**Authority** means any federal, state or local government, semi-government, statutory, public, licensing or other authority or body.

**Business** means a Restaurant, Café, Hotel, Pub or Small Bar.

**Business Day** means any day except a bank or public holiday throughout NSW or a Saturday or Sunday.

**Business Operator** means a business/person who operates a Business adjacent to the road applying for or in receipt of a Parklet Approval.

**Business Operator's Property** means anything belonging to the Business Operator and brought onto the Parklet Area whether fixed or otherwise.

**Commencement Date** means the first day of the Term as specified in the Reference Schedule.

**Fee** means an initial amount per annum as set out in Item 4 of the **Reference Schedule** and as amended from time to time.

**Fee Adjustment Date** means the date contained in Item 5.

**Guidelines** means the Woollahra Municipal Council Parklet Guidelines as amended from time to time.

**Item** means an item referred to in the Reference Schedule

**Licence** means a licence under the Liquor Act 2007 NSW.

**Liquor** means alcohol and includes:

- (a) a beverage which, at 20° Celsius, contains more than 1.15% ethanol by volume, or
- (b) anything that is not a beverage referred to in paragraph (a) but, for the purposes of sale, is held out to be beer or spirits, or
- (c) any other substance prescribed by the regulations as liquor.



**Outdoor Dining Furniture and Equipment** means the Business Operator's equipment approved by the Council and shown on the Plan, which are the Business Operator's Property and includes barriers, umbrellas and heaters placed in the Parklet Area by the Business Operator.

**Parklet** means a kerbside parking space the subject of a Parklet Approval under the Guidelines.

**Parklet Approval** means an approval granted under the Guidelines for the establishment and use of a Parklet.

**Parklet Area** means the approved roadway area that the Business Operator's Outdoor Dining Furniture and Equipment must be placed on, as shown in the Plan included in the Approval Notice and where possible as indicated by the placement of metal studs by Council on the perimeter of the Parklet Area.

**Patrons** means people attending the Parklet Area.

**Patron Capacity** means the number of patrons permitted within the Parklet Area in accordance with Item 9 of the Reference Schedule.

**Plan** means the plan attached to the Parklet Approval, which shows the Parklet Area and sets out the location within the Parklet Area where the Outdoor Dining Furniture and Equipment must be placed.

**Pub** means the premises to which a hotel licence applies to under the Liquor Act.

**Restaurant** means premises in which food is regularly supplied on sale to the public for consumption on the premises, and is the business owned or leased by the Business Operator and includes a Pub, or Small Bar.

**Roads Authority** means a person or body that is, by or under the Roads Act 1993, declared to be a roads authority and, in relation to a particular public road, means the roads authority for that road.

**Small Bar** means the premises to which a small bar licence under the under the Liquor Act 2007 NSW relates.

**Security Deposit** means the amount being the equivalent of 3 months Fee as amended from time to time.

**Structure** means any structure of a permanent nature to which the Council has given approval under sections 138 and 139 Roads Act 1993.

**Term** means the term of this Approval which commences on the **Commencement Date** and ends on the **Termination Date**.

**Termination Date** means the last day of the Term as specified in the Schedule or as otherwise provided for in this Parklet Approval or as a result of a breach of this Parklet Approval by the Business Operator.

**Trading Hours** means the approved hours of use of the Parklet Area by a Business Operator under this Parklet Approval and as shown in the Approval Notice.



**PLAN of Approved Parklet Area**

Total area =



**Parklet Furniture –**

**Image of Parklet Installation**



**APPROVAL**

For use of roadway and erection of structures under section 138, 139 and 139A Roads Act 1993.

Approval holder: **XXXX** (ABN: **XXXX**) trading as **XXXX**

Premises: **XXXX**

**Executed as a Parklet Approval.**

Signed for and on behalf of Woollahra  
Municipal Council ABN **32 218 483 245** by  
the Director of Infrastructure & Sustainability  
pursuant to the sub-delegation by the  
General Manager on 19 June 2018 and  
Council's resolution passed 1 June 2013:

.....  
Signature of Council Authorised Officer

Name (print)



**Item No:** Y6  
**Subject:** **BAY STREET, DOUBLE BAY - PARKLET INSTALLATION FOR 2-22 KNOX STREET**  
**Authors:** Ever Fang, Traffic & Transport Team Leader  
Jim Allison, Senior Property Officer  
**Approver:** Emilio Andari, Manager Engineering Services  
**File No:** 24/133556  
**Purpose of the Report:** To seek approval for the installation of a parklet  
**Alignment to Delivery Program:** Strategy 6.2: Management of public parking on-street and off-street.

**Recommendation:**

THAT approval be granted to replace the existing '2P Ticket 9am-6pm Mon-Sat' located on the eastern side of Bay Street, Double Bay, near shop 15 of 2-22 Knox Street, with 'No Stopping' restrictions for a distance of 5.865 metres, as shown in Attachment 1, for the installation of a parklet to support and encourage community connection by introducing additional outdoor seating and planting, subject to the following conditions:

- A. Any directive provided by the NSW Police Force is to be complied with.
- B. All conditions contained within the Parklet Approval issued by Woollahra Council (Attachment 2).
- C. The parklet is to operate in conjunction to the approved footway dining permit and operate for a period of 12 months commencing from the date in which the applicant is notified of the determination of their application with the potential for extension.
- D. The applicant must supply and erect protection barriers for the parklet to ensure public safety. The applicant must remove any implemented barriers, at the completion of the period.
- E. The applicant must inform Council officers when the parklet is no longer required and will be removed.
- F. Council shall be indemnified against all claims for damage or injury that may result from either the activities or from the occupation of part of the public road reserve during the activities. A copy of Public Liability Insurance Cover to the value of \$20,000,000 shall be provided to Council prior to the installation of the parklet and Council must be listed as an interested party on the insurance policy.
- G. Council shall be reimbursed for the cost of repair of any damage caused to Council property as a result of the activities.
- H. Noise created by the use of equipment or activity must be controlled as required by the 'Protection of the Environment Operations (Noise Control) Regulation 2000'.
- I. The applicant must make arrangements to remove all waste/rubbish from the parklet on a daily basis.
- J. Failure to comply with any of these conditions may result in the cancellation of the use of a parklet at Council's discretion.
- K. Woollahra Council reserves the right to cancel this approval at any time.

## **Executive Summary:**

### Woollahra Parklet Program

Council, at its meeting of 5<sup>th</sup> July 2021, endorsed the introduction of the 'Woollahra Parklet Trial Program' to support local cafes, bars and restaurants in the Local Government Area (LGA) to expand their existing outdoor dining space into kerbside parking spaces – commonly referred to as a parklet.

Through the Parklet Trial Program, Council has endeavoured to test, measure and evaluate the effectiveness of parklets within the LGA on a temporary basis and to streamline the approval process for the reallocation of road space as outdoor seating. The trial program provided valuable insights and community feedback on how Council could make this temporary physical change permanent.

Given the success of the trial program, Council endorsed the formalisation of the parklet program for an indefinite period at its ordinary meeting on 26 June 2023, where it was resolved

#### *THAT Council:*

- A. *Resolves to formalise the parklet program, and that parklets are subject to the applicable Fees in Council's adopted fees and charges.*
- B. *Resolves that a maximum of 20 parklets can be operating at any one time.*
- C. *Endorses the Parklet Program Policy and Guidelines as attached to the late correspondence to the Council meeting of 26 June 2023.*
- D. *Requests that staff undertaken a two year review of the Parklet Program Policy and Guidelines.*
- E. *Notes that during the trial Parklet program in 2022/23, it is estimated that Council waived fees and charges in the total amount of \$44,661.97.*

The design and siting of these parklets is managed under the *Parklet Program Policy and Guidelines*.

<https://www.woollahra.nsw.gov.au/files/assets/public/v/1/plans-policies-publications/parklet-program-policy-and-guidelines-adopted-26-june-2023.pdf>

## **Discussion:**

An application has been received from the business owner of shop 15 of 2-22 Knox Street, Double Bay, also known as 'Bartiga'.

The applicant has proposed the installation of one (1) parklet structure in the existing '2P' ticketed parking space located directly in front of shop 15 of 2-22 Knox Street, Double Bay. This application also proposes to replace the existing restrictions with 'No Stopping' restrictions for this location.

The dimensions of the proposed parklet structure (shown in the site plan in Attachment 1) are 5.865 metres in length and 2.71 metres in depth. A minimum of 3.0 metre clearance is provided for the adjacent travel lane.

The installation of this parklet will result in loss of one (1) legal on-street car parking space during its operation.

There is a current footway dining approval for Shop 15 of 2-22 Knox Street, Double Bay. The parklet is to operate in conjunction with the existing footway dining approval for the business and once approved, Council will issue an Approval in the form of an Approval Notice for a period of up to 12 months with the potential for extension under Section 125 of the Roads Act 1993 (the Act).

Council Officers have met with Eastern Suburbs Licencing Police to provide a comprehensive briefing on Woollahra's Parklet Program. Upon the advice of Licencing Police, Council have included a range of additional provisions or 'operational requirements' into the template parklet approval (attached). These additional provisions include:

- i. Food must be available to patrons within the outdoor dining area at all times that the area is operating.
- ii. A copy of the approved plan of the licensed boundary must be made immediately available for inspection by NSW Police officer, Council officer or Liquor & Gaming NSW inspector upon request.
- iii. The Business Operator must not increase the Patron capacity which applied to the licensed premises where the Parklet Approval was granted.
- iv. Despite any other provision of this Parklet Approval, the trading areas of the Parklet Area may not extend beyond approved trading hours and days contained in this Parklet Approval.
- v. Liquor may be consumed within the Parklet Area only when Patrons are seated.
- vi. The Business Operator may sell alcohol from the indoor area of the Premises adjoining the Parklet Area to Patrons using the Parklet Area provided the Business Operator ensures drinks are only consumed within the Parklet Area.
- vii. The Business Operator acknowledges that the Liquor Licence (Permit) – Temporary Change to Boundaries, Footpaths and Roads may be revoked at any time by Liquor and Gaming NSW or the Council.
- viii. The operation of the Parklet Area must be integrated into the existing plan of management for the premises and updated plan of management must be provided to the Council within 14 days of the issue of a Parklet Approval.

Following the inclusion of these conditions and various other requested amendments, Eastern Suburbs Licencing Police endorsed the template approval, noting that they were satisfied with the information contained within the document.

This finalised template approval is provided in Attachment 2 and will be used by Council's Property & Projects Section to issue an approval to the parklet application for Shop 15 of 2-22 Knox Street, Double Bay.

### **Community Engagement and/or Internal Consultation:**

A notification letter as well as a copy of the design plan was sent on 12 March 2024 to the owners and occupiers of all nearby affected properties. In addition, the proposal was advertised by hanging a corflute sign to capture visitors to the area. The closing date for comments ended on 28 March 2024. A total of twelve (12) submissions were received with eight (8) supporting and three (3) objecting the proposal and one (1) neutral comment in relation to aesthetic design.

The objections expressed there is an oversupply of parklets in this area and raised concerns on loss of available parking. Council's Traffic and Transport Engineers acknowledge there is high demand for parking however note the proposal is to support and encourage community connection, which aligns with Council strategies and plans to achieve great place-making outcomes in our local centres and maintain a high public domain to support and promote local business.

Beyond the utility as a business support initiative, the introduction of parklet is also envisaged to bring a range of benefits to activate the Double Bay Commercial Centre, including providing additional and pleasant customer seating, adding streetscape greening and creating visual point of interest, driving visitation and encouraging dwell/linger time, etc. As such, the loss of one (1) parking space is considered acceptable to balance against the liveability improvements and enhancements to the diversity of the streetscape.

Concerns were also raised regarding increased noise levels. It should be noted that trading hours of the parklet must be consistent with the existing footway dining approval. Trading hours of this particular site is the same with other cafes, licensed restaurants, pubs and small bars in this area, which is 7am to 10pm Sunday to Thursday and 7am to 11pm on Friday and Saturday. It should also be noted that if significant noise or other amenity issues become a concern, Council staff are able to revoke the parklet approval at any time.

**Policy Implications:**

Nil.

**Financial Implications:**

All costs associated with the approval, installation, maintenance, supply of parklet and installation of signage are to be borne by the applicant of the approved parklet.

**Resourcing Implications:**

Nil.



**Conclusion:**

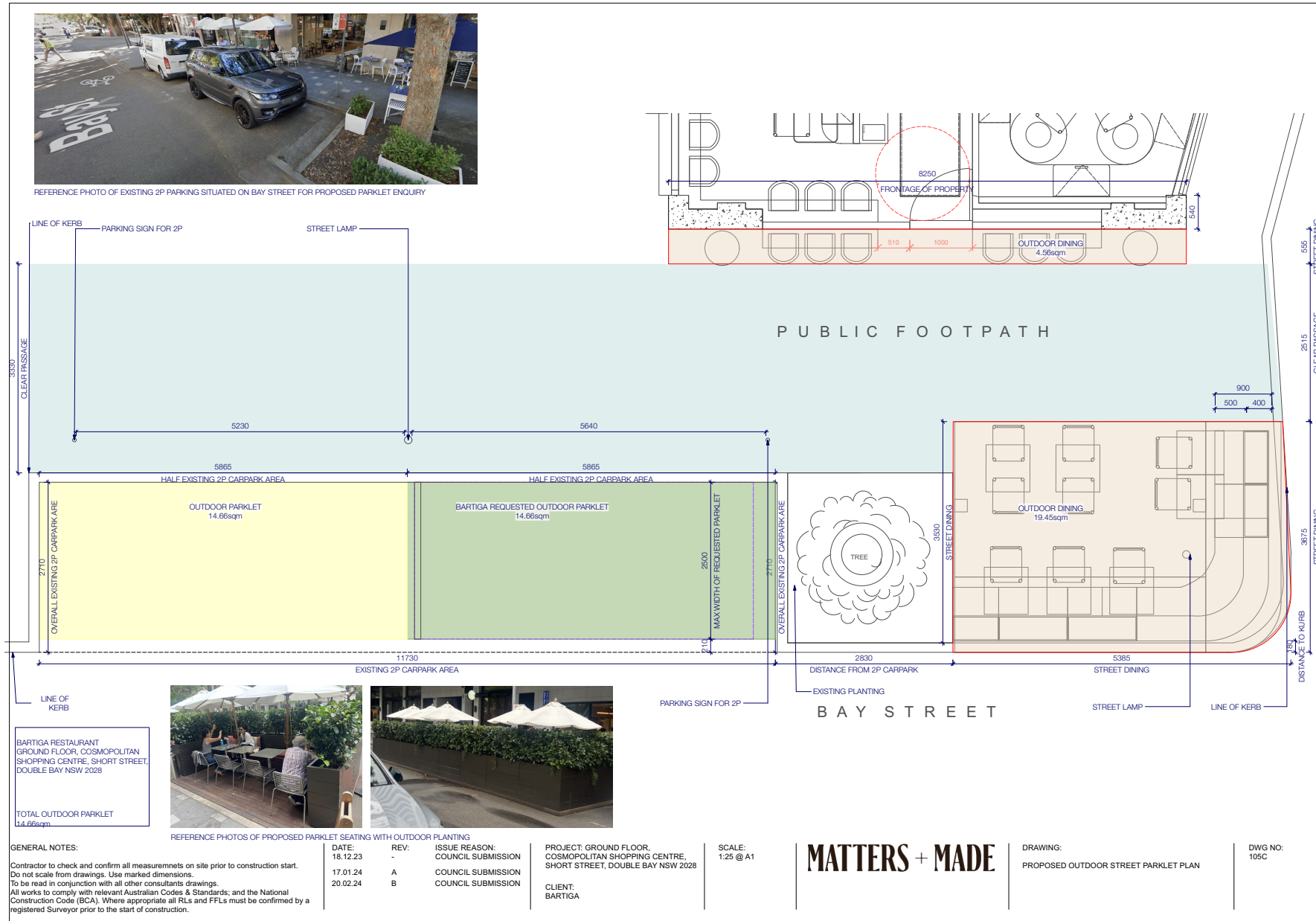
Based on the above, it is recommended that the installation of a parklet for shop 15 of 2-22 Knox Street, Double Bay as per Attachment 1, be approved to support and encourage community connection by introducing additional outdoor seating and planting, subject to above conditions.

**Identification of Income & Expenditure:**

Parklet approval will be subject to the relevant fees and charges as set out in Council's adopted Fees and Charges. All costs associated with the approval, installation, maintenance, supply of parklet and installation of signage are to be borne by the applicant of the approved parklet.

**Attachments**

1. Parklet Plan - Shop 15 of 2-22 Knox Street, Double Bay [↓](#) 
2. Parklet Template Approval [↓](#) 





## **PARKLET APPROVAL**

Granted under sections 138, 139 and 139A of the *Roads Act NSW* by

**WOOLLAHRA MUNICIPAL COUNCIL** (Roads Authority)

to

**XXXX** (ABN: **XXXX**) trading as **XXXX** (Approval Holder)

Property address: Area of the roadway adjacent to **XXXX** (as shown on the attached Plan).

**SCXXXX**



**CONTENTS**

**DETAILS ..... 1**

**Reference Schedule..... 2**

1 The Approval ..... 3

2 Operational Provisions ..... 3

3 Fee ..... 7

4 Assignment ..... 7

5 Indemnity and release ..... 8

6 Insurance ..... 9

7 Compliance with statutes and notices ..... 10

8 Acts of Default ..... 11

9 Obligations at end of Parklet Approval ..... 11

10 Security deposit ..... 11

10 Guarantee ..... 12

12 Subject to holding the appropriate Liquor Licence ..... 12

13 Approval under sections 138 Roads Act 1993 ..... 13

14 Revocation or suspension of Parklet Approval ..... 14

15 Notices and approvals ..... 15

16 Definitions and interpretation ..... 16

**Parklet Plan ..... 19**

**PARKLET APPROVAL ..... 20**

z:\affinity\_documents\wool0001\210440\pdpb\_mc\_015.docx



**DETAILS**

**Parties**

**COUNCIL**

**NAME** Woollahra Municipal Council  
**ABN** 32 218 483 245  
**Address** 536 New South Head Road, Double Bay, NSW 2028  
**Email** [RECORDS@WOOLLAHRA.NSW.GOV.AU](mailto:RECORDS@WOOLLAHRA.NSW.GOV.AU)

**PARKLET APPROVAL HOLDER**

**Name** XXXX  
**ABN** XXXX  
**Address** XXXX

**Email**

**GUARANTOR**

**Name** XXXX  
**Address** xxxx  
**Email**





**REFERENCE SCHEDULE**

- Item 1: Parklet Area**  
The area of the pavement adjacent to **xxxx** (as shown on the Plan) that the outdoor dining furniture and equipment are to be placed on that may be used by patrons, being **xxxx square metres**.
  
- Item 2: Commencement Date**
- Item 3: Termination Date**
- Item 4: Fee** **xxxx** per annum **\$xxxx** per square metre.  
(Payable from 1 July 2024, Council Fees and Charges)
- Item 5: Fee Adjustment Dates** As per Council Schedule of Fees and Charges.
- Item 6: Security Deposit**  
**\$xxxx** the equivalent of 3 months' Fee. Payable from
- Item 7: Guarantor**  
  
**Guarantor's address for service:**
  
- Item 8 Trading Hours:**  
**Notice:**  
Council's address for service:  
**536 NEW SOUTH HEAD ROAD, DOUBLE BAY, NSW 2028**  
Approval Holder's address for service:  
  
**Ref: SCXXXX**
- Item 9 Capacity**



## Standard Terms and Conditions

### 1 The Approval

- 1.1 The Council grants to the Business Operator for the Term set out in item 1A commencing on the Commencement Date at Item 2 and terminating on the Termination Date at Item 3 a non-exclusive right to place the Business Operator's Outdoor Dining Furniture and Equipment on the Roadway as shown on the Plan attached hereto ("Parklet Area") and described at Item 1.
- 1.2 If applicable, the Council grants to the Business Operator the right to erect the Approved Structure within the Approved Area.
- 1.3 All provisions of the Council Guidelines relating to the use of the Parklet Area and any Outdoor Dining Furniture and Equipment which are placed in the Parklet Area form part of this Approval.

### 2 Operational provisions

- 2.1 The Business Operator shall ensure the Patron Capacity of the Parklet Area does not exceed the number specified in Item 9 of the Reference Schedule at any time, calculated on one person to two square metres of space. This does not operate to override any public health order relating to capacity limits that may be in place at any time.
- 2.2 The Outdoor Dining Furniture and Equipment placed in the Parklet Area are at the Business Operator's risk at all times.
- 2.3 The Business Operator may, with the Council's prior approval, place Outdoor Dining Furniture and Equipment within the Parklet Area provided that:
  - 2.3.1 The Business Operator does not place (or allow to be placed) any advertising or signage of any sort on such ancillary equipment installed in the Parklet Area other than as authorised under this Parklet Approval;
  - 2.3.2 The Business Operator complies with any relevant insurer and Authority regulations as to the appropriate fire safety system for the Parklet Area, and ensures compliance with any fire laws in respect of the Parklet Area; and
  - 2.3.3 No permanent structures are permitted unless approved and shown on the Plan.
- 2.4 The Business Operator must remove the Outdoor Dining Furniture and Equipment from the Parklet Area at all times other than during the approved Trading Hours unless any have been affixed to the Parklet Area with the Council's prior approval.
- 2.5 Where the Business Operator can't remove the Outdoor Dining Furniture and Equipment from the Parklet Area at the close of Trading Hours, they may stack and place the Outdoor Dining Furniture and Equipment against the wall of the Business Operator's premises until the close of business when the equipment must be removed from the Parklet Area and the footway.



- 2.6 The Business Operator must manage the behaviour of Patrons using the Parklet Area and must take action whenever required to ensure that no nuisance or excessive noise results from the use of the Parklet Area.
- 2.7 The Business Operator must not at any time carry on any noxious, noisome or offensive trade or business likely to cause annoyance and/or damage or disturbance to members of the public or occupiers or owners of neighbouring properties, or users of other portions of the roadway or its adjoining footway.
- 2.8 The Business Operator must not cause or permit any rubbish to be placed in or about the Parklet Area and must ensure that the Parklet Area is kept clean and tidy at all times, including but not limited to:
  - 2.8.1 Sweeping the Parklet Area clean at the end of each day of trading and as often as is reasonably practicable during each day of trading. The Business Operator must immediately remove all spills likely to stain the roadway or its adjoining footway, including all oils or fat spills; and
  - 2.8.2 Ensuring all litter, including (but not limited to) food scraps and packaging, arising from the use of the Parklet Area is removed and disposed of in waste containers at the Business. The Business Operator must not use litter-bins in public spaces for that purpose.
- 2.9 The Council reserves the right to clean the Parklet Area with high pressure water, steam or any such other method as is reasonably practicable, at the Business Operator's expense, to remove any stains from the roadway in the Parklet Area which the Council determines in its sole discretion have not been adequately treated by the Business Operator.
- 2.10 The Business Operator must not erect any signs in the Parklet Area without the prior written approval of the Council.
- 2.11 The Business Operator must maintain (at its own expense) the Outdoor Dining Furniture and Equipment to a standard that is satisfactory to the Council (acting reasonably).
- 2.12 The Business Operator must promptly report to the Council any damage or defects in the roadway or its adjoining footway or any other structures which are owned by the Council, within or adjacent to the Parklet Area. The Council is responsible for carrying out any maintenance, repair or replacement of same to the extent such maintenance, repair or replacement is considered warranted by Council's officers.
- 2.13 The Business Operator must not obstruct access by the Council, any Authority, or any other person under the control of the Council, or its express authority to carry out maintenance, repairs or replacement of public works and utility services, such as electrical power, telephone, data cabling, water, sewer, stormwater or such like. The Council will give no reduction or abatement in the Fee for any interruption to the use of Parklet Area as a result of such works.
- 2.14 Smoking is prohibited in the Parklet Area and within 4 metres of the Parklet Area. The Business Operator must place adequate signage within or around the Parklet Area notifying Patrons that smoking is prohibited and the Business Operator shall discourage its Patrons from smoking within these areas.



- 2.15 Entertainment and amplified Music are not permitted in the Parklet Area.
- 2.16 The use of the Parklet Area for the purpose of outdoor dining in accordance with this Approval shall not commence until after the commencement date and the issue of the Parklet Approval and such time as the Parklet Area has been prepared for use and road barriers have been installed.
- 2.17 The Business Operator must ensure that the design and appearance of the Outdoor Dining Furniture and equipment to be used in the Parklet Area complies with any guidelines, revised by the Council from time to time.
- 2.18 The Business Operator may install synthetic grass on the surface of the Parklet Area but only if it is maintained in a safe, clean and presentable state at all times.
- 2.19 The Business Operator must ensure that any Outdoor Dining Furniture and equipment, or any approved structures, does cover or impede access to public or private utility access and drainage pits. The Business Operator must permit utility, infrastructure and communications organisations access to the site at no cost whenever required.
- 2.20 The Business Operator must ensure that Outdoor Dining Furniture and equipment or approved structures do not obstruct the view of advisory, warning, traffic and regulatory signs and traffic controls.
- 2.21 The Business Operator must ensure the Parklet Area is designed in accordance with the guidelines published by the Council and meets relevant Australian standards.
  - 2.21.1 If any Council property is damaged in the course of use of the Parklet Area, the Business Operator acknowledges the Council may carry out necessary works to effect repair and the Business Operator must reimburse the Council for the cost of any repairs;
  - 2.21.2 On expiry or termination of the Parklet Approval, all Structures and works carried out by the Business Operator on the Parklet Area must be removed. If the Business Operator fails to remove such works, the Council may carry out the necessary work to remove them and the Business Operator must reimburse the Council costs of doing so.
  - 2.21.3 On the completion of the installation of any the Structures or works carried out by the Business Operator on the Parklet Area, final certification of the works by a compliant road safety audit report must be submitted to the Council.
  - 2.21.4 The Business Operator acknowledges the Council reserves the right to remove any Structure or work that does not comply with the Council's approval or guidelines, or presents a risk to the public, or is not in the public interest.
- 2.22 The Business Operator shall ensure the Parklet Area is used only for outdoor dining in conjunction with the provision of food service from the adjoining premises operated by the Business Operator.
- 2.23 The Business Operator shall ensure that no more than the Patron Capacity are permitted within the Parklet Area at any time, calculated on one person to 2m<sup>2</sup> of



space. This does not operate to override any public health order relating to capacity limits that may be in place at any time.

- 2.24 The Business Operator must develop and maintain a complaints register that details the nature of a complaint, the name of the complainant, the time and date of the complaint and the contact details of the complainant. The register must be made available to the authorised Council officer or member of the NSW Police Force upon request.
- 2.25 The Business Operator must ensure a sign is located within the Parklet Area indicating the number of Patrons who may be permitted within the Parklet Area.
- 2.26 Where the Business Operator has obtained a Liquor Licence (Permit) – Temporary Change to Boundaries, Footpaths and Roads from Liquor and Gaming NSW, the following provisions will apply:
  - 2.26.1 Food must be available to Patrons within the Parklet Area at all times when the Parklet Area is operating;
  - 2.26.2 A copy of the approved plan of the licensed boundary must be made immediately available for inspection by NSW Police officer, Council officer or Liquor and Gaming NSW inspector upon request.
  - 2.26.3 The Business Operator must not increase the Patron capacity which applied to the licensed premises where the Parklet Approval was granted.
  - 2.26.4 Despite any other provision of this Parklet Approval, the trading areas of the Parklet Area may not extend beyond approved trading hours and days contained in this Parklet Approval.
  - 2.26.5 Liquor may be consumed within the Parklet Area only when Patrons are seated.
  - 2.26.6 The Business Operator may sell alcohol from the indoor area of the Premises adjoining the Parklet Area to Patrons using the Parklet Area provided the Business Operator ensures drinks are only consumed within the Parklet Area.
  - 2.26.7 The Business Operator acknowledges that the Liquor Licence (Permit) – Temporary Change to Boundaries, Footpaths and Roads may be revoked at any time by Liquor and Gaming NSW or the Council.
  - 2.26.8 The operation of the Parklet Area must be integrated into the existing plan of management for the premises and updated plan of management must be provided to the Council within 14 days of the issue of a Parklet Approval.

### **3 Fee**

- 3.1 The Business Operator must pay to the Council the Fee set out in Item 4 of the Schedule in advance on the first day of each month by direct payment or as the Council may from time to time direct.
- 3.2 The Fee will be adjusted on the Fee Adjustment Date in Item 5 in each year of this Approval in accordance with Council's Fees and Charges Policy and in accordance



with changes to the Consumer Price Index Sydney (All groups) for the quarter ended in accordance with the formula:

$$\frac{\$X \times \text{CPI-2}}{\text{CPI-1}} = \$Y$$

\$X is the Fee at the last Fee Adjustment Date, or if none, the Fee at the Commencement Date;

CPI-1 is the Consumer Price Index Number for Sydney (All Groups) for the quarter ended just before the Fee Adjustment Date;

CPI-2 = the Consumer Price Index Number for Sydney (All Groups) for the quarter ended just before the Fee Adjustment Date;

\$Y = the new fee

- 3.2.1 If the index used to calculate the new Fee is discontinued, the Council may substitute another index that, is nearly as practicable, serves the same purpose and, if there is no such index, then the Fee will be calculated by fixed percentage increase calculated in accordance with Council's fees and charges policy.

#### **4 Assignment**

- 4.1 This Parklet Approval is personal to the Business Operator and may not be assigned.
- 4.2 If the Business Operator sells or otherwise transfers the business conducted in the adjoining premises it will be necessary for the proposed transferee to make application for a Parklet Approval.

#### **5 Indemnity and release**

##### *Business Operator's Risk*

- 5.1 The Business Operator occupies the Parklet Area and conducts the business from the Parklet Area at its own risk.
- 5.2 If the Business Operator is obliged to do anything under this Parklet Approval, it does so at its own risk.

##### *Release of Council*

- 5.3 To the extent permitted by law, the Business Operator releases the Council from:
- 5.3.1 Any claim, action, damage, loss, liability, cost or expense which the Business Operator incurs or is liable for in connection with any damage, loss, injury or death to or of any person or property on or near the Parklet Area; and
- 5.3.2 Any liability for damage to the Business Operator's property, including (without limitation) its Outdoor Dining Furniture and Equipment, or for loss of the Business Operator's profits,



Except to the extent that the Council has directly caused or contributed to such claim, action, damage, loss, liability, cost or expense by its wrongful act, negligence or default.

*Indemnity by Business Operator*

5.4 The Business Operator indemnifies the Council against any claim, action, damage, loss, liability, cost or expense which the Council incurs or is liable for in connection with:

- 5.4.1 Any damage, loss, injury or death, caused or contributed to by the Business Operator or Business Operator's invitees and employees;
- 5.4.2 Any default by the Business Operator under this Parklet Approval;
- 5.4.3 The use or occupation of the Parklet Area by the Business Operator or Business Operator's invitees or employees;

Except to the extent that the Council has directly caused or contributed to such claim, action, damage, loss, liability, cost or expense by its wrongful act, negligence or default.

*Continuing indemnity*

5.5 Each indemnity of the Business Operator contained in this Parklet Approval is:

- 5.5.1 A continuing obligation of the Business Operator and remains in full force and effect after the termination of this Parklet Approval; and
- 5.5.2 A separate and independent obligation of the Business Operator.

**6 Insurance**

6.1 The Business Operator must take out and maintain a public liability insurance policy in respect of the Parklet Area and the business conducted on the Parklet Area:

- 6.1.1 Under which the maximum amount payable for a single claim is at least \$20 million, or any other amount reasonably required by the Council;
- 6.1.2 Which contains all provisions that are normally contained in public liability policies, including theft from the Parklet Area, and any other provisions reasonably required by the Council;
- 6.1.3 Which, without limiting the rest of this clause 6.1, covers death and injury to any person and damage to property of any person sustained when that person is using or entering or near any entrance, passage or stairway to or in the Parklet Area; and
- 6.1.4 Which expressly refers to and covers all of the Business Operator's obligations under this Parklet Approval, including the obligation to indemnify the Council.

*Workers compensation and other insurances*

6.2 The Business Operator must take out and maintain an insurance policy in respect of



the Business Operator's business and each person employed by the Business Operator in the business conducted on the Parklet Area:

- 6.2.1 For the full amount of the Business Operator's liability under any applicable workers compensation legislation;
  - 6.2.2 For the full amount of the Business Operator's potential legal liability independently of that legislation;
  - 6.2.3 For an amount not less than the value of the structures and works carried out on the Parklet Area by the Business Operator; and
- 6.3 The Business Operator must take out and maintain such other insurance required by law or which, in the Council's reasonable opinion, the Business Operator should take out.

*Proceeds of insurance*

- 6.4 If any loss or damage occurs which is covered by any insurance the Business Operator is required to maintain under this Parklet Approval the Business Operator must:
- 6.4.1 Apply for the insurance proceeds immediately; and
  - 6.4.2 Use the proceeds to restore, replace, repair or reinstate the loss or damage and must supplement the proceeds with the Business Operator's own money to the extent that the proceeds are insufficient.

*Policies*

- 6.5 The Business Operator must do the following in respect of each policy of insurance that it is required to maintain under this Parklet Approval:
- 6.5.1 Take out the policy with an insurance company approved by the Council, whose approval must not be unreasonably withheld noting Woollahra Council on the policy as an interested party;
  - 6.5.2 Give the Council a Certificate of Currency for each insurance policy at renewal and at renewal each year thereafter; and
  - 6.5.3 Ensure that the policy contains a requirement that the insurer will not cancel or change the insurance without first giving the Council 10 days prior written notice; and
  - 6.5.4 Ensure the interest of the Council is noted on any policy.

*Maintain insurance*

- 6.6 The Business Operator must not do anything without the Council's prior consent which could:
- 6.6.1 Increase the premium payable on any insurance policy taken out by the Council; or





6.6.2 Affect the Council's rights under any insurance policy or make the policy invalid or able to be cancelled.

6.7 The Business Operator must pay any extra premium payable by the Council on account of extra risk caused by the Business Operator's use or occupation of the Parklet Area.

## **7 Compliance with statutes and notices**

7.1 The Business Operator must at all times promptly comply with and observe the provisions of all consents, approvals, licences, statutes, ordinances, rules, regulations, and bylaws present or future, which in any way affect, relate to or apply to the Parklet Area or its use by the Business Operator.

7.2 The Business Operator must at all times promptly comply with the terms of any lawful demand, which has been made or any notice of order which may be served or given by any Authority upon the Business Operator or by the Council (acting in its capacity as the local government authority) under any statute, ordinance, rule, regulation or bylaw, which in any way affects or applies to the Approved Area or its use by the Business Operator.

7.3 The Business Operator will specifically abide by the provisions of the Food Act 2003, the Food Regulations 2010, the Smoke-Free Environment Act 2000, the Work Health and Safety Act 2011, the Companion Animals Act 1998, the Local Government Act 1993 and the Roads Act 1993 and, where a temporary liquor licence boundary change has been obtained from Liquor and Gaming NSW, any conditions to which that change is subject.

7.4 Nothing in this Parklet Approval will in any way fetter the Council in connection with the exercise of its powers or duties as an Authority or bind Council to the grant of any statutory consent or the exercise of any other statutory role or statutory discretion. The Business Operator will have no claim against Council under this Parklet Approval should Council refuse, delay or suspend any decision taken in its capacity as an Authority.

## **8 Acts of Default**

8.1 If the Business Operator fails to comply with any of its obligations under this Parklet Approval within 7 days after written notice from the Council, the Council may terminate this Approval immediately.

## **9 Obligations at end of Parklet Approval**

9.1 Upon termination of this Parklet Approval the Business Operator will immediately remove the Tables, Chairs and equipment and other property of the Business Operator's from the Parklet Area including any structures approved under sections 138, 139 or 139A of the Roads Act 1993.

9.2 The Council may treat the Tables, Chairs and equipment and other property of the Business Operator as abandoned and deal with them in accordance with the provisions of the *Impounding Act* 1993 NSW or any legislation which replaces it or



applies to unattended property, at the Business Operator's expense, if the Business Operator does not remove them pursuant to clause 9.1.

## **10 Security deposit**

- 10.1 The Business Operator must pay the Security Deposit referred to in Item 6 to the Council on or before the Commencement Date by cash or unendorsed bank cheque.
- 10.2 If the Business Operator fails to punctually pay the Fee set out in Item 4 of the Schedule or any other money under this Parklet Approval or fails to observe any of the provisions of this Parklet Approval, the Council may use the Security Deposit without notice to the Business Operator.
- 10.3 If the Council uses the Security Deposit and the Council gives the Business Operator a notice stating the amount required to reinstate the Security Deposit, no later than 7 days after the Council gives the notice the Business Operator must pay that amount to the Council by cash or unendorsed bank cheque.
- 10.4 The Business Operator must increase proportionally the amount of the Business Operator's security deposit when the Fee increases, so that it is always equal to the amount of the Security Deposit.
- 10.5 On the expiry of the term of this Parklet Approval or earlier termination, the Council may use the Security Deposit for outstanding amounts payable by the Business Operator under this Parklet Approval and then, after the Business Operator has vacated the Parklet Area and has complied with all their other obligations under this Parklet Approval, the Council must refund any unused part of the Security Deposit to the Business Operator.

## **11 Guarantee**

- 11.1 This clause applies if a guarantor of the Business Operator is named in Item 7 and who is required to sign this Parklet Approval.
- 11.2 The Guarantor guarantees to the Council the performance by the Business Operator of all of the Business Operator's obligations (including any obligation to pay the Fee or damages) under this Parklet Approval, under every extension of it and under any renewal of it.
- 11.3 If the Business Operator does not pay any money due under this Parklet Approval, under any extension of it or under any renewal of it, the Guarantor must pay that money to the Council on demand even if the Council has not tried to recover payment from the Business Operator.
- 11.4 If the Business Operator does not perform any of the Business Operator's obligations under this Parklet Approval, under any extension of it, or under any renewal of it, the Guarantor must compensate the Council even if the Council has not tried to recover compensation from the Business Operator.
- 11.5 If the Business Operator is insolvent and this Parklet Approval or any extension or renewal of it is disclaimed, the Guarantor is liable to the Council for any damage suffered by the Council because of the disclaimer. The Council can recover damages



for losses over the entire period of the Parklet Approval or any extension or renewal but must do every reasonable thing to mitigate those losses.

## **12 Subject to the holding of the appropriate liquor licence**

12.1 Business Operators seeking to serve alcohol within the Parklet Area must be authorised to do so by an appropriate liquor licence which extends to the Parklet Area.

12.2 In the Parklet Area Patrons consuming alcohol must be seated.

## **13 Approvals under sections 138 and 139A Roads Act 1993**

13.1 Where an approval has been given pursuant to section 138 Roads Act 1993 for the erection of structures within the Parklet Area the Business Operator must:

13.1.1 Erect the structure in accordance with the approved plans only within the Parklet Area;

13.1.2 Comply with all consents, approvals, regulations and by-laws applicable to the erection of the structure and its maintenance;

13.1.3 Erect the structure in a proper and workmanlike manner by use of appropriately qualified tradesman when necessary;

13.1.4 Maintain the structure in a proper and serviceable condition and make repairs when necessary;

13.1.5 Report any breakages, injuries or accidents relating to the structure to the Council as soon as possible after they occur;

13.1.6 Ensure that the public liability insurance referred to in clause 4 extends to the structure and that the structure is noted on the policy.

13.1.7 ensure that if the Parklet Area projects on to the carriageway, a horizontal clearance of 450 mm from the traffic lane is provided and ensure that barriers are positioned 450mm within the Parklet Area on three sides;

13.1.8 ensure that a minimum clearance of 3.0 metres from the adjacent traffic lane is maintained at all times;

13.1.9 ensure a minimum of 1 metre buffer space is provided between Parklet Area boundary and any adjoining vehicle parking bay;

13.1.10 provide a pedestrian ramp over the kerb between the footpath and the roadway in accordance with Workcover specification to permit safe pedestrian, wheelchair and pram access;

13.1.12 ensure that a traffic control plan illustrating the set out of safety barriers in accordance with Australian Standard 1742.3 is prepared by a qualified person and that the plan is implemented at all times while the Parklet Area is in use.



13.2 The Business Operator warrants and agrees that the indemnity contained in clause 5.4 extends to:

- 13.2.1 Any damage, loss, injury or death caused or contributed to by the installation and use of the structure;
- 13.2.2 Any default by the Business Operator in compliance with the provisions of this clause;
- 13.2.3 The use of the structure by the Business Operator or the Business Operator's invitees or employees;

Except to the extent that the Council has directly caused or contributed to such claim, action, damage, loss, liability, cost or expense by its wrongful act, negligence or default.

#### 14 Revocation or Suspension of Parklet Approval

14.1 The Council may revoke or suspend the Parklet Approval at any time during the approval period if:

- 14.1.1 The conditions of the Parklet Approval have been breached;
- 14.1.2 The use of the Parklet Area in accordance with the Parklet Approval results in adverse impacts on the use of the adjoining footway, or adjoining roadway, or on public safety, or public amenity.
- 14.1.3 The Council and/or a government agency order contractors:
  - 14.1.3.1 Undertake or propose to undertake in the Parklet Area, or the adjoining footway or roadway; or
  - 14.1.3.2 Impacts access to adjoining footways, roadways, transport infrastructure, park or public places,

Such that are in to either increase pedestrian demand or public safety and an alternate use of the Parklet Area is required.

14.1.4 The Council at any time approved special events in the street;

And the Business Operator shall not be entitled to compensation arising from any such termination or suspension.

14.2 In considering whether to revoke the Parklet Approval for breach of conditions, Council will take into account such matters as it considers relevant. This may include, but is not limited to:

- 14.2.1 History of compliance with the conditions of the Parklet Approval such as payment of rent, use in accordance with approved hours and approved number of chairs and tables and provision of public liability insurance;
- 14.2.2 The number and nature of substantial complaints regarding the operation of the Parklet Approval;



- 14.2.3 Any views expressed by the NSW Police Force and any other relevant public authority;
  - 14.2.4 The Business Operator will be given notice that Council is considering revoking the Parklet Approval and the Business Operator will be invited to make representations as to why the Parklet Approval should not be revoked;
  - 14.2.5 Council will consider any representations made by the Business Operator and will make a determination as to whether the Parklet Approval will be revoked;
  - 14.2.6 The Business Operator will be notified of the date when the revocation or suspension of the Parklet Approval will become effected;
  - 14.2.7 If a Parklet Approval is revoked or suspended pursuant to this clause, the Business Operator will not be entitled to claim compensation from the Council.
- 14.3 Despite any other clause in this Parklet Approval, this Parklet Approval may be terminated by the:
- 14.3.1 Council at any time by giving 7 days' notice in writing to the Business Operator;
  - 14.3.2 Business Operator by giving one month's prior notice to the Council.

## **15 Notices and approvals**

- 15.1 A notice or approval must be:
- 15.1.1 In writing; and
  - 15.1.2 Delivered to the party or left at or posted by registered mail to the address or sent to the facsimile number or email address of the party in the Approval Notice, as varied by notice.
- 15.2 A notice or approval is taken to be given:
- 15.2.1 If delivered to or left at the address of the party, on that day;
  - 15.2.2 If posted, on the third day after posting; and
  - 15.2.3 If sent by facsimile or email, on that day if it is sent before 5.00pm or otherwise on the next Business Day after it is sent unless the sender is aware that transmission is impaired.

### *Authorisation*

- 15.3 Council may give, conditionally or unconditionally or withhold, the Council's Authorisation in the Council's absolute discretion.

### *Headings*

- 15.4 Headings must be ignored in the interpretation of this Parklet Approval.



## 16 Definitions and interpretation

### *Definitions*

16.1 In this document the following definitions apply:

**Approval Notice** means the notice issued by Council, which must be displayed at the Business.

**Authorisation** means an authorisation granted by Council to the Business Operator under the terms of this Parklet Approval to do something or cease doing something other than as already authorised by this Parklet Approval.

**Authority** means any federal, state or local government, semi-government, statutory, public, licensing or other authority or body.

**Business** means a Restaurant, Café, Hotel, Pub or Small Bar.

**Business Day** means any day except a bank or public holiday throughout NSW or a Saturday or Sunday.

**Business Operator** means a business/person who operates a Business adjacent to the road applying for or in receipt of a Parklet Approval.

**Business Operator's Property** means anything belonging to the Business Operator and brought onto the Parklet Area whether fixed or otherwise.

**Commencement Date** means the first day of the Term as specified in the Reference Schedule.

**Fee** means an initial amount per annum as set out in Item 4 of the **Reference Schedule** and as amended from time to time.

**Fee Adjustment Date** means the date contained in Item 5.

**Guidelines** means the Woollahra Municipal Council Parklet Guidelines as amended from time to time.

**Item** means an item referred to in the Reference Schedule

**Licence** means a licence under the Liquor Act 2007 NSW.

**Liquor** means alcohol and includes:

- (a) a beverage which, at 20° Celsius, contains more than 1.15% ethanol by volume, or
- (b) anything that is not a beverage referred to in paragraph (a) but, for the purposes of sale, is held out to be beer or spirits, or
- (c) any other substance prescribed by the regulations as liquor.



**Outdoor Dining Furniture and Equipment** means the Business Operator's equipment approved by the Council and shown on the Plan, which are the Business Operator's Property and includes barriers, umbrellas and heaters placed in the Parklet Area by the Business Operator.

**Parklet** means a kerbside parking space the subject of a Parklet Approval under the Guidelines.

**Parklet Approval** means an approval granted under the Guidelines for the establishment and use of a Parklet.

**Parklet Area** means the approved roadway area that the Business Operator's Outdoor Dining Furniture and Equipment must be placed on, as shown in the Plan included in the Approval Notice and where possible as indicated by the placement of metal studs by Council on the perimeter of the Parklet Area.

**Patrons** means people attending the Parklet Area.

**Patron Capacity** means the number of patrons permitted within the Parklet Area in accordance with Item 9 of the Reference Schedule.

**Plan** means the plan attached to the Parklet Approval, which shows the Parklet Area and sets out the location within the Parklet Area where the Outdoor Dining Furniture and Equipment must be placed.

**Pub** means the premises to which a hotel licence applies to under the Liquor Act.

**Restaurant** means premises in which food is regularly supplied on sale to the public for consumption on the premises, and is the business owned or leased by the Business Operator and includes a Pub, or Small Bar.

**Roads Authority** means a person or body that is, by or under the Roads Act 1993, declared to be a roads authority and, in relation to a particular public road, means the roads authority for that road.

**Small Bar** means the premises to which a small bar licence under the under the Liquor Act 2007 NSW relates.

**Security Deposit** means the amount being the equivalent of 3 months Fee as amended from time to time.

**Structure** means any structure of a permanent nature to which the Council has given approval under sections 138 and 139 Roads Act 1993.

**Term** means the term of this Approval which commences on the **Commencement Date** and ends on the **Termination Date**.

**Termination Date** means the last day of the Term as specified in the Schedule or as otherwise provided for in this Parklet Approval or as a result of a breach of this Parklet Approval by the Business Operator.

**Trading Hours** means the approved hours of use of the Parklet Area by a Business Operator under this Parklet Approval and as shown in the Approval Notice.



**PLAN of Approved Parklet Area**

Total area =





**Parklet Furniture –**

**Image of Parklet Installation**



**APPROVAL**

For use of roadway and erection of structures under section 138, 139 and 139A Roads Act 1993.

Approval holder: **XXXX** (ABN: **XXXX**) trading as **XXXX**

Premises: **XXXX**

**Executed as a Parklet Approval.**

Signed for and on behalf of Woollahra  
Municipal Council ABN **32 218 483 245** by  
the Director of Infrastructure & Sustainability  
pursuant to the sub-delegation by the  
General Manager on 19 June 2018 and  
Council's resolution passed 1 June 2013:

.....  
Signature of Council Authorised Officer

Name (print)

**Items for Discussion by Committee Members**

**Item No:** Z1  
**Subject:** **TRANSPORT FOR NSW FUNDED PROJECTS STATUS**  
**Author:** Ever Fang, Traffic & Transport Team Leader  
**Approver:** Emilio Andari, Manager Engineering Services  
**File No:** 24/133107  
**Purpose of the Report:** Monthly Update on Transport for NSW Funded Projects  
**Alignment to Delivery Program:** Strategy 6.1: Facilitate an improved network of accessible and safe active transport options.

**Recommendation:**

THAT the information be received and noted.

**Executive Summary:**

The NSW Government provides regular funding under a number of programs for road safety, pedestrian and cycling improvements. These funds are made available through Transport for NSW (TfNSW) and the Federal Government. Woollahra Municipal Council has been successful with three projects for the 2024/2025 financial year. The total funds being provided to Woollahra Municipal Council is \$962,701 and the following table provides a summary of these projects.

<b>TfNSW Project Number</b>	<b>PROJECT NAME</b>	<b>Program Approved</b>	<b>Approved Funding Allocation</b>	<b>Type of Funding</b>	<b>Monthly Status</b>
P.0092456	<b>Rose Bay Centre</b> Construction of a High Pedestrian Activity Area	Safe Speeds in High Pedestrian Activity and Local Areas	\$383,000	100% State	Planning Stage
P.0092457	<b>Queen Street, Woollahra</b> Construction of a High Pedestrian Activity Area	Safe Speeds in High Pedestrian Activity Areas	\$451,000	100% State	Planning Stage
P.0092235	<b>Albemarle Lane, Rose Bay – Shared Zone</b> Construction of a Shared Zone	Active Travel to School Infrastructure Improvement	\$128,701	100% State	Planning Stage

**Attachments**

Nil