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Waverley Council

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# 24 Arden Street, Waverley – Use as retail bakery and new hours of operation and outdoor seating

Statement of Environmental Effects – March 2019



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## INTRODUCTION

### 1. Overview

This Statement of Environmental Effects (SEE) has been prepared by Mod Urban Pty Ltd to support a development application on behalf of Living Free Naturally Pty Ltd and relates to the proposed use of the premises for a retail bakery and new hours of operation, retractable awning blinds and outdoor seating for consumption of food and drink at 24 Arden street, Waverley. The site is legally described as Lot A DP 304777.

The proposed continued retail bakery use and outdoor seating is highly compatible with the existing bakery use of the premises as well as surrounding land uses. The proposed development does not impact on the amenity of surrounding residents as is demonstrated in the SEE.

The site is zoned R2 Low Density Residential zone under the *Waverley Local Environmental Plan 2012*. The site is also located within the Waverley Council area.

This SEE provides an assessment of the proposal against the relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulations 2000 (as amended).

## SITE ANALYSIS

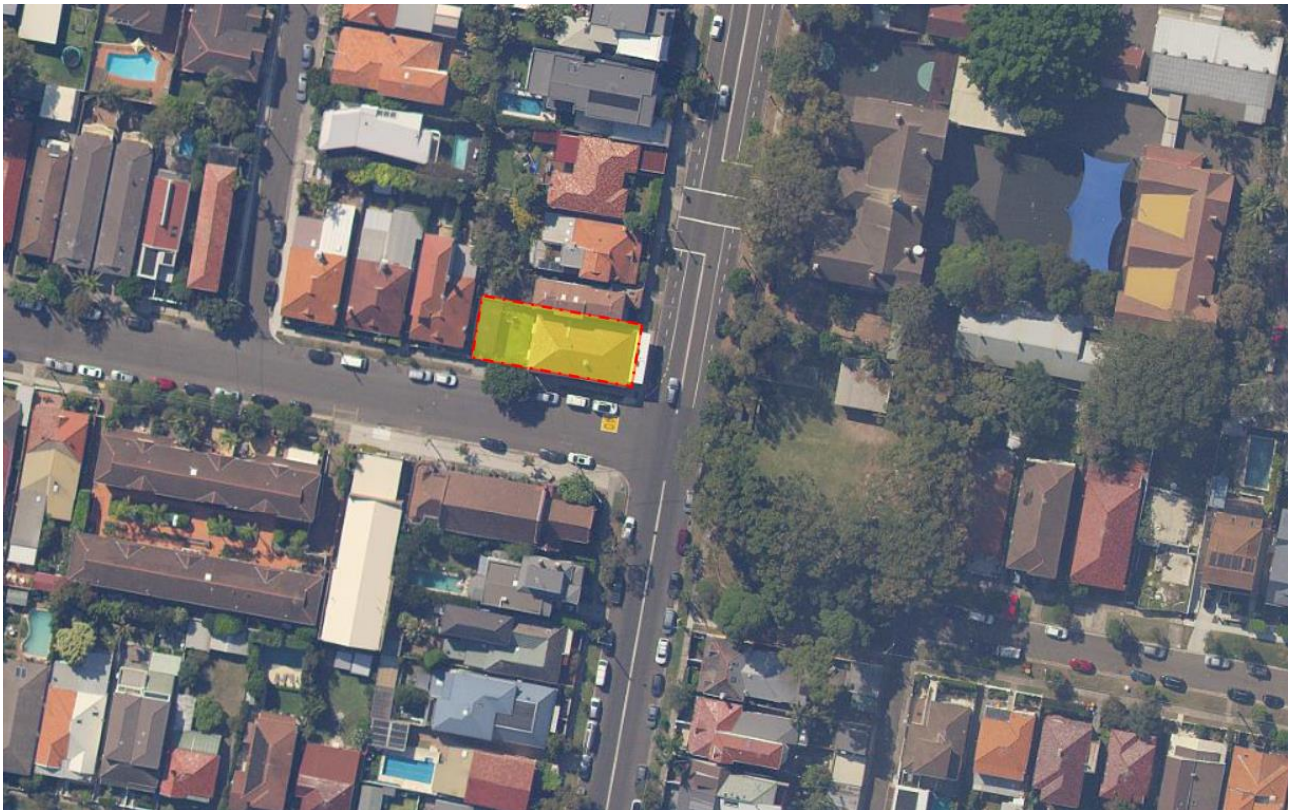
### 2. The Subject Site

The site is located at 24 Arden street, Waverley and is legally described as Lot A DP 304777.

#### 2.1 Site Details

- The site has a primary frontage to Arden street, and is located on the corner of Varna Street.
- The tenancy is located at ground level, and consists of a single storey building with shop awning fronting Arden Street, whilst a two storey building occurs at the rear, with two lock up garages accessible from Varna Street.
- An existing commercial chimney is located at roof level from the bakery.

The site is identified in **Figure 1** of this SEE.



**Figure 1:** The site (Source: Six Maps)

#### 2.2 Site Surrounds

- Surrounding uses are predominantly residential, with the exception of the Anglican Church located opposite on Varna Street, and the Clovelly Public School located opposite on Arden Street. at ground floor level consisting primarily of retail and food and drink premises.
- The nearest noise sensitive receivers are residential dwellings located adjacent the premises.
- The site is not located within a heritage conservation area and is not a locally listed heritage item.



## 2.3 Previous Planning History

**DA – 63/83** – Approved 8.4.83 for Use of premises as shop and dwelling, shop to be used as a small mixed business with associated bakery.

- Approved hours of operation 9am-6pm Monday to Sunday.
- Consent specifies no consumption of food on premises.



## PROPOSED DEVELOPMENT

### 3. Overview

The proposal relates to the proposed continued use of the premises as a retail bakery, and new hours of operation, retractable awning blinds and outdoor seating for consumption of food and drink at 24 Arden Street, Waverley. The proposal is outlined in the plans provided at **Appendix A**.

#### 3.1 Proposed Use and Works

- The proposal seeks the continued use of use of tenancy as a retail bakery that allows the consumption of food and drinks on the premises. The types of food is baked goods from the bakery on site, and tea, coffee and cool drinks. No alcohol is proposed to be sold at the premises.
- The proposed hours of operation are Monday to Sunday, 7am to 3.30pm.
- The proposal seeks the provision of new tables and chairs to the pavement outside to provide a total of 16 seats, and a total of 3 seats inside the premises.
- Number of staffs at premises at any one time in the bakery shop is three (3) whilst the number of visitors seated at the premises at any one time will be a maximum of nineteen (19).
- New retractable awning blind is proposed to the Arden street awning.

## LEGISLATIVE FRAMEWORK

### 4. Overview

This Part of the SEE assesses and responds to the legislative and policy requirements for the project in accordance with the Environmental Planning and Assessment Act 1979 (EP&A Act).

The following current and draft State, Regional and Local planning controls and policies have been considered in the preparation of this application:

#### State Planning Context

- Environmental Planning and Assessment Act 1979
- State Environmental Planning Policy 64 (Advertising and Signage)

#### Local Planning Context

- Waverley Local Environmental Plan 2012 (WLEP)
- Waverley Development Control Plan 2012 (WDCP)

This planning framework is considered in detail in the following sections.

### 4.1 Environmental Planning and Assessment Act 1979

Section 4.15 of the Environmental Planning and Assessment Act 1979, requires that in determining a development application, a consent authority is to take into consideration the following matters as are of relevance to the development:

Section 4.15 Matters for Consideration	Comment
(a) the provisions of: (i) any environmental planning instrument, and	See relevant sections of this report.
(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and	Nil
(iii) any development control plan, and	The proposal generally satisfies the objectives and controls of the Waverley DCP 2012. See table below and where necessary key issues section of this report.

Section 4.15 Matters for Consideration	Comment
<i>(iia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and</i>	Not applicable
<i>(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and</i>	The relevant clauses of the Regulations have been satisfied.
<i>(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,</i>	The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.  The proposal will not result in detrimental social or economic impacts on the locality.
<i>(c) the suitability of the site for the development,</i>	The proposed development is suitable for the site.
<i>(d) any submissions made in accordance with this Act or the regulations,</i>	No submissions have been raised at this stage, and the applicant has notified each adjoining neighbor of this proposal.
<i>(e) the public interest.</i>	The proposal is in the public interest as it provides upgrades to existing dining options, and will not impact upon the streetscape character and not result in detrimental amenity impacts to neighbours.

#### 4.2 State Environmental Planning Policy No.64 Advertising and Signage

SEPP 64 applies to all signage. No new signage is proposed.

#### 4.3 Waverley Local Environmental Plan 2012

The relevant provisions of WLEP2012 as they relate to the subject site are considered below:

##### Zoning and Permissibility

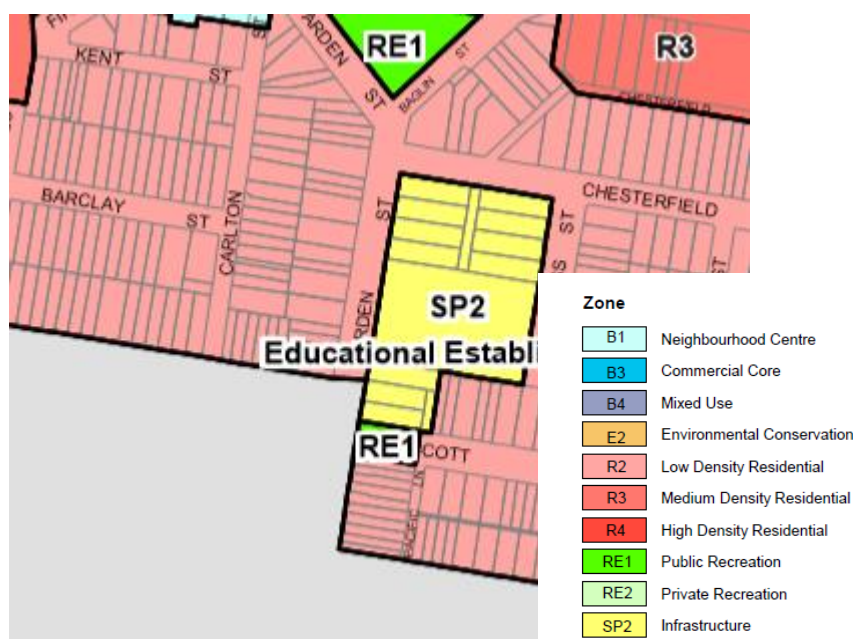
The land is zoned R2 Low Density Residential Zone under the WLEP (Figure 2). The objectives of the R2 Low Density Residential Zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*



The proposal is consistent with the zone objectives as it provides for a commercial use in an existing commercial tenancy, which serves the needs of local residents. The proposal ensures the continued use of the locality with compliant uses. The proposal will enhance the services available to the locality, without compromising existing streetscape, character or the continued operation of other compliant uses.

The proposal will not result in adverse effects to nearby residential occupiers, and enhances the desired objective of the zone to foster a mix of compatible land uses.



**Figure 2 –Waverley Local Environmental Plan 2012 Zoning Map**

#### Heritage Conservation

The site is not identified within a Conservation area within the Heritage Maps of the WLEP 2012, and the site is not a Heritage Item under the WLEP.

#### **4.4 Waverley Development Control Plan 2005**

The relevant provisions of Waverley Development Control Plan 2012 (WDCP 2012) are addressed as follows:

The Environmental Planning and Assessment Amendment Act 2012, which commenced on 1 March 2013, has clarified the purpose and status of development control plans, being to '*provide guidance*' to proponents and Councils in achieving land use zone objectives and facilitating permissible development under an environmental planning instrument.

Furthermore, to assist in the assessment of development applications, the amended legislation states that where a proposal does not comply with DCP controls, the consent authority is to be '*flexible in applying those provisions*' and allow for '*reasonable alternative solutions*' that achieve the objectives of those standards for dealing with that aspect of the development.

It is important to recall these revisions to the status and application of DCPs in development assessment.

Section 4.15, subsection (3A) of the EP&A Act provides the following:

(3A) Development control plans

If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

*(a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and*

*(b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and*

*(c) may consider those provisions only in connection with the assessment of that development application.*

As part of the preparation of the DA we have addressed the following controls in the table below for development as outlined within the Waverley DCP that are relevant to the proposal.

Waverley DCP 2012 Control	Compliance Y/N	Comment
<b>Part B – General Provisions</b>		
B1 Waste	Y	The proposal will be subject to the existing waste management arrangements for the building. The proposed use is considered a very low waste generating use.
B2 Ecologically Sustainable Development	Y	The proposal does not seek to increase ESD on the site in accordance with the principles of ESD.
B7 Accessibility	Y	The tenancy is accessible at grade and no additional ramps or modifications are required.
<b>B8 Transport</b>		
8.2 Onsite Parking	Y	Patrons are generally likely to walk to the premises or cycle, for which there is ample cycle parking within the surrounding commercial streetscape.

Waverley DCP 2012 Control	Compliance Y/N	Comment
		Patrons who do choose to drive can utilize the surrounding free parking on street.
B15 Advertising and Signage	Y	No new signage is proposed.
B16 Active Frontages	Y	The proposal will promote an active street front through the provision of tables and chairs on the existing pavement, whilst still enabling passing pedestrians to walk by with ease.
<b>Part D Commercial Development</b>		
1.1.5 Noise	Y	<p>The proposed use is existing and is not a noise generating use. The proposed hours of operation coincide with the key school pick up and drop off zones, where increased back ground noise occurs from vehicles undertaking kerbside drop off and pick up, and school children are walking to school.</p> <p>The provision of 16 seats outside the premises will not significantly result in heavy noise to neighbours, and Arden Street which is a busy thoroughfare, already has significant traffic noise that would drown out any patron noise. Noise associated with the use as a bakery has been considered under a previous DA.</p> <p>Bakeries are not considered noise generating uses.</p>
1.3 Hours of Operation	Y	<p>The proposed hours of operation are 7am to 3.3pm, 7 days a week. It is not anticipated that operational hours to include a 7am opening (Monday to Sunday) will negatively impact on any sensitive uses. The use will close at 3.30pm.</p> <p>The proposed use is a low impact use and does not generate significant volumes of noise.</p>

Waverley DCP 2012 Control	Compliance Y/N	Comment
<b>Outdoor Dining</b>		
2.1 Location	Y	<p>The proposal will provide adequate pedestrian accessibility with the provision of the new outdoor seating and tables.</p> <p>The new seating will not compromise vehicle safety, and the location of the seating against the shopfront will still enable vehicles to drop passengers curbside on Arden Street</p> <p>As discussed previously the proposed seating is unlikely to have a detrimental impact on amenity of adjoining residents, in particular in relation to noise and the associated hours of use.</p> <p>The furniture will be kept clear of the corner with Varna Street.</p>
2.2 Furniture and Accessories	Y	<p>All furniture is handmade and will be timber to match the existing shopfront window frames.</p> <p>All furniture is to be kept well maintained and cleaned, and brought inside the premises at the close of business.</p> <p>The proposed new retractable awning blind will primarily be utilised in the mornings when the sun is predominantly in the east and shining on the outdoor area. The new awning blind will also help reduce rain entering to the outdoor dining area on windy days.</p> <p>No heaters or planting area proposed.</p>
2.3 Management	Y	<p>Management of the bakery will be responsible for keeping public areas surrounding the approved seating area clear of prams and dogs associated with their customers to enable easy access for pedestrians.</p> <p>Regular cleaning of food waste, coffee cups and cutlery will occur to ensure no additional litter is spread to the streets or pavement.</p> <p>Patrons will not be able to smoke at any seats or tables, and the area will be swept daily at the close of business.</p>



## LIKELY IMPACTS OF DEVELOPMENT

### 5. Overview

The likely environmental impacts of the proposed development that have been assessed include:

- Land Use
- Context and Setting;
- Design and Appearance;
- Amenity;
- Social, Environmental and Economic Impacts; and
- Suitability of Site for Development

#### 5.1 Land Use

- The proposal is consistent with the objectives of the R2 Low Density Residential zone in that it is a compatible land use with the zones. The proposal is consistent with the zone objectives as it provides for a commercial use in an existing commercial tenancy, which serves the needs of local residents. The proposal ensures the continued use of the locality with compliant uses. The proposal will enhance the services available to the locality, without compromising existing streetscape, character or the continued operation of other compliant uses.
- The proposal will not result in adverse effects to nearby residential occupiers, and enhances the desired objective of the zone to foster a mix of compatible land uses.
- Existing use of the site for commercial premises as bakery already exists.

#### 5.2 Context and Setting

- The proposed use of the pavement custom designed furniture to complement the existing sloping nature of the pavement will improve the appearance of the premises, and add to the vibrancy of the area.
- The use of the site as a bakery for retail purposes is appropriate to the site and its operations. The proposed continued use will also provide a good level of amenity for patrons through the provision of a modern street furniture and improve street level activation and passive surveillance.
- The proposed number of patrons can easily be accommodated on the site, and no upgrades are required.
- The proposed use will not impact on the character or integrity of the streetscape or the wider area.
- The proposed outdoor seating is considered essential, given the limited customer space of the interior of the premises.
- The proposal is considered acceptable on the site.

#### 5.3 Design and Appearance

The proposal does not include any external alterations or additions other than retractable blinds to the existing awning which will be retracted at the close of business. As such no impact to the building's appearance will occur.

The proposed furniture for outdoor seating will be custom built to suit the sloping nature of the pavement.



## 5.4 Acoustic Impacts

- The proposed use is existing and is not a noise generating use. The proposed hours of operation coincide with the key school pick up and drop off zones, where increased back ground noise occurs from vehicles undertaking kerbside drop off and pick up, and school children are walking to school.
- The provision of 16 seats outside the premises will not significantly result in heavy noise to neighbours, and Arden Street which is a busy thoroughfare, already has significant traffic noise that would drown out any patron noise.
- Noise associated with the use as a bakery has been considered under a previous DA.
- Bakeries are not considered noise generating uses.

## 5.5 General Amenity

In summary, the proposal will not exhibit any significant environmental impacts and will not adversely impact on the amenity of any adjoining sites. The proposal will preserve neighbouring amenity including with respect to noise. Traffic noise from Arden Street is clearly audible from this part of the site and its neighbours.

### Noise

Access to the bakery is made available via Arden Street only.

The premises have not received any complaints from the nearest existing residential properties, and the bakery operators have a good relationship with their neighbours.

The proposed outdoor seating area will not play amplified music and will not be a high impact premises in relation to noise, and staff will monitor the sound levels. Low level internal music is played in the bakery premises inside.

No significant noise emissions will occur from the site, and staff will be trained to ensure people using the proposed outside seating are reminded to keep volumes down, so as not to impact upon any nearby residents.

The potential impacts of noise have been considered in relation to the operation of the outdoor seating which is not likely to produce adverse noise impacts given the following are proposed to be adopted by the operators:

- Prominent notices shall be placed to remind patrons that a minimum amount of noise is to be generated and to consider their neighbours.
- Staff will approach patrons who are behaving in a noisy manner and request they refrain from creating noise in the interest of surrounding residents.
- No antisocial or offensive behaviour at the front of the premises will not be tolerated, and if necessary the relevant authority will be notified.
- The operators of the bakery are committed to addressing any issues raised by surrounding occupiers having regard to outdoor seating. This will be achieved through engaging and working with the community to resolve the problem and ensure it does not reoccur.



## **5.6 Social, Environmental and Economic**

The proposal will continue to enable the use of the site for commercial purposes as a bakery, contributing to providing diversity to facilities and services for residents in the locality. The proposal also ensures employment generation on the site, and will benefit the local economy.

The proposal will not have any adverse economic or environmental impacts.

## **5.7 Operation Waste**

Operational waste will be consistent with the existing buildings waste generation and temporary storage and disposal will utilise Council and contractors, recycling and organic waste bins and regular collection vehicles.

## **5.8 The Suitability of the Site for Development**

Located within the R2 Low Density Residential zone, the proposed continued use as a bakery with outdoor seating within the hours proposed is consistent with the zone objectives, the provisions of relevant statutory and strategic documents and the surrounding context.

The proposed development is also compatible with surrounding land uses and will achieve a good level of amenity for adjoining land owners and operators.

Accordingly, the site is considered to be suitable for the development.

## **5.9 Any Submissions Made in Accordance with the Act**

No submissions are apparent at the time of writing.

## **5.10 The Public Interest**

The proposed development will have no adverse impact on the public interest.



## CONCLUSION

This SEE provides an assessment of the proposal against the relevant environmental planning framework, including the Waverley Local Environmental Plan 2012, and the Waverley Development Control Plan 2012.

The assessment finds that the proposal is consistent with the objectives and controls of the relevant statutory and policy framework. No adverse environmental, economic or social impacts have been identified as resulting from the proposed development.

No additional significant adverse impacts have been identified as likely to arise from the proposed development which has been favourably assessed against the relevant provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979.

It is therefore considered that the proposal responds to site constraints and provides a suitable outcome. Accordingly, it is requested that Council grant consent to the proposal.





## Appendix A – Plans



## Appendix B – Site Waste Checklist

