

3/02/2022
Mid-Western Regional Council
Att: The General Manager
PO Box 156
Mudgee NSW 2850

Dear Sir/Madam,

Section 4.55(1A) Modification to DA0201/2021 Change of Use to a Food & Drink Premises (Bakery) at 131 Church Street, Mudgee

Reference is made to the proposed Section 4.55(1A) modification to DA0201/2021 to be lodged with Mid-Western Regional Council. The following should be received with the assessment of the subject modification.

Background

Barnson Pty Ltd has been engaged by David Lowe to prepare information in support of a Section 4.55(1A) (*Environmental Planning & Assessment Act 1979*) modification to DA0201/2021. The approval gave consent to a change of use to a food and drink premises (bakery) on Lot 1 DP 797677, known as 131 Church Street, Mudgee.

The proposed development as modified would be substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified.

Existing Environment

The subject site is located on the corner of Horatio Street and Church Street and contains an existing building that supports one (1) tenancy. Vehicular access is gained via the rear laneway, which appears to be a dedicated road reserve (unnamed). Pedestrian access is gained off both street networks. The surrounding locality generally consists of commercial, residential and recreational land uses, being located within a central location of the township of Mudgee. There is minimal vegetation located on the site.

The subject site is not bushfire prone, nor is it located within a Flood Planning Area pursuant to the provisions under the *Mid-Western Regional Local Environmental Plan 2012* (LEP). The site is identified under Schedule 5 of the LEP, as follows:

- "Macs Corner Store", shop/residence, Item Number I23; and
- Mudgee Heritage Conservation Area.

Existing Approvals

Development consent for DA0201/2021 was granted on 14 May 2021 for the 'Change of use to a food and drink premises (bakery)' at 131 Church Street, Mudgee. Development works included the internal fit out of the building, new bifold windows and associated signage. The intent of the development was to revitalise the building to be used as a bakery, providing baked goods, sandwiches and coffee. The business is called 'Althea by Zin' and has a French style bakery emphasis. Refer to Approval Documentation in Appendix A of this submission.

Proposed Modification

The proposed modification is for the following changes:

- Siting of one (1) shipping container used for storage associated with the bakery use. The container shall provide storage of equipment and ingredients (i.e. flour) for the bakery. Given that the existing tenancy is relatively small and provides little storage opportunities, additional storage is considered a necessity for the operation of the business;
- Outdoor seating (tables and chairs) within the rear courtyard of the site;
- Removal of carparking spaces to the rear of the site. As a result, zero (0) carparks will be afforded to the site and existing street spaces shall be utilised as an alternative;
- Changes to the disabled access ramp into the building; and
- Adjustment to the hours of operation to 6am to 6pm, 7 days a week (Condition 17).

Refer to Amended Development Plans in **Appendix B** of this submission. A Performance Solutions has been prepared for the change to the disabled access to the building and is provided in Appendix C of this submission.

Planning Considerations

The subject site is zoned B4 Mixed Use pursuant to the provisions under the *Mid-Western Regional Local Environmental Plan 2012*. The original DA sought consent for a change of use to a food and drink premises (bakery), which is permissible with consent in the B4 zone.

Environmental Planning & Assessment Act 1979

Section 4.55(3) of the *Environmental Planning & Assessment Act 1979* (EP&A Act) requires:

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

This section of the report addresses the relevant requirements of Section 4.15.

The proposed modification is considered a Section 4.55(1A) modification, which read as follows:

*(1A) **Modifications involving minimal environmental impact** A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—*

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) it has notified the application in accordance with—*
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections (1), (2) and (5) do not apply to such a modification.

The proposed modification is of minimal environmental impact, as detailed throughout this submission. The changes between the approved development and modified development are of minor nature, therefore rendering the proposed development as modified substantially the same development to what was originally approved.

State Environmental Planning Policies

While a number of SEPPs apply to the subject site and development thereon, it is considered that the requirements under the specified SEPPS were adequately addressed as part of the original DA. Therefore, no further investigation is required in this instance.

Mid-Western Regional Local Environmental Plan 2012

The proposed development as modified is generally consistent with what was originally approved, therefore the development is consistent with the B4 Mixed Use zone objectives. It is considered that all other applicable LEP clauses were adequately addressed as part of the original application.

Mid-Western Regional Development Control Plan 2013

The Mid-Western Regional DCP applies to the proposed modification. As the proposed modification to the original DA is relatively consistent with what was originally approved, it is considered that the provisions under the DCP were adequately addressed as part of the original DA submission, with the exception of parking controls which are addressed as follows.

Parking

The parking requirements as per the original Development Application submission were at least two (2) spaces to be provided on the site. The stamped plans show a total of three (3) spaces. However, due to the positioning of the proposed shipping container that will be used for storage and outdoor dining area, the carparking spaces will need to be removed and provision for zero (0) spaces provided on the site.

As there are no onsite carparking spaces to be provided, a departure request is sought from the DCP provisions. This departure is considered justified in that:

- It is anticipated that the customers accessing the food and drink premises will have high numbers of walk-in customers that do not require parking;
- The premises will trade from 6am to 6pm (as modified), seven days a week and all staff shall park within proximity to the site, utilising street spaces;
- There shall be up to 3 staff working at the premises at any one time;
- As an estimate, it is anticipated that the maximum number of patrons at the site at any one time that require parking would be 10. For the purposes of this calculation, it is assumed that those patrons shall generally be in groups of at least 2. In this regard, the average parking requirement at any one time would be 5;
- There is a plethora of car parking opportunities available within the verges of Church Street and Horatio Street, as follows:
 - Church Street – There are 4 parking spaces within proximity along Church Street, consisting of 45 degree angled parking;
 - Horatio Street – There are 3 carparking spaces directly adjoining the subject site.
 - There are more spaces along both of these street networks for any overflow.

As identified above, there are a range of options for patrons to park within proximity to the site, without impacting on existing conditions. The existing commercial/retail premises (and many other similar uses in this area) utilised this arrangement due to the limited availability of on-site parking and largely developed lots. It is considered that the proposal is consistent with existing retail and commercial uses in the locality and that the use would not create any adverse impacts in terms of carparking availability.

- The subject site has been used for retail/commercial purposes for an extended period of time. It is expected that existing car parking arrangements are appropriate for the use of the site and existing retail/commercial area. The previous use did not create any adverse impacts in terms of car parking, traffic patterns, sighting distances or manoeuvrability in the area.

It is considered that the carparking opportunities availabilities within Church Street and Horatio Street would adequately service the premises within creating any adverse impacts on traffic conditions in the locality. Furthermore, the previous use of the site was supported with this arrangement for an extended period of time with limited impact on car parking of traffic conditions in the area.

Any Likely Impacts of the Development

Context and Setting

The subject site is centrally located within the township of Mudgee in an area characterised by residential, recreational, commercial and retail activities. The proposed development is considered to be consistent with existing commercial and retail activities in the area and will not impact on the context or setting in the locality.

Access, Transport & Traffic

Due to the limited site availability and requirement for storage and outdoor seating for the proposed business, onsite parking is not considered a viable option and would hinder the operation of the business in future. Furthermore, trafficability issues could arise which would create adverse traffic and safety impacts in the locality. In this regard, it is proposed to have zero (0) onsite carparking spaces as part of this modification application, and alternatively, utilise existing off-street parking and traffic arrangements in the locality. There is a plethora of carparking opportunities within proximity to the site that would support the proposed use and existing retail/commercial area. This arrangement is considered to be appropriate and capable of supporting the use of the site without creating any adverse impacts on existing traffic processes.

Social & Economic Impact in the Locality

Social and economic impacts remain consistent to what was originally approved. It is considered that the proposed development is in a suitable location and shall provide for a food and drink premises for the local community in a convenient and suitable location which supports the preservation of a heritage item.

Other

There are no other issues such as flooding, flora/fauna or bushfire that would significantly impact upon the development.

Suitability of the proposed development

The suitability of the site for the proposed development has been addressed in this letter and as part of the originally submitted DA. There are no prohibitive constraints posed by adjacent development and there does not appear to be any zoning, planning or environmental matters that should hinder the proposed development of the site. Therefore it can be concluded that the proposal as modified fits into the locality and site attributes are conducive for the development.

The public interest

The proposed development as modified is considered to be in the public interest as it shall support a new business for the community. The development is generally consistent with the LEP and DCP provisions and is deemed to be in the public interest.

Conclusion

It is recommended that the proposed modification to DA0201/2021 be supported as the proposed modifications are relatively consistent with the existing approval. The proposed development as modified

would be substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified.

If you have any further enquiries regarding this submission, please contact the undersigned.

Yours faithfully,

BARNSON PTY LTD



Jack Massey
Senior Town Planner *MPIA*

Enclosed:

- Approval Documentation
- Amended Development Plans
- Performance Solution - Access

Appendix A - Approval Documentation



MID-WESTERN REGIONAL COUNCIL
PO Box 156, MUDGEE NSW 2850
86 Market Street, Mudgee | 109 Herbert Street, Gulgong | 77 Louee Street, Rylstone
T 1300 765 002 or 02 6378 2850 | F 02 6378 2815
E council@midwestern.nsw.gov.au

Sarah Hopkins:ah DA0201/2021

14 May 2021

David Lowe
C/- Barnson Pty Ltd
Unit 4/108-110 Market Street
MUDGEE NSW 2850

Dear Sir/Madam

DEVELOPMENT APPLICATION DA0201/2021 - CHANGE OF USE TO A FOOD AND DRINK PREMISES (BAKERY) - LOT 1 DP 797677 - 131 CHURCH STREET MUDGEE NSW 2850

I am pleased to advise that your application has been approved by Council.

Attached is Council's formal Development Consent No. DA0201/2021.

It is important that you read the consent and understand the requirements of any conditions imposed. Certain requirements may need to be satisfied prior to proceeding with the development.

The consent is a legal document and should be kept for your future reference as the development proceeds. It should be noted that commencement of the development implies your acceptance of the conditions of consent.

Should you have any query regarding the consent or associated conditions, do not hesitate to contact myself or the appropriate Council officer.

Yours faithfully


LINDSAY DUNSTAN
MANAGER STATUTORY PLANNING
DEVELOPMENT



MID-WESTERN REGIONAL COUNCIL

PO Box 156, MUDGEES NSW 2850

86 Market Street, Mudgee | 109 Herbert Street, Gulgong | 77 Louee Street, Rylstone

T 1300 765 002 or 02 6378 2850 | F 02 6378 2815

E council@midwestern.nsw.gov.au

Notice of Determination of a Development Application

Issued under the *Environmental Planning and Assessment Act 1979* Section 4.16(1)(a)

Our Ref: Sarah Hopkins:ah DA0201/2021	DA No: DA0201/2021
Applicant: David Lowe C/- Barnson Pty Ltd Unit 4/108-110 Market Street MUDGEES NSW 2850	Land to be Developed: Lot 1 DP 797677 131 Church Street MUDGEES NSW 2850
Proposed Development: Change of use to a Food and Drink Premises (Bakery)	Building Code of Australia Classification: 6
Date of Determination: 14 May 2021	
Determination: CONSENT GRANTED subject to conditions set out below	
Consent to operate from: 14 May 2021	Consent to lapse on: 14 May 2026

CONDITIONS

APPROVED PLANS

- The development is to be carried out in accordance with the following plans endorsed with Council's Stamp as well as the documentation listed below, except as varied by the conditions listed herein and/or any plan notations.

Title / Name:	Drawing No / Document Ref	Revision:	Sheet No.	Date	Prepared by:
Site Plan	35476 – A01	E	01 of 04	05.05.2021	Barnson Pty Ltd
Existing, Alteration and proposed floor plans	35476 – A02	E	02 of 04	05.05.2021	Barnson Pty Ltd
Floor Finishes Plan	35476 – A03	E	03 of 04	05.05.2021	Barnson Pty Ltd
Elevations, Section & Signage Details	35476 – A04	E	04 of 04	05.05.2021	Barnson Pty Ltd

- Trade Waste Application will be required to be submitted and approved for the proposed food and drink premises.

Note: This premise will require a Liquid Trade Waste application for a Classification A food premises

Note: Based on the information supplied with the application, the Liquid Trade Waster requirements include the installation of a 1,000L grease arrestor.

- Prior to the commencement of use the car parking area at the rear of the premises must be sealed and line-marked to provide for no less than three staff car parking spaces and a loading / unloading area for service deliveries. The car parking area must be provided with a

stormwater drainage system to control stormwater runoff such that runoff will not flow or discharge onto adjoining properties.

BUILDING CONSTRUCTION

4. Pursuant to clause 93 of the Environmental Planning and Assessment Regulation 2000, the existing building is to be brought into conformity with the following Performance Requirement/s of the Building Code of Australia, Volume 1:

- **EP1.2** – Fire extinguishers and blankets must be installed to the degree necessary to allow occupants to undertake initial attack on a fire appropriate to the function or use of the building; and, any other fire safety systems installed in the building; and, the fire hazard.

Certification certifying compliance with the relevant minimum standard of performance shall be submitted to and approved by Council prior to use or issue of an occupation certificate.

5. This approval does not provide any indemnity to the owner or applicant under the Disability Discrimination Act 1992 with respect to the provision of access and facilities for people with disabilities.
6. All building work is to comply with the requirements of the Access to Premises Standard.
7. The list of measures contained in the schedule attached to the Development Consent are required to be installed in the building or on the land to ensure the safety of persons in the event of fire in accordance with Clause 168 of the Environmental Planning and Assessment Regulation 2000.
8. Once all fire safety measures have been installed and commissioned, a final inspection is to be arranged with Council.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

9. Prior to the occupation of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the erection of the building.
10. Prior to occupation or the issue of the Occupation Certificate the owner of the building must cause the Principal Certifying Authority to be given a fire safety certificate in accordance with Clause 153 of the Environmental Planning and Assessment Regulation 2000 for each measure listed in the schedule. The certificate must only be in the form specified by Clause 174 of the Regulation. A copy of the certificate is to be given to the Commissioner of the New South Wales Fire Brigade and a copy is to be prominently displayed in the building.
11. Prior to the issue of the Occupation Certificate, the developer shall obtain a Certificate of Compliance under the Water Management Act 2000, from Council.

Note – As a pre-condition to granting certificate of compliance for development, Council will require the applicant to pay water supply and / or sewerage developer contributions and may require the construction of water management works to serve the development.

Note – Refer to Advisory Notes in relation to payment of contributions to obtain a Certificate of Compliance.

12. Prior to the issue of an Occupation Certificate, a Building Information Certificate is to be obtained for the existing building that is the subject of this development consent, issued by Council in accordance with Division 6.7 of the Environmental Planning and Assessment Act 1979.

Note – Please contact Council's Building Surveyors prior to lodging an application for a Building Information Certificate to determine what information will be required to support an application for a Building Information Certificate.

The reason for requiring a Building Information Certificate is that the works approved under this development consent were carried out without a prior Construction Certificate, in a case where a prior Construction Certificate was required to be obtained.

13. Prior to the commencement of the use and/or issue of an Occupation Certificate, all works included in the Trade Waste approval are to be completed.
14. Prior to the commencement of the use, the shipping container at the rear of the site is to be removed.
15. Prior to the commencement of the use, signage is to be provided for the attention of vehicles exiting the site's car parking area which states "vehicles are to approach Horatio Street in a forward direction".
16. All car parking, associated driveway works and signage are to be completed prior to occupation of the development.

GENERAL / ONGOING

17. The opening hours of food and drink premises are limited to 7am to 7pm, 7 days a week.
18. No external chairs and tables for the use of outdoor dining within the site are permitted.

Note: This condition does not relate to the use of the footpath for outdoor dining. Please note that separate approval for footpath dining is required under Section 125 of the *Roads Act 1993*. This will require an application to be lodged with Council for approval which may also require referral to Transport for NSW where it is proposed on the footpath adjacent to Horatio Street, being a classified road.

19. Premises to be registered with Council as a Class P3 Food Premises. (A form for this purpose is available from Council). The premises will be subject to inspections by Council for which a fee will be payable.
20. The premises shall, at all times, be operated and maintained in accordance with Food Safety Standards 3.1.1, 3.2.2 and 3.2.3 prescribed in chapter 3 of the Australia and New Zealand Food Standards Code.
21. All vehicles are to enter the site in a forward direction.
22. All vehicles exiting the site are to exit the laneway in a forward direction at the intersection with Horatio Street.
23. All loading and unloading in connection with the premises shall be carried out wholly within the site.
24. All car parking spaces, loading and unloading areas, vehicle manoeuvring and driveway areas must not be used for the storage of any goods or materials and must be available for their intended use at all times.
25. There being no interference with the amenity of the neighbourhood by reason of the emission of any "offensive noise", vibration, smell, fumes, smoke, vapour, steam, soot, ash or dust, or otherwise as a result of the proposed development.

26. All exterior lighting associated with the development shall be designed and installed so that no obtrusive light will be cast onto any adjoining property or roadways, in accordance with Australian Standard 4282 "Control of the Obtrusive Effects of Outdoor Lighting".
27. For every 12 month period after the issue of the Final Fire Safety Certificate the owner/agent of the building must provide the Council and the Commissioner of NSW Fire Brigades with a copy of an Annual Fire Safety Statement certifying that each specified fire safety measure is capable of performing to its specification.
28. Where any essential services are installed in the building a copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of NSW Fire Brigades and Council. A further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.
29. All signage is to be maintained in good condition at all times.
30. Signage is to advertise only the name of the business and product traded from the premises.
31. Signage required to be installed is to be maintained in good order at all times.

ADVISORY NOTES

1. This development consent requires a Certificate of Compliance under the *Water Management Act 2000* to be obtained prior to the issue of an Occupation Certificate. A person may apply to Mid-Western Regional Council, as the water supply authority, for a Certificate of Compliance pursuant to Section 305 of the *Water Management Act 2000*.

Please be advised that as a precondition to the granting of a Compliance Certificate a monetary contribution in accordance with the following Schedule of Contributions must be paid in full (including indexation, where applicable).

Water Headworks	\$4,653.00
Sewer Headworks	\$2,124.00
TOTAL HEADWORKS	\$6,777.00

Note – Section 64 Developer Contributions are subject to Consumer Price Index Increase at 1 July each year. Please contact Council's Planning and Development Department regarding any adjustments.

Note – Please contact Council's Water and Sewer Department to obtain further information in relation to how these charges have been calculated.

2. The removal of trees within any road reserve requires the separate approval of Council in accordance with the policy "Tree Removal and Pruning - Public Places".
3. The land upon which the subject building is to be constructed may be affected by restrictive covenants. This approval is issued without enquiry by Council as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this approval. Persons to whom this approval is issued must rely on their own enquiries as to whether or not the building breaches any such covenant.
4. Division 8.2 of the Environmental Planning and Assessment Act (EP&A Act) gives you the ability to seek a review of the determination. This request is made to Council and must be made within 12 months after the date on which you receive this notice. The request must be made in writing and lodged with the required fee; please contact Council's Development Department for more information or advice.

5. If you are dissatisfied with this decision section 8.7 of the EP&A Act 1979 gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice, pursuant to section 8.10(1)(b).
6. To ascertain the extent to which the consent is liable to lapse, refer to Section 4.53 of the EP&A Act.

STATEMENT OF REASONS


The determination decision was reached for the following reasons:

1. The proposed development complies with the requirements of the applicable environmental planning instruments and Mid-Western Regional Development Control Plan 2013.
2. The proposed development is considered to be satisfactory in terms of the matters identified in Section 4.15 of the Environmental Planning & Assessment Act 1979.

OTHER APPROVALS

n/a

Signed on behalf of Mid-Western Regional Council by:

A black rectangular box redacting the signature of Lindsay Dunstan.

**LINDSAY DUNSTAN
MANAGER STATUTORY PLANNING
DEVELOPMENT
14 MAY 2021**



PO BOX 156
MUDGEES NSW 2850

86 Market Street MUDGEES
109 Herbert Street GULGONG
77 Louee Street RYLSTONE

Ph: 1300 765 002 or (02) 6378 2850
Fax: (02) 6378 2815
email: council@midwestern.nsw.gov.au

Fire Safety Schedule

Bakery/Cafe

SECTION A. Development details					
Unit/Street no.		Street name			
131		Church Street			
Mudgee			State	Postcode	
			NSW	2850	
SECTION B. Details of development application (DA)					
Name of consent authority		DA number/identifier		Date of DA	
Mid-Western Regional Council		0201/2021		14 May 2021	
SECTION C. Statutory fire safety measures (as set out under clause 166 EP&A Reg)					
No.	Measure	Particulars of measures (including where the requirement for the measure is set out or described eg in building plans or in an	Currently implemented Yes/No	Proposed implementation Yes/No	Minimum performance standard
1	Portable Fire Extinguishers & Fire Blankets	Building Plans and clause 93 of the EP&A Regulation 2000	No	Yes	AS 2444 (2001)
SECTION D. Other fire safety measures					
No.	Measure	Particulars of measures (including where the requirement for the measure is set out or described eg in building plans or in an alternative solution report)	Currently implemented Yes/No	Proposed implementation Yes/No	Minimum performance standard
-					
SECTION E. Critical fire safety measures (Measures listed above that must be assessed and certified at intervals of less than 12 months.)					
Measure number/letter			Intervals for supplementary fire safety statements		
SECTION F. Certifying authority					
Name	Ty Robson		Signature		
Accreditation No.	BPB 1241		Date	14 May 2021	



lot 4
dp745127

lot 3
dp780493

lot 2
dp1009027

lot 1
dp797677

existing loose gravel driveway

access lane

~horatio street~

~church street~

denotes existing angled street parking

denotes existing on-site carparking

denotes existing parallel street parking



BARNSON CITY LTD
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DAVID LOWE
PROPOSED BAKERY FITOUT @ 131 CHURCH STREET, MILDREE NSW 2850
SITE PLAN

Client: DAVID LOWE
Project: PROPOSED BAKERY FITOUT @ 131 CHURCH STREET, MILDREE NSW 2850
Date: 15.12.2021
Scale: 1:500

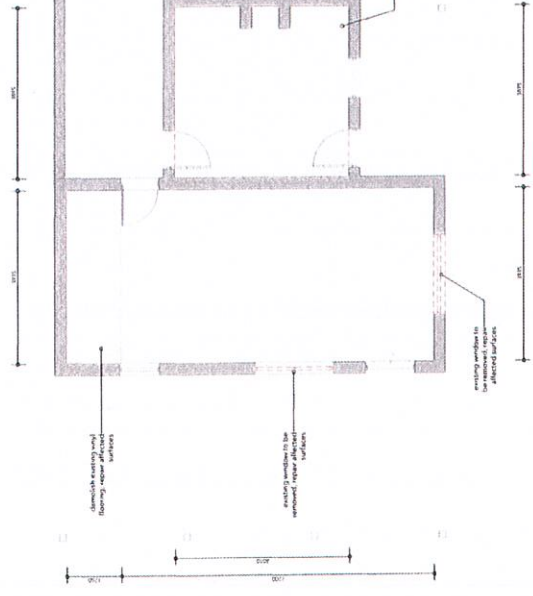
DA RE-ISSUE

Client: DAVID LOWE
Project: PROPOSED BAKERY FITOUT @ 131 CHURCH STREET, MILDREE NSW 2850
Date: 15.12.2021
Scale: 1:500

MID-WESTERN REGIONAL COUNCIL
APPROVAL PLAN
APPLICATION NO: DP2021/2021
SIGNED: [Signature]
DATE: 14/13/2021

35476-A01 E

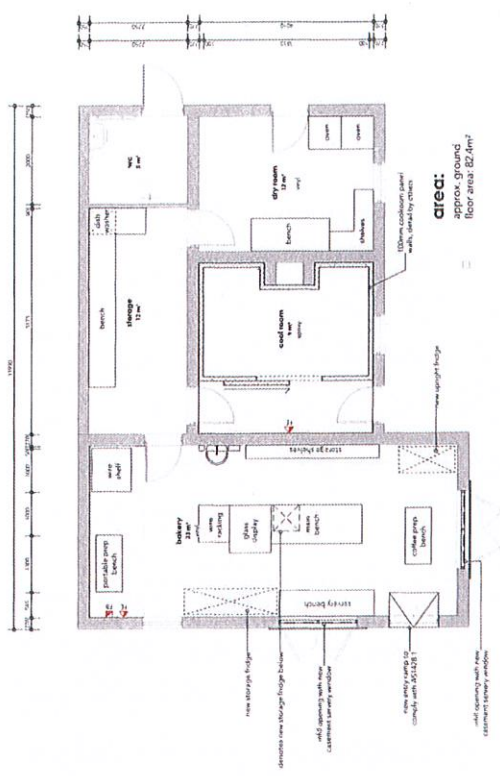
02 existing & alteration plan



Heritage Recommendations

- Repair the building on all facades which are presently painted off white to a suitable wall colour reminiscent of the original masonry. Paint forms to be used for this purpose should be "French Green" or a similar colour with natural oxide clear lacquer finish.
- Repoint mortar pointing, the gutters and accessories to match original or similar profiles and materials.

03 floor plan



MID-WESTERN REGIONAL COUNCIL
 APPROVED PLAN
 APPLICATION SIGNED... 14/05/2021
 AUTHORIZED PERSON
 DA RE-ISSUE

DAVID LOWE
 PROPOSED BAKERY FITOUT @ 311 CHURCH STREET, MURDEE NSW 2850
 EXISTING, ALTERATION & PROPOSED FLOOR PLANS

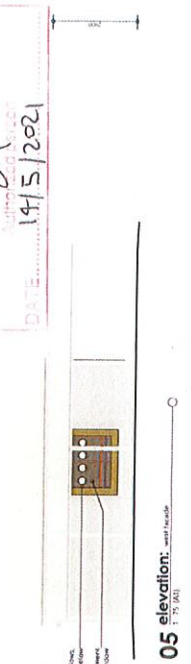
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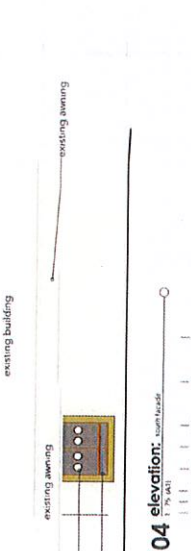
DAVID LOWE
 ARCHITECT
 100/102 BURNING TREE DRIVE
 MURDEE NSW 2850
 PH: 08 8332 2000
 WWW.DAVIDLOWE.COM.AU



MID-WESTERN REGIONAL COUNCIL
 APPROVING PLAN
 APPLICATION NO. 19/2021/2021
 SIGNED: [Signature]
 AUTHORIZED SIGNATURE
 DATE: 14/5/2021



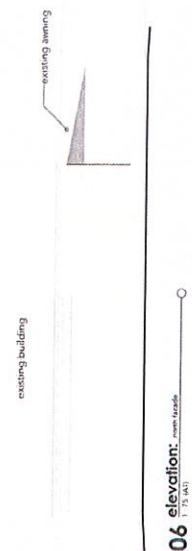
04 elevation: north facade
 1:75 (A1)



05 elevation: west facade
 1:75 (A1)



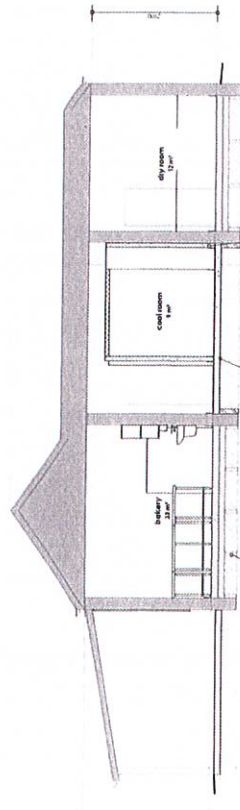
06 elevation: south facade
 1:75 (A1)



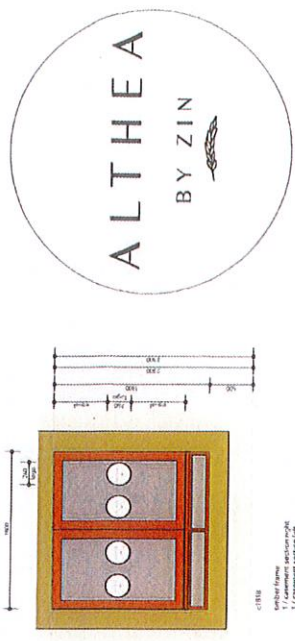
07 elevation: east facade
 1:75 (A1)

Heritage Recommendations

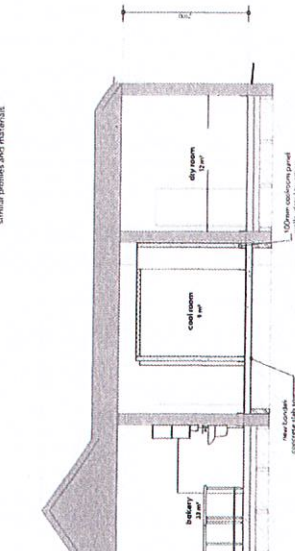
- Repair the building on all facades (which are presently painted off white) to match the original masonry. The proposed signage must refer to the 'French Green' on posts, window trim. Windows to be installed with the same profile and material.
- Repair the roof structure, gutters and accessories to match original or similar profiles and materials.



08 section: Section 1
 1:50 (A1)



09 elevation: window detail
 1:20 (A1)



10 detail plan: sign detail
 1:20 (A1)



BARNSON PTY LTD
 Level 10, 100 George Street
 Sydney NSW 2000
 Contact: 02 9250 1000
 www.barnson.com.au

DAVID LOWE
 PROPOSED BAKERY FITOUT @ 331 CHURCH
 STREET, MUDGEEO NSW 2850
 ELEVATIONS, SECTION & SIGNAGE DETAILS

Revs. DATE. REVISION

A	10.12.2020	PRELIMINARY
B	11.02.2021	AND REFACE NOTES
C	03.02.2021	AMEND REVISIONS
D	08.02.2021	REVISION FOR DEVELOPMENT APPLICATION

DA RE-ISSUE
 CLIENT: MIR
 PROJECT: 04
 SHEET: 04
 35476-A04



01 site layout

lot 4
dp745127

lot 3
dp780493

lot 2
dp1009027

lot 1
dp797677

131 church street, mudgee nsw 2850
approx. 462m²

existing loose gravel driveway

access lane

~horatio street~

~church street~

denotes existing angled street parking

MID-WESTERN REGIONAL COUNCIL
APPROVED PLAN
APPLICATION NO. DA0201/2021
SIGNED: [Signature]
DATE: 14/5/2021



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DAVID LOWE
PROPOSED BAKERY FITOUT @ 131 CHURCH STREET, MUDGEE NSW 2850
SITE PLAN

DA RE-ISSUE
Client: MR AM
Project: 01 of 04
Drawing Number: 35476-A01
E

10/12/2020 PRELIMINARY
15/12/2020 ISSUED FOR DA
08/05/2021 ISSUED FOR DEVELOPMENT APPLICATION

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denotes existing parallel street parking

denotes existing concrete carparking

MIDWESTERN REGIONAL COUNCIL
APPROVED PLAN

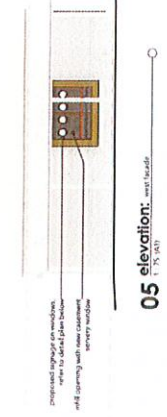
APPLICATION NO: PA0201/2021

SIGNED: [Signature] Authorised person

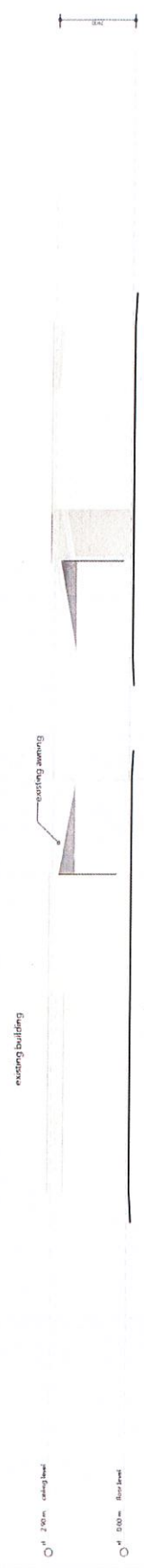
DATE:



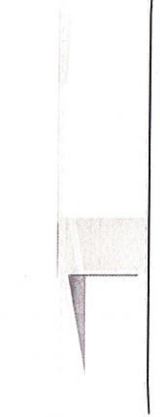
04 elevation: room facade
1:75, A41



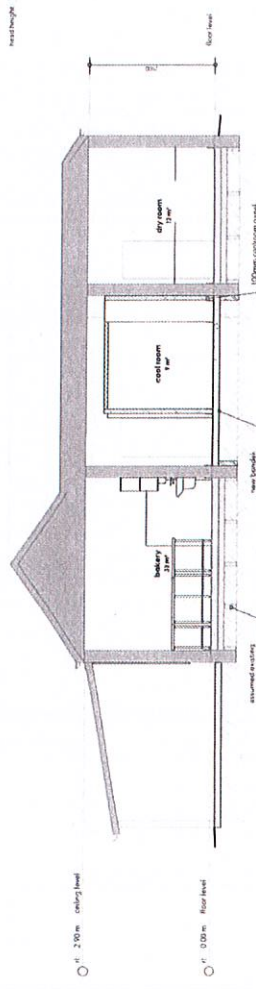
05 elevation: west facade
1:75, A41



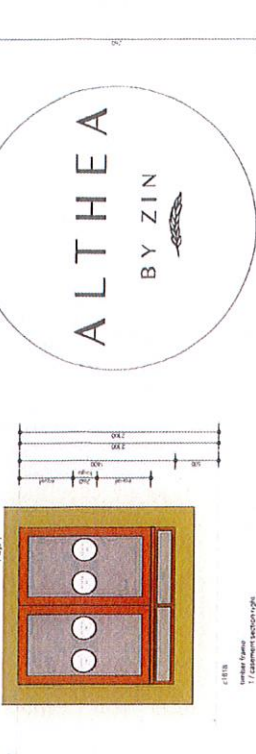
06 elevation: room facade
1:75, A41



07 elevation: west facade
1:75, A41



08 section: Section 1
1:50, A41



09 elevation: window detail
1:25, A41



10 detail plan: signage detail
1:25, A41

Heritage Recommendations

- Repair the building on all facades which are presently painted (of white) to match the original color and texture. The proposal is for a 'French Green' on points, window trim. Windows to be installed with 'French Green' on points, window trim. Windows to be installed with similar profiles and materials.

barnson
PTY LTD

100/101, Lonsdale Street, Melbourne VIC 3000
Tel: 03 9412 1234
Email: info@barnson.com.au

Architect | Drafting | Quantity Surveying | Interiors | Landscape

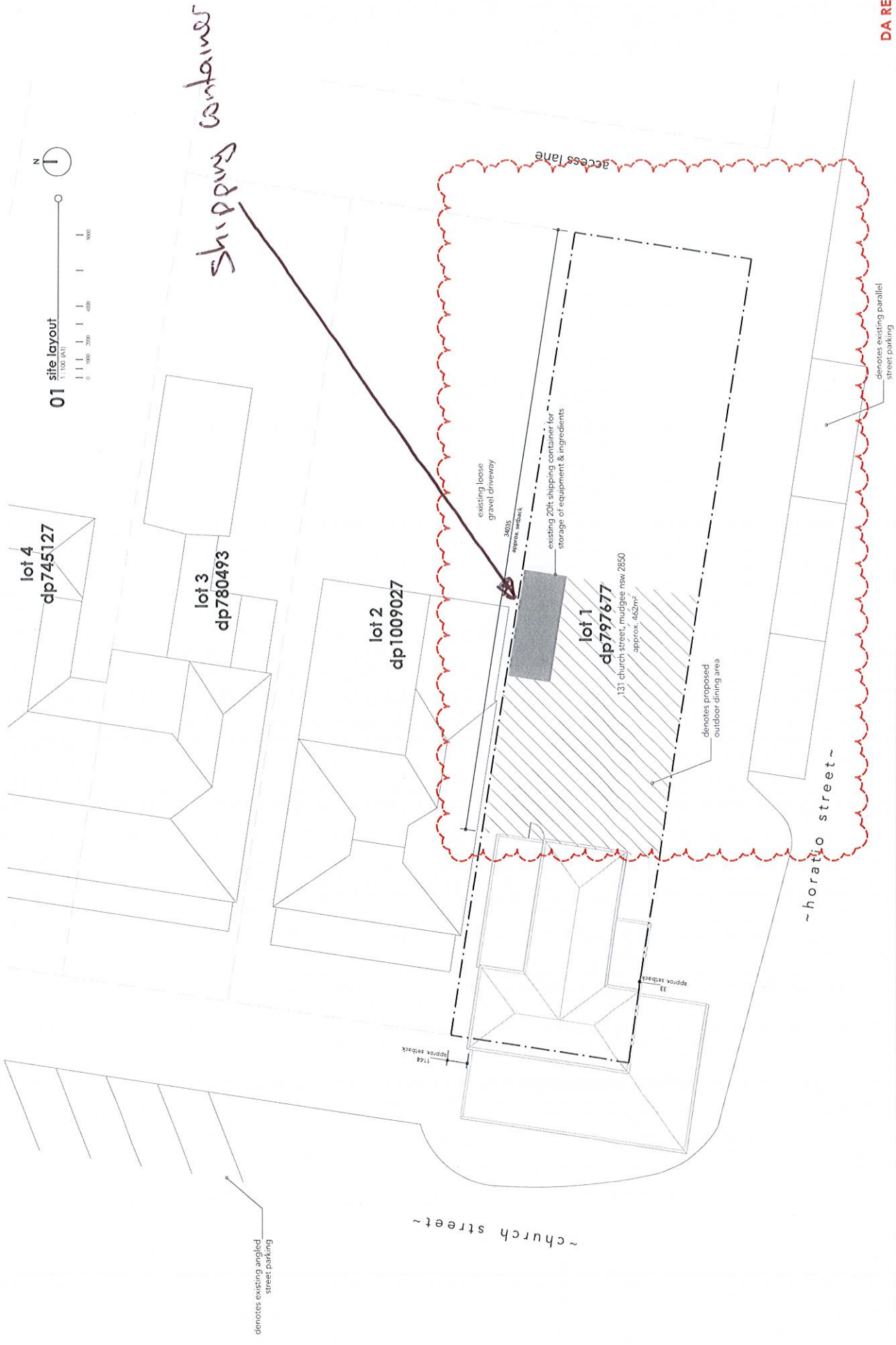
DAVID LOWE
PROPOSED BAKERY FITOUT @ 131 CHURCH STREET, MUDGEEO NSW 2850
ELEVATIONS, SECTION & SIGNAGE DETAILS

DA RE-ISSUE

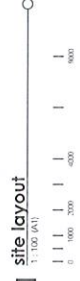
CLIENT: MR AM
DRAWING NUMBER: 04_04
35476-A04 E

Rev	Date	Description
A	10.12.2020	PRELIMINARY
B	15.12.2020	ISSUED FOR DA
C	11.03.2021	ADD HERITAGE NOTES
D	02.02.2021	AMEND DRAWING
E	02.02.2021	PREPARED FOR DEVELOPER'S APPLICATION

Appendix B - Amended Development Plans



01 site layout



DA RE-ISSUE

Check AM
 Drawn MR
 Design CLIENT

Rev	Date	Amendment
A	10.12.2020	PRELIMINARY
B	15.12.2020	ISSUED FOR DA
E	06.05.2021	REISSUED FOR DEVELOPMENT APPLICATION
F	01.02.2022	ISSUED FOR ADDITIONAL INFORMATION

Client: DAVID LOWE
 Project: PROPOSED BAKERY FITOUT @ 131 CHURCH STREET, MUDGEE NSW 2850

Drawing Title: SITE PLAN

THIS DRAWING IS TO BE READ IN CONJUNCTION WITH OTHER BUILDING DRAWINGS. DRAWINGS APPLICABLE TO THIS PROJECT. ALL DIMENSIONS TO BE CHECKED ON 20th MAY 2022. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS. NO PART OF THIS DRAWING MAY BE REPRODUCED OR TRANSMITTED IN ANY FORM WITHOUT THE WRITTEN PERMISSION OF BARNNSON PTY LTD.

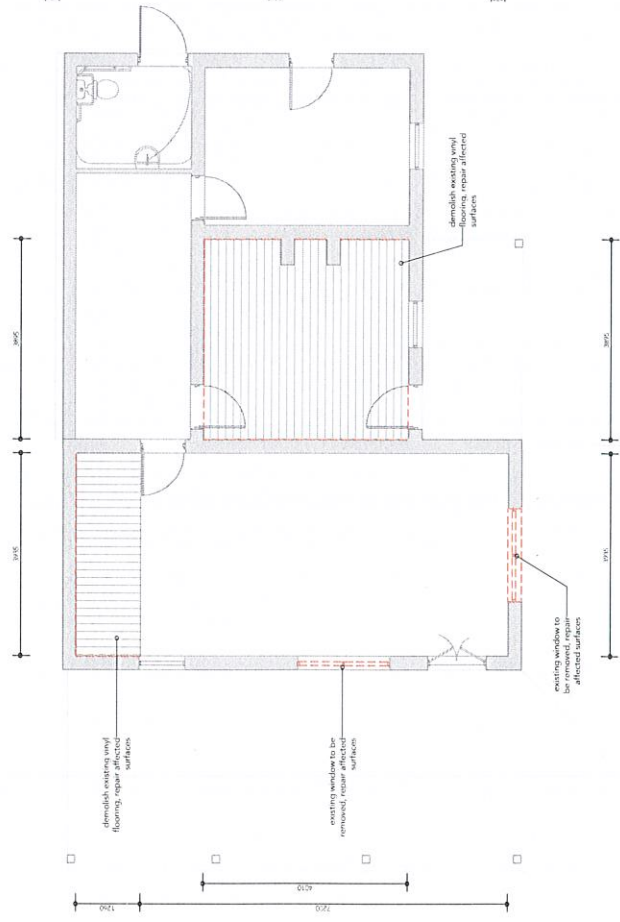
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Sheet 01 of 04
 Drawing Number
 35476-A01

Revision
 F

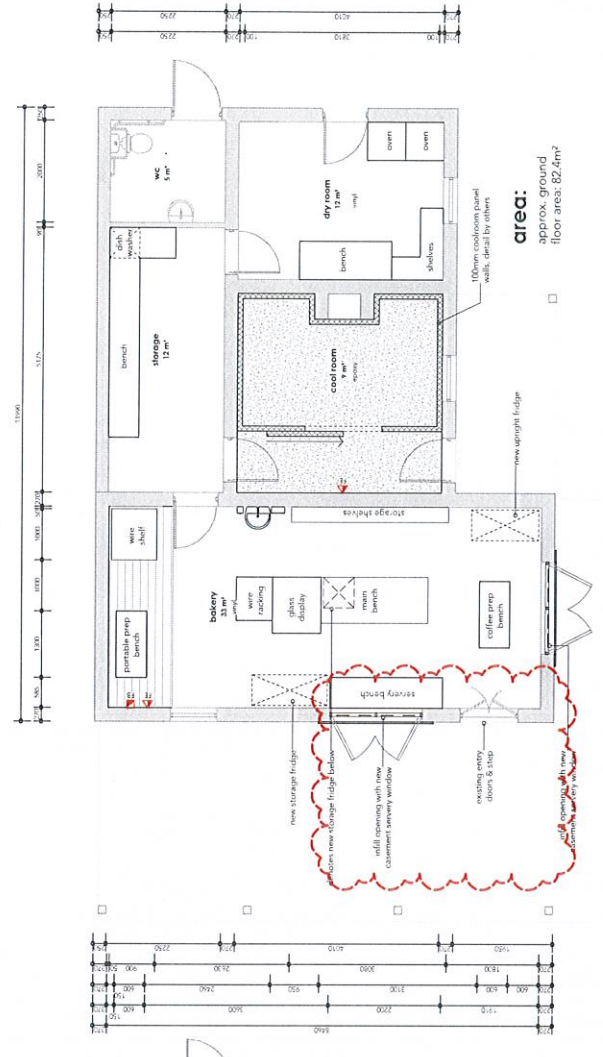
02 existing & alteration plan



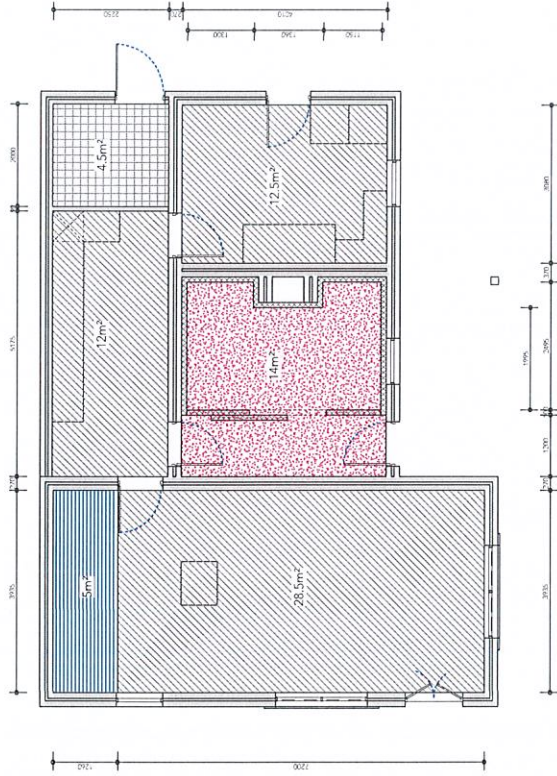
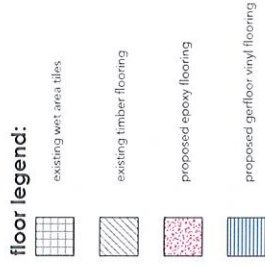
Heritage Recommendations

- Repair the building on all facades (which are presently painted off white) a suitable wall colour reminiscent of the original masonry. Paint trims to match the original masonry. Rubble on the walls and Poros. "French Green" spots, wherever seen. Windows to be installed with natural cedar clear lacquer finish.
- Repair the roof plumbing, the gutters and accessories to match original or similar profiles and materials.

03 floor plan



04 floor finishes plan



food premises notes:

- The premises to be in compliance with the AS/NZS 2004 - design, construction & fitout of food premises, the food act 1989 & regulations thereunder & in particular to:
 - The floors shall be of an impervious, smooth finish coated at the intersections of all walls to a minimum radius of 25mm and the floor to be finished to a smooth wall surface. All floors to food preparation & storage areas shall be graded so as to drain liquids to floor drains provided for this purpose.
 - All ceramic type wall tiles are to be floor fitted at the joints, with a maximum grout width of 3mm. Epoxy type grouting material should be used.
 - All equipment, fittings & fixtures shall be supported clear above the floor on legs at least 150mm high, or an alternative, solid support plants covered to the floor shall be provided. Where equipment is not fixed or too heavy, concentration being given to the fitting of wheels with safety locks to enable movement for cleaning & sanitising.
 - Sinks & wash hand basins shall be attached to the wall or equipment without any enclosure below so as to facilitate cleaning & being supplied with hot and cold water from a common outlet together with liquid hand soap & disposable single use towels.
 - Insect exclusion devices shall be provided to the satisfaction of the certifying authority.
 - Staff shall be provided with storage storage shelving at least 150mm clear of the floor.
 - All reachable or potentially reachable surfaces, including, but not limited to, shelves, cabinets, tables or benches, solid support plants and thermometers shall be provided & maintained in a satisfactory condition in the food storage or display areas to ensure these temperature levels are maintained.
 - Garbage & recycling bins to be constructed in accordance with AS/NZS 2004 P2.4 & P2.4.5.
 - All necessary partition walls of the premises to be filled with acoustically block insulation with gaps filled in with expandable polystyrene foam under.
 - The ceiling shall be constructed of 12mm waterproof plasterboard ceiling panels with a washable glass panel of a light colour.
 - Natural & artificial lighting will be provided to the premises in accordance with AS/NZS 1689.2.4 & AS/NZS 2004 P2.6.1.
 - Artificial lighting to be installed in accordance with the NCC, Vol 2, P2.4.
 - All light fittings are to comply in accordance with AS/NZS 2004 P2.6.1.
 - Pipes, conduits & electrical wiring to be concealed or if not possible will be installed in accordance with AS/NZS 2004 P3.2.9.

THIS DRAWING IS TO BE READ IN CONJUNCTION WITH OTHER RELEVANT DRAWINGS, SPECIFICATIONS AND CONDITIONS OF CONTRACT. ALL DIMENSIONS TO BE CHECKED ON SITE BEFORE COMMENCEMENT OF WORK. REPORT NO PART OF THIS DRAWING MAY BE REPRODUCED IN ANY WAY WITHOUT THE WRITTEN PERMISSION OF BARNSON PTY LTD.

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Client: DAVID LOWE
Project: PROPOSED BAKERY FITOUT @ 131 CHURCH STREET, MUDGEE NSW 2850
Drawing Title: FLOOR FINISHES PLAN

Rev	Date	Description
6	15.02.2020	PERMITS MARKUP
5	15.02.2020	ISSUED FOR DA
4	03.02.2021	AMSD WINDOWS
3	06.05.2021	RESSESSED FOR DEVELOPMENT APPLICATION

DA RE-ISSUE

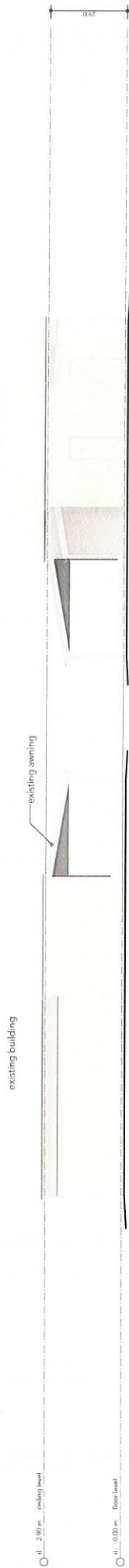
Design: CLIENT MR
 Drawn: MR
 Check: AM

Sheet: 03 of 04
 Drawing Number: 35476- A03
 Revision: E



04 elevation: south facade
1:75 (A3)

05 elevation: west facade
1:75 (A3)

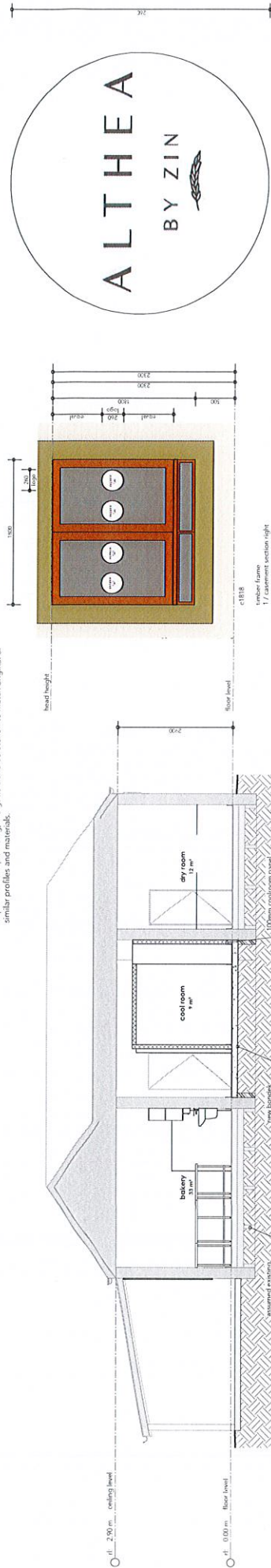


06 elevation: north facade
1:75 (A3)

07 elevation: east facade
1:75 (A3)

Heritage Recommendations

- Repair the building on all facades (which are presently painted off white) a suitable wall colour reminiscent of the original masonry. Paint trims to contrast. The proposal is Porter's 'Bubble' on the walls and Porters 'French Green' on posts, window trim. Windows to be installed with leaded glass panes.
- Repair the roof plumbing, the gutters and accessories to match original or similar profiles and materials.



08 section: Section 1
1:50 (A1)

09 elevation: window detail
1:25 (A3)

10 detail plan: signage detail
1:10 (A1)

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barnson
DESIGN. PLAN. MANAGE

Client: DAVID LOWE
Project: PROPOSED BAKERY FITOUT @ 131 CHURCH STREET, MUDGEE NSW 2850
Drawing Title: ELEVATIONS, SECTION & SIGNAGE DETAILS

THE DRAWINGS TO BE READ IN CONJUNCTION WITH THE SPECIFICATIONS AND CONSULTANTS' SPECIFICATIONS APPLICABLE TO THIS PROJECT. ALL DIMENSIONS TO BE CHECKED ON SITE BEFORE COMMENCEMENT OF WORK. ALL DIMENSIONS TO BE CHECKED ON SITE BEFORE COMMENCEMENT OF WORK. ALL DIMENSIONS TO BE CHECKED ON SITE BEFORE COMMENCEMENT OF WORK. ALL DIMENSIONS TO BE CHECKED ON SITE BEFORE COMMENCEMENT OF WORK.

Rev	Date	Amendment	Design	Drawn	Check
A	10.12.2020	PRELIMINARY	CLIENT	MR	AM
B	15.12.2020	ISSUED FOR DA	CLIENT	MR	AM
C	11.03.2021	ADD HERITAGE NOTES	Sheet 04 of 04		
D	03.02.2021	AMEND WINDOWS	Drawing Number		
E	06.05.2021	REISSUED FOR DEVELOPMENT APPLICATION	Drawing Number		

Revision: **E**
Drawing Number: **35476-A04**

DA RE-ISSUE

Appendix C - Performance Solution (Access)

ACCESSED.

NSW: Suite 2A, Level 2, 240-244 Pacific Highway Charlestown 2290 (PO Box 197)

ACT: Level 1, 50 Geils Court Deakin 2600

Ph: 02 4943 3834 Email: admin@accessed.com.au ABN: 22 151 919 489

PERFORMANCE BASED DESIGN BRIEF

PROJECT NAME 131 Church St Mudgee
PROJECT NUMBER CA210072
CLIENT Lowe Family Wine Co.

REVISION	ISSUE DATE	DETAILS
DRAFT1	24/11/2021	Draft for review
PBDB	2/02/2022	Final report

REPORT PREPARED BY

Aja Goddard

AJA GODDARD

Accredited Access Consultant | ACAA 243

Accredited SDA Assessor | SDA00071

Livable Housing Registered Assessor | LHA10038

DOCUMENTATION REVIEWED

Refer to Appendix A.



KEY STAKEHOLDERS

NAME	ROLE	ORGANISATION
Aja Goddard	Access Consultant	Accessed
Mark Hamshaw	Building Tenant	Lowe Family Wine Co.
Jack Massey	Senior Town Planner	Barnson
Not disclosed	Relevant Approval Authority	Mid-Western Regional Council



1. INTRODUCTION

The Building Code of Australia Volume 1 (BCA) states that compliance will be achieved by satisfying the Performance Requirements. The Performance Requirements can only be satisfied by a Performance Solution, or Deemed-to-Satisfy (DtS) Solution, or a combination of a Performance Solution and a Deemed-to-Satisfy Solution (BCA A2.0, A2.1).

For this project, a combination of a Performance Solution and a Deemed-to-Satisfy Solution have been utilised.

This Performance-Based Design Brief (PBDB) is the first step in preparing a performance solution and has been developed in collaboration with key stakeholders in order to identify the necessary details of the proposed performance solution, contribute to the negotiation process and ultimately obtain endorsement from key stakeholders. It is intended that the building design and the development of the performance solution report can then progress with a high degree of confidence that the proposed design is likely to be approved where the requirements of the PBDB are achieved.

2. SUMMARY OF THE PROPOSAL

The subject building is an existing premises with minor fit-out work for a bakery café. It is a locally listed heritage item and within a heritage conservation area.

While an application for approval for building work would typically trigger the Premises Standards, arguably the extent of work relevant to the accessibility is limited to joinery style installations. It is proposed that the entry door, including a single step off the public footpath, remain in its existing condition. New servery windows are proposed adjacent to the entry door and it is intended that the servery windows will offer alternative access for people with a disability.

It is therefore anticipated that the performance solution will demonstrate compliance with all relevant performance requirements in accordance with BCA A2.2.

Assessment for this proposed performance solution is based on legislation current at the time including the Building Code of Australia Volume 1 2019 Amendment 1 (BCA), Disability (Access to Premises – Building) Standards 2010 (Premises Standards) (including Compilation No. 2), Australian Standards (AS 1428.1-2009 incorporating Amendments No. 1 and 2).



3. RELEVANT PERFORMANCE REQUIREMENTS

The following Performance Requirements have been identified as relevant to this performance solution in accordance with BCA A2.2 (3):

DP1 Access for people with a disability

Access must be provided, to the degree necessary, to enable –

- (a) people to –
 - (i) approach the building from the road boundary and from any accessible carparking spaces associated with the building; and
 - (ii) approach the building from any accessible associated building; and
 - (iii) access work and public spaces, accommodation and facilities for personal hygiene; and
- (b) identification of accessways at appropriate locations which are easy to find.

4. RELEVANT DEEMED-TO-SATISFY PROVISIONS AND ASSOCIATED VARIATIONS

DTS PROVISION	REQUIRED ELEMENT	PROPOSED VARIATION
BCA D3.2 (b), Premises Standards 2.1 (5) (a) & Schedule 1 D3.2 (2)	In a building required to be accessible, an accessway must be provided through the principal pedestrian entrance.	It is proposed that the entry not be upgraded, but remain in its existing condition with a step from the public footpath. Servery windows will offer alternative access for people with a disability.

5. ASSESSMENT METHODS

The assessment methods used to determine that the performance solution complies with the relevant BCA performance requirements are:

- (a) Expert judgement (BCA A2.2 (2) (c)).
- (b) Comparison with the Deemed-to-Satisfy Provisions (BCA A2.2 (2) (d)).

A qualitative analysis of the proposal will compare accessibility options to determine if an equivalent level of accessibility is achievable.



The author of this report is an accredited access consultant with experience working in disability services and as an advisor to architects, builders and building certifiers. Current membership is held with the Association of Consultants in Access, Australia and a CV is annexed to this report. The author is therefore suitably qualified and experienced to determine whether a Performance Solution complies with the Performance Requirements.

6. ACCEPTANCE CRITERIA

In order to accept compliance, the performance solution will need to demonstrate that people with a disability will not be disadvantaged by not entering the building and instead using the servery windows.

7. SCOPE OF SUPPORTING EVIDENCE

Evidence is expected to comprise:

- a) An examination of the building size, heritage significance and proposed design.
- b) Management strategies for the operations of the bakery café including customer service protocols and display of products.

8. FORMAT AND CONTENT OF FINAL REPORT

The final performance solution report will analyse the assessment and evaluate how the results meet the agreed acceptance criteria. It will be provided as an annexure to this PBDB so as to retain reference to the identified Performance Requirements, DfS Provisions and other pertinent details which are required to be considered with the assessment.

9. LIMITATIONS AND CONDITIONS

It is expected that in conjunction with the performance solution, all other new building work will achieve compliance with accessibility requirements.



While the solution is intended to minimise the risk of action under the DDA, it will not necessarily eliminate the possibility. The assessment therefore will not preclude access from needing to be upgraded in the future to meet the needs of the occupants. The performance solution will consider accessibility specific to the proposed situation and we note that any change to the operation of the building or future building work may result in the performance solution ceasing to be applicable and access will need to be reviewed.

Ongoing compliance will be the responsibility of Lowe Family Wine Co. Access should be monitored on an ongoing basis to identify where upgrade work is necessary to continue to offer equitable and dignified access for people with a disability and minimise the risk of a DDA complaint.

Reasonable care and skill have been exercised in the assessment of the building and the preparation of this report. However, this report shall not be construed as relieving any other party of their responsibilities or obligations.

The advice given is based on the assessment of the plans and other relevant documentation supplied regarding access requirements in the BCA, Australian Standards, Premises Standards and Disability Discrimination Act current at the time. The advice relates specifically to this project and may not apply to any other building or to this building at any other point in time.



APPENDIX A: DOCUMENTATION REVIEWED

Plans by Barnson Pty Ltd

DOCUMENT NUMBER NAME	REVISION	DATE
35476-A01	E	05/05/2021
35476-A02	E	05/05/2021
35476-A-03	E	05/05/2021
35476-A04	E	05/05/2021

Report by Barbara Hickson Architect and Heritage Adviser

DOCUMENT NUMBER NAME	REVISION	DATE
Statement of Heritage Impact	-	11/02/2021



APPENDIX B: CURRICULUM VITAE

AJA GODDARD

Director

Accredited Access Consultant

Accredited SDA Assessor

Livable Housing Registered Assessor

Having previously worked in the disability, aged care and rehabilitation sectors, Aja now draws on this experience to inform her work and achieve building access solutions. She offers reports and advice on the relevant legislative compliance issues surrounding projects such as schools, community facilities, offices, commercial premises, residential apartment buildings, seniors living developments and health facilities, and works closely with clients during the building design phase. Her work has earned the accolade of winning the 2017 NSW Access Inclusion Awards – Residential Category.



Qualified and accredited, Aja develops performance solutions and provides advice on access action and management plans for projects to achieve suitable access in their specific situations. She also offers training in accessibility legislation and disability awareness for the building industry.

As a practising Diversional/Recreation Therapist from 2003-2011, including employment with Newcastle based disability services, aged care providers and NSW Health, Aja has a comprehensive understanding of the accessibility needs of people with a disability. She holds a Bachelor of Applied Science (Therapeutic Recreation), Certificate IV in Access Consulting, is an accredited member of the Association of Consultants in Access, Australia and is an academic affiliate member of Diversional and Recreation Therapy Australia. She is also a qualified trainer and assessor, a Livable Housing Registered Assessor, and an Accredited SDA Assessor.



APPENDIX C: STAKEHOLDERS DECLARATION

I have read the Performance-Based Design Brief and agree that it is sufficient to progress to the documentation of the Performance Solution.

I believe the assessment and strategies nominated will suit the specified application.

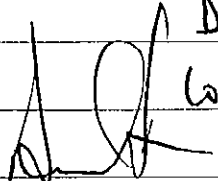
I understand my obligations in relation to:

- a) People with a disability having suitable access to and within the premises.
- b) Eliminating the risk of discrimination against people with a disability.

NAME DAVID LOWE

ROLE DIRECTOR

ORGANISATION Low family wine Co. Tinje Restoral

SIGNATURE 

DATE 26th January 2022




APPENDIX C: STAKEHOLDERS DECLARATION

I have read the Performance-Based Design Brief and agree that it is sufficient to progress to the documentation of the Performance Solution.

I believe the assessment and strategies nominated will suit the specified application.

I understand my obligations in relation to:

- a) People with a disability having suitable access to and within the premises.
- b) Eliminating the risk of discrimination against people with a disability.

NAME	Jack Massey
ROLE	Senior Town Planner
ORGANISATION	Barnson Pty Ltd
SIGNATURE	
DATE	28/1/22

ACCESSED.

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ACT: Level 1, 50 Geils Court Deakin 2600

Ph: 02 4943 3834 Email: admin@accessed.com.au ABN: 22 151 919 489

PROPOSED PERFORMANCE SOLUTION

PROJECT NAME 131 Church St Mudgee
PROJECT NUMBER CA210072
CLIENT Lowe Family Wine Co.

REVISION	ISSUE DATE	DETAILS
DRAFT1	25/11/21	Draft for review
PerfSol	2/02/2022	Final performance solution

REPORT PREPARED BY

Aja Goddard

AJA GODDARD

Accredited Access Consultant | ACAA 243

Accredited SDA Assessor | SDA00071

Livable Housing Registered Assessor | LHA10038



1. INTRODUCTION

This report is an assessment of the proposed performance solution, developed following the completion of the Performance-Based Design Brief (PBDB) and associated review process. It is provided as an annexure to the PBDB and is to be read in conjunction with it, so as to retain reference to the identified Performance Requirements, DTS Provisions and other pertinent details which are required to be considered with the assessment.

Key stakeholders have been identified in the PBDB and have accepted its content, offering a high degree of confidence that the proposed design, incorporating design elements subject to this performance solution, is likely to be approved where the requirements of the PBDB are achieved. The performance solution report aims to demonstrate this and provide the evidence base in analysing the assessment and evaluating the agreed acceptance criteria.

2. PERFORMANCE SOLUTION

The proposed performance solution is that access will be provided, to the degree necessary, to enable people to approach the building and access public spaces via the servery windows.

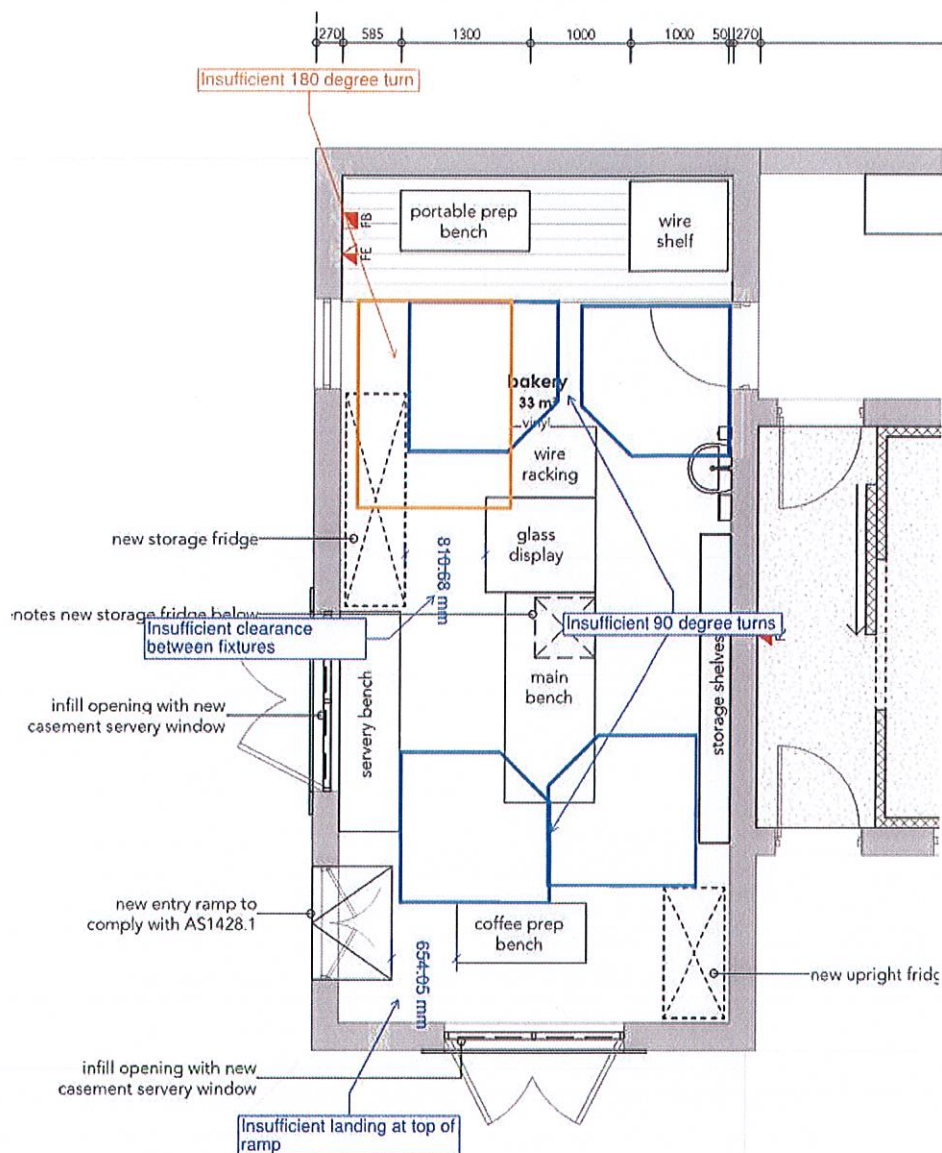
The proposed performance solution therefore meets the relevant BCA performance requirements, despite the variations from the DTS Provisions identified in section 4 of the PBDB.

3. ASSESSMENT OF THE PERFORMANCE SOLUTION

AS 1428.1 recognises the variety of situations that may need to be addressed when designing buildings and facilities. Therefore the standard provides a range of data so that the requirements for access can be met and to also allow flexibility in design where limitations are imposed by other building conditions (AS 1428.1).

In this situation, the tenant intending to occupy the premises has proposed that the single step at the shop entry be retained and that servery windows be installed adjacent to the entry for the purpose of making purchases. It has been assumed that any new ramp at the door would not be permissible on the public footpath, but instead be required inside the building, involving removal of building fabric with potential heritage impact. The small shop footprint would also be affected by a new internal ramp and subsequent wheelchair circulation spaces through joinery installations.

The marked up floor plan below indicates how joinery will encroach into minimum circulation spaces:



In a store of this size, compliant circulation spaces would rely on extremely minimal joinery, furniture and product displays, being futile for a retail setting. An alternative was therefore sought to maximise the usefulness of the building, while providing a suitable customer experience.

Considering the absence of dine-in facilities, the inclusion of servery windows is desirable to accommodate fluctuating numbers of customers placing take-away orders. While they may be welcome within the store for perusal of products, the limitations of the space is acknowledged, particularly in the midst of a pandemic where physical distancing rules apply. The ability to provide window displays and serve customers through the windows is considered to be an ideal outcome for the operations of the bakery café. With the initial intention being to serve all people, it will particularly benefit those with a disability and families with prams.



The Statement of Heritage Impact is supportive of this arrangement, confirming that 'significant elements are retained' and 'the small effect on the heritage significance of the item includes some recovery of significance as the shop will again have a relevant use.'

The new servery windows scale at a height of approximately 770mm from the external ground surface to the bottom edge of the windows and this is a suitable height for approach by someone in a wheelchair. Figure 23 of AS 1428.2 demonstrates that there is a zone for common reach by someone who is seated and someone who is standing within the height range of 700mm to 1200mm. This will enable window displays to be visible for people in a wheelchair and allow them to reach the servery windows for payment and order collection purposes.

The bakery café management will be responsible for developing and implementing strategies that support the intent of this performance solution report. The following points are to be incorporated into store policies:

- a) There will be an equitable display of products so that customers perusing in store and those at the servery windows will have equivalent access to products.
- b) Staff will receive regular training in customer service protocols so that customers in store and those at the servery windows will have equivalent levels of service provided.

It is understood that staff roles will involve relatively physical duties including baking, preparing beverages, packaging food orders and customer service. From an accessibility perspective, there are inherent risks associated with such roles for people with a disability, with regard to specialised equipment being used at extremely high temperatures. An exemption under BCA D3.4 may therefore be applied for staff areas based upon the particular purpose for which the area is used and the health and safety risks posed (this may be subject to individual assessment so as not to discriminate against people with a disability in accessing employment).

I am therefore of the opinion that the lack of entry ramp into the shop will not substantially diminish accessibility in this situation given the intention for the servery windows to offer an equivalent level of service to that available within the store. I am satisfied that people with a disability will not be disadvantaged by not entering the building and instead using the servery windows. Access for people with a disability will therefore be provided to the degree necessary.

This solution will minimise the risk of action under the DDA, however, it does not necessarily eliminate the possibility. It is recommended that the bakery café management review their policies regarding accessibility on an ongoing basis to ensure that DDA obligations continue to be met.

It is noted that under part 2.1 1b, 4a and 5 of the Premises Standards, existing parts which are not subject to building work, such as the existing sanitary facility and internal doorways, are not considered to be 'affected parts' and are therefore not subject to upgrade provisions.



4. CONCLUSION

I am of the opinion that the proposed performance solution will meet the relevant BCA Performance Requirements through the provision of the server windows, in conjunction with suitable management strategies, in lieu of providing an access ramp into the building.

Through the assessment methods of Comparison with the DtS Provisions and Expert Judgement, consideration has been given to the nominated variations from the DtS Provisions.

While the solution is intended to minimise the risk of action under the DDA, it will not necessarily eliminate the possibility. The assessment therefore will not preclude access from needing to be upgraded in the future to meet the needs of the occupants. The performance solution considers accessibility specific to the proposed situation and we note that any change to the operation of the building or future building work may result in the performance solution ceasing to be applicable and access will need to be reviewed.

Ongoing compliance will be the responsibility of the bakery café. Access should be monitored on an ongoing basis to identify where upgrade work is necessary to continue to offer equitable and dignified access for people with a disability and minimise the risk of a DDA complaint.

Reasonable care and skill have been exercised in the assessment of the building and the preparation of this report. However, this report shall not be construed as relieving any other party of their responsibilities or obligations.

The advice given is based on the assessment of the plans and other relevant documentation supplied regarding access requirements in the BCA, Australian Standards, Premises Standards and Disability Discrimination Act current at the time. The advice relates specifically to this project and may not apply to any other building or to this building at any other point in time.