

31 July 2014

Mr Nicholas Glynatsis  
Mexica Cocktail Bar  
Shop 6.6, 4 Dawn Fraser Av  
Sydney Olympic Park NSW 2127

**NOTICE OF DETERMINATION**

**DA 06-07-2014 – Lot 6 DP 1130359, Shop 6.6 4 Dawn Fraser Avenue, Sydney Olympic Park**

Dear Mr Glynatsis,

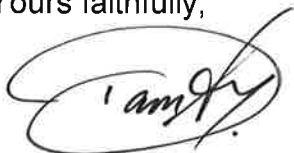
I refer to the abovementioned development application (DA) and I am writing to inform you that the application has been granted consent, subject to conditions (refer to the attached consent).

Before construction works commence you must apply for a construction certificate from an Accredited Certifier. In addition, prior to works commencing, you may need to obtain a Works Permit from Sydney Olympic Park Authority for any works (e.g. storing materials, footpath occupancy etc.) in the public domain. All plans and information that form part of your detailed works must comply with the conditions of consent.

It is the responsibility of the applicant to carefully read all conditions of consent prior to preparing detailed plans and commencement of construction works.

Please note the development consent operates from the date of this notification. Should you have any enquiries regarding the above matter, please contact me on (02) 9714 7145.

Yours faithfully,



Darren Troy  
**Manager, Urban Planning**



## Development Consent

### Section 80 of the *Environmental Planning and Assessment Act 1979*

I, the Manager, Planning of the Sydney Olympic Park Authority, pursuant to section 80(1) and 80(A) of the *Environmental Planning and Assessment Act 1979*, Clause 22 of the *Sydney Olympic Park Authority Act 2001*, and in accordance with the delegations invested to my office by the Minister for Planning, grant development consent to the development referred to in Schedule 1, subject to the conditions in Schedule 2.

These conditions are required to prevent, minimise, and/or offset adverse environmental impacts.

Darren Troy  
Manager, Planning  
Sydney Olympic Park Authority

Date: 01/08/2014.

Ref: DA 06-07-2014  
(File No. F14/715)

### SCHEDULE 1

Development Application:	DA 06-07-2014
Application made by:	Mr Nicholas Glynatsis (RINK Family Holdings P/L)
To:	Sydney Olympic Park Authority
In respect of:	Lot 6 DP 1130359, 4 Dawn Fraser Avenue, Sydney Olympic Park.
For the following:	Alterations and additions and use of the Ground Floor premise (Shop 6.6) as a Restaurant & Bar (Mexica Cocktail Bar).
Determination:	Consent granted subject to the conditions in the attached Schedule 2
Date of commencement of consent	This development consent commences on the date identified in the formal notification letter accompanying the Notice of Determination
Advisory Notes	<p>The Applicant is solely responsible that all additional consents and agreements are obtained from other authorities as relevant</p> <p>The Applicant has right to appeal to the Land and Environment Court in the manner as set out in the Environmental Planning and Assessment Act 1979, and the Environmental Planning and Assessment Regulations 2000 (as amended)</p>



**SCHEDULE 2**  
**CONDITIONS OF CONSENT**  
**DEVELOPMENT APPLICATION NO. 06-07-2014**

**PART A – ADMINISTRATIVE CONDITIONS**

**A1 Development Description**

Development Consent is granted only to carrying out of the development as described in, and on the land referred to, in **Schedule 1** above.

These conditions of this consent do not relieve the proponent of its obligations under the *Environmental Planning and Assessment Act 1979*, and any other Act.

**A2 Development in accordance with Plans**

The development shall be generally in accordance with the supporting documentation submitted with that application, including, but not limited to, the following:

<b>Statement of Environmental Effects &amp; Alcohol Management Plan titled 'Mexica Cocktail Bar'</b>
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<b>Plans titled 'Mexica Cocktail Bar' prepared by RMG Design Practice, dated 23/07/2014</b>
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except for:

1. any modifications which are 'Exempt and Complying Development' as identified in the relevant State Environmental Planning Policy (SEPP) or as may be necessary for the purpose of compliance with the Building Code of Australia (BCA) and any Australian Standard (AS) incorporated in the BCA;
2. otherwise provided by the Conditions of this Consent;
3. otherwise as necessary to comply with other NSW and Commonwealth legislation.

**A3 Inconsistency between documents**

In the event of any inconsistency between Conditions of this Approval and the details referred to Condition No. A2, the Conditions of this Approval prevail.

**A4 Lapsing of Consent**

This consent will lapse five (5) years from the date of this consent unless the development has physically commenced.

**A5 Prescribed Conditions**

The Proponent shall comply with the relevant prescribed conditions of development consent under Clause 98 of the *Environmental Planning and Assessment Regulations 2000*.



## **A6 Mechanical Ventilation**

Mechanical ventilation and exhaust is to be reviewed and upgraded if required. These systems shall comply with the requirements of clause F4.5 of the BCA and its installation is to comply with AS 1668.2 – 2002.

## **PART B – PRIOR TO CONSTRUCTION**

### **B1 Construction Certificate**

A Construction Certificate is to be issued for the new building work by an accredited certifier in accordance with the requirements set out in Section 81A of the Environmental Planning and Assessment Act 1979.

### **B2 Principle Certifying Authority**

The new building work is not to commence until a Principal Certifying Authority (PCA) has been appointed for the new building work as set out in Section 81A of the *Environmental Planning and Assessment Act 1979*.

### **B3 Accessibility**

Prior to the issue of a Construction Certificate the proposed construction plans are to demonstrate compliance of the provisions for persons with a disability with the requirements of AS 1428.1 and *SOPA's Access Guidelines 2011*.

### **B4 Business Identification Signage**

Prior to issuing a Construction Certificate, the Principal Certifying Authority shall be satisfied that the signage is consistent with the Authority's *Guidelines for Outdoor Advertising, Identification and Promotional Signage (October 2002)* and the approved plans.

### **B5 No Obstruction of Public Domain without a Works Permit**

Prior to the issue of a Construction Certificate, if required, the proponent is to obtain a Work Permit to occupy the public way, footpaths, road reserves and the like, which must not be obstructed by any mobile cranes, materials, vehicles, refuse, skips or the like, under any circumstances, unless in accordance with the Works Permit. Non-compliance with this requirement will result in the issue of a notice by the Authority to stop all work on the site.

**Note:** Further information on Work Permits can be obtained from [www.sydneyolympicpark.com.au](http://www.sydneyolympicpark.com.au).

## **PART C – DURING CONSTRUCTION**

### **C1 No Obstruction of Public Way**

The public way and road reserves must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances unless in accordance with a Works Permit. Non-compliance with this requirement will result in the issue of a notice by the Authority to stop **all** work on the site.

**Note:** further information on Work Permits can be obtained from [www.sydneyolympicpark.com.au](http://www.sydneyolympicpark.com.au).

## **C2 Fit-out in accordance with base building Fire Engineered Design**

The fit-out shall be carried out within the provisions of the base building Fire Engineered Design and shall not compromise the existing base building Fire Engineered Design. All existing base building Essential Fire Safety measures including all the required exits are to be preserved within the base building areas and maintained and upgraded if required to accommodate the proposed new fit-out.

## **C3 Fit-out in accordance with the *Building Code of Australia***

The fit-out shall be in accordance with the provisions of the Building Code of Australia (BCA) and any relevant Australian Standards, including, but not limited to:

1. Compliance in accordance with the requirements of Section J (Energy Efficiency) of the BCA,
2. New pedestrian areas are to be constructed in accordance with *AS/NZS 4586:2004 Slip resistance classification of new pedestrian surface materials*.

**Note:** Sufficient information must be forwarded to the Certifying Authority illustrating compliance with the relevant requirements of the BCA and *Australian Standards*. Sufficient information may include (but not limited to) reports or certifications issued by an appropriately qualified person. Please contact your relevant Certifying Authority to discuss requirements prior to submission of the application for Construction and Occupation Certificate.

## **C4 Work Health and Safety Act 2011**

All works are to be carried out in accordance with the *NSW Work Health and Safety Act 2011 & the Regulations 2011*.

## **C5 Hours of Work**

All works (including site deliveries) shall only be carried out between the following hours:

1. 7.00am to 5.00pm on Monday to Fridays (inclusive)
2. 7.00am to 3.00pm on Saturdays
3. No work on Sundays and Public Holidays (except with the prior written consent of SOPA's General Manager – Operations and Sustainability).

## **C6 Food Premises**

The fit-out shall be in accordance with the requirements of the *NSW Food Act 2003*, *FSANZ Food Standards Code*, and *AS 4674-2004 (Design, Construction and Fit-out of Food Premises)*.

## **PART D – PRIOR TO OCCUPATION**

### **D1 Occupation Certificate**

An Occupation Certificate is to be issued by the Principal Certifying Authority (PCA) upon completion of the new fit-out building works in accordance with the requirements of Section 109H and 109M of the Environmental Planning and Assessment Act 1979.

## **D2 Proponent to pay for any damage to footpath or public assets**

The cost of repairing any damage caused to Sydney Olympic Park Authority or other Public Authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development is to be met in full by the Proponent/developer prior to the issue of the final Occupation Certificate.

## **D3 Outdoor Dining Public Risks Insurance**

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that the proprietor has obtained Public Risk Insurance of at least \$10 million per occurrence for liabilities arising out of the proprietor's use of the outdoor dining area. Public Risk Insurance must to be maintained for the duration of approval specified for outdoor dining.

## **D4 Outdoor Dining Licence**

The proprietor shall obtain a Commercial Outdoor Dining Licence from the Sydney Olympic Park Authority for the purpose of leasing the public domain area for the sole use of the premises/ restaurant's outdoor dining, prior to using the area for Outdoor Dining / Seating.

## **D5 Delineation of Outdoor Dining Zone**

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that pavement markers have been installed on the pavement outside the subject premises to delineate the approved Outdoor Seating Zone in accordance with specifications identified in Condition E12 and the plans shown on the Outdoor Dining Approval Certificate.

## **D6 Notification of NSW Food Authority**

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that the proprietor has notified the NSW Food Authority of the following information including:

1. Contact details for the food business, including the name and address of the business and proprietor of the business,
2. The nature of the food business, and
3. The location of any other food premises associated with the food business, within the jurisdiction of NSW Health.

## **D7 Mechanical Plant Noise Emissions**

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that noise associated with the use of mechanical plant and equipment will not give rise to any one or more of the following:

- a) Transmission of "offensive noise" as defined in the *Protection of the Environment Operations Act 1997* to any affected receiver.
- b) A sound pressure level at the boundary of the premises that exceeds the background (LA90, 15minutes) noise level by more than 5dB. The background noise level must be measured in the absence of noise emitted from the use in accordance with *Australian Standard AS1055 – 1997*.



## **PART E – DURING OCCUPATION**

### **E1 Annual Fire Safety Statement**

All fire safety measures serving the building are to be certified to the relevant local Consent Authority (Auburn Council) as being maintained in accordance with the requirements of the Building Code of Australia and *Environmental Planning and Assessment Act 1979* and Regulations on a yearly basis within 12 months after the date on which the initial Fire Safety Certificate is issued.

### **E2 Standard Hours of Operation**

The hours of operation of the business shall be restricted to between:

DAY	START	FINISH
Monday - Saturday	11:00am	12 midnight
Sunday	CLOSED (except during major events when the above hours would apply)	

Note: The Proprietor must ensure that the operation of the business is carried out in a responsible manner and not to unduly interfere with building, shop or pedestrian function or amenity.

### **E3 Extended Hours of Operation (Reviewable Condition)**

The extended hours of operation of the business shall be restricted to between:

DAY	START	FINISH
Monday - Saturday	11:00am	1am (the following day)
Sunday	CLOSED (except during major events when the extended hours would apply)	

Note 1: The Proprietor must ensure that the operation of the business is carried out in a responsible manner and not to unduly interfere with building, shop or pedestrian function or amenity.

Note 2: In accordance with Section 80A (10B) of the Environmental Planning and Assessment Act, 1979, Condition E3 is a reviewable condition and the Authority may review the condition at any time. Upon the condition being reviewed the operating hours may be varied in accordance with the findings / recommendations of the review. The purpose of the reviewable condition is to enable the operating hours to be reviewed should they be subject to complaints regarding operational issues, noise or other disorderly or antisocial behaviour.

Note 3: Should there be any operational issues, noise or other disorderly or antisocial behaviour associated with the extended operating hours, the extended hours will be revoked and the business will revert to the standard operating hours.

### **E4 Liquor Licence**

No alcohol shall be served from the premises or stored or located within or upon the premises at any time without obtaining a relevant liquor licence and the appropriate responsible service of alcohol certificates and qualifications.



#### **E5 Loading and Unloading**

All loading and unloading service vehicles in connection with the use of the premises shall be carried out within the designated loading dock/bay only.

Loading and unloading of goods and waste to and from the shop must be carried out in a responsible manner and not to unduly interfere with building, shop or pedestrian function or amenity.

#### **E6 Waste Management**

No waste is to be stored on the footpaths or public domain areas of Sydney Olympic Park. All waste is to be stored and disposed from within the base building's waste storage room.

#### **E7 Intruder Alarm**

Intruder alarm/s associated with the development is permitted to operate only in accordance with the requirements of Clause 53 of the *Protection of the Environment Operations (Noise Control) Regulation 2000* under the *Protection of the Environment Operations Act 1997*.

#### **E8 Signage Illumination**

Illuminated signs associated with the premises shall not flash intermittently or cause significant glare or injury to the amenity of the public domain or persons. If, in the opinion of Sydney Olympic Park Authority, injury is likely to be caused, the intensity, period of intermittency and hours of illumination may be varied to the satisfaction of Sydney Olympic Park Authority.

#### **E9 No Obstruction of Public Way**

The public way and road reserve must not be obstructed by any materials, vehicles, refuse, skips, signs or the like, under any circumstances unless in accordance with a Works Permit or development consent. Non-compliance with this requirement will result in the issue of a notice by the Authority to stop **all** work on the site or penalty infringements.

**Note:** further information on Work Permits can be obtained from [www.sydneyolympicpark.com.au](http://www.sydneyolympicpark.com.au).

#### **E10 No 3<sup>rd</sup> party advertising or shop product promotional display on shop front windows**

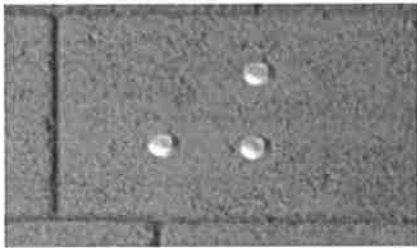
The shop front window is to remain free of any 3<sup>rd</sup> party advertising and shop product promotional displays.


#### **E11 Outdoor Dining Approval Certificate**

The Outdoor Dining Approval Certificate shall be prominently displayed in a conspicuous and easily accessible place within the tenancy. All outdoor dining seating arrangements shall be strictly in accordance with the illustrated diagram shown on the Certificate.

## E12 Outdoor Dining (Elements)

Outdoor elements must be in accordance with the following design specifications:

Outdoor Elements Specifications	
Markers	
Style:	<p>All approved seating area(s) for commercial outdoor dining are required to be delineated by pavement markers. The corners of approved areas are to be delineated by 3 pavement markers (stainless steel metal studs), one fixed in the corner of the boundary and the other two pointing to the opposite boundaries, (see photograph below).</p> <p>The markers must remain in place throughout the duration of the approval, and all furniture must be kept strictly within the boundaries of the approved seating area.</p>
Example:	 <p><i>Tactile indicators used to define corner of lease area</i></p>
Heating	
Style:	<p>The use of freestanding heaters is permitted provided that:</p> <ol style="list-style-type: none"> <li>1. They do not interfere with pedestrian circulation.</li> <li>2. Numbers are minimized through selection of models with greater coverage.</li> <li>3. Heaters are stainless steel finish.</li> <li>4. Heaters of high quality and suitable for restaurant purposes.</li> <li>5. Are located wholly within the seating zone.</li> </ol> <p>Consideration should also be given to the use of shorter column heaters to minimise visual impact in public spaces.</p>

Outdoor Elements Specifications	
Example:	

### E13 Outdoor Dining (Operation)

The following conditions apply to the operation of the outdoor dining area:

1. The use of outdoor dining is only permitted in conjunction with the provision of a simultaneous food service from the approved retail use.
2. Should the proprietor of the premises change at any time to a new retail business, a new Commercial Outdoor Dining Licence and Outdoor Dining Approval Certificate from the Sydney Olympic Park Authority is required under the name of the new proprietor for outdoor dining.
3. The proprietor of the premises is solely responsible for any personal injury claims arising from the use of outdoor dining.
4. The use of outdoor dining may be suspended to facilitate Major Events, or for road and service works. No claim for compensation is entitled under such circumstances unless agreed to by Sydney Olympic Park Authority.
5. All furniture must be stackable or folded at the end of each trading day and stored in a furniture storage area inside the tenancy.
6. Portable signs or goods for sale/display must not be placed on the footway or other public areas.
7. All outdoor furniture and pavement are to be kept hygienically clean and free of food scraps.
8. All outdoor furniture must at all times be maintained in a physically sound and aesthetically acceptable condition.
9. Umbrellas are to be located within the extent of the tenancy leased area and/or the licensed public space.
10. Umbrellas are to not encroach on or interfere with pedestrian or vehicle movement.
11. Umbrellas are to be removed or closed during extremely windy conditions and must be removed when the outdoor seating area is not in use.

12. The uses of umbrellas are not permitted in areas where cover is provided by a building awning or the like.
13. Use of heaters may only occur during winter months (from May to October) and stored away from public view during summer months (from November to April).
14. Heater storage is subject to the following conditions:
  - a. Heaters must be removed and securely stored inside the restaurant at the end of each day's trade.
  - b. Heaters must be stored away from public view and the public domain (i.e. public viewing areas at the front of the premises) during summer months.
  - c. Spare gas tanks or gas cylinders must be stored away from public view and the public domain (i.e. public viewing areas at the front of the premises and outside the amenity blocks) at all times.
15. The proprietor is wholly responsible for the maintenance and safe usage of heaters and must do so in accordance with the *Occupational Health and Safety Act 2000*. The storage gas shall be in accordance with the current requirements of the AS/NZS 1596 - 2002 "*Storage and Handling of LP Gas*", and AS 4332 – 2004 "*The storage and handling of gases in cylinders*".
16. Heaters must be used to the manufacturer's specifications and are to be kept from any overhanging structures at the minimum distance specified in the specifications.
17. The tenancy's Emergency Management Plan is to include the usage of the heaters to maintain fire and life safety requirements for patrons.
18. The proprietor is to comply with any direction or order issued from Sydney Olympic Park Authority in regard to outdoor dinning conditions, including but not limited to, the safe usage of seating and maintenance of accessibility and pedestrian circulation zones.

**Note: The approved use of outdoor dinning may be revoked at any time by Sydney Olympic Park Authority if the operation of outdoor seating is not carried out in a satisfactory manner.**

#### **E14 Food and Liquid Waste**

Suitably constructed waste disposal containers with secure fittings must be kept on the property for the storage of any food and liquid waste prior to final disposal.



## ADVISORY NOTES

The following advisory notes were provided by the NSW Police – Flemington LAC:

### 1. Business Identification

To assist emergency services to locate the business, the street number should be clearly displayed at the front of the premises.

### 2. Hold Up / Duress alarm

Police recommend a panic or duress alarm to be located at the location. This would include either a duress alarm at the front counter of the shop area or in the manager's office. Panic and Duress alarm systems are designed to assist when a staff member feels threatened by a situation where responses are required. All panic, duress alarms can be customised to call relative services Police or patrol response or other nominated parties.

### 3. Internal Alarm System

Police recommend an internal alarm system to be included at the location. An alarm with motion detectors, reed switches and siren are designed to act as a deterrent and are very effective.