

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0182
----------------------------	-------------

Responsible Officer:	Jordan Davies
Land to be developed (Address):	Lot 6 DP 30579, 45 Mitchell Road BROOKVALE NSW 2100
Proposed Development:	Use of premises as an artisan food and drink premises and construction of signage.
Zoning:	Warringah LEP2011 - Land zoned IN1 General Industrial
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Thomas John Hillard Lynette Ann Hillard Pacific Towers Real Estate Pty Ltd
Applicant:	Symons Goodyer Pty Ltd

Application Lodged:	27/02/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Industrial
Notified:	17/03/2020 to 31/03/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 100,000.00
---------------------------------	---------------

PROPOSED DEVELOPMENT IN DETAIL

The proposed development is for the use as the premises as an 'Artisan Food and Drink industry' in association with a micro-brewery, signage and associated fit out. Specifically the development involves:

- Use of the premises as an artisan food and drink premises;
- Associated internal fit out;
- External business identification signage;
- Line marking of carpark;

The operational details as follows:

- Employment of four (4) staff;

- Space to accommodate up to 100 persons;

Proposed Hours of Operation

Industrial operations for Brewery & Distillery

- 6:00 AM to 4:00 PM Monday to Friday
- 8:00 AM to 12:00 PM Saturday
- Closed Sunday

Tasting and Cellar Door

- 4:00 PM to 10:00 PM Monday to Friday
- 12.00pm to 10.00 PM Saturday and Sunday

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 5.4 Controls relating to miscellaneous permissible uses
 Warringah Development Control Plan - B7 Front Boundary Setbacks
 Warringah Development Control Plan - C3 Parking Facilities
 Warringah Development Control Plan - D3 Noise
 Warringah Development Control Plan - D23 Signs

SITE DESCRIPTION

Property Description:	Lot 6 DP 30579 , 45 Mitchell Road BROOKVALE NSW 2100
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the eastern side of Mitchell Road.</p> <p>The site is regular in shape with a frontage of 15.8m along Mitchell Road and a depth of 34.6m. The site has a surveyed area of 556m².</p>

The site is located within the IN1 Light Industrial zone and accommodates a brick industrial unit with concrete car parking area within the front setback. The unit contains an internal mezzanine level.

The site is relatively level with no vegetation upon the site.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by warehouse units with varies industrial uses. Immediately to the south is car hire business and to the north is smash repair business. Across the road to the west is a paint shop.

Map:



SITE HISTORY

The land has been used for industrial purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

- Development consent 73/323 issued by Warringah Council on 5 October 1973 for 'Use of factory premises for storage, preparation, and distribution of meat to the retail trade'.
- Development consent 77/10 issued by Warringah Council on 19 January 1977 for 'Installation of an 11,900 litre underground fuel tank and associated bowser', this to be used in conjunction with the the use approved under 73/323 for meat distribution.
- No further records of development consent have been located on file. Therefore, it is considered the premises to have continued for industrial uses until the present day.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for industrial purposes for an extended period of time. The proposed development retains the industrial use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of</p>

Section 4.15 Matters for Consideration'	Comments
	<p>Australia (BCA). This matter has been addressed via a condition of consent.</p> <p>Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
<p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>No public submissions were received during the notification period.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest</p>

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 17/03/2020 to 31/03/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire	The application has been investigated with respects to aspects

Internal Referral Body	Comments
and Disability upgrades	<p>relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
Environmental Health (Industrial)	<p>General Comments</p> <p>In conjunction with a Food Premises Referral we have reviewed the amendments proposed to the approved DA.</p> <p>Application states:</p> <p>“The tastings and sales area is limited to a gross floor area of 88.5m² located in central area of the ground floor of the building, with a small additional outdoor area being provided for tastings. The premises will be open for tastings and sales only between the hours of 4.00pm to 10.00pm weekdays and 10.00am to 10.00pm on weekends. “</p> <p>Our main issues of potential noise and odour do not present any significant challenges and can be dealt with by way of conditions provided operations cease by 10 pm, when noise may carry outside the Industrial area. The external tasting area will need to be particularly managed and liquor licencing requirements will also control activity and numbers of customers in this area. There are no residential premises located immediately nearby. The Noise assessment by Acoustic Dynamics (21 Feb 2020 and additional follow up correspondence) does not find any nuisance is likely to arise by the proposal. Odour from manufacturing processes or cooking (for potential food to be available on site - liquor licencing requirement) are similar to other types of operation in the area where no nuisance has arisen.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p>
Environmental Health (Food Premises, Skin Pen.)	<p>General Comments</p> <p>The applicant advises: The change of use of the premises to a micro-brewery (a light industry) did not require development consent and was carried out as “exempt development”. Consequently, this development application is only for the tastings and sales elements of the use of the site</p> <p>The premises will be open for tastings and sales only between the</p>

Internal Referral Body	Comments
	<p>hours of 4.00pm to 10.00pm weekdays and 10.00am to 10.00pm weekends.</p> <p>An acoustic report has been submitted and will be addressed in the "Industrial " referral to us.</p> <p>A commercial kitchen will be required for the preparation of food for sale, which is required by the NSW Police in conjunction with the sale/consumption of alcohol.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p>
NECC (Development Engineering)	<p>The proposed development is flood affected and does not require OSD. The existing driveway crossings are to remain which is satisfactory. The proposed parking spaces and passing bay are to be assessed by Council's Traffic Engineer in terms of their compliance with AS/NZS2890.1:2004. There is no existing fence along the front of the proposed parking spaces and it is considered that either a barrier or wheel stops should be provided to protect pedestrians in Mitchel Rd. This issue is to be considered by Planning and Traffic in their assessment. No objection to approval, subject to conditions as recommended.</p>
Traffic Engineer	<p>Development Information:</p> <ul style="list-style-type: none"> • Address: 45 Mitchell Road, Brookvale • Proposal: The change of use of the premises (small industrial building) into Artisan food and drink industry in association with microbrewery and signage. • Micro-brewery - gross floor area of 269m² ;Tasting and sales area gross floor area of 88.5m² • Brewery operating hours: 6am to 5pm, Monday to Friday, 8am to 12pm Saturday and closed on Sunday • Tasting hours 4 pm to 10 pm on weekdays, 12 pm to 10 pm on Weekends. • Employees – 4 people will parking on-site wherever possible • Proposed three (3) unilluminated business identification signs on walls. • Nearby streets of the site are: <ul style="list-style-type: none"> - Mitchell Road – two-way local road, 50km/h, unrestricted parking on both sides - Orchard Road - two-way local road, 50km/h, unrestricted parking on both sides - Wattle Road - two-way local road, 50km/h, 2 hour parking on north side of the street • Developer assessed the following nearby intersections with SIDRA between weekday 5pm -6pm and Saturday peak hour 6pm -7pm.: <ul style="list-style-type: none"> - Roundabout intersection of Mitchell Road with Orchard Road - Intersection of Mitchell Road with Wattle Road <p>SIDRA analysis shows that both intersections have sufficient spare capacity to accommodate additional traffic and maintain the level of service.</p>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> • The site has public transport facilities. • On-street parking survey conducted and showed that: <ul style="list-style-type: none"> - Weekdays at least ten (10) vacant spots - Weekend at least six (6) vacant spots • Loading and unloading times are 6am to 12pm on weekdays, 8am to 12 pm on Saturday (none on Sunday). Loading/unloading will be rare on Saturday. Delivery times for these will be early morning to reduce the effect on parking at the premises. • Parking requirements: <ul style="list-style-type: none"> - Required for Showroom & tasting – 6.1 space / 100m² so 5 space - Required for Industry area – 1.3 space / 100m² so 3 space - Total parking space required 8 - Provided parking space 5 (As per the amended drawing no: DA01 dated 25 May 2020). <p>By considering, the operating hours of Tasting area and availability of on-street parking, provided parking may be accepted.</p> <ul style="list-style-type: none"> • Based on SIDRA analysis Traffic generation is modest. <p>Conclusion: In view of the above, the development proposal can be approved with development conditions.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>The proposal was referred to Ausgrid who provided a response in an email stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.</p>
NSW Police – Licensing (Clubs, Hotels, Pubs)	<p>As the proposed development involves a new land use which would result in a new licenced premises, the application was referred to the NSW Police for comment in accordance with Council's referral procedure.</p> <p>The NSW police have provided a response which has raised concern regarding the potential for the new licenced premises to increase alcohol related crime. Overall, the NSW police were not supportive of the proposed development as the use increases availability of alcohol within the local area. The full details of the NSW police response is available as an attachment to this report.</p> <p>The applicant has engaged a liquor licencing consultant to provide a response to the NSW Police Concerns. The response noted that that a number of the concerns could be dealt with through the liquor licencing application to the <i>Office of Liquor and Gaming</i> where further consultation with NSW police will occur as part of this process.</p> <p>Council staff contacted NSW Police to discuss the concerns raised within the referral response. NSW Police also received a copy of the applicants response to their concerns prepared by the liquor licencing</p>

External Referral Body	Comments
	<p>consultant. NSW police advised that they would not amend their position response and there was no further documentation the applicant could provide for application.</p> <p>Council have undertaken a full assessment of the development application and from a land use perspective, will not have an unreasonable impact on the environment.</p> <p>Although not supportive of the proposal, the NSW police did provide Council with development consent. The concerns raised by NSW police do not alone support the application, subject to the conditions provided by the NSW Police with the exception of Condition No 4 which reads as follows:</p> <p style="text-align: center;"><i>4. The drink on-premises authorisation must only be operated on-site.</i></p> <p>The applicant has submitted that the above condition is not consistent with the on-site. The land use definition of 'Artisan Food and Drink Industry' included as part of this proposal. Therefore, Council considers the condition an essential component of the proposed development. Condition 4 is therefore not provided by NSW Police.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 55 - Remediation of Land

Clause 7(1)(a) of SEPP 55 requires the consent authority to consider whether land is contaminated.

In response to the above requirements of the SEPP, the applicant has submitted a Preliminary Environmental Site Investigation dated **23 July 2020** and prepared by Metech Consulting. In its

conclusion, the investigation states:

- *The identified potential sources of contamination are considered to pose a moderate a moderate risk of causing contamination at the property, while potential to pose a significant constraint to the proposed use of the Site has not been determined. On this basis, a Stage 2 Detailed Site Investigation is required to assess the nature and extent of contamination that may be derveid from the identified sources of contamination to enable an assessment of bade on the suitability of the property for the proposed use, or whether any remediation action is needed to make the property suitable for the proposed use.*

Therefore, as the Investigation indicates that there is a potential for contaminants to exist on the site, Clauses 7(1)(b) and 7(1)(c) of the SEPP must be considered.

Clause 7(1)(b) stipulates that "*if the land is contaminated, it [Council] is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out*".

Given the claimed potential of contamination on the site as noted in the Phase 1 Investigation, a Phase 2 Environmental Site Assessment should be provided to confirm whether contamination is actually present, at what levels and at what locations. Given the claimed potential of contamination on the site as noted in the Phase 1 Investigation, a Phase 2 Environmental Site Assessment should be provided to confirm whether contamination is actually present, at what levels and at what locations. A Phase 2 Environmental Site Assessment has been provided which confirms the location and type of contaminants on the site associated with a former petrol tank located within the car park. The Phase 2 Investigation concludes that based on the level of contamination, location and type of land use proposed, the contamination does not present an unreasonable risk to human health and remediation or a management plan is not required. The land is suitable for the intended use it the current state. The report, dated 24 August 2020, prepared by Metech Consulting concludes the following:

- *The detailed site investigation has determined that there is no unacceptable risks to the occupants of the site under the current commercail/industrial land use setting and the Site is suitable for the proposed development and intended use.*

In this regard, Council is satisfied that the land is suitable for the purpose for which the development is proposed to be carried out and based on the recommendations in the detailed investigation.

SEPP 64 - Advertising and Signage

Clauses 8 and 13 of SEPP 64 require Council to determine consistency with the objectives stipulated under Clause 3(1)(a) of the aforementioned SEPP and to assess the proposal against the assessment criteria of Schedule 1.

The objectives of the policy aim to ensure that the proposed signage is compatible with the desired amenity and visual character of the locality, provides effective communication and is of high quality having regards to both design and finishes.

In accordance with the provisions stipulated under Schedule 1 of SEPP 64, the following assessment is provided:

Matters for Consideration	Comment	Complies
---------------------------	---------	----------

<p>1. Character of the area Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</p>	<p>Yes, the signage is modest and not out of character of the surrounding development.</p>	<p>YES</p>
<p>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</p>	<p>Yes, the signage identifies the business use.</p>	<p>YES</p>
<p>2. Special areas Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?</p>	<p>No, there are no heritage items in the immediate vicinity.</p>	<p>YES</p>
<p>3. Views and vistas Does the proposal obscure or compromise important views?</p>	<p>The signs do not obscure views.</p>	<p>YES</p>
<p>Does the proposal dominate the skyline and reduce the quality of vistas?</p>	<p>No, does not project from the building wall.</p>	<p>YES</p>
<p>Does the proposal respect the viewing rights of other advertisers?</p>	<p>Yes, all contained within the site boundaries.</p>	<p>YES</p>
<p>4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?</p>	<p>Yes, the signage is a modest display which will not detract from the streetscape.</p>	<p>YES</p>
<p>Does the proposal contribute to the visual interest of the streetscape, setting or landscape?</p>	<p>Yes, the signage is a modest display which will not detract from the streetscape</p>	<p>YES</p>
<p>Does the proposal reduce clutter by rationalising and simplifying existing advertising?</p>	<p>The existing facade does not contain signage. New signage proposed is not excessive.</p>	<p>YES</p>
<p>Does the proposal screen unsightliness?</p>	<p>No, screens section of the building facade only.</p>	<p>YES</p>
<p>Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</p>	<p>No, within the building facade.</p>	<p>YES</p>
<p>5. Site and building Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?</p>	<p>Yes, the signage does not dominate the facade .</p>	<p>YES</p>
<p>Does the proposal respect important features of the site or building, or both?</p>	<p>The building does not have any particular important features.</p>	<p>YES</p>
<p>Does the proposal show innovation and imagination in its relationship to the site or building, or both?</p>	<p>Yes, the signage displays the business name in a creative way.</p>	<p>YES</p>

<p>6. Associated devices and logos with advertisements and advertising structures Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?</p>	None proposed.	YES
<p>7. Illumination Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?</p>	Not illuminated.	YES
<p>Can the intensity of the illumination be adjusted, if necessary?</p>	N/A	YES
<p>Is the illumination subject to a curfew?</p>	N/A	YES
<p>8. Safety Would the proposal reduce the safety for any public road, pedestrians or bicyclists?</p>	No, does not detract from safety.	YES
<p>Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?</p>	Does not obscure sight lines.	YES

Accordingly, the proposed signage is considered to be of a scale and design suitable for the locality. The proposal is therefore deemed to be consistent with the provisions of the SEPP and its underlying objectives.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Compliance Assessment

Clause	Compliance with Requirements
5.4 Controls relating to miscellaneous permissible uses	Yes

Detailed Assessment

5.4 Controls relating to miscellaneous permissible uses

The WLEP 2011 contains for following provision for Artisan Food and Drink Premises:

(10) Artisan food and drink industry exclusion

If development for the purposes of an artisan food and drink industry is permitted under this Plan in an industrial or rural zone, the floor area used for retail sales (not including any cafe or restaurant area) must not exceed:

- (a) 33% of the gross floor area of the industry, or*
- (b) 400 square metres, whichever is the lesser.*

The micro brewery (industry component of the development) consists of 269sqm of GFA (ground floor plus first floor mezzanine). The area designated to retail and tastings is 88.5sqm, or 32.8% of the gross floor area of the industry use. The applicant has provided a plan demonstrating compliance with this requirement and an extract of the plan is below:



round floor plan

Therefore, the proposal complies with the development standard contained until Clause 5.4(10) of the WLEP 2011.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B5 Side Boundary Setbacks	Merit	Unchanged	N/A	N/A
B7 Front Boundary Setbacks	4.5m	Building Unchanged Car parking 0m	N/A 100% for car parking	N/A No
B9 Rear Boundary Setbacks	Merit	Unchanged	N/A	N/A

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D23 Signs	Yes	Yes
Appendix 1 Car Parking Requirements	Yes	Yes

Detailed Assessment

B7 Front Boundary Setbacks

Description of non-compliance

The DCP requires that a 4.5m front setback is provided for the site. The proposed development involves the use of the front setback area for a car park, with three car parking spaces provided within the front setback (two at zero from the front boundary).

It is noted that the whole front setback area as existing is used for a carpark and this application seeks to rearrange the carpark to provide a total of 5 (five) spaces.

The proposed development does not propose any external works (apart from signage) and does not alter the street presentation. To assist in provided a better street presentation, a condition of development consent has been recommended for a street tree to be provided. This will be enabled by the decommissioning of one (1) of the driveway crossovers, as this is not needed for the carpark configuration.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To create a sense of openness.*

Comment:

No built structures are proposed in the front setback.

- *To maintain the visual continuity and pattern of buildings and landscape elements.*

Comment:

The pattern of development is not changed and the front setback remains to be used as a carpark as existing.

- *To protect and enhance the visual quality of streetscapes and public spaces.*

Comment:

A condition of consent has been recommended to provide a new street tree to enhance the streetscape.

- *To achieve reasonable view sharing.*

Comment:

The proposal does not result in a view impact.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C3 Parking Facilities

A car parking rate for the use 'Artisan Food and Drink Industry' is not specified within Appendix 1 of the Warringah DCP. Where the carparking rate is not specified in Appendix 1, carparking must be adequate for the development having regard to the objectives and requirements of this clause.

Council's Traffic Engineers have assessed the proposed use as requiring the following comparative car parking rates as specified under the DCP, given that no specific parking requirement is specified:

Parking requirements:

- Required for Showroom & tasting – 6.1 space / 100m² so 5 space
- Required for Industry area – 1.3 space / 100m² so 3 space
- Total parking space required 8

The site provides 5 (five) off-street car parking spaces. Council's traffic engineers are satisfied this is sufficient to service the industrial use (brewery) during the day. Following this conclusion of the brewery use, Council's traffic engineers are satisfied that there is sufficient on-street parking to accommodate three (3) space shortfall required for the tasting and cellar door use (artisan food and drink) following conclusion of the brewery use (4pm weekdays and 12pm on Saturday).

In addition, the applicant has provided an operational management plan, outlining the details of the proposed use. The applicant has also provided a traffic and parking assessment report to demonstrate that the proposed use will not have an adverse impact on the surrounding locality with regards to parking and traffic generation.

Council's traffic engineers have reviewed the details of the proposed development with regards to off-street parking and traffic generation. Based on the details provided with the application, Council is

satisfied that the development will not have an adverse impact based on the proposed use, hours of operation and operational details of the development. There is a sufficient combination of off-street and on-street parking to service the proposed use. Full comments can be found earlier within this report from Council's traffic team.

D3 Noise

An acoustic report has been submitted with the development application to address the potential noise impacts of the development. The development is not located in close proximity to residential properties and the proposed use is to cease at 10pm. Council's environmental health officer has reviewed the submitted acoustic report and is satisfied the development will not have an unreasonable impact with regard to noise.

D23 Signs

Three signs are proposed as part of the development. The proposed signs are:

Three (3) non-illuminated wall signs are proposed:

- "Brewery | Distillery | Cellar Door", measuring 10.9m x 0.4m (4.36sqm)
- "Dad & Dave's Brewing" with logo, measuring 5.4m x 1.1m (5.94sqm)
- "Delectably Unexpected. Wildspirit Distilling Co." with logo, measuring 1.9m x 2.0m (3.8sqm)

The signage scheme is simple and non-illuminated, integrated into the facade of the building. The signs are considered consistent with the surrounding development along Mitchell Road and compliant with the DCP controls.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2020/0182 for Use of premises as an artisan food and drink premises and construction of signage. on land at Lot 6 DP 30579, 45 Mitchell Road, BROOKVALE, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA01 - Rev B - Site and ground floor plan	25 May 2020	HAO Designs
DA02 - Rev A - First Floor Plan	6 February 2020	HAO Designs
DA03 - Rev A - Signage	6 February 2020	HAO Designs

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Operational Noise Emission Assessment	21 February 2020	Acoustic Dynamics
Operational Management Plan	Undated	Applicant
Traffic and Parking Impact Assessment	February 2020	ML Traffic Engineers

c) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

d) The development is to be undertaken generally in accordance with the following:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	12/11/2019	Dave Dumay

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

2. **Compliance with Other Department, Authority or Service Requirements**

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
NSW Police - Condition 4 excluded	2020/175621	24 March 2020

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of an Artisan Food and Drink Premises.

An Artisan Food and Drink Premises is defined as:

means a building or place the principal purpose of which is the making or manufacture of boutique, artisan or craft food or drink products only. It must also include at least one of the following—

- (a) a retail area for the sale of the products,*
- (b) a restaurant or cafe,*
- (c) facilities for holding tastings, tours or workshops.*

(development is defined by the Warringah Local Environment Plan 2011 (as amended) Dictionary)

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

4. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

5. General Requirements

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the

- erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
- i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished
- The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of

residents and the community.

FEES / CHARGES / CONTRIBUTIONS

6. **Security Bond**

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

7. **Change of Use - Fire Safety Upgrade**

The Building Code of Australia works and fire upgrading measures to upgrade the building as detailed and recommended in the Building Code of Australia Compliance Audit Report prepared by Private Certifiers Australia, dated 27/02/2020, are to be taken into consideration as part of the Construction Certificate assessment.

Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

8. **Access for People with Disabilities**

Access to and within the building is to be provided for Persons with a Disability. In particular the front entrance doorway and off-street car parking are to comply with the Building Code of Australia and AS 1428.1.

Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

Reason: To ensure adequate provision is made for access to and within the building for Persons with a disability.

9. **Kitchen Design, construction and fit out of food premises**

The construction fit-out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, the Food Act 2003 and Australian Standard AS 4674 'Design, construction and fit out of food premises'. Prior to any Occupation Certificate (OC) being issued certification is to be provided by a suitably qualified person that the fit-out complies with the above requirement.

Reason: To ensure that the kitchen complies with the design requirements.

10. **Plans of Mechanical ventilation where required for any process**

Prior to any Construction Certificate (CC) being issued, detailed plans that demonstrate compliance with the Australian Standard (AS) 1668.2 "The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings", must be approved by the Certifying Authority for any cooking equipment with an individual or combined power rating level that triggers the requirement for mechanical ventilation under AS1668.2 including any deep frying equipment.

Reason: To ensure that the design, construction and installation requirement for mechanical ventilation complies with the Australian Standard 1668.2.

11. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

(Note: At the time of determination the following (but not limited to) Australian Standards applied:

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (e) AS 4970 - 2009 'Protection of trees on development sites'***
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities**
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities**
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking**
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities**
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
- (l) AS 1428.1 – 2009* Design for access and mobility - General requirements for access – New building work**
- (m) AS 1428.2 – 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**

*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website [www.hreoc.gov.au/disability rights /buildings/good.htm](http://www.hreoc.gov.au/disability%20rights/buildings/good.htm). <www.hreoc.gov.au/disability%20rights%20/buildings/good.htm>

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the

relevant Australian Standards are adhered to.)

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

12. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

13. **Vehicular Access, Parking and Swept paths**

Amended Car Parking Layout as per the drawing no: DA01 dated 25 May 2020 is satisfactory. However, to minimise the on-street parking impact, driveways have to be consolidated and its width has been limited to maximum 3m at the boundary and maximum 4m at the kerb. One (1) on-street parking space should be maintained either side of the consolidated driveway.

All internal driveways, car parking facilities, loading bays, access ramps and all dimensions must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking.

Vehicular manoeuvring paths must be provided to demonstrate all vehicles can enter or depart the site in a forward direction without encroaching on required parking spaces. The drawings must be compliant with Australian/New Zealand Standard AS/NZS 2890 - Parking facilities - Off-street parking.

Detailed plan demonstrating compliance with this condition are to be submitted to the Accredited Certifier prior to the issue of a construction certificate.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles. (DACTRCPC1)

14. **Physical control to prevent encroachment of vehicles**

There are possibilities the parked vehicles encroach onto the footpath. Therefore, suitable physical control (wheel stops, barriers etc.) must be designed and constructed to comply with the relevant section of AS 2890 (Off-street Parking standards).

Detailed plan demonstrating compliance with this condition must be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate.

Reason: To prevent encroachment onto pedestrian facilities and ensure pedestrians and cyclists safety. (DACTRCPC2)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

15. **Work Zones and Permits.**

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site. Separate application is required with a Traffic Control Plan for standing of construction vehicles in a traffic lane.

Reason: To ensure works vehicles do not impact on parking, traffic flows and pedestrian thoroughfares. (DACTRDPC1)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

16. **Road Reserve**

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

17. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifying Authority.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

18. **Implementation of Traffic Control / Management Plan**

All works and construction activities are to be undertaken in accordance with the approved Traffic Control / Management Plan and approved permits. All traffic controls must be undertaken by personnel having appropriate RMS accreditation.

Reason: To ensure works practices do not impact on parking, traffic flows and pedestrian thoroughfares. (DACTREDW1)

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

19. **Registration of Food Business**

The food business must be registered with the Appropriate Regulatory Authority, prior to Occupation Certificate being issued.

Reason: Food premises are required to be registered with the Appropriate Regulatory Authority.

20. **Mechanical Ventilation certification, where installed**

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from the installer of any required mechanical ventilation system that the design, construction and installation of the mechanical ventilation system is compliant with the requirements of AS1668 The use of mechanical ventilation.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure that the mechanical ventilation system complies with the design requirements.

21. **Noise certification prior to Occupation**

The Noise assessment by Acoustic Dynamics (21 Feb 2020) shall be reviewed prior to occupation to ensure that recommended noise reduction measures(form plant and proposed use) have been carried out.

Reason: To ensure noise levels are as designed and recommended by the Acoustic report.

22. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

23. **Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000.

24. **Street Tree Planting**

Street tree planting shall be provided as follows:

i) 1 x *Tristaniopsis laurina* 'Luscious' shall be planted within the road verge forward of the property and at least 2.0 metres from any driveways,

ii) The tree shall be a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees,

iii) The tree shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained and watered until establishment

Reason: Local environmental amenity.

25. **Removal of Redundant Driveways**

All redundant driveways shall be removed and reinstated to Council standard kerb and gutter. Suitably prepared plans shall be submitted to approved by Council. All costs associated with the works shall be borne by the applicant.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approval.

Reason: To maximise on street car parking by removing driveways that are no longer needed in accordance with Council policy. (DACTRFPOC1)

26. **Reinstating the damaged road reserve during construction**

Any damages to road reserve shall be reinstated to Council standard. Suitably prepared plans shall be submitted to for an approval under and approved by Council. All costs associated with the works shall be borne by the applicant.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approval.

Reason: To maintain road reserve to the standards. (DACTRFPOC2)

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

27. **Noise**

The use of the premise must be controlled so that any emitted noise is at a level so as not to create an “offensive noise” as defined in the Protection of the Environment Operations Act 1997 to any affected receiver.

Reason: To comply with Noise Legislation

28. **Odour**

Odour from any manufacturing or cooking process shall be managed so as to not adversely impact on any neighbouring commercial or residential occupier.

Reason: To maintain amenity of the area.

29. **Allocation of Spaces**

The car parking spaces shall be provided, made accessible, and maintained, at all times. The spaces shall be allocated as follows:

Five (5) - Artisan Food and Drink Premises/Industry Use

Car-parking provided shall be used solely in conjunction with the uses contained within the development. Each car parking space allocated to a particular unit / tenancy shall be line marked and numbered or signposted to indicate the unit / tenancy to which it is allocated.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: To ensure that adequate parking facilities to service the development are provided on site.

30. **Hours of Operation**

The hours of operation are to be restricted to:

Industrial operations for Brewery & Distillery

- 6:00 AM to 4:00 PM Monday to Friday
- 8:00 AM to 12:00 PM Saturday
- Closed Sunday

Tasting and Cellar Door

- 4:00 PM to 10:00 PM Monday to Friday
- 12.00pm to 10.00 PM Saturday and Sunday

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: Information to ensure that amenity of the surrounding locality is maintained.

31. **Commercial Waste Collection (DACPLG18)**

Waste and recyclable material, generated by this premises, must not be collected between the hours of 10pm and 6am on any day.

Reason: To protect the acoustic amenity of surrounding properties.(DACPLG18)

32. **Deliveries**

No deliveries, loading or unloading associated with the premises are to take place between the hours of 10pm and 6am on any day.

Reason: To protect ensure the acoustic amenity of surrounding properties. (DACPLG21)

33. **Amplified Sound**

The use of any amplified sound equipment and/or public address systems is only permitted when the related structures/equipment are located entirely within the building premises and used in such a manner that offensive noise is not caused.

Sound is not to be audible inside any residential premises habitable room.

Reason: To ensure the surrounding area and people within the neighbourhood are not affected adversely and to ensure compliance with the Protection of the Environment Operations Act

34. **Loading and unloading vehicles**

Loading and unloading must be carried out within the premises at the designated loading bay.

Reason: To use the car parking facilities provided within the development effectively (DACTRGOG1)

35. **Accessibility of parking facilities**

The parking facilities are to be accessible at all times, and a sign post erected at the vehicular entry point of the premises indicating the location of parking.

Reason: To ensure staff and visitors are not forced to park on public streets when parking has been provided within the development. (DACTRGOG2)

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Jordan Davies, Planner

The application is determined on 24/08/2020, under the delegated authority of:



Rodney Piggott, Manager Development Assessments