

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2021/0616
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<b>Responsible Officer:</b>	Adam Croft
<b>Land to be developed (Address):</b>	Lot 1 DP 14521, 77 Collingwood Street MANLY NSW 2095
<b>Proposed Development:</b>	Modification of Development Consent DA2019/1426 granted for use of the servery window in an existing cafe
<b>Zoning:</b>	Manly LEP2013 - Land zoned B1 Neighbourhood Centre
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Charles Nicholas Feros Stavroula Feros
<b>Applicant:</b>	Emmanuel Rene Deleuze

<b>Application Lodged:</b>	18/08/2021
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Commercial/Retail/Office
<b>Notified:</b>	27/08/2021 to 10/09/2021
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	2
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### PROPOSED DEVELOPMENT IN DETAIL

The proposed modification seeks consent for the amendment of condition 5 to allow use of the servery window for the placing and collection of orders.

Condition 5 reads as follows:

#### 5. Servery Window

The premises is operate in accordance with the following:

- i) The servery window is to be used only for the collection of orders by customers. All orders are to be taken from inside the premises and not via the servery;
- ii) When the pedestrian thoroughfare becomes congested or blocked, the servery is to be closed and orders collected from inside the premises.

Reason: To prevent the queuing of customers and maintain the pedestrian thoroughfare on the footpath.

The proposed amendments to condition 5 reads as follows:

### 5. Servery Window

The premises is operate in accordance with the following:

i) When the pedestrian thoroughfare becomes congested or blocked, the servery is to be closed and orders collected from inside the premises.

Reason: To prevent the queuing of customers and maintain the pedestrian thoroughfare on the footpath.

## 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

Manly Local Environmental Plan 2013 - 6.9 Foreshore scenic protection area

Manly Development Control Plan - 3.10 Safety and Security

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 14521 , 77 Collingwood Street MANLY NSW 2095
<b>Detailed Site Description:</b>	<p>The subject site consists of one allotment located on the north-western corner of Collingwood Street and North Steyne.</p> <p>The site is irregular in shape with a frontage of approximately 8.5m along Collingwood Street and North Steyne and a depth of 27.43m. The site also has access at the rear from Cameron Avenue. The site has a surveyed area of 234m<sup>2</sup>.</p> <p>The site is located within the B1 Neighbourhood Centre zone and accommodates a two-storey building.</p>

The site is generally flat.

The site contains minimal vegetation.

### **Detailed Description of Adjoining/Surrounding Development**

Adjoining and surrounding development is characterised by a range of uses including detached dwellings, dual occupancies, residential flat buildings and commercial development. Lagoon Park is located to the north of the subject site across Cameron Avenue and Queenscliff Surf Life Saving Club to the east across North Steyne.

Map:



### **SITE HISTORY**

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

DA2018/1285 - Alterations and additions to an existing mixed use development - Approved 28 September 2018.

CDC2018/0991 - Renovation of a current shop to a cafe restaurant - Approved 27 September 2018.

DA2019/1426 - Use of the servery window in an existing cafe - Approved 9 March 2020.

### **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)**

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

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 and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2019/1426, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55 (2) - Other Modifications	Comments
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 development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2019/1426 for the following reasons:</p> <p><i>"(2) Other modifications 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—</i></p> <p><i>(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and"</i></p> <p><u>Comment:</u></p> <p>The proposed modification retains the approved use and relates only to the operation of the server window.</p>
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a	Development Application DA2019/1426 did not require concurrence from the relevant Minister,

Section 4.55 (2) - Other Modifications	Comments
requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	public authority or approval body.
(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 under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, and the Northern Beaches Community Participation Plan.
(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.	See discussion on "Notification & Submissions Received" in this report.

#### Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 96 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 relevant matters for consideration under Section 4.15 of 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 residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.



Section 4.15 'Matters for Consideration'	Comments
<p>Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&amp;A Regulation 2000)</p>	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation was submitted with the original application/This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;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&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;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&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 143A</u> of the EP&amp;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) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## 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 27/08/2021 to 10/09/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Mr Alan John Macrae	4 / 5 Cameron Avenue MANLY NSW 2095
Ms Michella Henrietta Burgers	4 / 6 Cameron Avenue MANLY NSW 2095

The matters raised within the submissions are addressed as follows:

- Obstruction of footpath by customers

### Comment:

It is acknowledged that the queuing/gathering of customers on the footpath will reduce the width of the trafficable pedestrian thoroughfare past the site at particular times. The ongoing operation of customers since March 2020 has not, to Council's knowledge, resulted in significant pedestrian impact or blockage of the footpath. Periodic inspections of the site have indicated that the footpath remains accessible to pedestrians even during peak weekend times. The proposed and conditioned footpath signage, in addition to the previously imposed requirements, is considered sufficient to ensure that the ongoing operation of the premises will not unreasonably impact pedestrian traffic in the vicinity of the site.

It has also been suggested in the submissions that orders be collected from the front entrance to the premises. As discussed within the assessment of the previous approval, DA2019/1426, the collection of orders from the front entrance would pose significant safety and vehicular traffic concerns due to the proximity to the pedestrian crossing at the intersection with North Steyne. A further assessment is completed under 3.10 Safety and Security.

- Covid-19 social distancing requirements

Comment:

Concern has been raised in the submissions in relation to the impact of queuing/waiting customers on social distancing and other requirements of the Covid-19 public health orders.

The operation of the premises in accordance with the public health orders is not enforceable by Council and is not a relevant planning consideration in the assessment of this application. Regardless, the queuing of customers outdoors on the footpath area would seem to be preferable to queuing/waiting inside the premises where there is reduced ventilation.

## REFERRALS

Internal Referral Body	Comments
Environmental Health (Food Premises, Skin Pen.)	<p><b>General Comments</b></p> <p>This modification only relates to changes of trading directly into Councils footpath /footpath - obstruction/safety issues dealt with by others.</p> <p>It is understood approval to collect goods through an opening in an external wall has been approved but this proposal is now to allow customers to queue on the footpath to order; increasing footpath use directly for the business. Current Covid 19 restrictions have meant modified operations for many businesses -in the short term at least with customers waiting outside many premises without consultation or approval from Council as an emergency measure .</p> <p>Enforcement of Public Health Orders is the responsibility of the Police and DPI (Council not being authorised as such). Waiting spaces/distances/QR codes and the like are not discussed here as overriding and constantly changes to the NSW Public Health Orders apply week to week.</p> <p>The only obvious mater for Environmental Health would be the prevention of vermin (flies) entering via the opening(which is already approved and constructed), How flies are prevented from entering the premises is up to the Food business owner.(penalties apply). Therefore we have no objection on this basis.</p> <p><b>Recommendation</b></p> <p>APPROVAL - subject to conditions</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. Council records indicate that the subject site has been used for commercial purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the commercial land use.

### **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.

### **SEPP (Coastal Management) 2018**

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

#### **13 Development on land within the coastal environment area**

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
  - (b) *coastal environmental values and natural coastal processes,*
  - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed*

- development on any of the sensitive coastal lakes identified in Schedule 1,*
- (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
- (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (f) *Aboriginal cultural heritage, practices and places,*
- (g) *the use of the surf zone.*

Comment:

The proposal includes no physical works and will not impact the coastal environment area.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
  - (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or
  - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
  - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

No physical works are proposed.

#### **14 Development on land within the coastal use area**

- (1)
  - (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
    - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
    - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
    - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
    - (iv) Aboriginal cultural heritage, practices and places,
    - (v) cultural and built environment heritage, and
  - (b) is satisfied that:
    - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
    - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
    - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
  - (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The proposal includes no physical works and will not impact the coastal use area.

As such, it is considered that the application does comply with the requirements of the State

Environmental Planning Policy (Coastal Management) 2018.

### **15 Development in coastal zone generally—development not to increase risk of coastal hazards**

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The development will not result in any increased risk of coastal hazards.

### **Manly Local Environmental Plan 2013**

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

Principal Development Standards

There are no development standards under Part 4 of the Manly LEP to consider as part of this assessment.

Compliance Assessment

Clause	Compliance with Requirements
6.3 Flood planning	Yes
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes

Detailed Assessment

### **6.9 Foreshore scenic protection area**

The proposal includes no physical works, other than the placement of footpath stickers, and will result in no unreasonable impacts in relation to visual aesthetic amenity or views to and from the Manly foreshore or Pacific Ocean.

### **Manly Development Control Plan**

Built Form Controls

There are no development controls under Part 4 of the Manly DCP to consider as part of this assessment.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.10 Safety and Security	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
5.4.3 Flood Prone Land	Yes	Yes

## Detailed Assessment

### **3.10 Safety and Security**

#### Merit consideration

There are no controls contained within the Manly LEP or DCP that relate directly to the proposed development. As such, the application is assessed on merit below.

The collection/pick up of orders via the servery window to Cameron Avenue was approved under DA2019/1426 on 9 March 2020. Due to the ongoing Covid-19 public health orders, the premises has been operating with both the placing and collection of orders by customers occurring via the servery window. The subject modification seeks to formalise this process on an ongoing basis.

The proposed operation of the servery window is consistent with the operation of other food and drink premises on North Steyne and South Steyne, and is considered to provide public benefit by contributing to the vitality of the surrounding area. The proposal also achieves the objective of the B1 zone by providing a small-scale retail use that serves the needs of people who live and work in the surrounding neighbourhood.

Council's records indicate that no complaints have been received in relation to the operation of the servery window since April 2020, following the approval of DA2019/1426. Occasional observation of the premises during peak weekend periods have indicated that a safe thoroughfare has been maintained by the current operation of the premises. The below photographs were taken on Saturday and Sunday mornings over several weekends and demonstrate that a safe and accessible thoroughfare can be maintained even during particularly busy operating times. The photos show orderly queuing of customers against the wall adjacent to the servery window, with customers awaiting collection of orders on the opposite side of the footpath.



Photo 1. Saturday 21 August 2021.





Photo 2. Sunday 19 September 2021.



Photo 3. Saturday 25 September 2021.





Photo 4. Saturday 25 September 2021.

The applicant has proposed the placement of stickers on the footpath adjacent to the building wall to indicate the appropriate queuing locations for customers. Conditions are also imposed requiring the placement of additional "KEEP CLEAR" stickers on the centre of the footpath to ensure that customers are aware to maintain the pedestrian thoroughfare.

As discussed within the assessment of DA2019/1426, the footpath area immediately adjoining the proposed servery window was previously widened by Council, including improved/widened paving and ramp area, and the relocation of several post boxes and sign posts. The applicant was also required to prepare a Plan of Management in relation to the use of the servery window. The application advises that the Plan of Management will be appropriately amended to address the proposed changes to the operation of the servery window.

Two submissions have been received in response to the notification of the proposed modification. The concerns generally relate to the obstruction of the footpath and the ability for customers and pedestrians to maintain social distancing on the footpath. The obstruction of the footpath is considered to have been appropriately addressed by the applicant, the previously imposed conditions of consent and the recommended conditions relating to this modification. Social distancing and other requirements of the Covid-19 public health orders are not enforceable by Council and are not an ongoing planning consideration given the outdoor location of the footpath and queuing area. Further, there are no obvious

alternatives for the operation of the premises that would allow for improved social distancing for the duration of the public health orders.

Given the above considerations and the included conditions of consent, the proposed server window is considered to be appropriate in the context of the site, and is supported by Council. The amended condition 5 retains the requirement that the server window be closed should the pedestrian thoroughfare become congested or blocked.

## **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 2021**

Section 7.12 contributions were levied on the Development 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;
- Manly Local Environment Plan;
- Manly 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 approval to Modification Application No. Mod2021/0616 for Modification of Development Consent DA2019/1426 granted for use of the servery window in an existing cafe on land at Lot 1 DP 14521,77 Collingwood Street, MANLY, subject to the conditions printed below:

### A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

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

#### a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA-02 Site Plan (Sticker Positions)	20 July 2018 (as modified)	Morris Design Co
DA-03 Elevations (Sticker Positions)	20 July 2018 (as modified)	Morris Design Co
1 Signage Details	Version 1, 13 July 2021	Apex Signage

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

### B. Modify Condition 5. Servery Window to read as follows:

#### 5. Servery Window

The premises is operate in accordance with the following:

i) When the pedestrian thoroughfare becomes congested or blocked, the servery is to be closed and orders collected from inside the premises.

Reason: To ensure the orderly queuing of customers and maintain the pedestrian thoroughfare on the footpath.

### C. Add Condition 6A. Footpath Signage to read as follows:

#### 6A. Footpath Signage

- A minimum of three "PLEASE QUEUE HERE" stickers/decals shall be provided adjacent to the building wall at 2m intervals.
- Two "KEEP CLEAR" stickers/decals 500mm x 500mm in dimension shall be provided in the centre of the footpath adjacent to the servery window.

The proposed sticker/decal designs shall be submitted to the Certifying Authority for approval prior to the issue of a Construction Certificate, or Occupation Certificate if no Construction Certificate is required in relation to the development.



Reason: To ensure the orderly queuing of customers and maintain the pedestrian thoroughfare on the footpath.

**D. Add Condition 8. Footpath Maintenance to read as follows:**

**8. Footpath Maintenance**

It is the responsibility of the Applicant/Operator to ensure that the footpath signage is maintained for the life of the development, or while ever the servery window is in operation. Should any of the signage required under this consent deteriorate, fail or be removed, it must be replaced at the Applicant/Operator's expense.

Reason: To ensure the orderly queuing of customers and maintain the pedestrian thoroughfare on the footpath.

**E. Add Condition 8. Protection of Food to read as follows:**

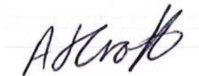
**8. Protection of Food**

Food shall be protected from contamination at all times including access to flies and dust to the food preparation area via the opening in the external wall.

Reason: To comply the the Food Standards Code.

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

**Signed**



**Adam Croft, Planner**

The application is determined on 06/10/2021, under the delegated authority of:



**Rebecca Englund, Manager Development Assessments**