

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/1021
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Responsible Officer:	Maxwell Duncan
Land to be developed (Address):	Lot 1 DP 127472, 577 Sydney Road SEAFORTH NSW 2092
Proposed Development:	Alterations and additions to an existing shop top housing development, conversion of garage to a cafe and strata subdivision
Zoning:	Manly LEP2013 - Land zoned B2 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Rea Koutsounadis James Nicholas Kouts John Koutsounadis
Applicant:	Ingham Planning Pty Ltd

Application Lodged:	14/07/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Mixed
Notified:	23/07/2021 to 06/08/2021
Advertised:	Not Advertised
Submissions Received:	3
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 207,150.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for alterations and additions to the existing shop top housing development, use of the existing garage as a café (food and drink premise) and strata subdivision of the existing building.

The proposed operational details are as follows:

Hours of Operation: 6am - 5pm Monday to Saturday and 7am - 4pm Sundays and Public Holidays.

Staff: Three

Seating: Nil. The café is proposed for takeaway only.

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 - 4.3 Height of buildings

Manly Development Control Plan - 3.4.2 Privacy and Security

Manly Development Control Plan - 4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor

Manly Development Control Plan - 4.4.4.1 Awnings in LEP B1 and B2 Business Zones

SITE DESCRIPTION

Property Description:	Lot 1 DP 127472 , 577 Sydney Road SEAFORTH NSW 2092
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the eastern side of Sydney Road, Seaforth.</p> <p>The site is irregular in shape with a frontage of 31m along Sydney Road and a depth of 15.85m. The site has a surveyed area of 264.2m².</p> <p>The site is located within the B2 Local Centre zone and accommodates a mixed use development.</p> <p>The site slopes down from north to south approximately 1m.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by residential development to the south and commercial development to the north and east.</p>

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for residential and commercial purposes for an extended period of time.

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 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	Mainly 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	Division 8A 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

Section 4.15 Matters for Consideration	Comments
(EP&A Regulation 2000)	<p>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. Additional information was requested in relation to traffic and general operation.</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 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 insurance requirements under the Home Building Act 1989. 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 the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> 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>
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>(i) Environmental Impact 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) 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>
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 Matters for Consideration	Comments
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 23/07/2021 to 06/08/2021 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 3 submission/s from:

Name:	Address:
Seamus Redmond	583 Sydney Road SEAFORTH NSW 2092
Mr David James Butchard	581 Sydney Road SEAFORTH NSW 2092
Mrs Margot Rae Flack	2 / 567 Sydney Road SEAFORTH NSW 2092

The following issues were raised in the submissions and each have been addressed below:

- **Hours of Operations;**
- **Suitability of use (Café);**
- **Rubbish disposal;**
- **Outdoor seating;**
- **Impact of Cooking;**

The matters raised within the submissions are addressed as follows:

- **Hours of Operation**

Comment:

Concern is raised in regards to the proposed hours of operation 7am - 10pm Monday to Saturday (later amended to 6am - 5pm). Council agrees that the proposed hours of operation are unsuitable given the proposed use and proximity to residential development. As such, a condition of consent has been imposed limiting the hours of operation to Monday to Saturday - 7:00am - 5:00pm, Sunday and public holidays 7:00am -4:00pm. This is to ensure reasonable level of amenity are maintained to neighbouring residential development.

- **Suitability of use (Café)**

Comment:

A food and drink premises (café) is a permissible use in the B2 Local Centre zone. The number of existing cafe's within the B2 Local Centre zone is not a planning consideration. This does not warrant the refusal of the application.

- **Rubbish disposal**

Comment:

Concern is raised that the proposed use of the café will lead to rubbish being incorrectly disposed. There is no evidence to suggest that customers of the proposed café will not dispose of the rubbish from the premise correctly. This does not warrant the refusal of the application.

- **Outdoor seating**

Comment:

Concern is raised in regards to potential outdoor seating along the road reserve and rear courtyard. The proposed development does not propose any outdoor or indoor seating as part of this application, and consent for the proposed use does not allow for outdoor seating along Sydney Road. Any application for a outdoor seating is subject to a separate application and will need to meet the relevant requirements of the *Road Act 1993*.

- **Impact of cooking**

Comment:

Concern is raised in regards to cooking and coffee making and the associated impact on adjoining properties. As noted on the ground floor plan submitted with the application, there are no cooking facilities proposed which require mechanical ventilation or an exhaust system. Council's environmental health officer has reviewed the application and raised no concern with the proposal, subject to conditions.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application proposes alterations and additions to existing mixed use development including a change of use for an existing garage to a cafe, and a strata/stratum subdivision.</p> <p>Subject to required Fire Safety measures being installed/upgraded to provide an adequate level of safety to the building/its occupants/ adjacent buildings, Building Control has no objections subject to conditions.</p>
Environmental Health (Industrial)	<p>General Comments</p> <p>Environmental Health has made comments in regard to the proposal on the FOOD PREMISES referral also.</p> <p>This will require additional information to be submitted. For this industrial referral the main issues relate to potential noise and odour where additional information is sought.</p> <p>Essentially the proposal is to convert an existing garage to a café on a multi-use site.</p> <p>The proposal involves the following:</p> <ul style="list-style-type: none"> • Works to the existing garage and change of use to a café, including

Internal Referral Body	Comments
	<p>new front and rear façade and floor, new awning to front and rear. The GFA of the new space is 19.7sqm. The proposed hours of operation are 7am-10pm, 7 days;</p> <ul style="list-style-type: none"> • Minor adjustments to the external façade of the overall building including removal of satellite dish, new metal screens for air-conditioning, new main entry door and general maintenance works and repainting; • Strata subdivision into 6 lots plus common property. <p>>Environmental Health is concerned about a number of issues which do not appear to be addressed in the submission and will require additional clarification information to properly assess:</p> <ol style="list-style-type: none"> 1. The number of proposed seated customers and staff is not provided in relation particularly to sanitary facilities adequacy and if outdoor seating front or rear is proposed. The new use will require access to toilets which will need to comply with BCA requirements. Toilets shown on plan appear to be shared by a number of occupancies all of which individually or on a shared basis require adequate accommodation. Where the sanitary facilities are to be shared the applicant is to show total site compliance with the BCA for the increase in occupancy impact on shares toilets or provide additional facilities for the café. 2. The hours of operation (assuming including preparation, deliveries and close down/cleaning) will be to 10pm 7 days a week potentially impacting on adjacent residential premises(within the current site and neighbouring property).This impact has not been adequately addressed in regard to potential odour and noise to these residential residents (normal business activities 9am to 5pm could be reasonably expected in this area and the proposal exceed this significantly) Where a business is to operate post 9pm Council would usually consider if an Acoustic assessment is necessary. The applicant needs to address this potential issue. 3. Likewise, the provision of an exhaust system and its termination location of the mechanical ventilation for any cooking activities is not addressed in regard to both potential noise and cooking odour. 4. Similarly the air-conditioning proposed to operate to 10pm; details are required to assess any noise impact on adjacent residential receivers. This also applies to any external refrigeration motors. 5. Proposed fit out details of the café would assist with assessment and ability to comply with Food Standards including size of the kitchen/customer area(internally and externally), cooking appliances, garbage storage and potential grease trap and the like. <p>Recommendation</p> <p>REFUSAL(subject to additional information)</p> <p>09/11/2021</p>

Internal Referral Body	Comments
	<p>General - Additional Information</p> <p>The applicant has since responded and addressed/clarified these concerns as below, in summary:</p> <p>"In relation to customer numbers/toilets the attached letter from our BCA consultant demonstrates that the existing toilets are more than sufficient to meet BCA requirements in this regard.</p> <p>Further we confirm that the proposed café is take-away only and no seating is intended either internally or externally.</p> <p>It is also proposed to reduce the hours of operation from the requested 7am – 10pm, 7 days to, 6am-5pm Monday-Saturday and 7am-4pm Sunday.</p> <p>In relation to noise issues it is considered that the layout plan attached, which shows that no cooking facilities are proposed, and the significant reduction in operating hours, demonstrate that the proposal has minimal potential for noise generation and noise impacts.</p> <p>Also, in regard to noise generally we are happy to accept a condition of consent that ensures compliance with the relevant noise standards ie that noise measured at the window of any adjacent residential premises be no higher than 5dbA above background at any time."</p> <p>However importantly Environmental Health seek amendment of the application in regard to the proposed hours of operation proposed : 6am-5pm Monday-Saturday and 7am-4pm Sunday.</p> <p>The earlier 6am start (from the originally proposed 7am) may impact on adjoining residential premises. Early opening Takeaway Coffee businesses adjacent to dwellings have resulted in complaints to Council mainly from cars and trucks motors running, double parking or parking in neighbouring driveways to get a coffee "on the run". Such early morning noise can be offensive.</p> <p>We also note that the subject premises is to be a take-away with no cooking and no eating and therefore has minimal potential for impact.</p> <p>Recommendation</p> <p>Environmental Health is now satisfied that subject to conditions we have no objections to the proposal.</p>
Environmental Health (Food Premises, Skin Pen.)	<p>General Comments</p> <p>Essentially the proposal is to convert an existing garage to a café on a multi-use site.</p> <p>The proposal involves the following:</p> <ul style="list-style-type: none"> • Works to the existing garage and change of use to a café, including new front and rear façade and floor, new awning to front and rear. The GFA of the new space is 19.7sqm. The proposed hours of operation are 7am-10pm, 7 days; • Minor adjustments to the external façade of the overall building including removal of satellite dish, new metal screens for air-

Internal Referral Body	Comments
	<p>conditioning, new main entry door and general maintenance works and repainting;</p> <ul style="list-style-type: none"> • Strata subdivision into 6 lots plus common property. <p>Environmental Health is concerned about a number of issues which do not appear to be addressed in the submission and will require additional clarification information to properly assess:</p> <ol style="list-style-type: none"> 1. The number of proposed seated customers and staff is not provided in relation particularly to sanitary facilities adequacy and if outdoor seating front or rear is proposed. <p>The new use will require access to toilets which will need to comply with BCA requirements. Toilets shown on plan appear to be shared by a number of occupancies all of which individually or on a shared basis require adequate accommodation.</p> <p>Where the sanitary facilities are to be shared the applicant is to show total site compliance with the BCA for the increase in occupancy impact on shares toilets or provide additional facilities for the café.</p> <ol style="list-style-type: none"> 2. The hours of operation (assuming including preparation, deliveries and close down/cleaning) will be to 10pm 7 days a week potentially impacting on adjacent residential premises (within the current site and neighbouring property). This impact has not been adequately addressed in regard to potential odour and noise to these residential residents (normal business activities 9am to 5pm could be reasonably expected in this area and the proposal exceed this significantly) Where a business is to operate post 9pm Council would usually consider if an Acoustic assessment is necessary. The applicant needs to address this potential issue. 3. Likewise, the provision of an exhaust system and its termination location of the mechanical ventilation for any cooking activities is not addressed in regard to both potential noise and cooking odour. 4. Similarly the air-conditioning proposed to operate to 10pm; details are required to assess any noise impact on adjacent residential receivers. This also applies to any external refrigeration motors. 5. Proposed fit out details of the café would assist with assessment and ability to comply with Food Standards including size of the kitchen/customer area(internally and externally), cooking appliances, garbage storage and potential grease trap and the like. <p>Recommendation</p>

Internal Referral Body	Comments
	<p>REFUSAL(subject to additional information)</p> <p>9/11/2021</p> <p>General - Additional Information Amended information to hand (see also Industrial referral for detail)</p> <p>Recommendation</p> <p>In regard to the use of premises for Sale of Food issues we now have no objections subject to conditions.</p>
NECC (Development Engineering)	<p>The application proposed to change of use of the existing garage to Café. It is no change to the existing footprint of the building.</p> <p>The existing driveway crossing shall be reinstated into a full width paved footpath to match the existing streetscape in a local centre. As such, Development Engineering has no objection to the application subject to the following conditions of consent.</p>
Road Reserve	<p>There is no impact on existing road infrastructure. Development Engineering to condition removal and restoration of driveway crossing as appropriate.</p>
Traffic Engineer	<p>Proposal description: Alterations and additions to an existing shop top housing development, conversion of garage to a cafe and strata subdivision.</p> <p>The Traffic team have reviewed the letter from INGHAM PLANNING Pty Ltd dated 28 September 2021, providing further information responding to the initial traffic engineering concerns as outlined in the referral dated 18 August. All of the concerns have been addressed in this letter.</p> <ul style="list-style-type: none"> • The proposed hours of operation, which were initially 7am – 10pm, 7days have now been amended to 6am-5pm Monday-Saturday and 7am-4pm Sunday addressing concerns about the potential for impacts arising from intensification of use. The subject premises is determined to be a takeaway with no cooking and no eating; no seating is intended either internally or externally, therefore it has minimal potential for traffic impacts. • As stated in the letter, the existing 'garage' was not able to be reasonably used as parking, and so the change in use did not result in the loss of a useable car space; The proposal results in a net increase of 1 car space (on-street) albeit not within site. • The change in use (19.7sqm GFA Café) creates the demand for less than 1 car space as per the DCP requirements. Therefore, the proposal will not create any additional parking demand, noting that one additional car

Internal Referral Body	Comments
	<p>space will be created on-street directly in front of the subject premises.</p> <ul style="list-style-type: none"> • With regard to loading/unloading, it is reported that the type of deliveries required for the proposed use would necessitate only small rigid vehicles on an infrequent basis. Given the nature of the proposed use, the use of kerbside parking for delivery purposes is acceptable. • The proposal will generate minimal traffic during the peak periods; therefore, it will not have any unacceptable implications in terms of road network capacity performance. <p>Given the above and noting the change in hours proposed and that people coming to the café would in many instances be undertaking combined trips, visiting the shops for other reasons, sometimes on foot, the proposal is considered acceptable.</p> <p>The transport team is therefore able to support the proposal.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response 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.

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 residential and 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.

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

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	12.5m	4.3m (Proposed new awning)	-	Yes
Floor Space Ratio	FSR: 1.5:1 (396.3sqm)	FSR: 1.13:1 299sqm	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.6 Subdivision—consent requirements	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes

Clause	Compliance with Requirements
5.8 Conversion of fire alarms	No
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.11 Active street frontages	Yes
6.12 Essential services	Yes
6.13 Design excellence	Yes
6.16 Gross floor area in Zone B2	Yes

Detailed Assessment

4.3 Height of buildings

Minimum subdivision lot size does not apply for strata subdivision in accordance with Clause 4.1(4)(a). Therefore, this development standard does not apply.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 264.2m ²	Requirement	Proposed	% Variation*	Complies
4.2.7.1 Wall Height and number of storeys	10.5m	As existing	N/A	N/A
	3 Storeys	2 Storeys as existing	N/A	N/A
4.2.7.4 Façade Design and Front Setback	Shop awning at ground floor	1 proposed awning at ground floor level	-	Yes
Schedule 3 Parking and Access	1 space (19.76sqm)	0 spaces	100%	No

***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
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.3 Townscape (Local and Neighbourhood Centres)	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
Performance, and Water Sensitive Urban Design)		
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.2 Development in Business Centres (LEP Zones B1 Neighbourhood Centres and B2 Local Centres)	Yes	Yes
4.2.2 Height of Buildings (Consideration of exceptions to Building Height in LEP Business Zones B1 and B2)	Yes	Yes
4.2.3 Setbacks Controls in LEP Zones B1 and B2	Yes	Yes
4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor	Yes	Yes
4.2.7 Seaforth Local Centre	Yes	Yes
4.2.7.1 Wall Height and number of Storeys	Yes	Yes
4.2.7.2 Consideration of Height Above the Wall Height	Yes	Yes
4.2.7.3 Car Parking and Access	Yes	Yes
4.2.7.4 Façade Design and Front Setback	Yes	Yes
4.2.7.5 Building Design	Yes	Yes
4.2.7.6 The Townscape Plan and Precincts within Seaforth Centre	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.4.1 Awnings in LEP B1 and B2 Business Zones	Yes	Yes
4.4.8 Subdivision	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

Detailed Assessment

3.4.2 Privacy and Security

Hours of Operation

The subject site and adjoining properties to the north are zoned B2 Local centre under MLEP 2013. To the south and western side of the road, residential premises are present and zoned R2 Low Density Residential MLEP 2013.

As per comments contained within the Referral section - Council's Environmental Investigations (Industrial) Officer of this report, the proposed weekday commencement time of 6am to 5pm (Monday to Sunday) cannot be supported for potential adverse noise impacts on nearby residential properties.

On this basis, and consistent with the weekday commencement time of adjoining and surrounding commercial development, it is recommended that the weekday commencement time start at 7am. Accordingly, a recommended condition of consent for the following hours of operation is provided for

the café:

Monday – Saturday : 7:00am - 5:00pm
Sunday and Public Holidays : 7:00am - 4:00pm

4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor

The application proposes to convert the existing ground level parking space to a food and drink premise (café). As noted by Councils traffic engineer, while the conversion of the carpark of a café would increase the intensity of use of the site, the existing carpark space does not meet minimum carpark requirements. It is impractical for the site to provide any off-street parking and it is considered that the current and proposed uses will generate a very similar demand for car parking.

Seaforth, and this location in particular, is also well served by public transport and the limited availability, and the timed nature, of on-street parking is well known and well controlled.

In this regard, the additional 19.76sqm of floor space, with no additional car parking is considered acceptable in these circumstances.

Given the change of use will allow for an additional on-street parking space the proposal is deemed reasonable.

4.4.4.1 Awnings in LEP B1 and B2 Business Zones

The proposed awning meets the minimum requirement of this control being a minimum 3.9m - 4.1m above ground level and setback at least 0.8m from the end of the footpath.

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

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$2,072 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$207,150.

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 Development Consent to DA2021/1021 for Alterations and additions to an existing shop top housing development, conversion of garage to a cafe and strata subdivision on land at Lot 1 DP 127472, 577 Sydney Road, SEAFORTH, 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/ Issue 3	15 June 2021	David Tory
DA02/ Issue 3	15 June 2021	David Tory
DA03/ Issue 4	28 June 2021	David Tory
DA04/ Issue 4	20 June 2021	David Tory
DA06/ Issue 3	15 June 2021	David Tory
DA07/ Issue 3	15 June 2021	David Tory
DA09/ Issue 3	15 June 2021	David Tory

DA10/ Issue 3	15 June 2021	David Tory
DA11/ Issue 3	18 June 2021	David Tory
DA12/ Issue 3	15 June 2021	David Tory
DA13/ Issue C	15 June 2021	David Tory
DA11/ Cafe Design: Plan/ Issue 2	18 May 2021	David Tory
Sheet 1 of 2 Sheets	20 May 2021	Warren L. Bee
Sheet 2 of 2 Sheets	20 May 2021	Warren L. Bee

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BCA Assessment Report	30 June 2021	GRS Building Reports

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	11 January 2021	Brett Brown

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
Ausgrid	Response Ausgrid Referral	N/A

(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 tenancy as detailed on the approved plans for any land use of the site beyond the definition of a **food and drink premise**.

A **food and drink premise** is defined as:

“food and drink premises means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following—

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.”

(development is defined by the Manly Local Environment Plan 2013 (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 2018
- (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.

6. **Traffic Management**

Traffic management procedures and systems must be in place and practised during the course of the project to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with AS 1742.3 2009 Manual of Uniform Traffic Control Devices and Council's Development Control Plans.

Note: A Construction traffic management plan is to be submitted to Council for approval.

Reason: To ensure appropriate pedestrian and traffic control and continued efficient network operation.

FEES / CHARGES / CONTRIBUTIONS

7. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$2,071.50 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$207,150.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

8. **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.

9. **Construction, Excavation and Associated Works Security Bond (Crossing / Kerb)**

The applicant is to lodge a Bond of \$ 5000 as security against any damage or failure to complete the construction of any kerb and gutter and footpath works and removal of any redundant driveways required as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

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

10. **Submission Roads Act Application for Civil Works in the Public Road**

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the design of footpath and kerb and gutter which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer. The design must include the following information:

- 1) the full width paved footpath to replace the existing driveway crossing.
- 2) the kerb & gutter to replace the existing layback

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

11. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

12. **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.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane

Reason: To ensure Work zones and other permits for occupation of the road reserve are obtained and correctly applied.

13. **Road Occupancy Licence (ROL) from Roads and Maritime Services**

The developer shall apply for a Road Occupancy Licence (ROL) from the RMS Transport Management Centre (TMC) prior to commencing work within the classified road reserve or within 100m of traffic signals. The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified with 'Prepare a Work Zone Traffic Management' accreditation or equivalent. Should the TMP require a reduction of the speed limit, a Direction to Restrict will also be required from the TMC.

Reason: To inform the relevant Roads Authority of proposed disruption to traffic flows.

14. **Public Liability Insurance - Works on Public Land**

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

15. **Implementation of Construction Traffic Management Plan**

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

16. **Ongoing Management**

The applicant shall be responsible in ensuring that the road reserve remains in a serviceable state during the course of the demolition and building works.

Reason: To ensure public safety.

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

17. **Fire Safety Upgrade**

The fire upgrading measures and works to upgrade the building as detailed and recommended in the Building Code of Australia Fire and Life Safety Audit Report Ref. M450 prepared by 'GRS Building Reports P/L', Version/Revision 1a, dated 30/06/21 are to be carried out. Works are to be indicated to the degree necessary with the plans/documentation submitted for the Construction Certificate.

Details demonstrating implementation and compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate and prior to the issue of the Strata/Stratum Subdivision Certificate.

Reason: To ensure adequate provision is made for fire safety in the premises and for building occupant safety.

18. **Change of Use**

A person must not commence occupation or use (or change of use where an existing building) of the whole or any part of a building (within the meaning of section 109H (4) of the Act) unless an Interim Occupation Certificate or Final Occupation Certificate has been issued in relation to the building or part.

The Principal Certifying Authority is required to be satisfied, amongst other things, that the building complies (or will, when completed, comply) with such of the Category 1 fire safety provisions as are applicable to the building's proposed use.

Note: The obligation to comply with the category 1 fire safety provisions may require building work to be carried out even though none is proposed or required in relation to the relevant development consent.

Reason: Statutory requirement under S109N of the Environmental Planning & Assessment Act 1979.

19. **Reinstatement of Kerb**

The Applicant shall reinstate all redundant laybacks and vehicular crossings to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

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

Reason: To facilitate the preservation of on street parking spaces.

20. **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.

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

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from a suitably qualified person that the design, construction and fit out of food premises kitchen is compliant with the requirements of AS 4674 Design, construction and fit out of food premises.

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

Reason: To ensure that the kitchen and food storage area complies with the design requirements of AS 4674 .

22. **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 Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Occupation Certificate (or where applicable, relating to the part of the building, being the subject of this Consent).

Each year the Owners must send to the Council and Fire and Rescue NSW, 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.

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

23. **Seating**

No approval is given for any indoor or outdoor seating for patrons.

Reason: To protect surrounding residence from any noise generated by the operation of the development.

24. **Noise**

There is to be no amplified entertainment noise (music) associated with the operation of this use.

Reason: To protect surrounding residence from any noise generated by the operation of the development.

25. **Food preparation equipment**

All individual apparatuses used for cooking or re-heating of food must not exceed 8kW electrical power input or 29MJ/h gas power input.

Collectively the total power input of all cooking or re-heating apparatuses within the food premises must not exceed:

- 0.5 kW electrical power; or
- 1.8 MJ gas, per m² of floor area of the room or enclosure.

Deep frying is not permitted without externally exhausted mechanical ventilation in accordance with AS1668.2.

Reason: To protect the health, safety and well-being of patrons and staff in addition to the odour amenity of neighbouring properties, prevent breaches of the Food Standards Code and comply with the National Construction Code.

26. **Takeaway Food and Drink only**

Business approved for takeaway service only

Reason: Proposed by applicant (to comply with aspects related to sanitary facilities, noise, fit-out and ventilation)

27. **Hours of Operation**

The hours of operation are to be restricted to:

- Monday to Saturday – 7:00am - 5:00pm
- Sunday and Public Holidays – 7:00am - 4:00pm

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.

CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY STRATA

SUBDIVISION OR SUBDIVISION CERTIFICATE

28. **Provision of Services for Subdivision**

The applicant is to ensure all services including water, electricity, telephone and gas are provided, located and certified by a registered surveyor on a copy of the final plan of subdivision. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure that utility services have been provided to the newly created lots.

29. **Subdivision Certificate Application**

The Applicant shall submit a Subdivision Certificate Application to Council, which is to include a completed Subdivision Certificate form and checklist, a final plan of subdivision prepared in accordance with the requirements of the Conveyancing Act 1919, four copies of the final plan of subdivision and all relevant documents including electronic copies. This documentation is to be submitted to Council prior to the issue of the Subdivision Certificate. All plans of survey are to show connections to at least two Survey Co-ordination Permanent Marks. The fee payable is to be in accordance with Council's fees and charges.

Reason: Statutory requirement of the Conveyancing Act 1919.

30. **Compliance with Relevant Legislation**

Prior to the issue of the Strata Plan of Subdivision (including any Stratum), all relevant matters pertaining to this Plan, are to be satisfied to the satisfaction of the Certifying Authority, and evidence provided that the Plan complies with Clause 17 Strata Schemes Development Regulation 2016 and the relevant parts of Section 58 Strata Schemes Development Act 2015.

Reason: To ensure compliance with the Consent issued, compliance with relevant legislation, and to ensure adequate provision is made, where required for fire safety, occupant safety,

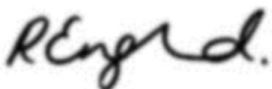
In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Maxwell Duncan, Planner

The application is determined on 01/02/2022, under the delegated authority of:



Rebecca Englund, Acting Development Assessment Manager