

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2023/0782
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Responsible Officer:	Kye Miles
Land to be developed (Address):	Lot 21 DP 226287, 20 Albert Street FRESHWATER NSW 2096
Proposed Development:	Alterations and additions to existing restaurant and increase in hours of operation
Zoning:	Warringah LEP2011 - Land zoned E1 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Dominic Seeto Rose Seeto
Applicant:	David Moody

Application Lodged:	28/06/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	04/07/2023 to 18/07/2023
Advertised:	Not Advertised
Submissions Received:	8
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 147,000.00
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EXECUTIVE SUMMARY

This development application seeks consent for alterations and additions to an existing restaurant to provide an outdoor seating area. The proposal also seeks consent to increase the existing hours of operation.

The application is referred to the Development Determination Panel (DDP) due to receiving eight (8) submissions in objection to the proposal. Concerns raised in the objections predominantly relate to amenity impacts, particularly loss of acoustic privacy, traffic issues and parking. The proposal does not result in any variations to principal development standards under WLEP 2011 or built form controls

under WDCP.

A detailed assessment has been conducted and the proposal is found to be consistent with the objectives of relevant standards and controls, with no matters that would warrant the refusal of the proposed development.

This report concludes with a recommendation that the DDP grant approval to the development application, subject to conditions.

PROPOSED DEVELOPMENT IN DETAIL

Development application for alterations and additions to existing restaurant and increase in hours of operation.

The proposed development comprises of the following works:

New outdoor seating area

- Removal of the driveway and existing 2 on-site parking spaces to provide an additional 35m² covered outdoor dining courtyard
- New masonry wall along the northern boundary
- New masonry wall along the eastern edge of the proposed outdoor seating
- New fixed shut polycarbonate roofing system over outdoor seating area
- New enclosed bin area located adjoining the proposed masonry wall and eastern boundary
- Associated fit out of outdoor dining area

Operational Details

The operational details are listed within the submitted Plan of Management, however a brief overview is provided below.

Hours of Operation

The proposal seeks an increase in the existing hours of operation. As listed below, the proposed outdoor area will include restricted hours.

Existing

Monday to Sunday: 11:30am - 10:00pm

Proposed

Indoor Seating Area

Monday to Saturday: 12.00pm - 12.00am

Sunday and Public Holidays: 12.00pm - 10:00pm

Outdoor Seating Area

Monday to Thursday: 12.00pm - 8:00pm

Friday and Saturday: 12.00pm - 10:00pm

Sunday and Public Holidays: 12.00pm - 8:00pm

Staff and Patrons

No changes are proposed to the approved staff or patron capacities.

Traffic Management

Deliveries will utilise the loading zones currently available in proximity of the subject site.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

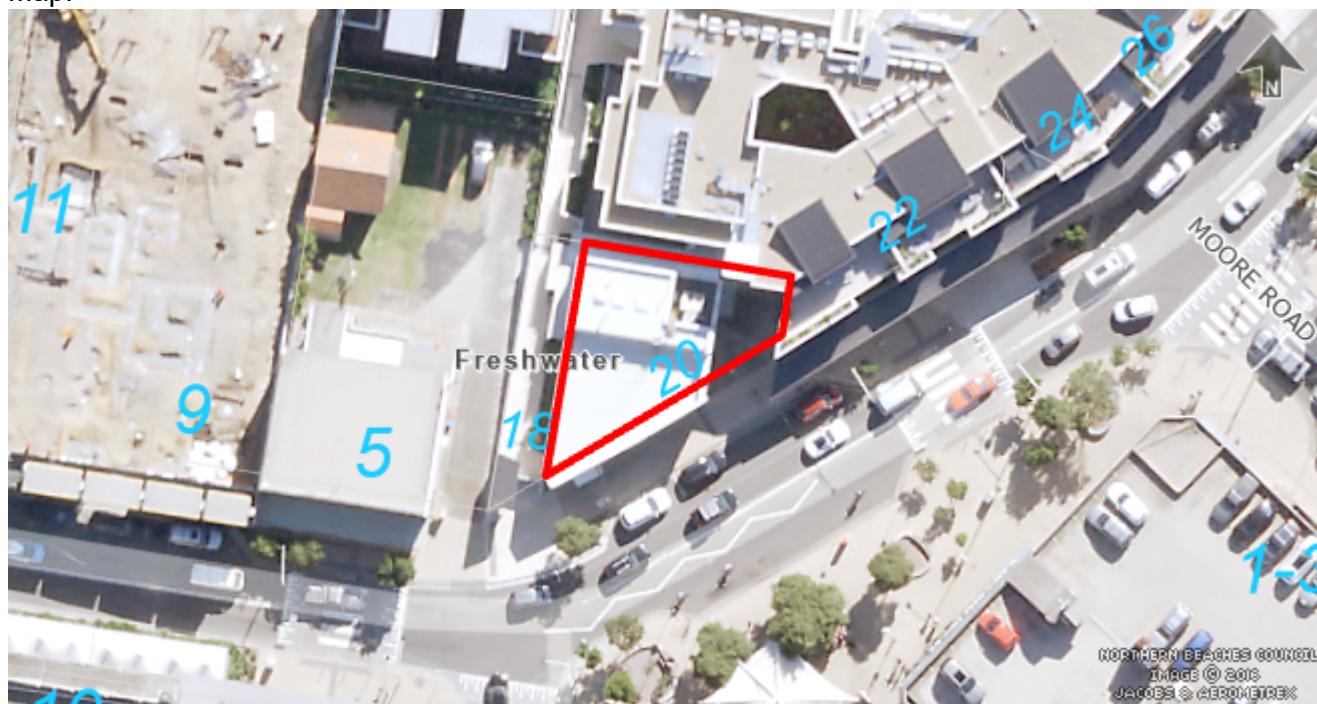
Warringah Development Control Plan - B6 Merit Assessment of Side Boundary Setbacks
Warringah Development Control Plan - B10 Merit assessment of rear boundary setbacks
Warringah Development Control Plan - C2 Traffic, Access and Safety
Warringah Development Control Plan - C3 Parking Facilities
Warringah Development Control Plan - D3 Noise
Warringah Development Control Plan - D8 Privacy

SITE DESCRIPTION

Property Description:	Lot 21 DP 226287 , 20 Albert Street FRESHWATER NSW 2096
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the north eastern side of Albert Street, Freshwater.</p> <p>The site is irregular in shape and has a surveyed area of 260m².</p> <p>The site is located within the E1 Local Centre and accommodates a two storey brick building with two on site car parking spaces. The site has been previously cleared and there is no vegetation or significant environmental features on the site.</p> <p>Detailed Description of Adjoining/Surrounding Development</p>

Adjoining and surrounding development is characterised by low and medium density development providing for a range of commercial and residential uses.

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:

REV2023/0010

Review of Determination of Application DA2022/1320 for alterations and additions to an existing restaurant and a change of hours. Specifically, the proposal was amended to include a fixed shut acoustic awning over outdoor seating area. This application was withdrawn on 16 June 2023 as a determination could not be made within the 6-month review period.

DA2022/1320

Development application for alterations and additions to an existing restaurant and a change of hours. Specifically, the proposal comprised of a new outdoor seating area and a change of operation hours in the existing indoor seating area. The application required delegation to the the Development Determination Panel (DDP) due to seven community objections being received during the notification period. Approval of the application was recommended to the panel following officer assessment, however was refused by DDP on 20 December 2022, as the acoustic properties of the proposed retractable shade sail covering the proposed outdoor dining area did not provide the required level of noise protection.

DA2021/1541

Development Application for use of premises as a restaurant. Specifically, the proposal comprised of the change of use from a take away food and drinks premise to a restaurant with increased number of patrons and change in hours of operation. The proposal comprised of some minor alterations and additions to the internal and external walls of the building.

At the public meeting held on 17 November 2021, the Panel was addressed by 2 representatives of

the applicant. The panel generally agreed with the assessment report and conditions. The application was subsequently approved on 17 November 2021 by Northern Beaches Local Planning Panel

CDC2021/0324

Complying Development Certificate for Change of use from a business premises to a take-away food premise with maximum seating capacity of 8 patrons, including internal alterations approved on 14 April 2021.

CDC2010/0009

Complying Development Certificate for Internal alterations to a business premises approved on 5 February 2010.

DA2001/1857

Development Application for Internal alterations and fitout, and external sign approved on 20 December 2001.

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. The NSW employment zones reforms have been made and will come into force on 26 April 2023. These reforms will result in this property changing from a B2 Local Centre zone to a E1 Local Centre zone. The proposed use will remain permissible in the new zone.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case. <u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.

Section 4.15 Matters for Consideration	Comments
	<p>Clause 69 of the EP&A Regulation 2021 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>Clause 69 of the EP&A Regulation 2021 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>
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 Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
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 04/07/2023 to 18/07/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 8 submission/s from:

Name:	Address:
Kenneth Regan	1 / 8 Lawrence Street FRESHWATER NSW 2096
Mr Ross Malcolm Locket	406 / 2 Sylvan Avenue BALGOWLAH NSW 2093
Mr Daniel Thomas Cape	2 / 8 Lawrence Street FRESHWATER NSW 2096
Michael Mihail	Address Unknown
Miss Qingliang Zhong	3 / 18 Albert Street FRESHWATER NSW 2096
Mr Sonny Tunganemaru Ryan Mrs Alicia Colette Ryan	PO Box 293 MANLY NSW 1655
Miss Maree Portanger	22 Undercliff Road FRESHWATER NSW 2096
Ms Diana Margaret Ryall	50 Undercliff Road FRESHWATER NSW 2096

Eight (8) submissions were received during the community notification period and the following concerns were raised:

- **Parking and Traffic**

Comment:

Concern was raised regarding parking and congestion issues along this section of Albert Street which will be impacted by proposed loss of parking and delivery vehicles. The proposal will result in a net parking loss of one space and is supported by a Traffic & Parking Impact Assessment Report that indicates there is sufficient alternative parking available in the surrounding streets and Council car park. The application was referred to Council's Traffic Engineer who determined that the change is considered to have a minimal impact, subject to conditions. Furthermore, a new Loading Zone on the west side of Moore Road, immediately to the south of Albert Street has recently been approved by Council's Traffic Committee, providing an additional facility for delivery vehicles to the restaurant.

This matter does not warrant the refusal of the application.

- **Privacy**

Comment:

Concern was raised in regards to aural and visual privacy impacts of patrons of the outdoor dining area towards adjoining residential living spaces. Detailed assessments of privacy has been addressed in sections D3 and D8 of this report.

It is notable that no increase to the existing approved patron numbers or capacity is proposed as a result of this application.

An addendum (dated 8 December 2022) to the Acoustic Assessment prepared by Pulse White Noise Acoustics provided with DA2022/1320 has been provided with this review application. The addendum details the new roof system proposed to cover the outdoor dining area and states the acoustic rating of the new Danpal system is greater than that of the previously proposed fabric system.

Furthermore, Council's Environmental Health Officer has reviewed the application and provided

no objection to approval, subject to recommended conditions of consent, including a condition for an Acoustic Review requiring a review/further assessment upon operation to determine if assumptions and calculations are accurate in actual operation and ensure any necessary adjustments to design or operation necessary are made to achieve compliance and protect the amenity of the surrounding area.

It should also be noted that Clause 5.20 of the Warringah LEP 2011 states that the consent authority must not refuse consent to development in relation to licensed premises due to the playing or performing of music.

This matter does not warrant the refusal of the application.

- **Waste**

Comment:

Concern was raised regarding the extent of waste being produced by the restaurant including the effectiveness of the proposed waste room and resultant offensive odours.

As per the accompanying Architectural Plans and Plan of Management, the proposal involves constructing a bin room along the northern end of the subject site, which is considered adequate to store waste and avoid any obstructions to the community or encroach on council property. The application is also supported by a Plan of Management that details odour emissions will be minimised. As such, an Avalier Electrostatic Precipitator has been fitted to the exhaust which will achieve at a minimum a 91.3%- 98.5% particle removal efficiency. A bin room is also proposed with a metal roof to inhibit odours.

This matter does not warrant the refusal of the application.

- **Air Pollution**

Comment:

Concern was raised regarding poor air quality in the local area which shall be further impacted by smoking patrons and emissions from the restaurant.

Under the Smoke-free Environment Act 2000 smoking and using e-cigarettes in outdoor dining areas is prohibited. Additionally, the proposed hours of operation are consistent with that of surrounding businesses which is a permitted in the business zone. A condition of consent Hours of Operation has been included which requires that 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.

This matter does not warrant the refusal of the application.

- **Property values**

Comment:

Concern was raised that the proposal will impact surrounding property values, however, this matter is not a relevant consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979.

This matter does not warrant the refusal of the application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>Supported - subject to conditions</p> <p>The application has been investigated with respects to aspects relevant the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
Environmental Health (Industrial)	<p>Supported - subject to conditions</p> <p>This proposal is basically the previous Council refused DA with a change to the roofing system to improve acoustics.</p> <p>The Proposed Polycarbonate (Danpal) roofing system has been reviewed by Pulse White Noise Acoustics Pty Ltd 8 December 2022 as meeting and exceeding their compliance criteria.</p> <p>Since the initial referral Environmental has become aware of concerns of neighbouring residents about noise immediately outside of premises particularly at 12pm closing time and additionally noise from nearby late closing businesses: the changes to the area as a nighttime precinct appear supported by Council and State Government. Sleep depredation is an arising Public Health issue, however we have only been tasked to look at the noise issues generated on the actual development site. Accordingly noise in public areas is for others to judge.</p> <p>Therefore, with the improved roof cover design Environmental Health supports the proposal with conditions.</p>
Environmental Health (Food Premises, Skin Pen.)	<p>Supported - no conditions</p> <p>This is essentially refused DA2022/1320 - with a new roofing system to deal with noise related concerns.</p> <p>" Industrial " related comments are dealt with else where.</p> <p>Environmental Health also consider Sanitary Facilities under the BCA requirements.</p> <p>However to patron numbers remain the same as DA2021/1541 and are stated as:</p>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> • Outdoor seating area facing Albert Street: Maximum of 20 patrons • Indoor dining area: Maximum of 51 people • Staff: Maximum of 10 people <p>Environmental Health in this referral of food related matters supports the proposal without conditions.</p>
NECC (Development Engineering)	<p>Supported - subject to conditions</p> <p>20/07/2023: It is noted that Council's Traffic Team has supported the proposal. Development Engineering have no objections to approval subject to conditions as recommended.</p> <p>10/07/2023: Development application is for alterations and additions to an existing restaurant including removal of the existing vehicular access to the site and removal of existing 2 onsite parking spaces to provide an additional 35m2 covered outdoor dining courtyard.</p> <p>This will lead to no future vehicle access or on-site parking to the site.</p> <p>It is noted that referral request to Council's Traffic Team is also sent, Development Engineering Team would wish to wait for comments from traffic team prior to assessing this application.</p>
Traffic Engineer	<p>Supported - subject to conditions</p> <p>The proposal is for alterations and additions to the existing approved restaurant on the site. The proposal incorporates an increase in the outdoor covered outdoor dining courtyard of some 35m2. This is achieved by the removal of the two existing offstreet parking spaces serving the development. The proposal does not include any increase in seating capacity.</p> <p>Parking impact The removal of two offstreet parking spaces will be offset by the resultant increase in on-street parking supply by one space. The proposed changes will therefore result in a net parking loss of one space. It is noted that parking surveys have demonstrated that approximately half of the restaurant's customers are travelling to the restaurant by means other than private motor vehicle with more than half of those who are travelling by private car doing so as a passenger.</p> <p>It is noted that the 2 offstreet parking spaces provide an area for deliveries by small trucks or vans to the premises and with the removal of these spaces this facility will be lost and to offset this the provision of an on-street Loading Zone may normally be required. It is however noted that Council has recently installed 2 new Loading</p>

Internal Referral Body	Comments
	<p>Zones one directly opposite the premises on the Albert St and another on the west side of Moore Road east of Albert Street. The restaurant is therefore already within close proximity to two Loading Zones and there is not considered to be a need for an additional Loading Zone.</p> <p>The change is considered to have a minimal impact and is not opposed on traffic grounds subject to conditions.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	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.
NSW Police - Licensing (Clubs, Hotels, Pubs)	The proposal was referred to NSW Police who provided a response stating that the proposal is acceptable subject to compliance with relevant conditions. These recommendations will be included as a condition of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs 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 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 (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 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 who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	Complies
Height of Buildings:	11m	3.5m - 4.3m (Awning)	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A
5.20 Standards that cannot be used to refuse consent – playing and performing music	Yes

Warringah Development Control Plan

Built Form Controls

Built Form	Requirement	Proposed	%	Complies
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Control			Variation*	
B2 Number of storeys	3	Unaltered	N/A	Yes
B5 Side Boundary Setbacks	Merit Assessment = (West)	Unaltered	N/A	Yes
	Merit Assessment = (East)	Nil (Enclosed bin area) 1.3m (Courtyard)	N/A	Yes
B7 Front Boundary Setbacks	Ground and first floor maintain street front, second floor up 5m	Aligns with existing street front	N/A	Yes
B9 Rear Boundary Setbacks	6m	Nil (Aligns with existing rear setback)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B2 Number of Storeys	Yes	Yes
B6 Merit Assessment of Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B10 Merit assessment of rear boundary setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility and Adaptability	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
F1 Local and Neighbourhood Centres	Yes	Yes

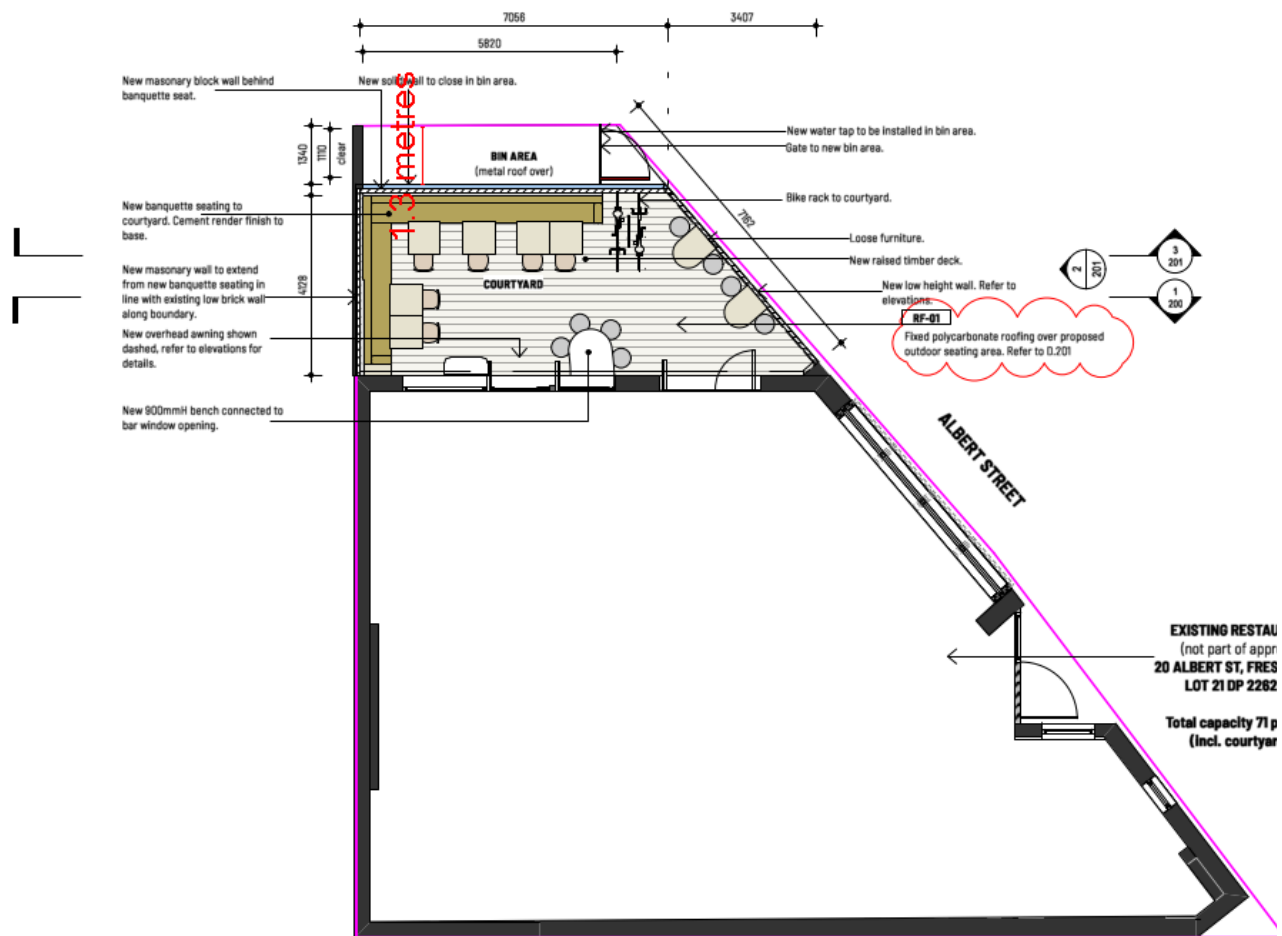
Clause	Compliance with Requirements	Consistency Aims/Objectives
1. Built form in Freshwater	Yes	Yes
3. Street activation	Yes	Yes
4. Street facades and shopfront design	Yes	Yes
5. Access and loading	Yes	Yes
6. Lighting	Yes	Yes
7. Safety and security	Yes	Yes
10. Front setback	Yes	Yes
12. Other side and rear setbacks	Yes	Yes
13. Roofs and building form	Yes	Yes
14. Building massing	Yes	Yes
15. Building sustainability	Yes	Yes
16. Materials and colours	Yes	Yes

Detailed Assessment

B6 Merit Assessment of Side Boundary Setbacks

Clause B6 - Merit Assessment of Side Boundary Setbacks stipulates that side boundary setbacks will be determined on a merit basis with regard to streetscape, amenity of surrounding properties, and setbacks of neighbouring development.

The proposed bin area is located on a nil setback to the eastern boundary and the eastern masonry wall of the new courtyard is set back 1.3 metres from the boundary, as demonstrated in Figure 1. below.



1 General Arrangement Plan
1:100 @ A3

Figure 1. Eastern side setback diagram.

Merit consideration:

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

- *To provide ample opportunities for deep soil landscape areas.*

Comment:

The subject site is devoid any landscaping and the provision of deep soil areas is not applicable for this Zone.

- *To ensure that development does not become visually dominant.*

Comment:

The outdoor dining area design maintains an acceptable level of openness through the use of breeze blocks and a fixed, shut polycarbonate roofing system. The proposed outdoor dining

area will enhance the streetscape with the screening of the existing large blank at No.22 Albert Street, creating an improved and more active frontage. Additionally, the removal of the current vehicle crossing will positively impact the overall visual appeal of the streetscape.

- *To ensure that the scale and bulk of buildings is minimised.*

Comment:

The proposed outdoor dining space is located at ground level and does not result in an increase to the height of the existing development. The bulk and scale of the proposal remains consistent with nearby comparable uses.

- *To provide adequate separation between buildings to ensure a reasonable level of amenity and solar access is maintained.*

Comment:

The proposal is located at ground level and not considered to have any discernible shadowing impacts. Notwithstanding detailed discussions on the proposal impacts on local amenity (which is found to be consistent with nearby comparable uses.) elsewhere in this report, it is considered that the proposal, subject to the recommended conditions of consent will not give rise to any unacceptable impacts. In this regard, the proposed development is not anticipated to result in any unreasonable overshadowing impacts or loss of amenity to adjoining buildings.

- *To provide reasonable sharing of views to and from public and private properties.*

Comment:

The proposal will not result in the loss of views.

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

B10 Merit assessment of rear boundary setbacks

Clause B10 - Merit assessment of rear boundary setbacks prescribes that the rear boundary setback is to be determined on merit with regard to streetscape, amenity of surrounding properties, setbacks of neighbouring development and the objectives of the control.

The proposed courtyard is located on a nil rear setback. Notably, this setback aligns with an existing nil setback for the existing approved restaurant.

Merit consideration:

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

- *To ensure opportunities for deep soil landscape areas are maintained.*

Comment:

The subject site is devoid any landscaping and the provision of deep soil areas is not

applicable for this Zone.

- *To create a sense of openness in rear yards.*

Comment:

Not applicable. The subject site contains an existing restaurant and adjoins land zoned E1 Local Centre.

- *To preserve the amenity of adjacent land, particularly relating to privacy between buildings.*

Comment:

To maintain the visual privacy of adjacent buildings, the design incorporates masonry walls and a fixed awning above the outdoor dining area. Furthermore, the proposed outdoor dining area is located at ground level and orientated toward Albert Street, ensuring that no private spaces are overlooked.

- *To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.*

Comment:

The adjacent property at the rear of the site has a nil setback at the ground floor level, aligning with the common boundary where the proposed outdoor dining area is proposed. As a result, the proposal aligns with the existing pattern of buildings in the area.

- *To provide opportunities to maintain privacy between dwellings.*

Comment:

The fixed roofing above the outdoor dining area will prevent views into any nearby windows or balconies, and therefore the occupants of the adjoining Nos.22-26 Albert Street will not be unreasonably impacted by any loss of privacy or adverse visual impacts.

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

C2 Traffic, Access and Safety

Merit consideration

The proposed development involves the removal of the 2 existing on-site car parking spaces to accommodate the new outdoor dining area. The existing off-street parking spaces provide an area for deliveries by small trucks or vans to the premises.

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

- *To minimise traffic hazards.*

Comment:

While the proposed site does not include any provision for vehicle access or loading zones, it is in close proximity to two existing loading zones. These are situated directly opposite the premises on Albert Street and on the west side of Moore Road, east of Albert Street. Additionally, parking surveys indicate that approximately half of the restaurant's patrons use alternative means of transportation, and more than half of those arriving by private car are passengers. Council's Traffic Engineer has evaluated the proposed development and determined that there is no necessity for an additional loading zone or off-street parking. Therefore, the proposal is not expected to significantly impact the surrounding traffic and road network.

- *To minimise vehicles queuing on public roads.*

Comment:

The proposal has been referred to Council's Traffic Engineer who has not raised any concerns regarding an increase in vehicle queueing on public roads as a result of the proposed development.

- *To minimise the number of vehicle crossings in a street.*

Comment:

No additional vehicle crossings are proposed as part of the proposed development.

- *To minimise traffic, pedestrian and cyclist conflict.*

Comment:

As above, the proposal is not anticipated to result in any traffic, pedestrian and cyclist conflict.

- *To minimise interference with public transport facilities.*

Comment:

The application is supported by a Traffic and Parking Impact Assessment, which asserts that the site has suitable access to public transport facilities. According to the parking survey, there is an equal distribution between private car use and other travel modes, demonstrating a balanced 50:50 split. Moreover, the proposed development is not expected to disrupt any existing public transport routes or facilities.

- *To minimise the loss of "on street" kerbside parking.*

Comment:

The removal of the existing driveway allows for an additional kerbside parking space. Moreover, the design of the outdoor dining space has incorporated a bike rack to the courtyard to encourage more active forms of transport to the site and reduce the necessity of additional parking.

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

C3 Parking Facilities

Merit consideration

The development proposes to remove the driveway and two on-site car parking spaces to accommodate the proposed outdoor dining courtyard. With the removal of the driveway, the kerb length increases to allow an additional parking space at all times on Albert Street.

The proposal is considered against the underlying Objectives of the Control as follows:

- *To provide adequate off street carparking.*

Comment:

The proposal has been referred to Council's Traffic Engineer who has not raised any concerns regarding off-street parking, given the site's proximity to nearby loading zones and access to public transport.

- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*

Comment:

The current proposal involves converting the existing on-site parking facilities into an outdoor dining area, which will complement the area and assist in enhancing the role of freshwater Village as the centre for the local community. The proposed replacement of the existing car parking spaces and vehicle crossover will enhance the streetscape whilst providing for an active street frontage.

- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

Comment:

As the proposal involves the removal of the existing on-site parking, it will not result in parking facilities dominating the streetscape or other public spaces.

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

D3 Noise

Merit consideration

The proposed outdoor dining can be considered a noise generating activity.

The application is supported by an Acoustic Impact Assessment from Pulse White Noise Acoustics dated 12 July 2022 as well as an addendum to the report dated 8 December 2022.

For an improved acoustic outcome, this development application includes an amendment to the plans refused under DA2022/1320 by Council's Development Determination Panel (DDP), which replaces the previously proposed retractable fabric awning with a fixed polycarbonate roofing system.

The development is considered against the underlying Objectives of the Control as follows:

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

The primary change to the proposed roofing system relates to the material; that is, the location, extent, and angle of the awning remain consistent with the previous proposal. The roof system shall cover the entire outdoor seating area and retain the ability to meet the recommendations set out in the Acoustic Assessment (dated 12 July 2022).

Furthermore, the application has been referred to Council's Environmental Health (Industrial) Officer who supports the new proposal, subject to recommended conditions of consent including an acoustic review following operation of the proposed works to determine if the assumptions and calculations of the Acoustic Report are accurate and any necessary adjustments to design or operation required to achieve compliance being undertaken. NSW Police has also reviewed the application and found the proposal to be supportable, subject to additional noise-related conditions.

Therefore, the proposal as conditioned will satisfy the objectives of the control.

- *To ensure that noise emission does not unreasonably diminish the amenity of the area or result in noise intrusion which would be unreasonable for occupants, users or visitors.*

Comment:

The site falls within the B2 Local Centre zone and Freshwater Village, which is surrounded by other commercial noise generating activities and is not considered to diminish the amenity of the area. The Plan of Management and the recommendations included in the Acoustic Assessment Report will be included as conditions of consent to ensure the development does not result in unreasonable noise for occupants, users or visitors. Furthermore, as previously discussed in this report, no increase in the approved patron numbers is proposed. The restaurant will maintain the existing approved patron capacity of 71 people, with 51 seated inside and 20 in the proposed outdoor area. As there is no increase in seating, any potential noise impacts are manageable in this instance.

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

D8 Privacy

Merit consideration

The proposed outdoor area is located within proximity of an existing bedroom balcony of a residential unit at No. 18 Albert Street. In addition, the received submissions have raised privacy as a concern.

Accordingly, the development is considered against the underlying Objectives of the Control as follows:

- *To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.*

Comment:

The proposed outdoor dining area is located at ground level approximately 5.0 metres below the nearest residential balcony. In addition, this balcony is not directly above the proposal, as it is located to the west of the courtyard and largely overlooks the roof of the existing restaurant towards Albert Street. Notwithstanding, the proposal has been designed to include a fixed polycarbonate awning above the outdoor dining area, which provide acoustic protection, while reasonably preventing clear and direct views to the above balcony. Moreover, the proposed hours of operation for the outdoor dining area are restricted to the following:

**Monday to Thursday: 12.00pm - 8:00pm*

**Friday and Saturday: 12.00pm - 10:00pm*

**Sunday and Public Holidays: 12.00pm - 8:00pm*

Overall, the proposal as conditioned will provide a high level of visual and acoustic privacy for occupants and neighbours.

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

The Acoustic Report dated 12 July 2022 as well as an addendum to the report dated 8 December 2022 that accompanies the application demonstrates that the proposed design of the outdoor dining area will preserve aural privacy. The proposal is considered an improvement to the appearance of the existing large wall adjoining No.22 Albert Street that presents to the streetscape. As such, the proposal will enhance the presentation of the subject site within the urban environment and will provide a more active frontage in keeping with the character of Freshwater Village.

- *To provide personal and property security for occupants and visitors.*

Comment:

The proposal will improve casual surveillance of Albert Street and the surrounding pedestrian area. The application has been referred to NSW Police who found the proposal to be supportable subject to conditions including the requirement to install closed-circuit television (CCTV), which will ensure personal and property security will be maintained.

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

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 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$ 735 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 0.5% of the total development cost of \$ 147,000.

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 2021;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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

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

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

PLANNING CONCLUSION

In summary, the application has been assessed with regard to the relevant Warringah LEP and DCP controls which guide the future desired character of the site and locality, along with the public submission received during the notification period.

The issues raised in the submissions are considered to be addressed by way of the amended plans and conditions of consent.

Subject to the recommended conditions of consent, it is considered that the proposal will result in a development that displays reasonable size, scale and density which is compatible with the existing site and surrounding development and will not result in unreasonable amenity impacts to surrounding properties. Overall, the proposal is considered a reasonable response to the site constraints and relevant planning controls.

Accordingly, the application is referred to the DDP with a recommendation for approval. It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

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 DA2023/0782 for Alterations and additions to existing restaurant and increase in hours of operation on land at Lot 21 DP 226287, 20 Albert Street, FRESHWATER, subject to the conditions printed below:

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA.101 - Issue B: General Arrangement Plan	8 December 2022	Five Foot One Design
DA.200 - Issue B: Section - Courtyard West	8 December 2022	Five Foot One Design
DA.201 - Issue B: Section - Courtyard North & East	8 December 2022	Five Foot One Design
DA.300 - Issue B: Finishes	8 December 2022	Five Foot One Design

Engineering Plans		
Drawing No.	Dated	Prepared By
Sheet 2 - Rev A: Component Details	12 November 2020	Dan Pal Australia
Sheet 3 - Rev A: Cross Section Details	12 November 2020	Dan Pal Australia
Sheet 4 - Rev A: Longitudinal Section Details	12 November 2020	Dan Pal Australia

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By

Acoustic Assessment - Final (Rev 8)	12 July 2022	Pulse White Noise Acoustics
BCA Assessment Report - C22264-BCA2019-r2	24 March 2023	Credwell Consulting
Plan of Management	9 August 2023	Alma Freshwater
Traffic & Parking Impact Assessment - Rev B	12 July 2022	Traffic & Safety Solutions

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	8 July 2021	Jack Michael Leary

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	Ausgrid Referral Response	30 June 2023
NSW Police Force	NSW Police Force Referral Response	3 August 2023

(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. **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 Certifier 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 Certifier 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 Certifier 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.

4. 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 an 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 \$250,000. The Long Service Levy is calculated on 0.25% 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.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or 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.

5. **Acoustic Review**

Within 30 days from the operations commencing under the terms of this consent, an acoustic review of the findings and recommendations of Pulse White Noise Acoustic (12 July 2022), including the amended roof design, and any additional requirements at OC acoustic review stage; shall be carried out on site (during a busy period of trading such as a Friday or Saturday

night). Any necessary actions to obtain acoustic compliance, shall be completed within a further 30 days of the required assessment. The report associated with the compliance testing and any works or requirements is to then be furnished to Council for its records.

Reason: To ensure acoustic compliance in an operational situation.

6. **Plan of Management**

The requirements of the Plan of Management are to be complied with and also upgraded to reflect any recommendations of the required additional operating acoustic review, based on the report by Pulse White Noise Acoustic 12 July 2022 (and further review 8 December 2022).

A copy of the plan is to be kept on site, updated with responsible staff documented for tasks such as music sound levels, occupant numbers, door/window closure, management of exiting patrons and maintenance contracts of equipment such as the kitchen exhaust and acoustic seals.

Reason: To ensure management of potential noise issues and that they are effectively dealt with ongoing.

7. **Patron Capacity**

The maximum patron capacity for the restaurant shall be 71 patrons. The maximum patron capacity for the outdoor dining area shall be 20 patrons. All patrons must be seated.

Reason: To protect the amenity of nearby residential sites and reduce parking demand within Freshwater Village.

FEES / CHARGES / CONTRIBUTIONS

8. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$735.00 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 (as amended).

The monetary contribution is based on a development cost of \$147,000.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

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

9. **Security Bond**

A bond (determined from cost of works) of \$2,000 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 Certifier 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.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

10. Polycarbonate Roofing

The Polycarbonate Roofing System is to comply with F3D2 of the National Construction Code and is to be designed and installed in accordance with AS/NZS 1562.1. Where this is not possible, it is to be supported by a Performance Solution.

Reason: To ensure adequate provision is made for health, amenity and occupant safety.

11. Removal of Redundant Driveways

All redundant driveways shall be removed and reinstated to Council standard kerb and gutter. Parking bay markings throughout the indented parking bay fronting No.20 Albert St shall also be remarked. Suitably prepared plans shall be submitted for an approval under the Roads Act and approved by Council prior to the issue of the Construction Certificate. All costs associated with the works shall be borne by the applicant.

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

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

12. Building Code of Australia Fire Safety Requirements

The Building Code of Australia fire safety requirements for the building as detailed and recommended in the BCA Assessment Report prepared by CREDWELL, dated 24/3/2023, Ref No. C22264-BCA-R2, including any required Performance Reviews, are to be considered as part of the assessment for any Construction Certificate. Details demonstrating compliance are to be provided to the Certifying Authority, prior to the issue of a Construction Certificate.

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

13. Access for People with Disabilities

Access to and within the building is to be provided for Persons with a Disability as required by the Building Code of Australia and AS1428. Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

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

14. Compliance with Standards

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

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

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

15. External Finishes to Roof

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

16. 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 Certifier 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

17. 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 and a Roads and Maritime Services Work Zone Permit shall be obtained for State Roads.

Reason: To ensure Work zones are monitored and installed correctly.

DURING BUILDING WORK

18. **Road Reserve**

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

Reason: Public safety.

19. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

Reason: To demonstrate the proposal complies with the approved plans.

20. **Waste Management During Development**

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

21. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

22. **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 Certifier prior to the issue of an Occupation Certificate.

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

23. **Garbage and Recycling Facilities**

All internal walls of the storage area shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To prevent pollution of the environment and to protect the amenity of the area.

24. **Waste Management Confirmation**

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

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

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

25. **Acoustic Requirements - On-going**

Compliance with the recommendations within the Acoustic Assessment by Pulse White Noise Acoustic dated 12 July 2022, as amended, and updated in an ongoing manner.

Reason: To prevent a noise nuisance to any neighbouring residential receiver.

26. **Proposed Outdoor Dining Condition**

No outdoor dining beyond the property boundaries is approved in this consent. Any proposed outdoor dining must be consistent with State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Any outdoor dining that is consistent with the SEPP shall be the subject of a separate Outdoor Dining Application to Council's Property team.

Reason: To ensure that outdoor dining is assessed and approved under the appropriate regulatory framework and legislation.

27. **Hours of Operation**

The hours of operation are to be restricted to:

Indoor Seating Area

- Monday to Saturday: 12.00pm - 12.00am
- Sunday and Public Holidays: 12.00pm - 10:00pm

Outdoor Seating Area

- Monday to Thursday: 12.00pm - 8:00pm
- Friday and Saturday: 12.00pm - 10:00pm
- Sunday and Public Holidays: 12.00pm - 8:00pm

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.

28. **Commercial Waste Collection**

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

Reason: To protect the acoustic amenity of surrounding properties.