

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1244
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Responsible Officer:	Benjamin Price
Land to be developed (Address):	Lot 8 SP 16809, 8 / 2 Pittwater Road MANLY NSW 2095
Proposed Development:	Use of Premises as a restaurant.
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:	JT & YL Holdings Pty Ltd
Applicant:	NYA Four Pty Ltd

Application lodged:	23/07/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	30/07/2018 to 15/08/2018
Advertised:	Not Advertised
Submissions Received:	0
Recommendation:	Approval

Estimated Cost of Works:	\$ 75,000.00
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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 - 5.10 Heritage conservation

Manly Development Control Plan - 3.4.2 Privacy and Security

Manly Development Control Plan - 3.6 Accessibility

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

SITE DESCRIPTION

Property Description:	Lot 8 SP 16809 , 8 / 2 Pittwater Road MANLY NSW 2095
Detailed Site Description:	<p>The subject site consists of a (9) lot strata titled allotment located on the eastern side of Pittwater Road.</p> <p>The site is irregular in shape with a frontage of 48.66m along Pittwater road and a variable depth. The site has an area of 569m².</p> <p>The site is located within the B2 Local Center zone and accommodates two storey and part 3 storey mixed use building.</p> <p>The site does not contain any significant landscape features or vegetation.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>To the north and east is a residential flat building and to the south east is backpackers' accommodation. To the west across the road is a residential flat building and a recreation facility (indoor).</p>

Map:



SITE HISTORY

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

DA254/2001 - Refurbishment shop fitout

PROPOSED DEVELOPMENT IN DETAIL

The proposal includes change of use to a restaurant and associated fit-out. The works include the following:

- Demolition of the existing lightweight partition within the north west corner of the site;
- Construction of internal partitions to create a store room and dry goods storage area, cool room, and bin storage area;
- Construction of a drinks service area including a bar work surface, associated fridges and storage and hand basin;
- Construction of a kitchen area including a stainless steel kitchen bench, washing up sink and dishwasher, kitchen stove and pasta cooker;
- Installation of a stainless steel kitchen exhaust hood with an exhaust duct above the existing second storey office tenancy above the site to the relevant Australian Standards; and
- Installation of polished concrete floors within the dining area and storage areas, epoxy or vinyl floors to comply with AS 4678 within the bar area and cool room, and replacement of the existing tiles adjacent to the site entrance within the property boundary.
- Installation of bin storage area to the rear.
- Replacement of the existing shopfront to Pittwater Road. The new shopfront will be constructed of operable alloy/metal framed glass doors/windows. The new doors will be consistent with the dimensions of the existing opening..

The proposed hours of operation are:

- Monday to Saturday: 10am to 12am (Midnight); and
- Sundays and Public Holidays: 10am to 10pm

With a maximum capacity of 50 patrons.

The plans indicate "proposed outdoor seating area - subject to separate outdoor seating application". This has not been applied for as part of this consent. A condition is recommended to delete the outdoor seating from the plans.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

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	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</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 clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a</p>

Section 4.15 Matters for Consideration'	Comments
	<p>condition of consent.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p>Clause 98 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>Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
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 (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 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respects to aspects relevant to the Building Code 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><i>Note: The proposed development may not comply with some requirements of the BCA and Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</i></p> <p>Change of Use/Fire Safety Upgrade</p> <p>The existing levels of fire safety within the premises are to be upgraded to achieve an adequate level of fire safety in accordance with the provisions of clause 94 of the Environmental Planning and Assessment Regulation 2000.</p> <p>The fire safety upgrading works are to be included in the Construction Certificate and be implemented prior to the new building or part.</p> <p>Reason: To ensure adequate provision is made for fire safety in the premises for building occupant safety.</p>
Environmental Health (Food Premises, Skin Pen.)	<p>The proposed development is for a Restaurant with extended night time hours (previous Takeaway Shop)</p> <p>The garbage storage in the toilet airlock needs to be addressed, potentially with condition 10 (The apparent roofing of this area is a variation with the approved Strata Plan which shows this area?)</p> <p>There are residential properties behind, opposite and beside this development. Proposed Hours are from 10am to 12 midnight Mon to Sat and 10am to 10pm on Sunday.</p> <p>The comprehensive acoustic report by Acoustic Logic 9.7.2018 states no outdoor seating plans show 6 tables x 2 occupants =12 people - subject to separate approval (approval of outdoor seating at night is considered doubtful) Therefore it is unclear if this area has been assessed for noise impacts.</p>

Internal Referral Body	Comments
	<p>The location is on the northern exit/entry road from the CBD where the property use is strictly residential. The residential potential impact is highlighted in the acoustic report recommendations which are significant and show the potential for nuisance if not addressed.</p> <p>Most noise related issues can be reasonably dealt with. However when customers are entering and leaving the doors will be opened allowing people noise and music noise to escape until midnight which is not acceptable.</p> <p>Had the hours of operation been restricted to say 9 to 10pm max then approval could have been recommended subject to conditions.</p> <p>The applicant needs to address the issue of noise escaping when the doors are opened by installing an airlock system, or by reducing the trading hours or other measures they may propose.</p> <p>Recommendation : Additional information or modification of trading as above.</p> <p>7 September 2018 Conditions are now added if recommendations above are acceptable to applicant</p> <p><u>Planning Comments</u></p> <p>No consent was found for the roofing of the courtyard in the 'toilet airlock'. The application is referred to compliance for investigation.</p> <p>No Outdoor seating has been approved by this application. This has been made clear in the condition of consent.</p> <p>The proposal has been assessed with regard to the objectives of Clause 3.4.2 Privacy and Amenity of the Manly DCP 2013. The proposal is a permissible use within the area and the hours of operation are consistent with what can be reasonably expected within the Manly Town Centre.</p> <p>The acoustic report submitted with the application includes suitable recommendations to avoid unreasonable acoustic privacy impacts within the locality. A condition has been recommended to ensure the applicant complies with the recommendations.</p> <p>Pittwater Road separates the site from the residential buildings to the east and Lot 9 with Pittwater Road separates the site from the residential buildings to the north. The proposal has been assessed to have a maximum of 50 patrons, to comply with the acoustic report and the outdoor seating area has been deleted. Due to the physical separation of the site from the nearby residential properties, the conditions of consent the acoustic impacts resulting from the opening and closing of the door will not result in unreasonable impacts within the locality.</p>
Strategic and Place Planning (Heritage Officer)	<p>Further to a review of the available documents and site visit,</p> <p>The site of proposed development is not a listed heritage item in its own right, however, it is located in the Pittwater Road heritage conservation area and in vicinity of several heritage items.</p> <p>The proposal is for Given the nature of the proposal and the separation between sites, the program is assessed as reasonable, however, the matter of outdoor seating is deemed a</p>

Internal Referral Body	Comments
	<p>may potentially cause additional issues as details are developed, as follows:</p> <ul style="list-style-type: none"> • The outdoor seating, as currently proposed, impacts on pathways for visually impaired thus deemed contrary to applicable standards and BCA/NCC. • Proposed outdoor seating may require sun-shades/umbrellas with additional advice on the area values. • Proposed outdoor seating may require wind-breaking panels with additional advice on the area values. <p>and given the favourable topography, the impact on heritage values is assessed as acceptable.</p> <p>Based on the above, I have no objections to this proposal from heritage perspective SUE the following conditions recommended:</p> <ul style="list-style-type: none"> • No signage are is approved as part of this DA • Outdoor seating areas are deleted from any eventual approval of this DA <p>Kind Regards Zoran Popovic Heritage Advisor – Manly area Northern Beaches Council _</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	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.

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)

Nil

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

The proposal will not alter the sites compliance with any principal development standards.

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
5.10 Heritage conservation	Yes
6.9 Foreshore scenic protection area	Yes
6.11 Active street frontages	Yes
6.12 Essential services	Yes
6.16 Gross floor area in Zone B2	Yes
6.21 Noise impacts—licensed premises	Yes

Detailed Assessment

5.10 Heritage conservation

Councils Heritage officer raised concerns regarding the outdoor seating shown on the plans. The outdoor seating is indicated to be carried out under a separate application. To avoid confusion it is recommended the outdoor seating be deleted from the plans. Subject to the above the proposal will maintain the sites consistency with the objectives of this clause.

No details were provided for any signage on the site. As per the Heritage Officers recommendation a condition has been included specifying no approval is granted for any signage.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 105sqm	Requirement	Proposed	% Variation*	Complies
Schedule 3 Parking and Access	Restaurant or Cafe - 1 parking space per 40sqm of gross floor area of serviced area (1.36 parking spaces) Retail - 1 parking space per 40sqm of gross floor area (2.6 Parking Spaces)	Nil	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
3.2 Heritage Considerations	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
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.6 Accessibility	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
4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor	Yes	Yes
4.2.5 Manly Town Centre and Surrounds	Yes	Yes
4.2.5.1 Design for Townscape	Yes	Yes
4.2.5.3 Security Shutters	Yes	Yes
4.2.5.6 Late Night Venues	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

Detailed Assessment

3.4.2 Privacy and Security

Merit consideration:

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

Objective 1) To minimise loss of privacy to adjacent and nearby development by:

- appropriate design for privacy (both acoustical and visual) including screening between closely spaced buildings; and
- mitigating direct viewing between windows and/or outdoor living areas of adjacent buildings.

Comment:

The proposed restaurant will have a maximum capacity of 50 patrons with the following hours of operation:

- Monday to Saturday: 10am to 12pm (Midnight); and
- Sundays and Public Holidays: 10am to 10pm.

The proposal is located in the B2 Local Centre Zone and is identified within the Manly Town Centre area. The proposed hours of operation are reasonable within the area provided they do not result in any unreasonable impacts on acoustic privacy within the locality. To address this the proposal was accompanied by an acoustic report that provided a detailed assessment of the possible acoustic impacts. This assessment found that the proposal would achieve a reasonable level of acoustic privacy subject to the recommendations. It is recommended that the acoustic report be included as a consent document to ensure compliance with the recommendations. A condition is recommended to allow the hours of operation proposed and limit the patrons to 50. Subject to the conditions the proposal will not have any unreasonable impact on acoustic privacy within the locality.

Objective 2) To increase privacy without compromising access to light and air. To balance outlook and views from habitable rooms and private open space.

Comment:

The proposed development will maintain the privacy of the locality and will not impact light or air. The proposal will achieve a balanced outlook and views.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The proposed development will encourage an awareness of neighbourhood security.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP 2013 and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

3.6 Accessibility

The proposal was accompanied by an Access report prepared by Matt Shuter and Associates dated 4 October 2018. The report demonstrates that the proposal is consistent with the relevant legislation. The report has been included as a consent document to ensure compliance with the recommendations.

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

Description of Non-compliance

The existing use of the premises is a shop with no on-site parking available. The required parking for this use is 1 space per 40sqm of gross floor area. This results in an existing requirement of 2.6 parking spaces (rounded up to 3 spaces).

The proposed use as a restaurant is 1 space per 40sqm of gross floor area of serviced area. This equates to a requirement of 1.36 spaces (rounded up to 2 spaces). The proposed use will not provide any parking.

The proposal will result in a reduction in the non-compliance for this site. The proposal will not result in a development that is inconsistent with the controls of the Manly DCP 2013.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect 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

Manly Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- 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 DA2018/1244 for Use of Premises as a restaurant. on land at Lot 8 SP 16809, 8 / 2 Pittwater Road, MANLY, subject to the conditions printed below:

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
INFO001 - Proposed floor plan - Rev A	22/06/2018	NYA Four Pty Ltd
FIN001 - Floor Finishes - Rev A	22/06/2018	NYA Four Pty Ltd
SEC001 - Kitchen Detailed Section - Rev A	22/06/2018	NYA Four Pty Ltd
EXT001 - Proposed External Kitchen Exhaust Fan & Ductwork - Rev A	22/06/2018	NYA Four Pty Ltd
RCP001 - Reflected Ceiling Plan - Rev A	22/06/2018	NYA Four Pty Ltd
SFRONT001 - Shopfront Replacement - Rev A	31/10/2017	NYA Four Pty Ltd

Reports / Documentation - All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Access Design Assessment Report Fitout of Existing Tenancy As A Restaurant 2 Pittwater Road, Manly	4 October 2018	Mat Shute and Associates
DA Acoustic Assessment	9 July 2018	Acoustic Logic

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.	Dated	Prepared By
W01 - Waste Management Plan - Rev A	22/06/2018	NYA Four Pty Ltd

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. (DACPLB01)

2. **Prescribed Conditions**

- All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- 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);
- 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 (DACPLB09)

3. 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) 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.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) 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.
- (j) 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.

(k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

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

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

4. **No approval for Signage**

No consent is granted for any signage within this application.

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

FEES / CHARGES / CONTRIBUTIONS

5. **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 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, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

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

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

6. **Deletion of Outdoor Seating**

The outdoor seating is to be deleted from the plans.

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

Reason: TO ensure compliance with this consent.(DACPLCPCC1)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

7. **Sanitary facilities**

Sanitary facilities, including airlock, garbage room to comply with BCA (Building Code of Australia)

Reason: To ensure sanitary facilities design and adequacy comply with BCA (DACHPEDW1)

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

8. **Prior to occupation certificate - Noise prevention**

Compliance with all recommendations of the acoustic report by Acoustic Logic 9.7.2018 being carried out and certification by a suitably qualified person.

Reason: To ensure systems are in place to minimise noise to neighbouring residential properties and comply with legislation.

9. **Registration of Food Business**

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

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

10. **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 person who suitably qualified 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 complies with the design requirements. (DACHPFPOC3)

11. **Mechanical Ventilation certification**

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

NOTE: Should cooking now or in future involve grilling or similar smoke generation activity then smoke and odour control equipment will be required to eliminate any visible smoke and reduce odour.

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

Reason: To ensure that the mechanical ventilation system complies with the design requirements. (DACHPFPOC4)

12. **Fire Safety Matters**

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

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

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

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000. (DACPLF07)

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

13. **Noise Management Plan**

The applicant and/or operator is to produce a Noise Management Plan addressing the following:

- a. Measures to minimise noise to nearby residential properties by general operations, equipment and patrons.
- b. Provide details at the service counter of the contact person who is responsible for addressing noise complaints.
- c. Keep a log of any complaints received and what actions were taken to address the complaint.
- d. An outline of the methods to manage any noise complaints received.

e. Compliance with The Noise Policy for Industry NSW EPA, 2017.

f. Incorporate recommendations of the acoustic report by Acoustic Logic 9.7.2018

Reason: To ensure that the activity maintains the amenity of nearby residential properties

14. **Hours of Operation**

The hours of operation are to be restricted to:

- Monday to Saturday– 10am to 12am (midnight)
- Sunday and Public Holidays – 10am to 10pm

Reason: Information to ensure that amenity of the surrounding locality is maintained.
(DACPLG08)

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

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

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

16. **Deliveries**

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

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

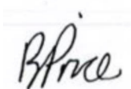
17. **Maximum Permitted Patrons**

The premises is permitted to have a maximum of 50 Patrons at any time.

Reason: To maintain the amenity of the locality and ensure compliance with this consent.

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

Signed




Benjamin Price, Planner

The application is determined on 18/10/2018, under the delegated authority of:



Rodney Piggott, Manager Development Assessments

ATTACHMENT A







Notification Plan	Title	Date
 2018/471560	Plan - Notification	26/07/2018

ATTACHMENT B

Notification Document	Title	Date
 2018/476458	Notification Map	30/07/2018

ATTACHMENT C

Reference Number	Document	Date
 2018/471567	Report - Waste Management Plan	13/07/2018
 2018/471565	Report - Statement of Environmental Effects	13/07/2018
 2018/471551	Plans - Survey	13/07/2018
 2018/471569	Report - Acoustic Report	23/07/2018
 2018/471579	Plans - External	23/07/2018
 2018/471578	Plans - Full Size - A2	23/07/2018
 DA2018/1244	8/2 Pittwater Road MANLY NSW 2095 - Development Application - Change of Use	23/07/2018
 2018/465224	DA Acknowledgement Letter - NYA Four Pty Ltd	23/07/2018
 2018/471521	Applicant Details	26/07/2018
 2018/471519	Development Application Form	26/07/2018
 2018/472155	Plans - Master Set	26/07/2018
 2018/471560	Plan - Notification	26/07/2018
 2018/477523	Environmental Health (Food Premises, Skin Pen.) - Assessment Referral - DA2018/1244 - 8 / 2 Pittwater Road MANLY NSW 2095	30/07/2018
 2018/478420	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2018/1244 - 8 / 2 Pittwater Road MANLY NSW 2095	30/07/2018
 2018/476422	ARP Notification Map	30/07/2018
 2018/476440	DA Acknowledgement Letter (not integrated) - NYA Four Pty Ltd	30/07/2018
 2018/476458	Notification Map	30/07/2018
 2018/476493	Notification Letter - 135	30/07/2018
 2018/479549	Building Assessment Referral Response	31/07/2018
 2018/492560	DA2018/1244 - 8/2 Pittwater Road, Manly	03/08/2018
 2018/497745	Environmental Health Referral Response - commercial use	07/08/2018
 2018/506743	Heritage Referral Response - DA2018/1244 - 8/2 Pittwater Road Manly	10/08/2018
 2018/525622	DA notification sign on display & Request for information - DA2018/1244 8/2 Pittwater Road Manly	17/08/2018
 2018/584315	Environmental Health Referral Response - commercial use	07/09/2018
 2018/611561	Correspondence	20/09/2018
 2018/630821	Re: DA2018/1244 - Strata Consent	24/09/2018

	2018/621447	Re: DA2018/1244 - Access report request	25/09/2018
	2018/637647	DA2018/1244 - Access report	04/10/2018
	2018/641047	Report - Access - Revised 4 October	05/10/2018
	2018/658826	Working Plans	15/10/2018
	2018/666971	Stamped Plans	18/10/2018
	2018/675674	Notice of Determination	23/10/2018