

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

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

<b>Application Lodged:</b>	12/12/2019
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Commercial/Retail/Office
<b>Notified:</b>	06/01/2020 to 28/01/2020
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	23
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 0.00
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### PROPOSED DEVELOPMENT IN DETAIL

The proposal is for the use of an existing window as a take away servery from the premises to Cameron Avenue.

The use of the premises is approved as a cafe (under CDC2018/0991) and no physical works are proposed as part of this application.

The proposed hours of operation of the servery window are 7am to 4pm Monday to Sunday.

### ASSESSMENT INTRODUCTION

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

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

## SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 6.9 Foreshore scenic protection area  
Manly Development Control Plan - 3.10 Safety and Security

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 14521 , 77 Collingwood Street MANLY NSW 2095
<b>Detailed Site Description:</b>	<p>The subject site consists of one allotment located on the north-western corner of Collingwood Street and North Steyne.</p> <p>The site is irregular in shape with a frontage of approximately 8.5m along Collingwood Street and North Steyne and a depth of 27.43m. The site also has access at the rear from Cameron Avenue. The site has a surveyed area of 234m<sup>2</sup>.</p> <p>The site is located within the B1 Neighbourhood Centre zone and accommodates a two-storey building.</p> <p>The site is generally flat.</p> <p>The site is contains minimal vegetation.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by a range of uses including detached dwellings, dual occupancies, residential flat buildings and commercial development. Lagoon Park is located to the north of the</p>

subject site across Cameron Avenue and Queenscliff Surf Life Saving Club to the east across North Steyne.

Map:



## SITE HISTORY

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

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

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

## 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)	<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

Section 4.15 Matters for Consideration'	Comments
	<p>addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
<p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental</p>

Section 4.15 Matters for Consideration'	Comments
	economic impact on the locality considering the nature of the existing and proposed land use.
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 process council is in receipt of 23 submission/s from:

Name:	Address:
Michelle Hill	Address Unknown
Mr Stephen Leslie Wearing	30 Ettalong Street WHEELER HEIGHTS NSW 2097
Jennifer Margaret McMurtry	47 Eurobin Avenue MANLY NSW 2095
Mr Michael Brookes Wrenford	4 / 68 Addison Road MANLY NSW 2095
Denise Keen	29 / 80 Evans Street FRESHWATER NSW 2096
Matthew Rowe	5 Devonshire Street CROWS NEST NSW 2065
Ms Michella Henrietta Burgers	4 / 6 Cameron Avenue MANLY NSW 2095
Dr Olivia Claire Hibbitt	17 Dresden Avenue BEACON HILL NSW 2100
Mr Adam Giles Taylor	53 Peacock Street SEAFORTH NSW 2092
Mr Jason Eric Boyd	17 Dresden Avenue BEACON HILL NSW 2100
Mr Patrick Anthony Bright	29 Lady Penrhyn Drive BEACON HILL NSW 2100
Mrs Shona Mackenzie Rose	32 Reynolds Crescent BEACON HILL NSW 2100
Mr Kevin John Rounsley	16 Baltic Street FAIRLIGHT NSW 2094
Per Holmkvist	8 Smith Street MANLY NSW 2095
Ms Catriona Anne Ormond	10 Myrtle Street NORTH BALGOWLAH NSW 2093
Ms Dianne Lesley Heffernan	PO Box 313 SEAFORTH NSW 2092
Mr Marcus Alexander Bolton	60 Bungaloe Avenue BALGOWLAH NSW 2093



Name:	Address:
Rj Stensland	12 / 48 A Queenscliff Road QUEENSCLIFF NSW 2096
Heidi Heming	Address Unknown
Amy Michaleen Leiper	128 Queenscliff Road QUEENSCLIFF NSW 2096
Mrs Denise Keen	301/385 Sydney Road BALGOWLAH NSW 2093
Mr Alan John Macrae	4 / 5 Cameron Avenue MANLY NSW 2095
Simon James Ormond	10 Myrtle Street NORTH BALGOWLAH NSW 2093

A total of 22 submissions were received in response to notification of the application, with 16 submissions in support and 6 by way of objection. A further letter of support and a residents petition were submitted by the applicant.

The following issues were raised in the objections to the application and each have been addressed below:

- Use of the servery results in congestion/blocking of the footpath

The matters raised within the submissions are addressed as follows:

- Use of the servery results in congestion/blocking of the footpath

Comment:

It is acknowledged that the proposed use of the window to Cameron Avenue as a servery will result in the queuing/gathering of patrons on the adjoining footpath area. However, suitable conditions of consent are included to ensure that there will be no unreasonable disruption to pedestrian movements. Specifically, customer orders are not permitted to be taken through the servery to prevent the queuing of patrons across the footpath. A full assessment of safety impacts is completed under *Clause 3.10 Safety and Security*.

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development. There may however be a concern with obstruction of the public footway in this location which would need to be considered.
Environmental Health (Food Premises, Skin Pen.)	<p><b>General Comments</b></p> <p>Environmental Health have been requested on the development application. The proposal seeks to formalise the use of the servery window facing Cameron Avenue associated with the café. The following matters are to be addressed in the referral; Noise and considerations for how the development will affect a food business.</p> <p><b>Noise</b></p> <p>The statement of environmental effects states that the servery window</p>

Internal Referral Body	Comments
	<p>is to be used 7 days a week from 7:00 AM and 4:00 PM. Environmental Health recommend imposing a condition that imposes these hours as a condition of consent.</p> <p><b>Food business</b> As the development application is for the regularisation of a servery window the only aspect relating to the food premises is ensuring that there are practical exclusion measures to prevent pests from entering the food business and appropriate controls in place to ensure food on display is protected from contamination. These matters can be achieved if the food business complies with food standards code 3.2.2 &amp; 3.2.3 which they are legally required to under the Food Act 2003.</p> <p>Based on the proposal Environmental Health recommends approval subject to conditions being imposed.</p> <p><b>Recommendation</b> APPROVAL - subject to conditions</p>
Road Reserve	<p>The proposed servery window on the Cameron Ave frontage does not impact on existing road infrastructure assets. Council recently widened the footpath in Cameron Avenue between the building and the kerb. There is now an area approximately 11m x 3.5m measured in a westerly direction from the kerb ramp. There are many existing situations where similar arrangements are permitted however given the high pedestrian activity associated with the nearby beach, and playground, ensuring safe pedestrian access is maintained should be a priority. The proposal is likely to reduce the impact (improving safety) of patrons queuing near the front door adjacent to the pedestrian crossing.</p> <p>If the application is supported, it is recommended that the applicant be required to develop and implement an access management plan to ensure a clear path of pedestrian access is maintained on the footpath alignment, eg line marking, signage, collections only from the servery, all orders from within the building, etc.</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)**

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

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

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

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
  - (b) *coastal environmental values and natural coastal processes,*
  - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
  - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
  - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
  - (f) *Aboriginal cultural heritage, practices and places,*
  - (g) *the use of the surf zone.*

#### Comment:

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

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

#### Comment:

No physical works are proposed.



## 14 Development on land within the coastal use area

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

### Comment:

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

As such, it is considered that the application does/does not comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

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

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

### Comment:

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

## Manly Local Environmental Plan 2013

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

### Principal Development Standards

The development is for the use of a server window and no physical works are proposed. As such, there are no Principal Development Standards under Part 4 of the Manly LEP to consider as part of this

assessment.

#### Compliance Assessment

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

#### Detailed Assessment

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

The proposal includes no physical works and will result in no unreasonable impacts in relation to visual aesthetic amenity or views to and from the Manly foreshore or Pacific Ocean.

### **Manly Development Control Plan**

#### Built Form Controls

The development is for the use of a servery window and no physical works are proposed. As such, there are no Development Controls under Part 4 of the Manly DCP to consider as part of this assessment.

#### Compliance Assessment

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

#### Detailed Assessment

### **3.10 Safety and Security**

#### Merit consideration

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

It is anticipated that the proposed use of the window to Cameron Avenue as a servery will result in the queuing/gathering of patrons on the adjoining footpath area, and that this has the potential to cause the disruption of pedestrian movements along the Cameron Avenue footpath at particularly busy times.

The application has been referred to Council's Transport & Civil Infrastructure Assets team for comment in relation to the use and potential impact on the footpath. The comments received included a number of considerations and recommendations, all of which are supported by the assessment officer, and are discussed below:

1. The footpath area immediately adjoining the proposed servery window has recently been widened by Council, including improved/widened paving and ramp area, and relocation of several post boxes and sign posts
2. The proposed servery location on Cameron Avenue will improve safety by reducing pedestrian-

vehicle conflict resulting from patrons queuing near the front of the premises adjoining the pedestrian crossing on North Steyne at the intersections of Collingwood Street and Cameron Avenue.

3. Maintaining a safe pedestrian thoroughfare is the main priority given the location of the site between between the beach front and the nearby lagoon reserve and associated facilities. A condition is imposed requiring the preparation of a Plan of Management for the servery as recommended. The condition provides for the details that are to be included in the Plan of Management for approval by Council.
4. The proposed servery is to be restricted for use only for the collection/pick up of orders, with orders required to be made from within the premises.

Given the above considerations and the included conditions of consent, the proposed servery window is considered to be appropriate in the context of the site, and is supported by Council.

### **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**

#### **Northern Beaches Section 7.12 Contributions Plan 2019**

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

### **CONCLUSION**

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- 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 DA2019/1426 for Use of the server window in an existing cafe on land at Lot 1 DP 14521, 77 Collingwood Street, MANLY, subject to the conditions printed below:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Trip hazards**

Council's road reserve adjoining the premises is to remain clear of sandwich boards, dog bowls and other trip hazards at all times.

Reason: To prevent safety issues and increased congestion.

2. **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
DA-02 Site Plan	20 July 2018	Morris Design Co
DA-03 Elevations	20 July 2018	Morris Design Co

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

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.

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 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.

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

(k) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

(l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

(m) 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.

## 5. **Servery Window**

The premises is operate in accordance with the following:

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

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

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

### 6. Plan of Management

The applicant is to prepare a Plan of Management for the premises in relation to the servery window and maintenance of the adjoining pedestrian thoroughfare. The plan shall include details including, but not limited to, the below matters:

1. Management of waiting customers;
2. Measures to be implemented to maintain a clear and accessible two-way pedestrian thoroughfare, incorporating Council's conditions of consent;
3. Signage for customers (both permanent and temporary) to Council's satisfaction;
4. Complaints register and procedures.

Any resulting works shall be in accordance with Council's standards and specifications.

The Plan of Management shall be submitted to Council for approval prior to the issue of a Construction Certificate, or Occupation Certificate if no Construction Certificate is required in relation to the development.

Reason: To ensure that the operation of the premises does not result in unreasonable impact to pedestrian safety or movements.

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

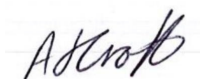
### 7. Hours of operation for servery window

The hours of operation for the servery window facing Cameron Ave is restricted to be used only between the hours of 7:00 am and 4:00 pm 7 days a week.

Reason: To ensure the amenity of the surrounding area is not impeded upon.

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

**Signed**



**Adam Croft, Planner**

The application is determined on 09/03/2020, under the delegated authority of:



**Anna Williams, Manager Development Assessments**