



## NEW SOUTH WALES POLICE

Northern Beaches Local Area Command

Licensing Unit

3 Belgrave St

Manly NSW 2095

Ph: (02) 9976-8099

### Development Application - 2020/0118

**LOC: Urban Winery**

**ADD: 1 / 380 Pittwater Road, North Manly**

**APPLICANT: Susie MILLS**

Northern Beaches Licensing Police have received a Development Application (number: 2020/0118) in relation to the use of premise at 1/380 Pittwater Road, North Manly to operate as a winery, brewery, retail outlet, corporate tastings and tours. Police conducted a site inspection with the applicant, Susie Mills on Wednesday 8<sup>th</sup> April.

### TRADING HOURS:

As stated in the Plan of management the premise wishes to operate under the following hours:

**Monday – Wednesday:** 6am- 10pm (Outdoors until 9pm)

**Thursday – Saturday:** 6am -11pm (outdoors until 10pm)

**Sunday:** 6am – 9pm (Outdoors until 9pm)

### LOCATION:

The premise is located on Pittwater Road in North Manly. This is a busy arterial road with 3 lanes in both directions towards Manly and Brookvale. The premise is opposite residential properties. The premise has limited parking with only two onsite car spots. There is no parking out the front of the premise as there is a bus stop and no stopping allowed at any time. The main entrance to the proposed premise is on Rowe Street, which is a cul-de-sac. There is a number of parking available in this street but is shared amongst the residents and local businesses. Police believe there isn't enough parking available for the 60 patrons they wish to have at the premise.

The Alcohol Related Crime Information Exchange (**ARCIE**) highlights the involvement of alcohol in specific crime types.

Data from March 2019 until February 2020 shows **43% of all Assaults** and **28% of all Domestic Violence incidents** were alcohol related and occurred within the Northern Beaches, as illustrated below:

# Alcohol Linking Monthly Report

LAC: NORTHERN BEACHES PAC (Mar 2019 to Feb 2020)

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PERSONS AND INCIDENTS BY INCIDENT CATEGORY												
Month	ALL INCIDENTS(e)				ASSAULT				DOMESTIC VIOLENCE(d)			
	Total POI	Total VIC	Total ARC Incidents	Total Incidents	Total POI	Total VIC	Total ARC Incidents	Total Incidents	Total POI	Total VIC	Total ARC Incidents	Total Incidents
Feb 2020	102	94	400	3149	23	23	32	81	21	32	59	182
Jan 2020	139	96	451	3924	29	26	35	72	19	31	59	227
Dec 2019	153	116	471	3495	34	33	44	98	23	45	83	278
Nov 2019	118	101	499	3497	20	31	39	88	22	32	74	216
Oct 2019	95	70	384	3540	24	23	36	101	22	22	53	211
Sep 2019	128	72	413	3046	29	28	40	100	18	31	51	197
Aug 2019	112	83	359	3352	34	37	43	89	13	27	49	207
Jul 2019	133	82	367	3331	29	26	39	86	25	31	64	223
Jun 2019	146	73	432	3796	45	25	36	83	22	25	49	196
May 2019	160	71	477	3885	24	19	30	89	28	26	62	253
Apr 2019	181	116	647	3762	44	48	59	109	44	40	71	242
Mar 2019	120	89	530	3888	30	39	45	108	25	37	70	273
<b>Accumulated Total</b>	<b>1587</b>	<b>1063</b>	<b>5430</b>	<b>42665</b>	<b>365</b>	<b>358</b>	<b>478</b>	<b>1104</b>	<b>282</b>	<b>379</b>	<b>744</b>	<b>2705</b>

	ALL INCIDENTS	ASSAULT	DOMESTIC VIOLENCE
Alcohol Related Crime	13%	43%	28%
Non-Alcohol Related Crime	87%	57%	72%

## NOTES

- (a) "Total POI" and "Total VIC" measure the number of Persons (by involvement type) who responded YES to Q1 (had they consumed alcohol prior to the incident).  
 (b) "Total ARC Incidents" measures the total number of Incidents where alcohol had been consumed prior.  
 (c) "Total Incidents" shows all incidents for each month, with or without alcohol consumption. Therefore Total ARC Incidents/Total Incidents \* 100 = % of Crime that is Alcohol Related.  
 (d) "Domestic Violence" is any Incident Category with an associated factor of Domestic Violence Related.  
 (e) "All Incidents" counts all incidents excluding "Traffic", "Business Inspection" and "Traffic Offence".

This equates to:

- **478** Alcohol Related Assaults
- **744** Alcohol Related Domestic Violence incidents

## CAPACITY

The plan of management states that the capacity for the premise is 60, including 12 seats in an outside area on Pittwater Road. The applicant has told police at the time of inspection they wanted 14 seats outside. Police reviewed the floor plans which shows there is 12 seats outside and 30 seats inside, police question the patron capacity of 60.

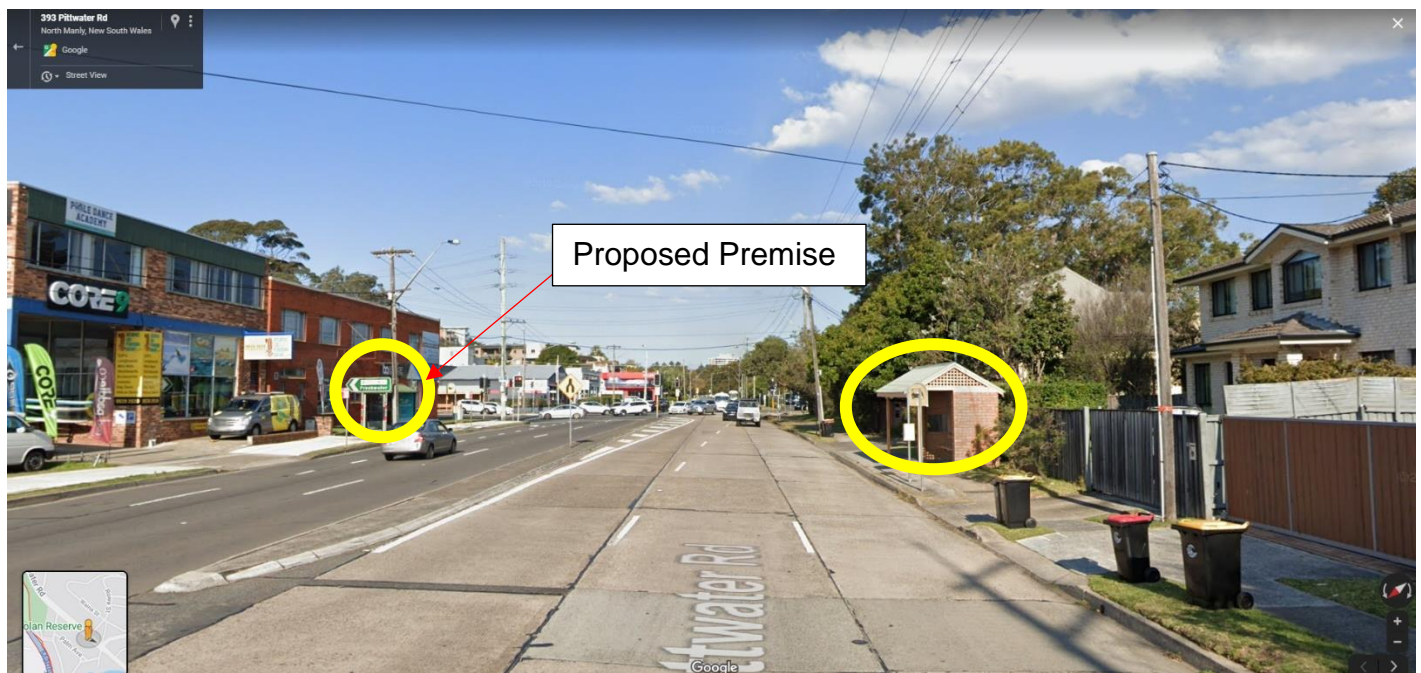
Police do not see how the capacity of 60 would be achieved with their overall business being a producer / wholesaler. Police believe there wouldn't be enough floor space. It was mentioned to police at the site inspection that there will be seating within the large tanks and grape. Police have concerns that having patrons seated or standing within the area of where the produce is being made would be a Fire Safety and Work, health and safety concern.

Police will be objecting to alcohol being consumed in the outdoor seating area. Police can foresee issues arising from this area as it is in close proximity to the main road, bus stop and residential

premises. Police would object to any type of music and noise being emitted in this area. The outdoor area isn't properly fenced or defined in any way. Patrons can easily walk onto the footpath and main road.

There are two bus stops located on the main road. See below screen shot from google maps. There is a safety concern in relation to patrons running across 6 lanes of traffic whilst under the influence of alcohol to catch public transport.





## INTENDED USE /OPERATION

Whilst speaking with the applicant, it was noted that the premise will be operating as a Peko Brewery – which is smaller than a microbrewery. It appears that the business plan is not for the wholesale & produce of liquor but the sale and supply of liquor for consumption on the premise i.e. small bar. The business will not be selling large amounts of alcohol offsite but more for consumption on premise. The applicant spoke mostly about the evening trade being there busiest times. Bar sales are going to be considerable. Police believe that the premise is going to trade as a bar with a small amount of alcohol being wholesaled or taken away.

It must be made aware to the applicant that they are unable to sell and supply alcohol to customers that is not produced at the premise. See Section 37 of the Liquor Act 2007.

Police would request that the Plan of management (POM) be detailed on how they the premise is going to be operated. The POM for the premise at the moment is quite basic. Police would need further information in relation to the industrial use, takeaway sales, and explaining how the tastings & functions would operate.

It has not been addressed what type of entertainment will be provided. There is no mention as to any acoustic or amplified music. It only states in the POM “Music will be contained to the indoor area”. Police would foresee issues arising with bands and loud amplified music being played as it could detract from the quiet and good order of the neighbourhood.

Wine / beer tastings were briefly spoken about but has not been expanded upon. Police would request that tastings and functions need to be addressed in the POM. Especially their serving sizes and tasting size.

Police note the definition of ‘tastings’ under the Liquor Act 2007 is:

**“Tastings:** in relation to liquor, means sampling a small amount of a particular product (including such an amount as may be prescribed by the regulations) usually for the first time or for the purpose of deciding whether to purchase a larger quantity of the product (or both), but does not include sampling to the extent that it is no longer ancillary to the primary purpose for which customers or intending customers are being supplied with the product, namely purchasing the product for consumption **away from the licensed premises concerned**”.

A kitchen will be installed on the premise where food will be supplied from. The applicant stated food such as taco's, cheese platters and share plates will be supplied. These types of meals are not substantial for patrons who will also be consuming alcohol. Responsible service of alcohol would be questionable.

## **SECURITY / SAFETY**

The main door which the applicant stated they will be using is on Rowe Street. This street is dark with no street lighting. The business's surrounding this premise only operate during normal day time trade and not late at night. Therefore, the poor lighting and the isolation of the street is a high security and safety risk for patrons leaving the premise.

It has not been addressed where patrons could go for smoking and how staff are going to monitor patrons leaving the premise with alcohol. Police would be suggesting a licensed security guard be employed during late trade, monitoring patrons leaving with alcohol, anti – social behaviour, monitoring smoking area etc.

## **COMMENT:**

Police have outlined their concerns above which is mainly about public safety. If the application is approved would request the following conditions be included in their D.A;

### **1. CCTV footage on premises:**

The Licensee shall maintain a CCTV system that meets the following minimum requirements:

- i) A camera must be located at the main entrance to the venue and positioned to record any person entering through this entrance. The CCTV recordings of this camera must be sufficient to enable an individual to be identified, beyond reasonable doubt, when:
  - a. the person represents not less than 100% of the screen height, and
  - b. there is an unobstructed view of the person's face.
- ii) In addition, CCTV cameras must be maintained throughout the premises with camera coverage to specifically record images of the following areas:
  - a. all other public entrances and exits, whether or not in use at the time,
  - b. staircases,
  - c. all portions of the floor area accessible to the public where entertainment is provided,
  - d. toilet external entrances,
  - e. all public accessible areas within the premise excluding toilets
  - f. the footpath area directly adjacent to the premises, and
  - g. courtyard and smoking areas.
- iii) The CCTV recordings of the cameras referred to in sub condition (2) must be sufficient to enable the recognition of a person. A viewer must be able to say with a high degree of certainty whether or not an individual shown is the same as someone they have seen before, when:
  - a. the person represents not less than 50% of screen height, and
  - b. there is an unobstructed view of the person's face.
- iv) Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.
- v) Camera recordings must meet the standards set in sub condition (1) and (3) at all times, either by way of camera positioning, camera shades or other environmental factors.
- vi) Recordings must:
  - a. be in digital format,
  - b. record at a minimum of ten (10) frames per second, and



- c. commence one hour prior to opening and operate continuously until at least one hour after closing.
  - vii) The correct time, date and camera identification must be automatically embedded on all recordings and be able to be read when the image is played back on a different system without interfering with the view of the target area.
  - viii) Recordings should be retained for a period of 30 days before being reused or destroyed. The licensee shall ensure that no person is able to delete or alter any recordings within the 30-day period.
  - ix) When the venue is open and trading, at least one person shall be at the venue that is capable of accessing the CCTV system and is able to immediately review recordings and produce copies.
  - x) Immediate access to the CCTV system and the ability to review recordings is to be granted to NSW Police, NSW Liquor & Gaming Inspectors or other regulatory officers upon request.
  - xi) The CCTV system shall be able to reproduce a copy of the recordings on Compact Disc, DVD or USB memory stick and must, upon request, be provided within one working day to NSW Police, NSW Liquor & Gaming Inspectors or other regulatory officers.
  - xii) Prior to the commencement of trade each day, the CCTV system shall be checked to ensure the equipment is in full operating order. If, during the daily check or at any other time, it is discovered that the equipment is not in full operating order, the licensee is to notify the Local Area Commander or delegate within two hours. All reasonable steps must be undertaken to repair the system as soon as practicable.
2. A licensed security guard be employed on Friday, Saturday and Sunday from 5pm.
  3. A comfortable seating position must be available for each patron upon the premises. This will include a seat and access to table/bench space generally in accordance with the approved plans.
  4. The seating plan as set out in accordance with the approved plans are not to be re-arranged while the drink on-premises authorisation is being utilised.
  5. Management are responsible for ensuring the number of patrons does not exceed the approved capacity specified in point 2.
  6. Signage (in lettering not less than 15mm in height on a contrasting background) is to be erected near the main principle entry to the premises; in such manner that it would be reasonable to expect that a person leaving the premises will be alerted to its contents. The signage shall state:

**Upon leaving please respect local residents by minimising noise**

## **7. Neighbourhood Amenity**

- a. The management of the premises:
  - i. Shall ensure patrons do not crowd or loiter in the vicinity of the premises in such manner that pedestrian movement is obstructed or hindered.
  - ii. Shall ensure that the manner in which the business of the premises is conducted and/or the behaviour of persons entering and leaving the premises does not cause undue disturbance to the amenity of the neighbourhood. In this regard, the management shall be responsible for the control of noise and litter generated by persons and/or premises operations.

- iii. Shall record in an Incident Register full details of any disturbance complaint/s made by a person to management or staff in respect to the manner in which the business of the premises is conducted and/or the behaviour of persons entering or leaving the premises. Such recording will include time, date, nature of the complaint/s and any complainant details if provided.
  - iv. Shall respond to any disturbance complaint/s in a timely and effective manner. All actions undertaken by management / staff to resolve such complaint/s shall be recorded in an Incident Register.
- 8. The licensee must join and be an active participant in the **local liquor accord**.
- 9. Only liquor comprising packaged liquor in sealed containers is to be sold to be taken away from the premises. Any liquor sold or supplied in open containers (including glass) is not to be taken off the licensed premises. The licensee will ensure that adequate practices are implemented to minimise the likelihood of patrons/customers consuming liquor purchased from the premises in the carpark or the immediate vicinity of the premises.
- 10. Substantial food must be available at all times whilst alcohol is being sold or supplied.
- 11. **Smoke-Free Environment Legislation**  
The use and operation of the premises is to comply with the Smoke-Free Environment Act 2000 and the Smoke-Free Environment Regulation 2000. Guidance may also be obtained from the NSW Health Department (to ensure that smoking is not permitted on premise).
- 12. **Crime Scene Preservation**
  - a. Immediately after the person in charge of the Licensed Premises become aware of an incident involving an act of violence causing an injury to a person on the premises, the person must:
    - i. Take all practical steps to preserve and keep intact the area where the act of violence occurred
    - ii. Retain all materials and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by the NSW Police
    - iii. Make direct and personal contact with the Local Area Command or his/her delegate and advise the Commander or delegate of the incident and
    - iv. Comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.
- 13. A full copy of all current development consents (including approved plans) for the operation of the premises, any Registers required and any required Plan of Managements must be kept on the premises and made available for inspection immediately upon request by Council Officers, Police Officers and/or inspector from the Liquor and Gaming NSW.
- 14. The licensee must maintain a register, in the form approved by the Secretary, in which the licensee is to record, in the manner approved by the Secretary, the details of any of the following incidents and any action taken in response to any such incident:
  - (a) any incident involving violence or anti-social behaviour occurring on the premises,
  - (b) any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the premises and that involves a person who has recently left, or been refused admission to, the premises,
  - (c) any incident that results in a person being turned out of the premises under

section 77 of the Act,

- (d) any incident that results in a patron of the premises requiring medical assistance,
  - (e) any incident that involves the possession or use on the premises of any substance that the licensee suspects of being a prohibited plant or a prohibited drug.
- (2) The licensee must, if requested to do so by a police officer or inspector
- (a) make any such incident register immediately available for inspection by a police officer or inspector, and
  - (b) allow a police officer or inspector to take copies of the register or to remove the register from the premises.
- (3) The licensee of subject premises must ensure that the information recorded in an incident register under this clause is retained for at least 3 years from when the record was made.
15. Should outdoor seating be granted for alcohol consumption, A defined boundary must be erected clearly defining the area. All patrons must be seated at all times whilst consuming alcohol. No more than 12 patrons are allowed in the outside seated area.
16. The Licensed Premises are not to be themed or operated as a Nightclub. No DJ styled booth, no disco lighting systems and no dance floor area are to be utilised at any time in the premises.
17. The sale and/or supply of liquor must cease 15 minutes prior to the cessation of the respective hours of operation.

Regards,



Holly Carter  
Senior Constable  
Licensing Unit  
Northern Beaches PAC  
30/04/2020