

13 April 2021



Prophetable Hospitality Pty Ltd
Level 1 163 Eastern Valley Way
MIDDLE COVE NSW 2068

Dear Sir/Madam

Application Number: DA2020/1027
Address: Lot 1 DP 1129384 , 0 Stuart Street, MANLY NSW 2095
Proposed Development: Alterations and additions to the existing cafe and the addition of a cool room, freezer room and bin storage area

Please find attached the Notice of Determination for the above mentioned Application.

Please note that the consent is not operative until the following deferred commencement conditions have been satisfied:

- Deferred Commencement conditions 1 and 2

The evidence required to satisfy these conditions must be submitted to Council within two (2) years of the date of this Deferred Commencement Consent. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement conditions, the consent shall be operative for Development Application DA2020/1027 subject to the conditions listed within the Notice of Determination.

(Note: Implementing the development consent prior to written confirmation may result in legal proceedings. If such proceedings are required, Council may seek all costs associated with such proceedings, as well as any penalty or Order that the Court may impose. No Construction Certificate can be issued until all conditions, including this condition have been satisfied).

You may apply for modification of the conditions attached to your Deferred Commencement Consent under Section 4.16(3) of the Environmental Planning and Assessment Act, 1979.

Please be advised that a copy of the Assessment Report associated with the application is available on Council's website at www.northernbeaches.nsw.gov.au

Please read your deferred commencement consent carefully as you are required to undertake and complete specific tasks before the consent becomes operative. A Construction Certificate cannot be issued and subsequent works cannot commence until Council acknowledges, in writing, that the conditions for deferred commencement have been satisfied.

If you have any further questions regarding this matter please contact the undersigned on 1300 434 434 or via email quoting the application number, address and description of works to council@northernbeaches.nsw.gov.au

Regards,



Lashta Haidari
Manager Development Assessments

NOTICE OF DETERMINATION

Application Number:	DA2020/1027
Determination Type:	Development Application

APPLICATION DETAILS

Applicant:	Prophatable Hospitality Pty Ltd
Land to be developed (Address):	Lot 1 DP 1129384 , 0 Stuart Street MANLY NSW 2095
Proposed Development:	Alterations and additions to the existing cafe and the addition of a cool room, freezer room and bin storage area

DETERMINATION - APPROVED

Made on (Date)	07/04/2021
Consent to operate from (Date):	07/04/2021
Consent to lapse on (Date):	07/04/2026

Detail of Conditions

The conditions, which have been applied to the consent, aim to ensure that the Environmental Impacts of Development are minimised and the Health and Safety of the community is maintained in accordance with the relevant standards and the Building Code of Australia.

Note:

If the works are to be certified by a Private Certifying Authority, then it is the certifier's responsibility to ensure all outstanding fees and bonds have been paid to Council prior to the issue of the Construction Certificate or as otherwise specified by Consent conditions.

DEFERRED COMMENCEMENT CONDITIONS

1. Building Information Certificate

A Building Information Certificate is to be issued for the cool room, freezer room and bin store room located on the eastern side of the building.

Reason: To ensure that all buildings associated with the proposed use have appropriate approvals.

2. Aboriginal Investigations

The recommendations of the Aboriginal Due Diligence Assessment by Unearthed Archaeology and Heritage dated January 2021 are to be completed to the satisfaction of the Aboriginal Heritage Office:

- i. Aboriginal consultation should be undertaken in accordance with OEH's *Aboriginal cultural heritage consultation requirements for proponents 2010*. The results of that consultation must be detailed in an Aboriginal Cultural Heritage Assessment Report (ACHAR);
- ii. Archaeological testing in accordance with OEH's *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* cannot be undertaken due to the possibility of a burial within the study area and the proximity to a registered Aboriginal burial. Therefore, it will be necessary to apply for an Aboriginal Heritage Impact Permit (AHIP) to undertake test excavations to determine the nature and extent of the archaeological deposit;
- iii. Following test excavations, it may be necessary to apply for a subsequent AHIP for harm, including relevant mitigation, which could include salvage excavations, depending on the results of the test excavations, prior to the proposed development.

Reason: To protect and conserve the aboriginal heritage of the area.

Evidence required to satisfy these conditions must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

3. Existing Bus Stop

Location of existing community bus stop on the Stuart Street along frontage of the site must remain in its current location. Approval of Council is required to relocate the Bus Stop.

Reason: To ensure certain services are not relocated at any stage during the project.

4. Structural Adequacy and Excavation Work

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

5. Plans of kitchen design, construction and fit out

Prior to any Construction Certificate (CC) being issued, detailed plans that demonstrate compliance with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, the Food Act 2003 and Australian Standard AS 4674 'Design, construction and fit out of food premises', must be submitted to and approved by the Certifying Authority. These plans are to be prepared by a suitably qualified person.

The plans must detail adequate provision for storage including separate storage of food, equipment, chemicals and personal belongings.

Reason: To ensure that the Food premise complies with the design construction and fit-out requirements.

6. Plans of mechanical ventilation

Prior to any Construction Certificate (CC) being issued, detailed plans that demonstrate compliance with the Australian Standard (AS) 1668.2 "The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings", must be approved by the Certifying Authority for any cooking equipment with an individual or combined power rating level that triggers the requirement for mechanical ventilation under AS1668.2 including any deep frying equipment.

Reason: To ensure that the design, construction and installation requirement for mechanical ventilation complies with the Australian Standard 1668.2.

7. Noise - Design of Mechanical Plant

Prior to the issuing of any Construction Certificate, an acoustic assessment from a suitably qualified professional such as an acoustic engineer is to be undertaken in accordance with NSW EPA Noise Policy for Industry.

The assessment is to determine if acoustic treatments are required in order to control noise emissions from the mechanical plant so that:

- Any noise emitted will not cause "Offensive Noise" as defined by the Protection of the Environment Operations Act 1997;
- Any noise emitted complies with recommendations within NSW EPA Noise Policy for Industry; and
- The sound contribution of any mechanical plant does not exceed background noise levels at the nearest residential receptors for the day, evening and night time periods.

Any design recommendations made by the consultant must be implemented into the plans prior to issuing the Construction Certificate in order to achieve compliance with noted conditions of this consent.

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

Reason: To protect surrounding residence from any noise generated by mechanical plant.

8. Working on and Access to Reserves Permit

Works (undertaken by principal contractors working without Council supervision) on Land owned or managed by Council require a "Working on Reserves" permit prior to commencement.

Applications can be obtained from Council's website or the Parks and Recreation business unit.

Reason: public safety and the protection of Council infrastructure.

9. Amend Landscape Drawings – Bandicoot Habitat

The Landscape drawings, submitted in conjunction with the approved Development Application and as amended by these conditions of consent, are to be amended to include native plant species with a low dense clumping habit to provide Long-nosed Bandicoot habitat. The planting schedule must comprise species including *Lomandra* sp., *Dianella* sp., *Banksia spinulosa*, *Westringia fruticosa*, *Caustis* sp., *Xanthorrhoea* sp., *Isolepis* sp., *Juncus* sp., *Adiantum* sp., *Callistemon* sp., *Grevillea* sp., and tussock native grasses (e.g. *Themeda* spp.).

Plans are to be amended and submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To compensate for bandicoot habitat impacted/removed as a result of the proposal.

10. 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
A1002 - Issue E	24/11/2020	BJB Architects
A1003 - Issue E	24/11/2020	BJB Architects
A1011 - Issue E	24/11/2020	BJB Architects
A1101 - Issue E	24/11/2020	BJB Architects
A1101 - Issue E	24/11/2020	BJB Architects
A1201 - Issue E	24/11/2020	BJB Architects
A1202 - Issue E	24/11/2020	BJB Architects
A1301 - Issue E	24/11/2020	BJB Architects
A1302 - Issue E	24/11/2020	BJB Architects
A1401 - Issue E	24/11/2020	BJB Architects
A1402 - Issue E	24/11/2020	BJB Architects
A1501 - Issue E	24/11/2020	BJB Architects
A1502 - Issue E	24/11/2020	BJB Architects
A2001 - Issue E	24/11/2020	BJB Architects
A2011 - Issue E	24/11/2020	BJB Architects
A2021 - Issue E	24/11/2020	BJB Architects
A4001 - Signage Plan - Issue D	13/07/2020	BJB Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Terrestrial Biodiversity Report	12/01/2021	GIS Environmental Consultants
Aboriginal Due Diligence Assessment, B.2021.1037	12/01/2021	Unearthed Archaeology and Heritage
Plan of Management	18/12/2021	Ben Cummings

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:

Landscape Plans		
Drawing No.	Dated	Prepared By
A1601 - Issue E	24/11/2020	BJB Architects

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	18/05/2020	Bill Drakopoulos

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.

11. 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.

12. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the

existing ground stratum or are breaking up/removing materials from the site).

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

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the

land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWorkNSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:
 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

13. Compliance with Standards

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

(Note: At the time of determination the following (but not limited to) Australian Standards applied:

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (e) AS 4970 - 2009 'Protection of trees on development sites'***
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities**
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities**
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking**
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities**
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
- (l) AS 1428.1 – 2009* Design for access and mobility - General requirements for access – New building work**
- (m) AS 1428.2 – 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**

*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website www.hreoc.gov.au/disability/rights/buildings/good.htm. <www.hreoc.gov.au/disability%20rights%20/buildings/good.htm>

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to.)

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

Reason: To ensure the development is constructed in accordance with appropriate standards.(DACPLC02)

14. Compliance with Standards

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

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

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

15. Approval of on-street parking changes by the Northern Beaches Council Local Traffic Committee

Prior to the issue of any Construction Certificate, plans showing the change in parking restrictions on Stuart Street allowing use of the "No Parking" zone as a Loading Zone for the cafe shall be submitted to and approved by the Northern Beaches Council Local Traffic Committee.

Reason: Maintain traffic flow by controlling the use of road space for the purpose of delivery vehicle use.(DACTRCPC1)

16. Policy Controls - Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$4,950.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$495,000.00.

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

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

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

19. Dead or Injured Wildlife

If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

20. Protection of Habitat Features

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed during the construction works, except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

21. Tree protection

(a) Existing trees which must be retained

- i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
- ii) Trees located on adjoining land

(b) Tree protection

- i) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
- ii) All structures are to bridge tree roots greater than 25mm diameter unless directed otherwise by a qualified Arborist on site.
- iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with AS 4373 Pruning of amenity trees
- v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

22. Site Induction Required – Penguin and Bandicoot Habitat

All workers, including site inspectors and sub-contractors, are to be made aware of the potential presence of relevant threatened species and endangered ecological communities through a site induction prior to commencement of works. The site induction is to include information about their conservation significance, potential activities on-site, means of identification and the measures to be implemented for their protection. A confirmation of induction is to be signed by every worker and the site manager.

Evidence of the site induction is to be documented and provided to the Principal Certifying Authority.

Reason: To prevent impacts to threatened species, endangered ecological communities and their habitats in accordance with the Biodiversity Conservation Act 2016.

23. Fauna Protection Fencing – Penguin and Bandicoot Habitat

Temporary chain wire fencing is to be installed around all work areas (including demolition, storage and construction areas) prior to the commencement of works. The fencing is to be designed to minimise the possibility of ground-dwelling native fauna (including relevant threatened species) accessing the work areas. Fencing is to be maintained for the duration of works.

Reason: To prevent impacts to ground-dwelling native fauna, including relevant threatened species.

24. Ecologist to Induct Site Manager – Penguin and Bandicoot Habitat

Prior to commencement of construction works, the project ecologist is to meet with the site manager to:

- a) advise of conditions to be implemented for protection of relevant threatened species and endangered ecological communities;
- b) ensure that all workers are appropriately briefed on required protective measures; and
- c) inspect protective measures to confirm their adequacy and advise the proponent and site manager of the inspection results and their implications.

Reason: To prevent impacts to threatened species, endangered ecological communities and their habitats in accordance with the Biodiversity Conservation Act 2016.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

25. Implementation of Construction Traffic Management Plan

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

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

26. Ongoing Management

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

Reason: To ensure public safety.

27. Requirement to Notify about New Contamination Evidence

Any new information revealed during works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.

Reason: To protect human health and the environment.

28. Protection of Council's Public Assets

Any damage to Council's public assets shall be made good by the applicant and/or the contractor, to the satisfaction of Council.

Council's public assets include, but is not limited to the following: road, kerb and gutters, crossovers, crossings, paths, grass verge, open space and associated elements such as furniture, recreational facilities and the like, within the meaning of the Local Government Act 1993.

Reason: to protect and/or restore any damaged public asset.

29. Existing Landscaped Gardens

The existing gardens and landscaped areas are to be retained and protected from any construction damage. All areas adjacent to the approved building works are to be reinstated to have the same character and style. The existing, soft landscaped areas are not to be substituted for paving, unless shown in the approved plans.

Reason: Landscape protection

30. Construction Hours – Manly LEP Clause 6.5

Construction hours are to be adhered to, with no construction vehicles or heavy machinery used outside the hours of 7:00am and 5:00pm.

Reason: Noise and vibration can disturb local native fauna (including threatened species) and prevent access to their natural habitats.

31. Pre-clearance Survey Required – Bandicoot Habitat

A pre-clearance survey for Long-nosed Bandicoot and Little Penguin presence is required prior to the removal of any vegetation, material or debris stockpiles. Clearing may only proceed if the survey concludes that no wildlife are present within the area to be cleared. A record of each inspection is to be made in the daily inspection register log-book. The log-book is to be made available to the Principal Certifying Authority.

Reason: To avoid injury or death of Long-nosed Bandicoots or Little Penguins which may be sheltering in stockpiles.

32. Daily Inspections Required – Bandicoot Habitat

An inspection register log-book must be kept on site recording daily inspections of all holes, machinery and construction material stockpiles, checking for Long-nosed Bandicoots.

Inspections are to be undertaken each work day prior to commencement of works and works may only proceed once any bandicoot has safely vacated any holes, machinery or stockpiles. The log-book is to be made available to Principal Certifying Authority.

Reason: To avoid injury or death of Long-nosed Bandicoots which may be utilising stockpiles of vegetation, materials or debris.

33. Works to be Undertaken Outside of Penguin Breeding Season

Demolition and construction works may only be undertaken outside of the formal Little Penguin breeding season (i.e. between 1st March and 31st May) except with written approval of Northern Beaches Council's Biodiversity & Planning Group.

Reason: To mitigate potential construction-related impacts to nearby Little Penguin nesting habitat.

34. Report Dead or Injured Bandicoots – Bandicoot Habitat

Any injured or dead Long-nosed Bandicoots found within the worksite must be reported to the National Parks & Wildlife Service (9457 9577) or Northern Beaches Council (1300 434 434).

Reason: To prevent impacts to Long-nosed Bandicoots in accordance with the Biodiversity Conservation Act 2016.

35. Waste/Recycling Requirements (Materials)

During demolition and/or construction the following materials are to be separated for recycling – timber – bricks – tiles – plasterboard – metal – concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible. (DACWTE02)

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO COMPLETION

36. Stormwater Disposal

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

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

37. Certification of Landscape Plan

Landscaping is to be implemented in accordance with the amended Landscape Plans (BJB Architects 2020) and these conditions of consent.

Details demonstrating compliance are to be prepared by the landscape architect and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

38. No Weeds Imported On To The Site

No Priority or environmental weeds (as specified on the NSW WeedWise website) are to be imported on to the site prior to or during construction works.

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

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds

39. Acoustic Report

Prior to the issuing of any interim / final occupation certificate an Acoustic Compliance Report, prepared by a suitably qualified professional such as an acoustic engineer, must be submitted certifying that:

- The noise emitted from mechanical plant when operational will not cause "Offensive Noise" as defined by the Protection of the Environment Operations Act 1997;
- The mechanical plant complies with recommendations within NSW EPA Noise Policy for Industry; and
- The sound contribution of any plant does not exceed background noise levels at the nearest residential receptors for the day, evening and night time periods.

Any recommendations made by the consultant must be implemented prior to issuing the Occupation Certificate in order to achieve compliance with noted conditions of this consent.

Certification is to be submitted to the satisfaction of the Principal Certifying

Authority. Reason: To protect surrounding residence from any noise generated by mechanical plant.

40. Registration of Food Business

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

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

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

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

of Standard 3.2.3 of the Australian and New Zealand Food Standards Code, the Food Act 2003 and Australian Standard 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.

42. 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.

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.

43. Removal of All Temporary Structures/Materials and Construction Rubbish

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences/bunds are to be removed from the site.

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

Reason: to protect reserve amenity and public safety.

44. Completion of Landscape Works

Prior to the issue of a Whole Occupation Certificate, any approved landscape works shall be consistent with the approved design, completed to a professional standard, consistent with industry best practice and published standards. (Reason: Landscape amenity)

45. Bright lighting

No bright lighting or motion detectors are to be installed to illuminate lawn or garden areas. A modest amount of low lighting may be used for safety purposes only. No lighting to be directed toward or to illuminate the water and foreshore at any time both during construction or post construction phase.

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

Reason: To reduce disturbance to Long-nosed Bandicoots and Little Penguins, particularly penguin breeding activities including coming ashore to tend to eggs and chicks.

46. Upgrade of pedestrian access from footpath network

To provide the fully accessible path of travel from the footpath network to the subject development the applicant shall remove the existing gate and install a suitable removable bollardsolution to achieve an accessible path of travel of 1.5 metres minimum clearance, prior to the issue of any Occupation Certificate.

Reason: Equity in access to the development.

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

47. Delivery Hours

No deliveries, loading or unloading associated with the premises are to take place prior to 7am on any day.

Reason: To protect the acoustic amenity of surrounding properties.

48. Commercial Waste Collection

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

Reason: To protect the acoustic amenity of surrounding properties.

49. Maximum number of seated patrons

A maximum of thirty-two (32) seated patrons are permitted on the premises in accordance with the approved plans. The patrons are to be seated within the locations in accordance with the seating as shown on the approved plans.

Reason: to regularise the current use of the café and to provide a maximum seating capacity of the café in recognition of traffic and parking impacts associated with the land use and to mitigate potential impacts on local fauna including the Little Penguin and the Long-nosed Bandicoot.

50. Hours of Operation

The hours of operation of the premises are not to exceed the following:

- Monday and Tuesday 7:00am to 5:00pm
- Wednesday to Saturday 7:00am to 10:00pm
- Sunday 7:00am to 7:00pm

Note: The serving of meals is to cease thirty (30) minutes prior to closing time on each day and the premises is to be fully vacated by staff and management one (1) hour after closing time.

Reason: To control the operation of the cafe and preserve the amenity of the locality.

51. All equipment to be stored within the premises overnight

All equipment associated with the use of the premises are to be stored within the premises during times outside the approved hours of operation.

Reason: To maintain the amenity of the surrounding public open space.

52. All goods to be stored within the premises at all times

All goods associated with the use of the premises are to be stored within the premises at all times.

Reason: To maintain the amenity of the surrounding public open space.

53. Sale of alcohol

The sale of alcohol on the premises is not permitted.

Reason: To confirm the details of the application and to maintain the amenity of the surrounding area.